

The Middle Rio Grande Pueblo Water Settlement: *Status of Pueblo Water Rights*

Tribal Water Law CLE

October 16, 2025

Josh Mann



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Presentation Overview

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From Time Immemorial...

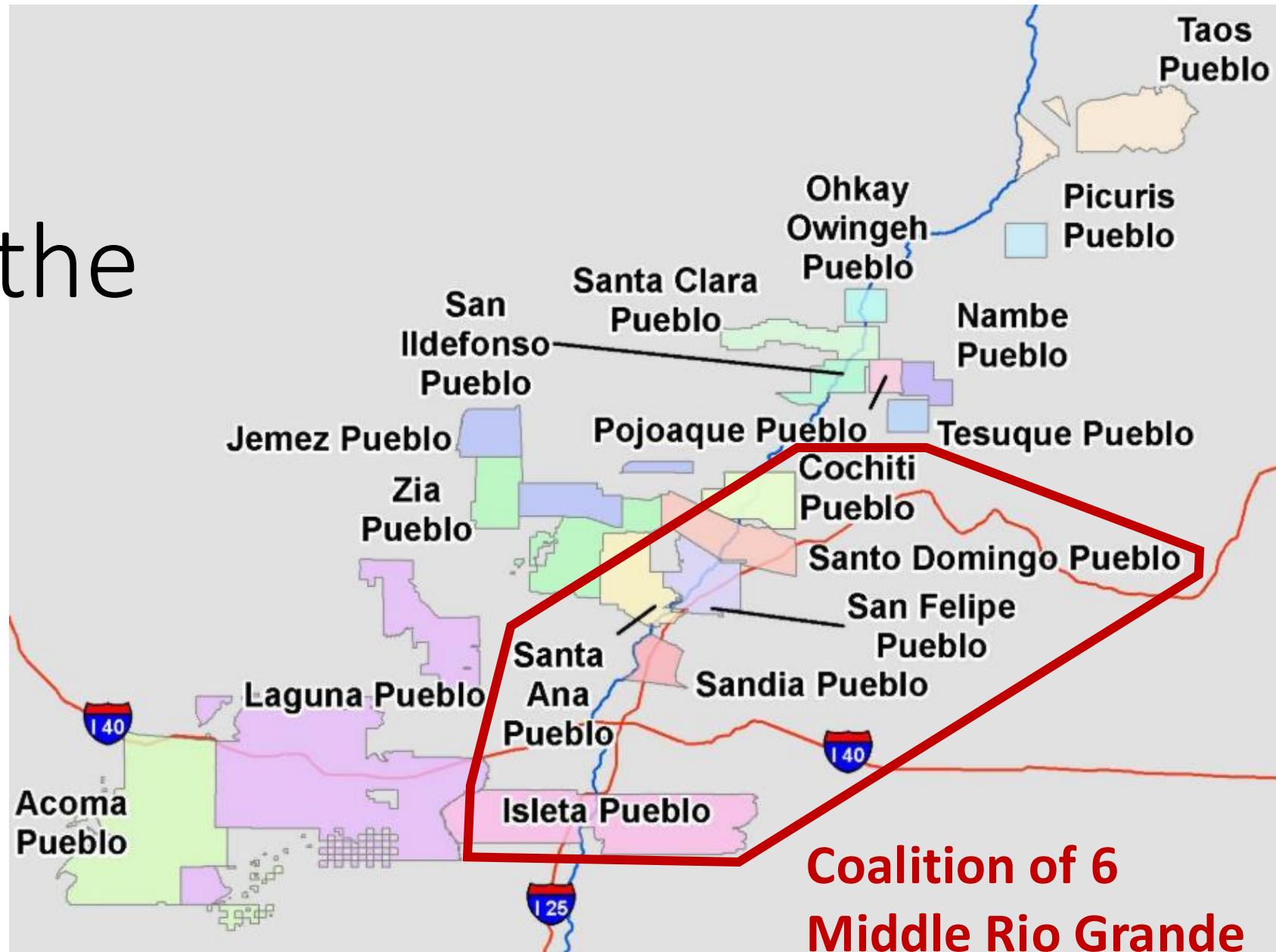
The Pueblos have occupied and possessed their lands since time immemorial - long before the establishment of modern governments or laws.

The Pueblos irrigated those lands long before any anyone else claiming any right to the use of the water.

24 1890's OF ISLETA, N.M.

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Pueblos in the Rio Grande Basin



**Coalition of 6
Middle Rio Grande
Basin Pueblos**

March 13, 1928.

[S. 700.]

[Public, No. 169.]

CHAP. 219.—An Act Authorizing the Secretary of the Interior to enter into an agreement with the Middle Rio Grande Conservancy District for the conservation, irrigation, drainage, and flood control for the Pueblo lands in the Rio Grande Valley, New Mexico, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to enter into an agreement with the Middle Rio Grande Conservancy District, a corporation of the State of New Mexico, providing for conservation, irrigation, drainage, and flood control for the Pueblo lands within the exterior boundaries of the said Middle Rio Grande Conservancy District.

The Prior and Paramount Rights of the 6 MRG Pueblos

AN ACT

Giving the consent and approval of Congress to the Rio Grande compact signed at Santa Fe, New Mexico, on March 18, 1938.

May 31, 1939

[H. R. 4997]

[Public, No. 96]

ARTICLE XVI.

Nothing in this Compact shall be construed as affecting the obligations of the United States of America to Mexico under existing treaties or to the Indian tribes, or as impairing the rights of the Indian tribes.

payment of any sums that may under the agreement be due to the conservancy district until such work shall have been done in accordance with the said plans: *Provided further,* That in determining the apportionment of the cost of the works to be apportioned to the Indian lands the

Middle Rio Grande Conservancy District. Agreement with, for irrigation, etc., of Pueblo Indian lands in New Mexico. Vol. 44, p. 1093. Post, pp. 900, 1040.

Indians' share of construction costs in installments

Provisos. Payment with work not appropriate

Apportionment of cost of work to lands.

Tribal Water Rights: Federally Reserved Rights

Winters v US, 207 U.S. 564 (1908)

- When Congress reserves land for a particular federal purpose it also reserves by implication enough water as is reasonably necessary to accomplish the purpose of the reservation.

Arizona v. California, 373 U.S. 546 (1963)

- When reserving land for tribes, Congress reserved enough water “to satisfy the future as well as the present needs to Indian Reservations.”

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Tribal Water Rights: Aboriginal Rights

US v Winans, 198 U.S. 371 (1905)

- The Yakama Tribe had implicitly reserved its aboriginal right to fish at its "usual and accustomed" places even though it had ceded much of its land in the 1855 treaty.
- The case recognized that the property rights of indigenous people persist even after another sovereign assumes authority over the land.



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Tribal Water Rights: Pueblo Rights

There is still no clear court ruling on the nature or measure of the Pueblos' water rights appurtenant to their core land holdings.

NM v Aamodt (Rio Pojoaque)

- “the Pueblos have aboriginal title, Indian rights or original Indian rights to their lands and the use of them including...the right to irrigate new land in response to need.”
- But the Pueblo Lands Act of 1924 “fixed the measure of Pueblo water rights to acreage irrigated as of that date.”

US v Abouseman (Rio Jemez)

- The Pueblos have ***Winans'*** aboriginal rights, but 1848 Treaty extinguished those rights as “to the water used by non-Pueblo Mexican Citizens.
- Currently determining what standards apply to quantify such rights.

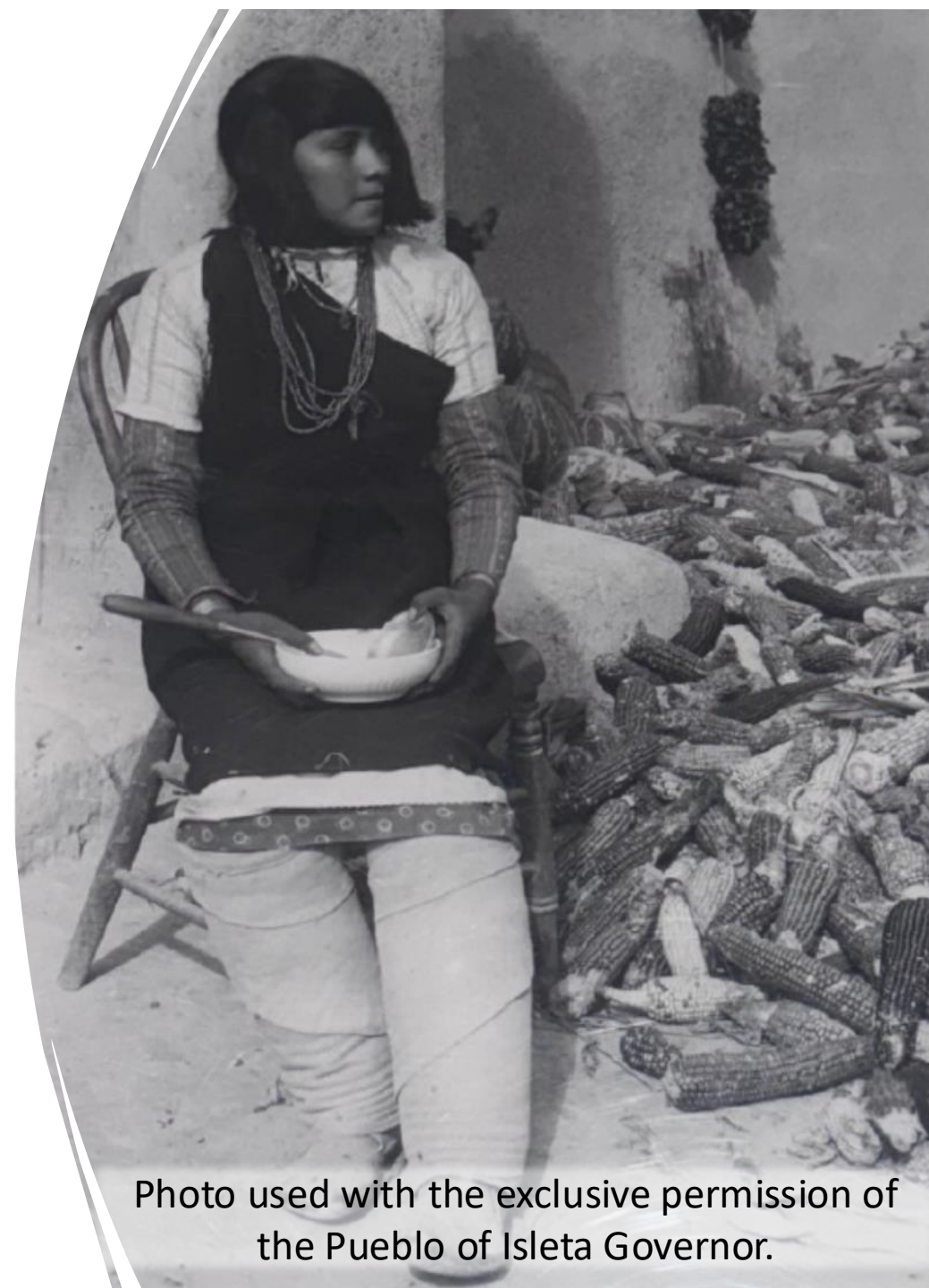


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Comparison: Federal Reserved Rights v State-Based Rights

- **NM Water Rights**
 - Established through application of water to beneficial use
 - "First in time, first in right"
 - "Use it or lose it"
- **Tribal Water Rights**
 - Created without diversion or beneficial use
 - Quantified by the amount reasonably necessary to satisfy the purposes of the reservation.
 - Priority is the date of the reservation or "time immemorial"
 - Cannot be lost due to non-use

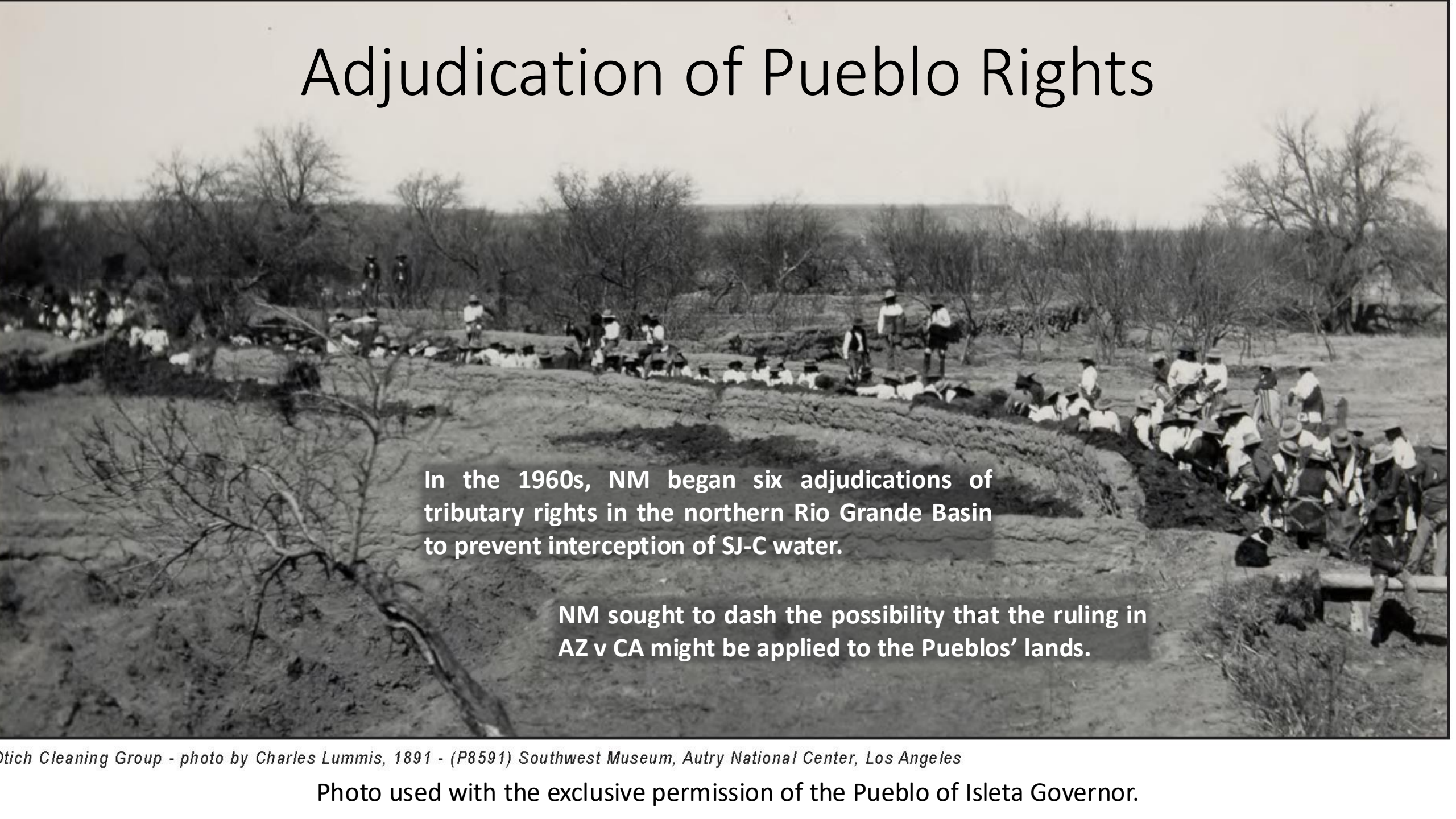
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McCarran Amendment

- Waived the United States' sovereign immunity in suits concerning quantification or management of water rights.
- Tribes were originally thought to be exempted but the Supreme Court held that state courts are allowed to adjudicate tribal water claims.

Adjudication of Pueblo Rights



In the 1960s, NM began six adjudications of tributary rights in the northern Rio Grande Basin to prevent interception of SJ-C water.

NM sought to dash the possibility that the ruling in *AZ v CA* might be applied to the Pueblos' lands.

Utich Cleaning Group - photo by Charles Lummis, 1891 - (P8591) Southwest Museum, Autry National Center, Los Angeles

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United States Department of the Interior

OFFICE OF THE SECRETARY

Washington, DC 20240

December 11, 2024

Negotiate, Then Adjudicate

The Honorable Max Zuni
Governor, Isleta Pueblo
P.O. Box 1270
Isleta, New Mexico 87022
Max.Zuni@isletapueblo.com

Dear Governor Zuni:

The Department of the Interior's (Department) Working Group on Indian Water Rights Settlements (Working Group) met on November 21, 2024, to consider converting the Six Middle Rio Grande Pueblos Federal Assessment Team to a Federal Negotiation Team. I am pleased to inform you that after careful consideration the Working Group decided to appoint a Federal Negotiating Team to assist the Six Middle Rio Grande Pueblos in resolving their water rights claims in the Rio Grande.

The Department, through the Federal Negotiation Team, looks forward to working with Isleta Pueblo, the other Pueblos, the State of New Mexico, and other local parties in moving forward towards a negotiated settlement. If you have any questions, please contact Michael Schoessler in my office at (202) 549-7424 or michael.schoessler@ios.doi.gov.

Sincerely,

**PAMELA
WILLIAMS**

Digitally signed by
PAMELA WILLIAMS
Date: 2024.12.13
15:58:11 -05'00'

Pamela Williams, Director
Secretary's Indian Water Rights Office

CC: Elizabeth Anderson, State Engineer, State of New Mexico
Jason Casuga, CEO/Chief Engineer, Middle Rio Grande Conservancy District
Mark Sanchez, Executive Director, Albuquerque Bernalillo County Water Utility Authority
Matt Geisel, City Manager, City of Rio Rancho

Conclusion

Will their relatives of today be the first generation to finally see their water rights fully recognized and protected?

Is a fair and just resolution of their claims possible?

It is the hope that a negotiated settlement of their water claims can provide the Pueblos with enough water to meet their present and future needs while protecting existing users.



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