

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

DISTRICT COURT
SAN JUAN COUNTY NM
FILED
2012 NOV 13 AM 10:35

STATE OF NEW MEXICO, *ex rel.* STATE ENGINEER,

CV-75-184

Plaintiff,

HON. JAMES J. WECHSLER
Presiding Judge

vs.

THE UNITED STATES OF AMERICA, *et al.*,

SAN JUAN RIVER
GENERAL STREAM
ADJUDICATION

Defendants,

THE JICARILLA APACHE TRIBE AND THE
NAVAJO NATION,

Claims of the Navajo Nation

Defendant-Intervenors.

Case No. AB-07-1

NAME OF PARTY: United States of America	
DESCRIPTIVE SUMMARY: Supplemental disclosures and identification of potential expert witnesses of the United States.	
NUMBER OF PAGES: 4	
DATE OF FILING: November 8, 2012	

**THE UNITED STATES' SUPPLEMENTAL DISCLOSURES, SUPPLEMENTAL
DISCOVERY RESPONSES, AND IDENTIFICATION OF POTENTIAL EXPERT
WITNESSES AND EXHIBITS**

This pleading serves as a supplemental disclosure to the *United States Initial Disclosures* (April 2, 2012) (U.S. Initial Disclosures) as well as a supplemental response to any relevant discovery request previously issued to the United states in this sub-file proceeding.

Introduction

On February 2, 2012, the United States provided the Court and all parties the *Technical Reports Supporting the United States' Statement of Claims of Water Rights in the New Mexico San Juan River Basin on Behalf of the Navajo Nation and Disclosures of Individuals with Information Concerning Such Technical Reports* (U.S. Technical Reports). These technical

reports outlined the extensive factual basis for the more detailed statement of claims that the Court ordered the United States to previously prepare. *See United States' Statement of Claims of Water Rights in the New Mexico San Juan River Basin on Behalf of the Navajo Nation* (January 3, 2011) (U.S. Statement of Claims). Subsequently, the United States provided non-settling parties its initial disclosures. *See* U.S. Initial Disclosures. In its initial disclosures, the United States identified persons it may use to support the Settlement Motion and who may likely have discoverable information. U.S. Initial Disclosures § I. The United States also identified three documents that the United States may rely upon to support the Settlement Motion. U.S. Initial Disclosures § II.A. Each person and document identified were well-known to all non-settling parties as they were previously identified by the United States. *See e.g.* U.S. Technical Reports.

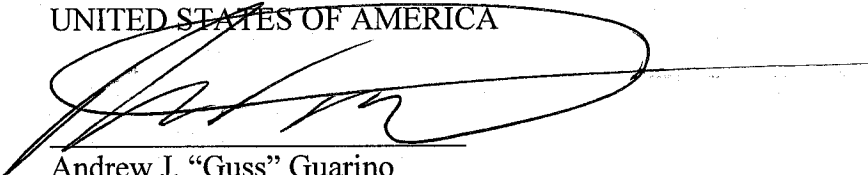
In some discovery requests, non-settling parties presented discovery requests that sought to determine what expert witnesses the United States might present at a hearing to support its *prima facie* case associated with the Settlement Motion. *See e.g. ConocoPhillips First Set of Discovery Requests* (June 1, 2012) Interrogatories 8, 9, 10, and 11. The Court has not identified any issue of fact that requires an evidentiary hearing and as previously described by non-settling parties most, if not all, of the elements associated with the Settling Parties' *prima facie* case are questions of law and fact that can be answered based upon the documents currently before the Court. Therefore, at the time the United States responded to discovery requests, the United States did not identify a witness who would testify with respect to any unidentified factual issues. Nonetheless, in an abundance of caution and to keep all parties fully informed, the United States clarifies its initial disclosures and previous discovery responses to identify those persons that the United States may call on, if necessary, to provide expert testimony in the Navajo *Inter Se*.

Supplemental Disclosure and Responses

In the event that an issue of fact arises at any time in conjunction with the Navajo *Inter Se* for which a verified statement or testimony is necessary, the United States will rely upon those persons identified in section I of the United States' Initial Disclosures (April 2, 2012) to establish the factual basis called for. Such testimony will be consistent with the Purpose of Disclosure described in the United States' Initial Disclosures (April 2, 2012). In addition, depending on the nature of the factual issue identified, the United States may also rely on those additional persons who prepared a previously disclosed report identified in the U.S. Technical Reports. Such testimony will be consistent with the associated previously disclosed report. Finally, to develop any and all required factual basis that might be called for, the United States shall also rely upon the contents of the previously disclosed U.S. Technical Reports and the documents previously identified in the U.S. Initial Disclosures.

Respectfully submitted this 8th day of November, 2012.

UNITED STATES OF AMERICA



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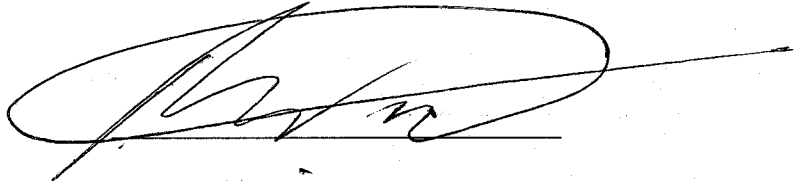
CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of November 2012, a true and accurate copy of

**THE UNITED STATES' SUPPLEMENTAL DISCLOSURES AND IDENTIFICATION
OF POTENTIAL EXPERT WITNESSES**

was served by attaching an electronic copy to an email sent to the following address:

wnavajointerse@nmcourts.gov.

A handwritten signature in black ink, consisting of a large, stylized loop followed by several smaller, less distinct strokes, all written over a horizontal line.