

Public Meeting - Water Right Adjudication  
Navajo Nation Subdivision  
Area 09, Book 1

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## **Division of Water Rights**

March 30 and 31, 2022



Michael Drake | Assistant State Engineer - Adjudication  
Division of Water Rights

# Agenda

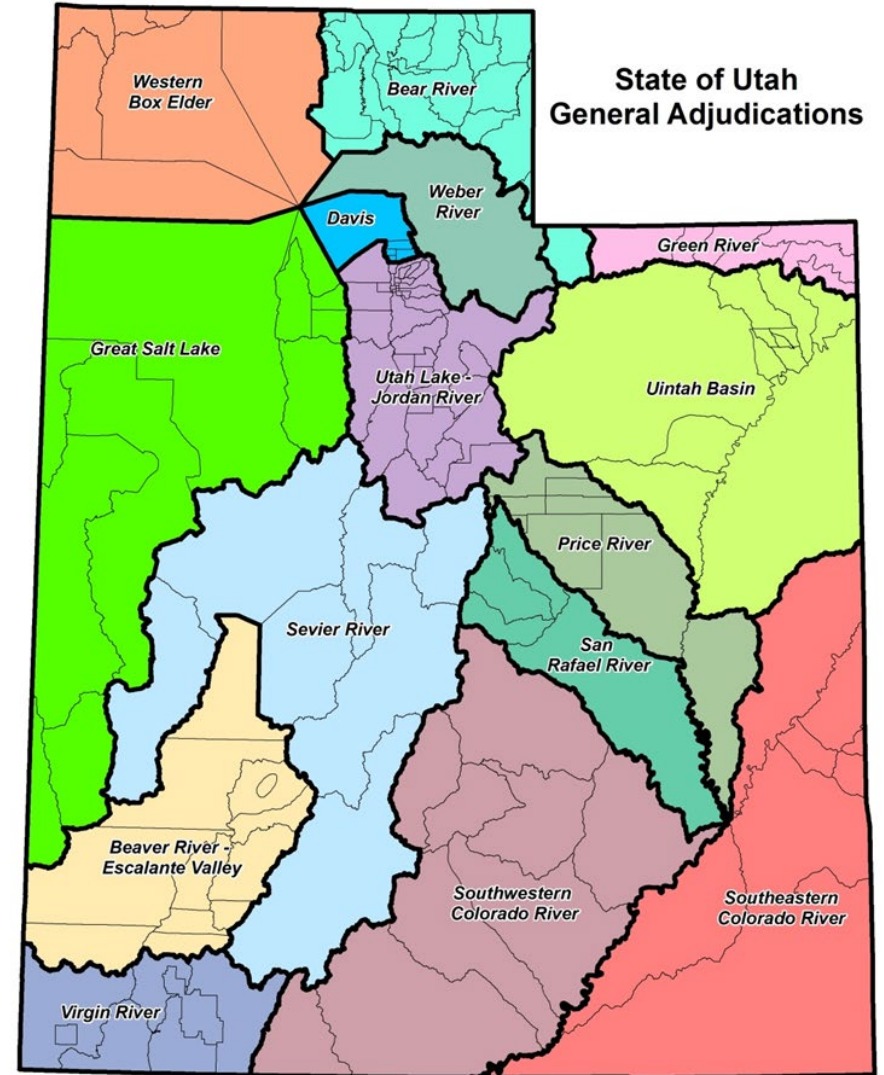
- Water Right and Adjudication Overview
- Navajo Nation Water Right Settlement
- Adjudication Process
- Anticipated Timeline
- Questions
  - Staff Consultation
  - Email: **[waterrights\\_adjudication@utah.gov](mailto:waterrights_adjudication@utah.gov)**



# What is a General Stream Adjudication?

## What it *IS*...

- Action in State District Court
- Joins and binds all water users and the State Engineer (Division of Water Rights)
- Governed by Utah State Code: Title 73, Chapter 4
- To determine the nature and extent of all existing water rights within each river drainage





# What is a Water Right?

A **water right** is a right to divert and beneficially use water. The defining elements of a typical water right will include:

- A defined **nature of beneficial use**
- A **priority date**
- A defined **quantity** of water allowed for diversion by flow rate (cfs) and/or by volume (acre-feet)
- A specified **point of diversion** and source of water
- A specified **place of beneficial use**

Typical Examples:

- Underground Well
- Irrigation ditches or headgates.



# Why Do We Conduct General Adjudications?

- Bring all claims on to the permanent record:
  - Pre-Statutory Claims
    - *Diligence Claims (1903)*
    - *Underground Water Claims (1935)*
  - Federal Reserve Rights
    - *Winter's Doctrine (1908)*
    - *McCarran Amendment (1952)*
- *Article 17: All existing rights to the use of any of the waters in this State for any useful or beneficial purpose, are hereby recognized and confirmed*
- To prevent a “multiplicity of suits” and bring clarity to the water rights picture.
- Remove/reduce rights which have been wholly or partially forfeited through non-use.
- To obtain final comprehensive decrees on all water rights within the respective drainage.





# Navajo Nation Water Right Settlement

- Historical Timeline:
  - Negotiation began in 2003
  - Agreement reached in 2015
  - Federal ratification in Dec 2020
  - State ratification in 2021 session
    - SB225 (2021)
    - SJR014 (2021)



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# Agreement Details

- 435 cfs; 81,500 acre-feet of depletion
  - Block 1 - 69,275 acre-feet - May 17, 1884 priority date
  - Block 2 - 4,480 acre-feet - May 15, 1905 priority date
  - Block 3 - 3,670 acre-feet - March 1, 1933 priority date
  - Block 4 - 4,075 acre-feet - September 2, 1958 priority date
- Funding for water development projects in the “Utah portion” of the Navajo Nation.
  - State of Utah: \$8 million
  - United States: over \$200 million





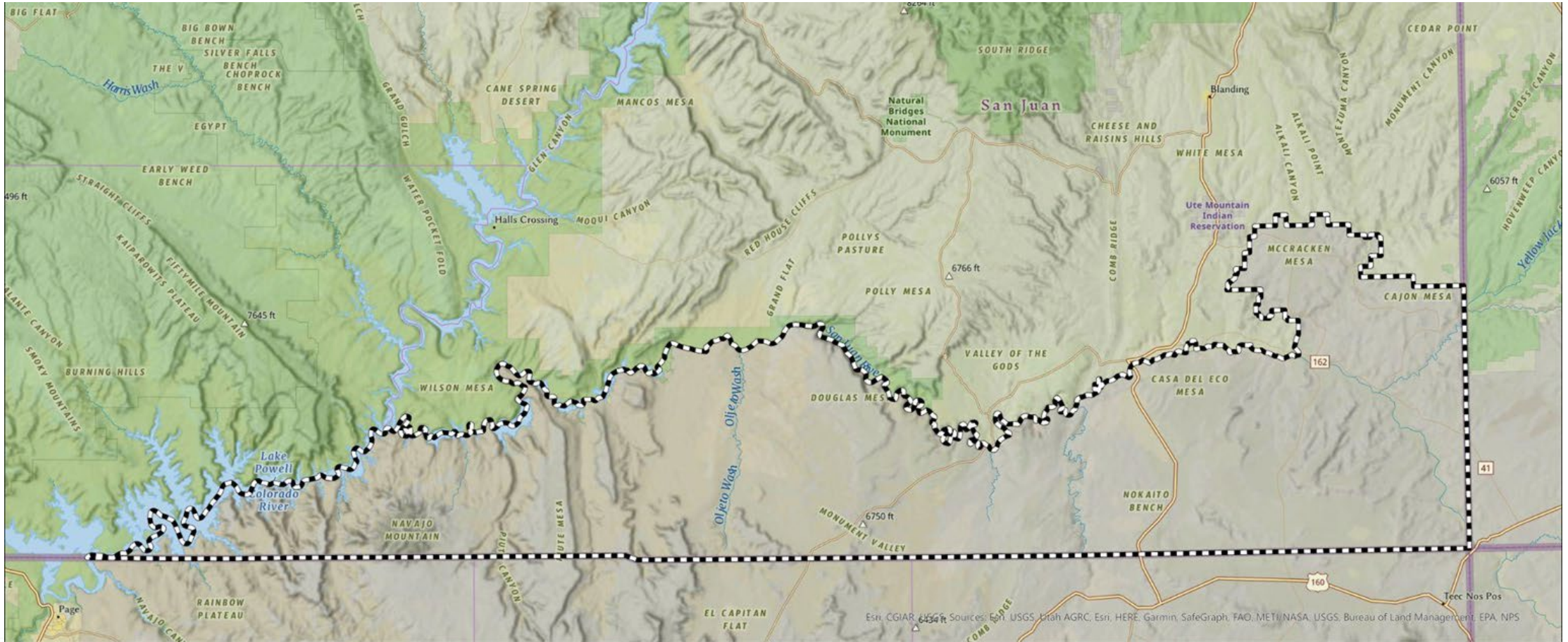
# Agreement Benefits

- Clean Drinking Water Projects for Navajo Nation
- Avoids Costly Litigation and Uncertain Outcomes
- Removes a Significant Unknown from Colorado River System
- Establishes a Partnership with the Navajo Nation on the Colorado River
- Protects Existing State-Based Water Rights



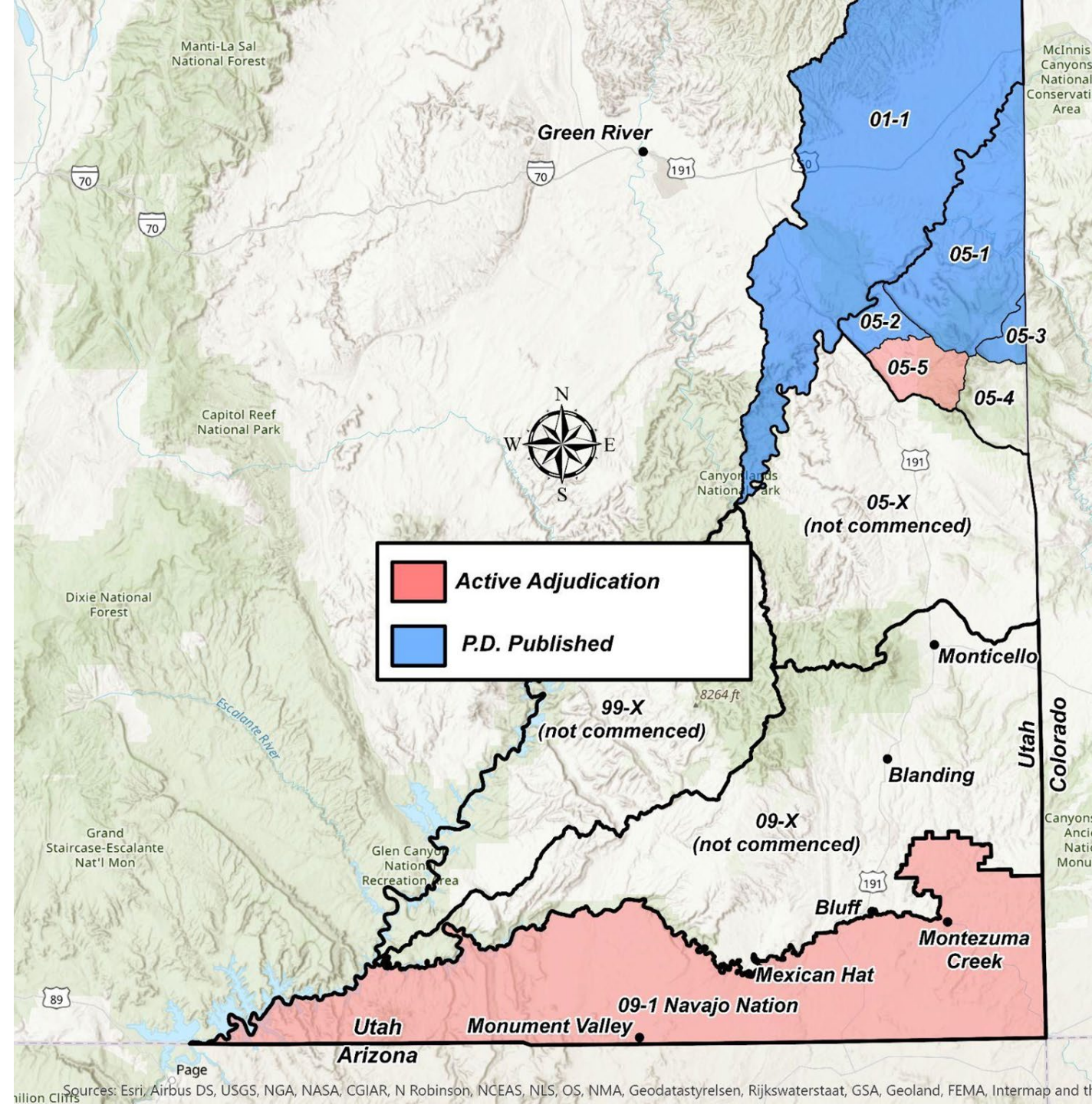


# Navajo Nation Subdivision Adjudication Boundary

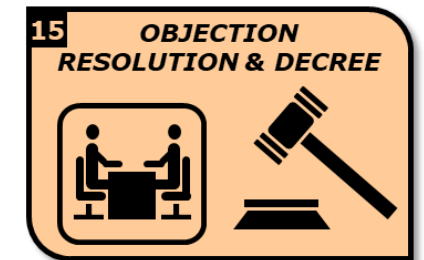
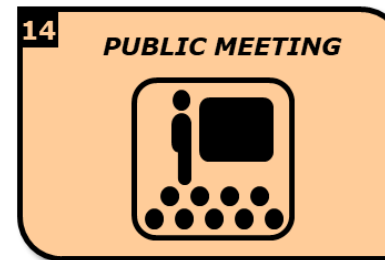
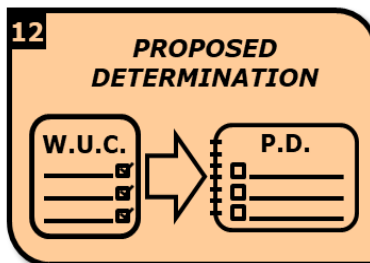
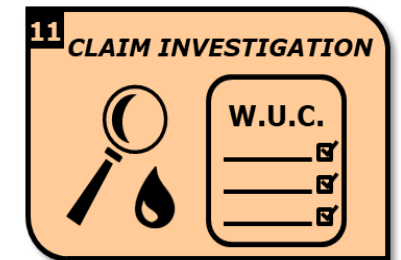
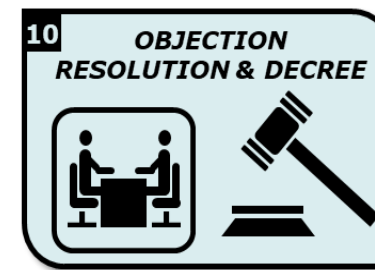
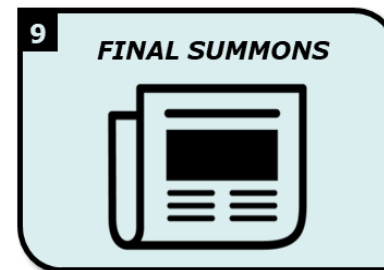
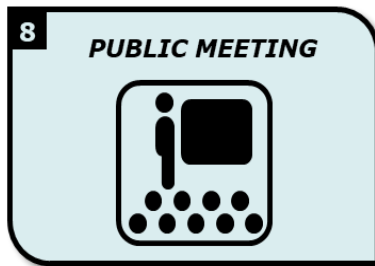
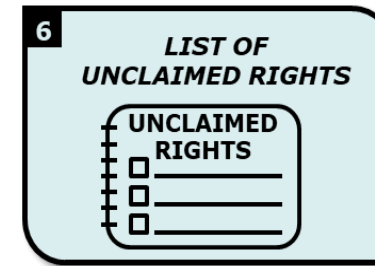
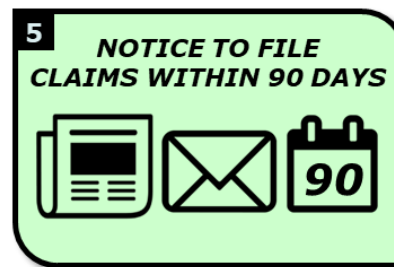
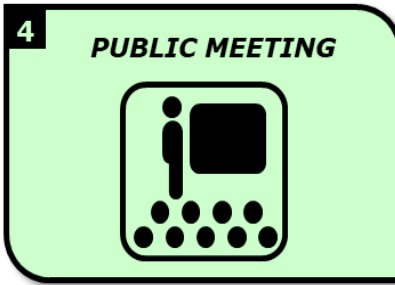
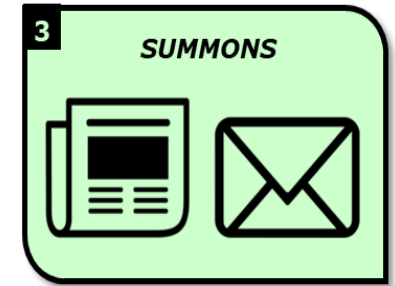
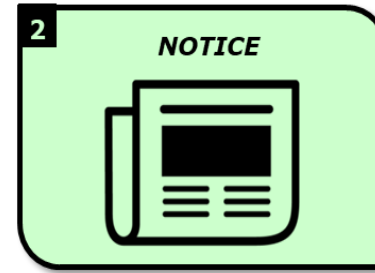
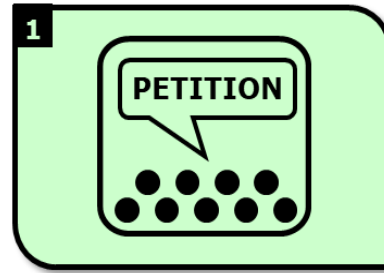




# Southeastern Colorado River Adjudication Progress

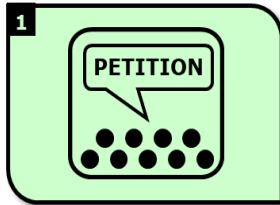


# The Adjudication Process

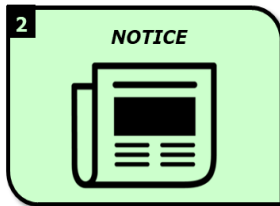




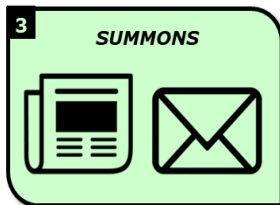
# Phase 1: Summons and Notice to File Claims



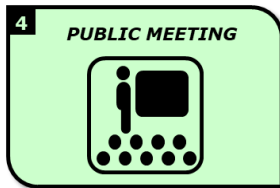
- Not typically relevant today, but all of the general stream adjudications began with a petition for action.



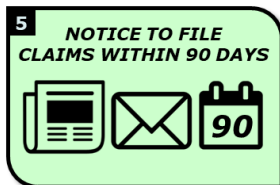
- A notice of commencement is published in the local newspaper.



- The summons is mailed to water right owners and property owners. It is also published in the local newspaper.



- An initial public meeting is held to inform water users of the adjudication process.



- The notice to file claims is given. Claimants have 90 days to file a *Water Users Claim*. A claimant that does not participate may be prevented from asserting a claim in the future.

# Water User's Claim

- The water user must complete and file a **Water User's Claim** with the State Engineer or the District Court for each water right.
- Due to complexity of defining water rights, Adjudication staff may help the water user in completing the **claim**.
- State Engineer files the **claim** with the Court on behalf of the water user as a courtesy.
- Claims** are only required on perfected rights (i.e., certificated rights, decreed rights, and diligence claims). All entities (including individuals, companies, and municipalities) that *own* a water right in the adjudication area should file.

IN THE DISTRICT COURT OF THE \_\_\_\_\_ JUDICIAL DISTRICT  
IN AND FOR \_\_\_\_\_ COUNTY, STATE OF UTAH

IN THE MATTER OF THE GENERAL  
DETERMINATION OF RIGHTS TO THE  
USE OF ALL THE WATER, BOTH  
SURFACE AND UNDERGROUND,

STATEMENT OF WATER USER'S CLAIM

WATER RIGHT NO. \_\_\_\_\_

CIVIL NO. \_\_\_\_\_

HOW TO USE THIS FORM:  
Review the information you provide on this form carefully. This Statement of Water User's Claim form is required to assert your water right claim in the pending general adjudication. Under Utah law, unless you file a written Statement of Water User's Claim within 90 days of receiving notice, your water rights will not be recognized and you cannot assert them further. This form constitutes notice to you. Your District Court. If you file your Statement of Water User's Claim with the District Court following the publication of the Proposed Determination, you must prepare and file a separate Report of Water Right Conveyance with the State Engineer. If you have any questions, please contact the Division of Water Rights at: (801) 538-5282.

1. WATER RIGHT AND OWNERSHIP INFORMATION:

A. NAME: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY: \_\_\_\_\_  
PHONE: \_\_\_\_\_

B. TYPE OF RIGHT: \_\_\_\_\_

C. PRIORITY DATE: \_\_\_\_\_

2. SOURCE INFORMATION:

A. MAXIMUM DIVERSION: \_\_\_\_\_

B. MAXIMUM VOLUME: \_\_\_\_\_

C. DIRECT SOURCE: \_\_\_\_\_

D. COUNTY: \_\_\_\_\_

E. POINT OF DIVERSION: \_\_\_\_\_

Description of diversion: \_\_\_\_\_

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT  
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

IN THE MATTER OF THE GENERAL DETERMINATION  
OF RIGHTS TO THE USE OF ALL THE WATER, BOTH  
SURFACE AND UNDERGROUND, WITHIN THE DRAINAGE  
AREA OF THE UTAH LAKE & JORDAN RIVER IN UTAH,  
SALT LAKE, DAVIS, JUAB, SUMMIT, WASATCH, AND  
SANPETE COUNTIES.

STATEMENT OF  
WATER USER'S CLAIM

Water Right No. 57 - 10172

Civil No. 365729840

HOW TO USE THIS FORM:  
Review the information on this form carefully. This Statement of Water User's Claim form is required to assert your water right claim in the pending general adjudication. Under Utah law, unless you file a written Statement of Water User's Claim within 90 days of receiving notice, your water rights will not be recognized and you cannot assert them further. This form constitutes notice to you that your signed Statement of Water User's Claim must be filed within 90 days after service of this notice with the Division of Water Rights, or the District Court. If you file your Statement of Water User's Claim with the Division of Water Rights, the State Engineer will file it with the District Court following the publication of the Proposed Determination. If you agree with the information and accept it as your Statement of Water User's Claim, sign the form and return it to the Division of Water Rights. Alternatively, you may manually revise this claim or obtain a blank Water User's Claim form from the Division of Water Rights' website at: [www.waterrights.utah.gov/info/forms](http://www.waterrights.utah.gov/info/forms). Signing and returning this form will NOT update ownership with the Division of Water Rights. If title to a water right needs to be updated, you must prepare and file a separate Report of Water Right Conveyance with the State Engineer. If you have any questions, please contact the Division of Water Rights at: (801) 538-5282.

1. WATER RIGHT AND OWNERSHIP INFORMATION:

A. NAME: Big Willow Irrigation Company  
ADDRESS: c/o Clayne Poulsen  
8018 Danish Road  
Salt Lake City UT 84121  
PHONE: \_\_\_\_\_ EMAIL: \_\_\_\_\_

B. TYPE OF RIGHT: Diligence Claim No. D50, CERTIFICATED a1314

C. PRIORITY DATE: 1860

2. SOURCE INFORMATION:

A. QUANTITY OF WATER: 787.153 acre-feet

B. DIRECT SOURCE: Little Willow Creek and North Fork

C. POINT(S) OF DIVERSION -- SURFACE:  
(1) S 1.638 feet E 3.195 feet from NW corner, Section 01, T 3S, R 1E, SLBM  
SOURCE OF POD: Little Willow Creek  
(2) S 1.069 feet E 2.667 feet from NW corner, Section 01, T 3S, R 1E, SLBM  
SOURCE OF POD: North Fork of Little Willow Creek  
(3) S 2.055 feet W 632 feet from NE corner, Section 02, T 3S, R 1E, SLBM  
SOURCE OF POD: Little Willow Creek

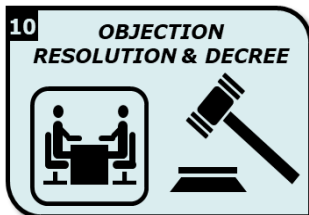
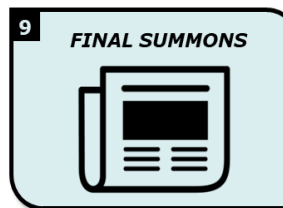
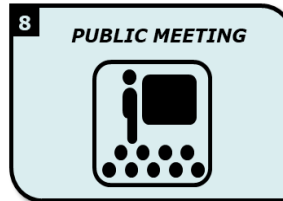
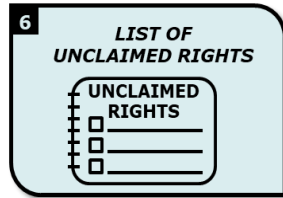
D. COUNTY: Salt Lake

RECEIVED  
JAN 28 2019 AC  
WATER RIGHTS  
SALT LAKE

Water User's Claim



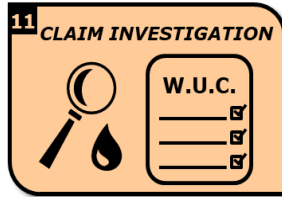
# Phase 2: List of Unclaimed Rights and Final Summons



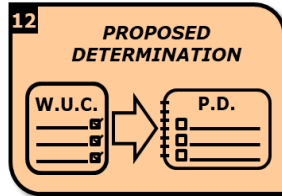
- Any known rights not claimed are published on the List of Unclaimed Rights which is published with the court. Notice is also given to all claimants. Any dissatisfied party may object within 90 days.
- A second public meeting is held to discuss the List of Unclaimed Rights and how to file an objection.
- The State Engineer makes a final search for potential claimants and publishes a final summons.
- Objections to the List of Unclaimed Rights are resolved and the court renders a decree.



# Phase 3: Proposed Determination and Final Decree



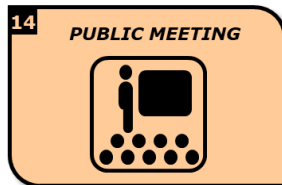
- Division staff evaluates and maps the claims. A State Engineer's Recommendation (SER) is prepared.



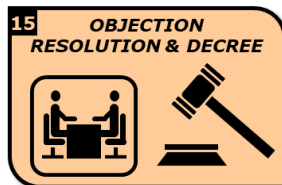
- The Proposed Determination represents the State Engineer's recommendation to the court for each water right.



- Any dissatisfied party may object within 90 days.

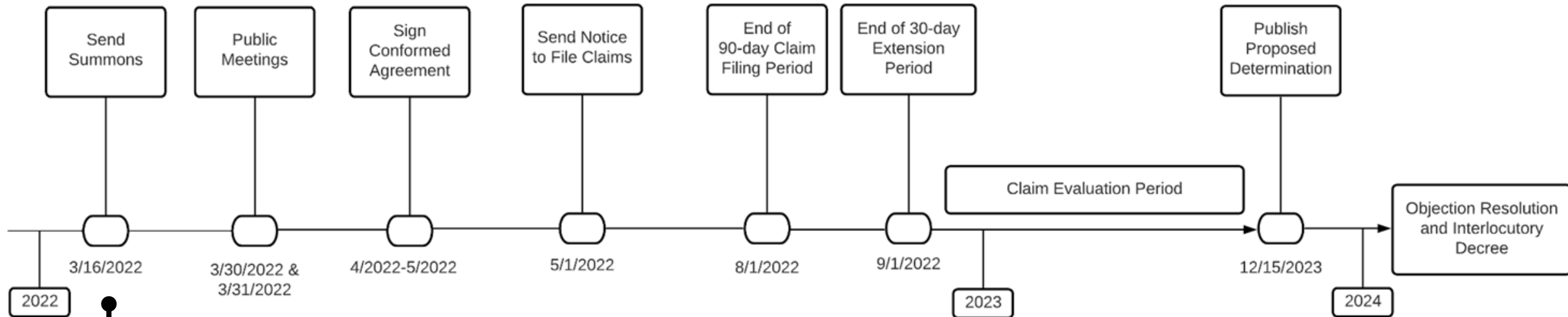


- A final public meeting is held to discuss the Proposed Determination and how to file an objection.



- Objections to the Proposed Determination are resolved and the court renders a decree.

# Navajo Nation Adjudication Timeline

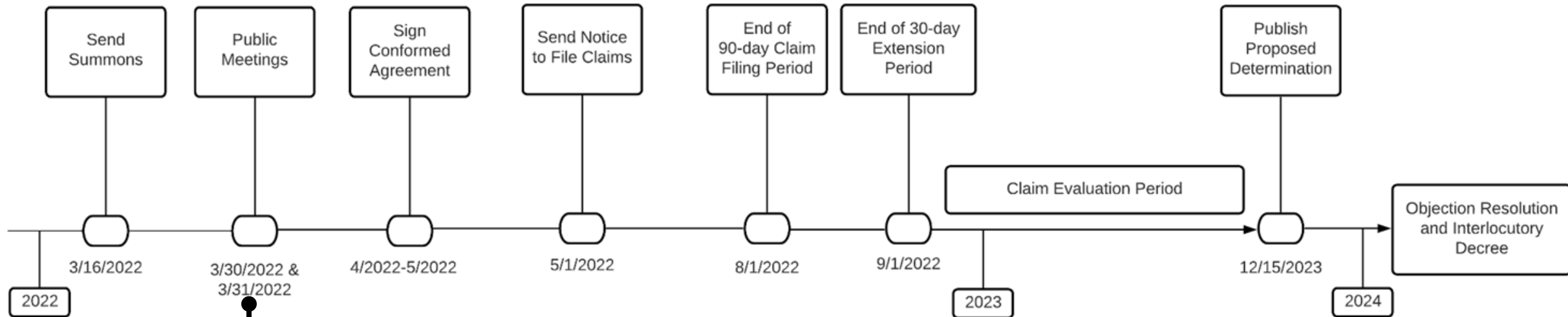


## Summons Includes:

- Water right holders
- Property owners
- Federal government to enact McCarran Amendment (3/24/2022)



# Navajo Nation Adjudication Timeline

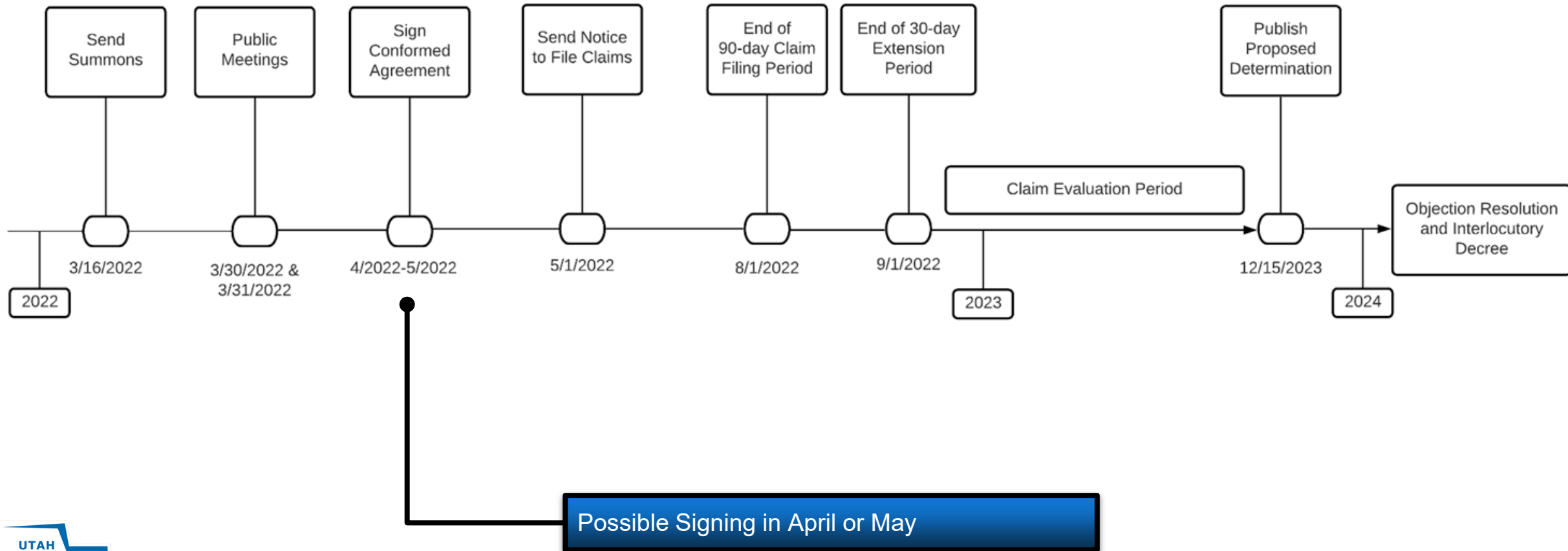


## Public Meetings:

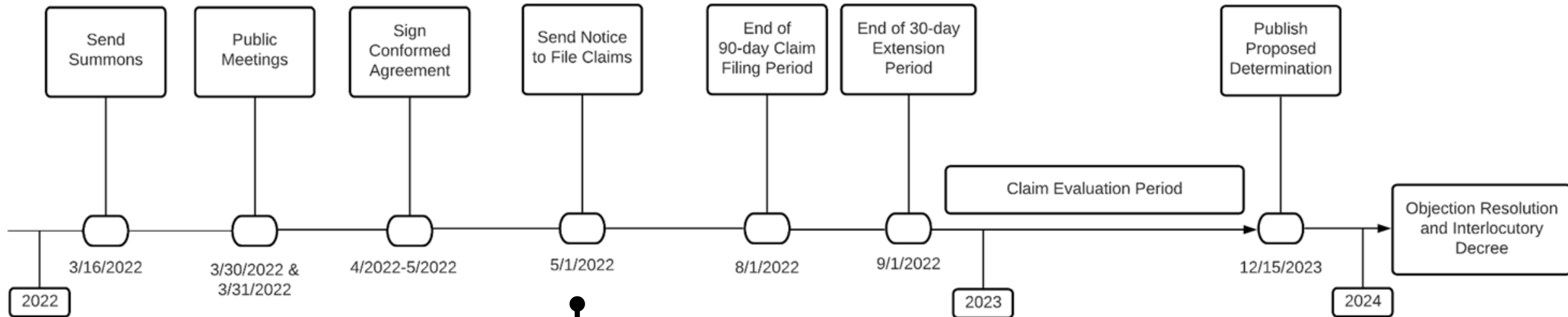
- Monticello: 3/30 at 4pm
- Blanding: 3/30 at 7pm
- Aneth: 3/31 at 10 am
- Monument Valley: 3/31 at 3pm



# Navajo Nation Adjudication Timeline



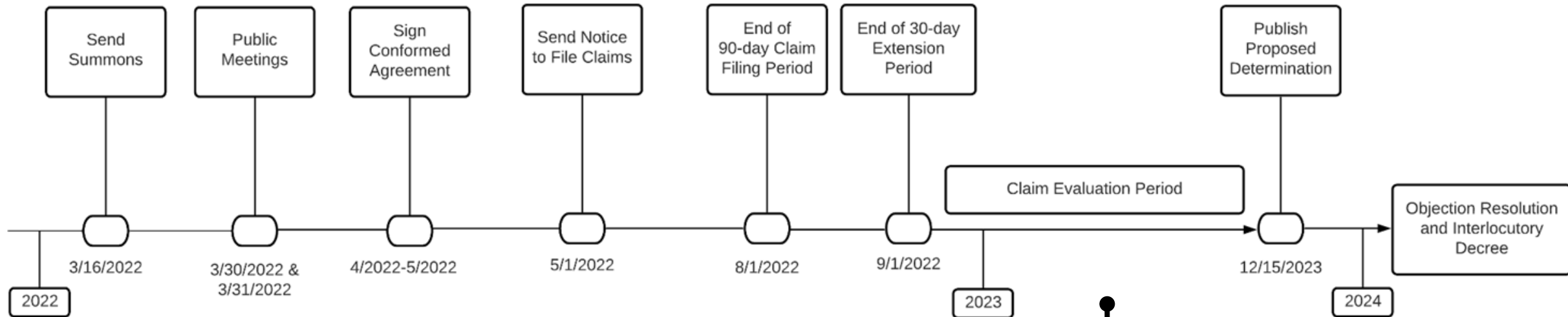
# Navajo Nation Adjudication Timeline



## Notice to File Claims:

- General Notice: May 3, 2022
- Federal Agencies: TBD

# Navajo Nation Adjudication Timeline

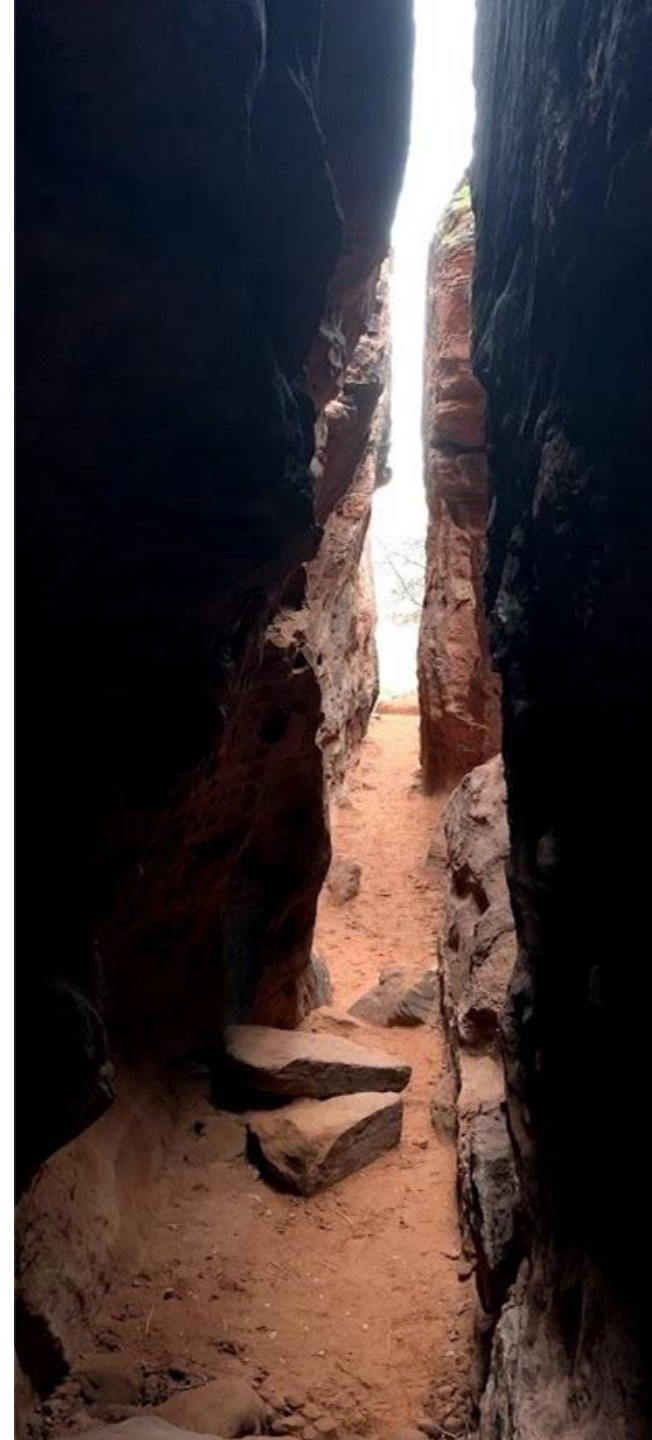


## Claim Evaluation Period:

- State of Utah will evaluate state-based rights
- Simultaneously, the Federal team will prepare a hydrographic survey within the Navajo Nation

# Quick Answers

- Q: What water development projects are planned?
  - A: The Navajo Nation is evaluating which projects to pursue.
- Q: I didn't receive a summons. Was I missed?
  - A: Due to the unique status of the Navajo Nation, a relatively small group of parties received summons. The summons of the federal government addresses all existing Navajo Nation uses.





# Quick Answers

- Q: I am a Navajo Nation member. What is my responsibility in the adjudication?
  - A: Unless you own a state-based water right, the Dept. of Interior and the Navajo Nation will represent you in the adjudication.
- Q: I own water rights in (Bluff/Blanding/Monticello). What is my responsibility in this adjudication?
  - A: Unless you own a state-based water right within the adjudication boundary, you do not need to file a water user's claim at this time.



# Quick Answers

- Q: I own a water right outside of the Navajo Nation adjudication boundary. What should I do to prepare?
  - A1: Return unused or underused rights to use.
  - A2: Make sure water right title is current.
- Q: Will I lose my water right?
  - A1: Navajo Nation water rights are not subject to forfeiture.
  - A2: Only water rights within the adjudication boundary are presently being adjudicated.



# Who can I contact to discuss the Adjudication Process?

**Michael Drake, PE**

*Assistant State Engineer - Adjudication*

E-mail: **michaeldrake@utah.gov**

**Marc Stilson**

*Southeastern Regional Office*

Tel: 435-613-3750

E-mail: **marcstilson@utah.gov**

**Nick Yeiter, CPM**

*Adjudication Program Manager*

Tel: 385-441-0364

E-mail: **nyeiter@utah.gov**

**waterrights\_adjudication@utah.gov**



# Questions?

