

1 STATE OF NEW MEXICO
2 SAN JUAN COUNTY
3 THE ELEVENTH JUDICIAL DISTRICT COURT

4 STATE OF NEW MEXICO, *ex rel.* STATE
5 ENGINEER,
6 Plaintiff,

CV-75-184
HON. JAMES J. WECHSLER
PRESIDING JUDGE

7 v.

SAN JUAN RIVER
ADJUDICATION

8
9 THE UNITED STATES OF AMERICA,
10 *et al.*,

Claims of Navajo Nation
Case No.: AB-07-1

11
12 Defendants

13
14 **ORDER (1) GRANTING SETTLING PARTIES' MOTION TO EXTEND CERTAIN**
15 **DEADLINES AND (2) SETTING SCHEDULE GOVERNING DISCOVERY AND**
16 **REMAINING PROCEEDINGS**

17 The Scheduling Order Governing Initial Pretrial Activities, filed September 29, 2012, sets
18 a deadline of February 1, 2012 for the Settling Parties to file the Supplemental Decree (also known
19 as the "Appendix 2 Decree") and requires that all objections or other responses to the Proposed
20 Decrees be filed by March 2, 2012. On January 13, 2012, the Navajo Nation, the United States of
21 America, and the State of New Mexico *ex rel.* State Engineer ("Settling Parties") filed a motion to
22 (1) extend the February 1, 2012 deadline for filing the Supplemental Decree and initial disclosures
23 to April 2, 2012, and (2) extend the March 2, 2012 deadline for filing objections to August 10, 2012.
24 After considering the motion, the responses,¹ the Settling Parties' reply, and the parties' comments
25 at the January 11, 2012 scheduling conference held pursuant to Rule 1-016 NMRA, the stay of
26 discovery ordered in September 29, 2011 Scheduling Order is hereby lifted in accordance with the

¹Responses to the Settling Parties' motion were filed by the San Juan Water Commission, Peabody Natural Resources Company, ConocoPhillips and El Paso Natural Gas Company.

D✓

1 schedule set forth herein, and the Court GRANTS the Settling Parties' motion to extend certain
2 deadlines and sets the following schedule governing discovery and remaining proceedings:

3 1. **Supplemental Decree and Initial Disclosures of the Settling Parties**

4 a. **February 10, 2012:** Disclose Final Reports associated with the United States'
5 Statement of Claims.

6 b. **April 2, 2012:** File Proposed Supplemental Partial Final Decree (Appendix 2).

7 c. **April 2, 2012:** File Initial Disclosures, including (i) the name, address and telephone
8 number of each individual, including experts, likely to have discoverable information
9 that the Settling Parties may use to support its position, and (ii) a description, by
10 category and location, of all documents, electronically stored information and
11 tangible items in the possession, custody or control of the Settling Parties that they
12 may use to support its position.

13 d. **April 2, 2012:** File State of New Mexico's statement of legal and factual bases for
14 settlement.

15 2. **Initial Discovery**

16 a. **Document E-Repository**

17 i. No later than **February 10, 2012**, the Settling Parties shall establish an
18 electronic document depository ("e-repository") at the Joe M Stell
19 Ombudsman Program of the Utton Center at the University of New Mexico
20 School of Law. Only discovery documents shall be posted on this website.
21 This website shall be accessible to the general public, and all discovery
22 documents shall available on the website. All documents shall be sent in
23 electronic form to the Ombudsman Program.

24 ii. Exception: documents that are not amenable to conversion to electronic

1 format or that are rendered difficult to interpret by conversion to electronic
2 format shall be delivered in hard copy to the Utton Center and shall be
3 available for inspection.

4 iii. The Court will file notice describing the website in detail, how to transmit
5 documents to the Ombudsman Program, and setting forth specific
6 instructions on how to access the physical repository on or before **February**
7 **22, 2012.**

8 b. **No later than May 1, 2012:** Initial meeting of non-Settling Parties to develop
9 coordinated discovery requests, to the extent feasible.

10 c. **No later than June 1, 2012:** Non-Settling Parties' Initial Discovery Requests.

11 d. **No later than June 15, 2012:** Objections to Initial Discovery Requests.

12 e. **No later than June 29, 2012:** Responses to Objections to Initial Discovery Requests.

13 f. **No later than July 16, 2012:** Court rules on objections to Initial Discovery Requests,
14 or schedules a conference as necessary, and establishes a schedule for responses to
15 initial discovery requests.

16 3. **September 21, 2012: Objections / Responses to the Proposed Decrees by non-Settling**
17 **Parties.** The legal and factual bases for all responses shall be stated with particularity. **The**
18 **failure of an Objector to comply with discovery requests or otherwise adhere to the**
19 **requirements of any order of the Court may result in dismissal of the objection.** At any
20 time an Objector may withdraw an objection by filing a notice of withdrawal with the Court.
21 Self-represented Objectors are responsible for informing the Court of any changes in their
22 e-mail and physical mailing addresses or changes in ownership of water rights or real
23 property associated with those rights.

24 4. **September 21, 2012: Initial Disclosures by non-Settling Parties,** including (i) the name,
25 address and telephone number of each individual, including experts, likely to have
26 discoverable information that the non-Settling Parties may use to support its position, and

1 (ii) a description, by category and location, of all documents, electronically stored
2 information and tangible items in the possession, custody or control of the non-Settling Party
3 that the Respondent may use to support its position.

4 5. **On or after October 5, 2012:** Any party may file proposed common issues of fact or law
5 that are ripe for resolution.

6 6. **February 1, 2013: Close of Discovery**

7 7. **Dispositive Motions**

8 a. **March 1, 2013:** Dispositive motions by any party, including the Settling Parties'
9 memorandum in support of the Settlement Motion of the United States, Navajo
10 Nation and State of New Mexico for Entry of Partial Final Decrees, filed January 3,
11 2011.

12 b. **April 1, 2013:** Responses to dispositive motions.

13 c. **April 16, 2013:** Replies to responses to dispositive motions.

14 d. **Week of May 6, 2013:** Hearing on dispositive motions.

15 8. **Week of June 10, 2013:** Decision on the need for evidentiary hearing.

16 9. **June 24, 2013:** Submittal of Witness Lists and Exchange of Exhibits.

17 10. **July 2, 2013:** Prehearing Conference.

18 11. **Weeks of July 29, August 5, and August 12, 2013: Evidentiary Hearing.**

19 12. **Post-Hearing Briefing**

20 a. **30 Days After Evidentiary Hearing:** Proposed findings of fact and conclusions of


1
2
3
4
5
6
7

law and memorandum in support (Settling Parties and Non-Settling Parties).

b. **10 Days After Proposed Findings of Fact and Conclusions of Law: Responses**

13. **December 31, 2013: Decision of the Court.**

IT IS SO ORDERED.


James J. Wechsler
Presiding Judge