

Description UNITED STATES OF AMERICA ET AL V JICARILLA APACHE TRIBE &
NAVAJO NATION - CV-75-184 - STATUS CONFERENCE

STATE OF NEW MEXICO
COUNTY OF SAN JUAN
IN THE DISTRICT COURT

UNITED STATES OF AMERICA, ET AL
Plaintiff
vs.

JICARILLA APACHE TRIBE AND THE NAVAJO NATION
Defendant.

JUDGE: ROZIER E SANCHEZ
TYPE OF PROCEEDINGS: STATUS CONFERENCE
FOR THE PETITIONER: TRACY HOFFMANN
FOR THE RESPONDENT: VARIOUS
GUARDIAN AD LITEM:
MONITOR: BONNIE PETTYJOHN
MACHINE TYPE: FTR GOLD REPORTER

LEGEND:

BW - Bench Warrant
C - Commissioner
CASA - Court Appointed Special Advocate
CS - Child Support
DEX - Direct Exam
EX - Exhibit
GAL - Guardian Ad Litem
J - Judge
M - Monitor
P - Petitioner's Atty
PET - Petitioner
R - Respondent's Atty
RES - Respondent
W - Witness
XEX - Cross Exam

Date 10/7/2009

Location DIV8COURTROOM

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Time	Speaker	Note
10:01:00 AM	J	CALLS CASE - 75-184
10:03:47 AM		THERE ARE SEVERAL MATTERS WE ARE GOING TO DISCUSS
10:04:00 AM		ONE THING - STATES MOTION TO REDUCE THE STATUS CONFERENCE
10:04:16 AM		MOTION IS DENIED
10:04:31 AM		APPEARANCE BY VIDEO OR AUDIO - BUT I WILL NOT SCHEDULE CONFERENCE FURTHER AWAY
10:04:53 AM		FIRST ITEM - UPDATE ON COURTS WEBSITE
10:05:10 AM		PRESENT TIME WE ARE SENDING 350 NOTICE TO PEOPLE PRO SE
10:05:31 AM		NOTICE OF HEARINGS AND DOCUMENTS OF IMPORTANCE
10:05:45 AM		NEAR FUTURE SJ MAIN STREAM THE NUMBER WILL INCREASE SEVERAL THOUSANDS - PERSONS THAT ARE INTERESTED
10:06:12 AM		IT IS IMPOSSIBLE FOR US TO SEND NOTICE IN WRITING
10:06:25 AM		THEREFORE WE ARE GOING TO UTILIZE A SPECIAL ORDER IN COMBINATION WITH THE WEB
10:06:43 AM		DRAFT COPY OF THE ORDER I AM REFERRING TO
10:06:53 AM		NOTICE TO BE SENT TO THE WEB
10:07:12 AM		THIS DOES NOT INCLUDE THE REQUIRED NOTICE TO LAWYERS TO THE GENERAL PUBLIC
10:07:57 AM		WE RECEIVED SUGGESTIONS AND HAVE ADOPTED SOME OF THOSE
10:08:21 AM		WE WILL SEND OUT AND RECEIVE COMMENTS AND MODIFY IF NECESSARY
10:08:36 AM		THIS ORDER NEEDS TO BE SIGNED BEFORE WE OPEN THE SJ MAIN STREAM
10:08:59 AM		OPPORTUNITY TO SUBMIT OBJECTIONS
10:09:07 AM		NEXT ITEM NUMBER 8
10:09:18 AM		SUPREME COURT NOTES
10:09:45 AM		NAVAJO TREATY HAS A TIME LIMIT - IF I AM REPLACED I DID NOT WANT THERE TO BE A BREAK IN CONTINUITY - I DID NOT WANT TO MAKE EARLY DECISIONS THEN HAVE TO TURN IT OVER TO THE SPECIAL MASTER
10:11:25 AM		RULE 54/53 TO APPOINT SPECIAL MASTER FOR PURPOSES OF PROCEEDINGS
10:11:52 AM		ORDER THAT HAS BEEN PREPARED TO TURN THIS OVER TO STEPHEN SNYDER THE SPECIAL MASTER
10:12:29 AM		I AM THE SUPERVISING JUDGE UNTIL THE SUPREME COURT MAKES A DECISION
10:12:57 AM		I NEED YOU TO MEET WITH STEPHEN SNYDER FOR PURPOSES OF YOUR HEARINGS

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Time	Speaker	Note
10:13:28 AM		IS DARCEY BUSHNELL AVAILABLE
10:13:47 AM	DB-J	DARCY BUSHNELL - LAW SCHOOL - ALL STATE AGENCY AND PROGRAMS SIGNIFICANT CUTS - WE ARE LOOKING FOR GRANTS AND TRY AND KEEP THIS PROGRAM A FLOAT - WE WILL NOT KNOW ANYTHING UNTIL THE END OF THE MONTH
10:14:58 AM	J-DB	AS WE GO INTO SJ MAIN STREAM THERE WILL BE SO MANY MORE PEOPLE AND SO MANY QUESTIONS WE WILL HAVE A NEED FOR YOUR SERVICE
10:15:37 AM		THANK YOU FOR YOUR TIME AND SERVICES
10:15:48 AM	J	NEXT HEARING JANUARY 13, 2010 - MARCH 28, 2010
10:16:04 AM		SPECIAL MASTER WILL NOT BE HEARING ANY MATTERS WITH THE EXCEPTION
10:16:27 AM	J	STATUS REPORT STATE ENGINEER
10:16:36 AM	TH-J	TRACY HOFFMANN - STATE ENGINEER
10:16:51 AM		HOW ARE WE PROCEEDING
10:16:56 AM		WE HAVE TO FINISH WATER RIGHTS AND WELLS
10:17:09 AM		TERMS OF SERVICE WATER 540 ACTIVE SUBFILES - 28 SUBFILES READY FOR MEDIATION - STATE HAS EXHAUSTED - WE WILL NEED HELP
10:18:01 AM	J-TH	THERE ARE 28 OBJECTIONS
10:18:08 AM	TH-J	YES
10:18:22 AM	J	BETTER PLAN ON CALLING ON ONE OR TWO PEOPLE
10:18:44 AM	TH-J	WE ARE WILLING
10:18:54 AM		36 SUBFILES IN WHICH WE NEED CLAIMANT TO TAKE ACTION - THEY ARE IN THERE 60 DAY WAITING PERIOD
10:19:24 AM		CHANGE OF OWNERSHIP - CONSENTS ARE SENT OUT
10:19:36 AM	J-TH	I HAVE BEEN SIGNING SEVERAL ORDERS ON NEW OWNERSHIP
10:19:57 AM	TH-J	YES THERE ARE SOME HIDDEN SOMEWHERE - WE ARE ON TOP OF IT AS MUCH AS WE CAN BE
10:20:35 AM	J-TH	SHOULD BUSHNELL CONTACT TO SEE WHY THEY HAVE NOT RESPONDED
10:20:52 AM	TH-J	YES, WE HAVE BEEN USING HER - CLAIMANTS SOMETIMES DO NOT CALL US BACK - BUSHNELL COULD CALL
10:21:34 AM		WE ALSO HAVE A LARGE 39 SUBFILES - MOTION FOR PUBLICATION - WILL BE READY THIS WEEK - EXHAUSTED MAIL, CALLS, - NO RESPONSE DEFAULT WILL GO INTO PLACE
10:22:12 AM		THAT IS THE STATUS OF THE SURFACE WATER SUBFILES

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Time	Speaker	Note
10:22:30 AM		22 SUBFILES LEFT TO TAKE ACTION - I WILL ENLIST MS BUSHNELLS HELP
10:22:52 AM		TURNING TO THE WELLS
10:22:57 AM		SENT NOTICE TO ENTIRE LAPLATA SECTION - TO COME IN - FAIRLY GOOD TURNOUT 60 PEOPLE CAME - FOLLOWING THOSE FIELD OFFICES ONLY A HAND FULL OF FILINGS
10:23:39 AM		WE SHOW ABOUT 250 WELLS IN THE AREA - PROBLEM OWNERSHIP HAS NOT BEEN UPDATED FOR THOSE WELLS - LOCATION OF WELLS IS BASED ON 40/40/40
10:24:28 AM		SPENT THE SUMMER TRYING TO CONTACT THEM TO UPDATE OWNERSHIP - WE ARE NOT HAVING A GREAT RESPONSE
10:24:54 AM		WE HAVE ONLY 9 RESPONSES ON THE 250
10:25:02 AM	J	ORDER TO SHOW CAUSE AS THE LAST ALTERNATIVE
10:25:17 AM	TH-J	WE AGREE AND WOULD LIKE TO DRAFT A PROCEDURE AS SOON AS POSSIBLE
10:25:43 AM		ONCE WE HAVE THE UPDATED INFORMATION - IT SHOULD MOVE ALONG QUICKLY
10:26:02 AM	J-TH	FUTURE OF THE
10:26:18 AM	TH	I TRIED TO OUTLINE - BUT I DONT KNOW - WE WILL HAVE A BETTER SENSE IN JANUARY
10:26:40 AM	J-TH	ARE YOU HANDELING SJ MAIN STREAM
10:26:50 AM	TH-J	YES
10:26:58 AM	RO	ROBERT E OXFORD - CONSULT WITH SOME OF THE WATER USERS IN LAPLATA - WE ARE NOT SURE HOW THE NOTIFICATION OR MEDIATION WORKS
10:28:01 AM	LB-RO	LORESSA BACHART - NOTICE OF MEDIATION - THEY ARE TO CONTACT THE MEDIATOR THAT THE ORDER SAYS - IT IS THERE RESPONSIBILITY
10:28:33 AM	LB	EXPLAINING NOTICE TO WATER USERS
10:29:12 AM	RO-LB	ELDERLY PEOPLE WILL I BE ABLE TO HELP THEM
10:29:27 AM		I DONT KNOW
10:29:30 AM	J-RO	YOU WILL HAVE TO CLEAR IT WITH THE MEDIATOR
10:29:43 AM	RO-J	COMPLICATED WATER RIGHTS THAT IS WHY THEY HAVE ASKED ME TO HELP
10:29:57 AM	DB-J	DARCEY BUSHNELL - ONE OF THE SERVICES IS TRAINING FOR MEDIATORS
10:30:48 AM	J-DB	YOU CAN DISCUSS IT WITH HIM
10:30:58 AM	J	NOW NUMBER 5
10:31:03 AM		I WAS DISSAPOINTEED IN JUNE 30 OF THIS YEAR
10:31:33 AM		NOT ENOUGH MONEY - 20 MONTH EXTENSION

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Time	Speaker	Note
10:31:51 AM		MATTER IS GOING TO BE TURNED OVER TO THE SPECIAL MASTER
10:32:07 AM		DESPO MOTIONS TO BE DISPOSED OF WITH ME
10:32:22 AM		THEN GO TO APPELLAT - I WILL BE IN TOUCH WITH STATE ON THE DESPOITIVE MOTIONS
10:33:21 AM	JU	JOHN UTTON - MOVING FORWARD NN - HOW WOULD THAT FIT IN WITH THESE OTHER MATTERS WITH RESPECT TO THE NAVAJO AND UTE CLAIMS
10:34:29 AM		PARTIES HAVE AGREED AND ARE WILLING TO DEFER SOME OF THE MORE DIFFICULT ISSUES UNTIL WE ARE READY
10:35:04 AM		PARTIES ARE SUFFERING FROM REDUCED RESOURCES
10:35:24 AM		WE WANTED TO DELAY THIS UNTIL AFTER SOME OF THE INITIAL MATTERS HAVE BEEN DONE
10:35:45 AM		ORDER YOU SIGNED PUTS OFF THE UTE MATTERS
10:36:04 AM		WE WOULD HAVE AN EASIER PROCESS IF WE HAD ALL THE PARTIES JOINED
10:36:32 AM		THAT IS OUR MAJOR CONCERN - NAVAJO SETTLEMENT IS HUGE AND COMPRISED OF HALF THE WATER
10:37:36 AM		TERMS OF THE BENEFIT OF THE PROCESS NAVAJO SETTLEMENT ARE MUCH MORE IMPORTANT THAN THE UTE CLAIMS
10:38:10 AM	GG-J	GUSS GUARINO - IT IS THE UNITED STATES DESIRE TO - PRELIMINARY CLAIMS FOR THE UTE CLAIMS - WHAT WE HAVE LEARNED WE WILL APPLY TO THE NAVAJO SETTLEMENT
10:39:14 AM	J-GG	I AM HAPPY TO WORK WITH COUNSEL ON THE SCHEDULE - I DONT WANT THE SPECIAL MASTER TO HAVE TO DEAL WITH - I KNOW WHAT IS GOING ON AND HAVE BEEN IN THIS FOR A LONG TIME
10:40:36 AM	GG-J	WE WOULD HAVE TO ADDRESS THE ADJUDICATION
10:40:57 AM	J-GG	DISCOVERY IS NOT DISPOSITION
10:41:15 AM		UMU I WANT TO DISPOSE OF IT
10:41:51 AM	DI	DAN ISRAUL - I HAVE TWO CONCERNS
10:42:01 AM		WE SEE THIS AS BEING INCONSISTENT WITH THE ORDER THAT THE COURT HAS SIGNED
10:42:16 AM		WE HAVE THE OPPORTUNITY TO TAKE DISCOVERY ON MATTERS THAT ARE RELATIVE
10:42:33 AM		MERITS OF THE TRIBES CLAIM ARE NOT SEPERATE FROM SOME OF THE
10:43:03 AM		IS THERE A WAY WE CAN BE PROTECTED FROM THAT

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Time	Speaker	Note
10:43:13 AM	J-DI	IF I AM ASKING FOR TO MUCH I CAN CHANGE MY POSITION - I NEED MORE DETAIL - I WANT SOME TYPE OF RESPONSE FROM THE PARTIES
10:43:49 AM	DI-J	WE DO NOT RESIST THE COURT - WHAT WE NEED IS TIME TO DEVELOP THE INFORMATION WE NEED
10:44:07 AM	J-DI	ORDER COMES DOWN FROM THE SUPREME COURT
10:44:35 AM	DI-J	THERE WILL BE AN APPROPRIATE TIME FRAME
10:44:45 AM	J-DI	I DONT THINK IT IS FAIR TO TURN IT OVER TO THE SPECIAL MASTER
10:45:04 AM	DI-J	WHAT IS THE APPROPRIATE WAY FOR THE TRIBE
10:45:16 AM	J-DI	ALL COUNSEL TO SUBMIT A LETTER TO ME ON YOUR POSITION AS WHY IT CANNOT BE DONE
10:45:37 AM	TH-J	TRACY HOFFMANN - WHEN LAPLATA MIGHT MOVE FORWARD
10:45:57 AM		UNDER TAKING - IT IS NOT DOEABLE TO FINISH IT ALL -
10:46:26 AM		UNABLE TO
10:46:32 AM		COURT SUGGEST THAT WE SHOULD MOVE FORWARD WITH THE UTE AND MAIN STEAM, NAVAJO SETTLEMENT IS SOMETHING THAT OUR OFFICE CANNOT HANDLE
10:47:07 AM	J-TH	LIMITATIONS ARE I WANT IT IN WRITING
10:47:18 AM	TH-J	WE WILL GIVE YOU THE REASONS - BUT IT WOULD TAX OUR OFFICE MORE THAN WE COULD HANDLE
10:47:36 AM	J	THE LAST ITEM IS THE SJ MAIN STREAM
10:47:46 AM		WE DO NOT HAVE A SCHEDULING ORDER
10:47:52 AM		WE WILL HAVE THE SCHEDULING ORDER FOR LAPLATA SOON
10:48:05 AM		SUBMIT FOR COMMENTS AND OBJECTIONS - DRAFT ORDER CONCERNING ORDER THROUGH THE WEB
10:48:49 AM		I WANT TO SEND NOTICE ON THE WEBSITE
10:49:10 AM	RO	ROBERT OXFORD - ON MAIN STREAM I WANT TO MAKE A POINT
10:49:21 AM		FAMILIAR WITH THE ACREAGE
10:49:28 AM		AVERAGE PIECE OF LAND WAS 8 ACRES NO TREES
10:49:43 AM		LARGE DITCH IS 2 ACRES - THAT MEANS THERE IS ALOT OF 1 ACRE TRACT - FIELD CHECK FOR ALL SMALL CHECKS
10:50:14 AM		THIS IS WHAT IS TAKING SO MUCH TIME
10:50:24 AM		AERIAL WILL NOT WORK - IT WILL HAVE TO BE FIELD CHECKS
10:50:57 AM	J-RO	EACH OF THOSE STREAMS
10:51:31 AM	RO-J	COMPLICATED THERE ARE NUMEROUS TRANSFERS OF WATER

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Time	Speaker	Note
10:51:54 AM		IN LAPLATA THERE WAS ONLY ONE TRANSFERS
10:52:05 AM		SAN JUAN THERE ARE HUNDREDS
10:52:27 AM	MS-J	MICHAEL SULLIVAN - INDIVIDUAL WATER RIGHTS HOLDER
10:52:42 AM		CONCERNS - NOTICE OF SERVICE THROUGH THE INTERNET
10:52:51 AM		OLDER PEOPLE THAT DONT HAVE COMPUTER SERVICE
10:53:09 AM	J-MS	THAT IS A POINT WE HAVE TO RESOLVE
10:53:22 AM	MS-J	4 OR 5 THOUSAND ACRES - HALF ARE ELDERLY PEOPLE
10:53:40 AM		SECOND COMMENT - ON THE MAIN STEAM OF THE SJ WHICH THE HAMMOND COMES OFF OF - WE NEED TO UNDERSTAND THE HAMMOND
10:54:03 AM		INDIVIDUAL LAND OWNERS WOULD BE SENT NOTICE - WHERE DO WE STAND ON THIS
10:54:34 AM		THIRD - ISSUE UTE CLAIMS HOW SHORT OF MONEY - INDIVIDUAL CLAIMS ARE SHORT ALSO - HOW DO WE KNOW HOW THE UTE CLAIM IS GOING TO AFFECT US
10:55:25 AM		IS IT A TOTAL ANAYLSIS OR DOES IT COME AFTER THE FACT
10:56:13 AM		FOURTH - MS BUSHNELL, STATE FUNDS ARE SHORT - THE DITCHS ARE SHORT ALSO
10:57:26 AM	J-MS	HAMMOND IS GOING TO BE HANDELED INDIVIDUALLY - WE WILL SEND NOTICES INDIVIDUALLY
10:58:51 AM	MS-J	ANY WATER RIGHTS THAT ARE FILED BEFORE THE ECHO DECREE
10:59:09 AM	J-MS	THEY WILL BE HANDELED IN THIS
10:59:16 AM	J	I DO NOT HAVE ANYTHING ELSE AT THE PRESENT TIME
10:59:32 AM	MS-J	ON BEHALF OF THE LAND WATER RIGHTS WE SUPPORT THE SUPREME COURTS DECISION OF THE SPECIAL MASTER
11:00:04 AM	J	RECESS
11:18:05 AM		BACK IN SESSION
11:18:17 AM	SS	STEPHEN SNYDER - CONVENE THE SCHEUDLING CONFERENCE FOR DATES
11:18:40 AM		VICTOR MARSHALL ON THE PHONE
11:18:46 AM		I WANT TO SCHEDULE - I AM CONFUSED LOOKING AT THE RECORD
11:19:10 AM		BECAUSE OF THE CONFUSION - OBJECTIONS WILL BE DUE BY 10/22/2009 OR THEY WILL BE DENIED

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Time	Speaker	Note
11:19:35 AM		OTHER REPLIES BY NOVEMBER 6 - WE WILL BE HAVING HEARING WEEK OF NOVEMBER 16, 2009 MAY BE IN FARMINGTON - MY GOAL IS TO HAVE THE SPECIAL MASTER REPORT BY JANUARY - THAT WILL BE THE EXTENT OF MY INVOLVEMENT
11:20:15 AM	DI	DAN ISRAUL - MR POLLACK ON BEHALF OF THE NAVAJO NATION I WANT TO RUN THIS THROUGH WITH US AND STATE - LOOK AT THE PAPER ASSUMING ONLY PARTIES THAT OBJECT HAVE STANDING - BUT MY CLIENT HAS A LOT OF QUESTIONS - WILL THERE BE DOWN THE ROAD
11:21:33 AM	SS-DI	WE WILL HEAR STATES JOINT MOTION BE SET FOR APPROVAL - THIS IS A MATTER SETTING THE PROCEDURE
11:22:01 AM	SS	THIS IS NOT AN OBJECTION TO THE MERIT OF THE PROCEDURES
11:22:17 AM		10/22/2009 ANY OBJECTIONS OR COMMENTS OR NOVEMBER 6 OTHER
11:22:41 AM	STATE	NOVEMBER 16 - MON, TUES WED ONLY
11:22:56 AM	VM	VICTOR MARSHALL - NOT THE 18TH
11:23:12 AM	POLLACK	COLORADO RIVER IN PHOENIX ON THE 18TH AND 19TH - AVAILABLE 16 AND 17
11:23:37 AM	SS	16 AND 17 AVAILABLE - I WILL NEED TO FIND THE COURTROOM - YOU WILL BE ADVISED WHEN WE HAVE A PHYSICAL PLACE
11:24:11 AM	LB	INTRODUCE BONNIE PETTYJOHN
11:24:33 AM	GH	GARY HORNER - I DID FILE AN OBJECTION - I WOULD LIKE TO BE ABLE TO AMEND - DO YOU HAVE A PROBLEM
11:24:50 AM	SS	I HAVE A PROBLEM WITH THE 100 PAGES
11:25:06 AM	GH	DOES THAT MEAN I CAN
11:25:09 AM	SS	YES
11:25:13 AM		RECESS