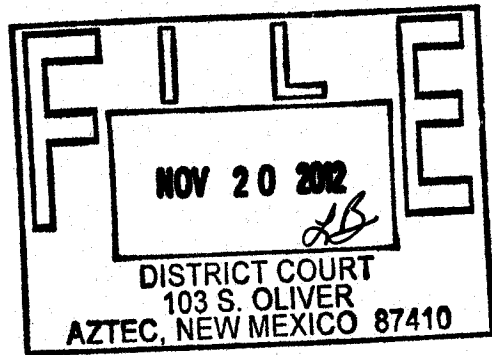


STATE OF NEW MEXICO  
SAN JUAN COUNTY  
THE ELEVENTH JUDICIAL DISTRICT COURT



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

Plaintiff,

vs.

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

Defendants,

THE JICARILLA APACHE TRIBE AND THE  
NAVAJO NATION,

Defendant-Intervenors.

CV-75-184  
HON. JAMES J. WECHSLER  
Presiding Judge

SAN JUAN RIVER  
GENERAL STREAM  
ADJUDICATION

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

NAME OF PARTY: State of New Mexico

DESCRIPTIVE SUMMARY: The State's Response to San Juan Water Commission's Responses to the State's Discovery Requests

NUMBER OF PAGES: 4

DATE OF Service: November 20, 2012

**THE STATE OF NEW MEXICO'S RESPONSE TO THE SAN JUAN WATER  
COMMISSION'S RESPONSES TO THE STATE'S DISCOVERY REQUESTS**

The State of New Mexico (the "State") submits this response to the *San Juan Water Commission's Responses to the State of New Mexico's Discovery Requests*, served November 5, 2012 ("SJWC Responses"), a copy of which is attached as Exhibit 1. The Court's *Second Amended Order Setting Schedule Governing Discovery on Non-Settling Parties and Remaining Proceedings*, entered November 6, 2012, set a deadline of November 20, 2012 for Settling Parties to respond to objections of non-Settling Parties to initial discovery requests.

Overall, the responses of the San Juan Water Commission ("SJWC") are responsive to the State's initial discovery requests. Nonetheless, there are a number of requests to which the SJWC did not respond or provided an inadequate response, described as follows:

**Interrogatory No. 5.** The State asks SJWC to explain its denial that sections 9.1, 9.2 and 9.3 of the Settlement Agreement (1) reduce or eliminate impacts on junior water rights in the basin in New Mexico, including the SJWC and its member entities; and (2) can be provided only through settlement, and cannot be provided by the Court through litigation of the Navajo Nation's water right claims. SJWC objects to this interrogatory and provides no response on the grounds that the request seeks a pure legal conclusion. The State disagrees and believes the SJWC can answer this question based on facts and opinion known or available to it. SJWC concedes it may use one of its identified experts to provide testimony regarding sections 9.1, 9.2 and 9.3 and, therefore, recognizes this is not a purely legal issue. The State should not have to wait until the deposition of SJWC's expert to receive a response to written discovery.

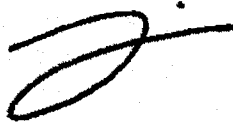
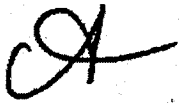
**Interrogatory No. 6.** The State asks SJWC to explain how potential testimony described in *San Juan Water Commission's Initial Disclosures in Support of its Objections to the Navajo Nation Water Rights* regarding the history of the Animas La Plata Project and drafting and adoption of Section 72-5-33 NMSA is relevant to the scope of the Navajo *inter se* proceedings.

SJWC's answer does not describe any testimony and how it is relevant to the stated issue. Instead, SJWC recites provisions from an order entered by Judge Rozier Sanchez in another case, *San Juan Water Commission v. D'Antonio*, D-116-CV-2008-1699, and discovery responses made by the Navajo Nation. If in fact SJWC intends to rely on testimony related to this issue, the State requests that SJWC provide a summary of that testimony.

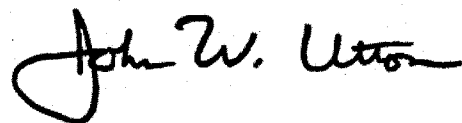
**RFP No. 8.** The State asks SJWC to produce documents related to SJWC's contention in *the San Juan Water Commission's Initial Objections to the Navajo Nation Water Rights Settlement and Proposed Decrees* that "the Navajo Settlement Conflicts with the PIA Requirements of *Lewis*." SJWC objects the request is overbroad and responds that SJWC may rely on a PIA analysis by its expert witness, if one is prepared. The State requests the Court to direct SJWC to provide the substance of the facts and opinions to which its expert is expected to testify and a summary of the grounds for each opinion. In addition, the State requests that the Court set a deadline for production of expert reports, if a party intends to rely on such a report, by a date that will allow other parties to conduct discovery regarding such reports.

**Respectfully submitted, this 20th day of November 2012.**

STATE OF NEW MEXICO



Arianne Singer  
Special Assistant Attorney General  
New Mexico Office of the State Engineer  
P.O. Box 25102  
Santa Fe, NM 87504-5102  
827-6150



John W. Utton  
Special Assistant Attorney General  
Sheehan & Sheehan, P.A  
Post Office Box 271  
Albuquerque, New Mexico 87103 (505)  
(505)247-0411

CERTIFICATE OF SERVICE

I certify that on this 20th day of November 2012, at approximately 4:15 pm, an electronic copy of this State's Response to SJWC's Response to State's Discovery Requests was served by attaching an electronic copy to an email sent to: wnavajointerse@nmcourts.gov.

/s/ Arianne Singer

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

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

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SAN JUAN RIVER  
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ADJUDICATION

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

**NAME OF PARTY:** San Juan Water Commission

**DESCRIPTIVE SUMMARY:** San Juan Water Commission's Responses to the State of New Mexico's Discovery Requests

**NUMBER OF PAGES:** 12

**DATE OF Service:** November 5, 2012

**SAN JUAN WATER COMMISSION'S RESPONSES TO  
THE STATE OF NEW MEXICO'S DISCOVERY REQUESTS**

Pursuant to the Court's August 7, 2012, Amended Order Setting Schedule Governing Discovery on the Non-Settling Parties and Remaining Proceedings, and pursuant to New Mexico Rules of Civil Procedure 1-026, 1-033, 1-034, and 1-036, San Juan Water Commission ("SJWC") hereby responds to the discovery requests propounded by the Navajo Nation as follows:

**Definitions**

a. "Settlement Act" refers to the Northwestern New Mexico Rural Water Projects Act of 2009, Public Law 111-11, 123 Stat. 1367. Copies of the Settlement Act are

publically available at numerous sources including [www.gpo.gov/fdsys/pkg/PLAW-111publ11/pdf/PLAW-111publ11.pdf](http://www.gpo.gov/fdsys/pkg/PLAW-111publ11/pdf/PLAW-111publ11.pdf).

b. "Settlement Agreement" refers to the settlement agreement signed by the State of New Mexico, the Navajo Nation, and the United States on December 17, 2010 and includes the partial final decree and the supplemental partial final decree. A copy of the settlement agreement of December 17, 2010 and the Partial Final Decree were filed with the Court on January 3, 2011 as attachments to the *Settlement Motion of United States, Navajo Nation and State of New Mexico for Entry of Partial Final Decrees*. The final draft supplemental partial final decree was filed with the Court on April 2, 2012 as an attachment to the *Supplemental Partial Final Judgment and Decree of the Water Rights of the Navajo Nation*.

#### **Responses to Requests for Admission**

**Request for Admission No. 1:** Admit that under the Settlement Agreement, the water supply for the Navajo-Gallup Water Supply Project (NGWSP) is the San Juan River above Navajo Dam, with supplemental water that may be available from inflows to the river below the dam.

**RESPONSE:** SJWC objects that the use of the terms "water supply" and "supplemental water" render this request vague and ambiguous. Without a definition of these two terms, SJWC is incapable of admitting or denying this Request and therefore denies it.

**Request for Admission No. 2:** Admit that the source of water supply that is the subject of OSE Application No. 4818 is the Animas River, which is separate and distinct from the San Juan River above Navajo Dam.

**RESPONSE:** Deny.

**Request for Admission No. 3:** Admit that the SJWC or its staff had several opportunities to review and comment on various drafts of the *State of New Mexico Schedule of Anticipated Upper Basin Depletions* prepared to support the Bureau of Reclamation's planning for the NGWSP, including (1) drafts shared with the SJWC prior to 2003; and (2) drafts shared with the general public during the period 2003-2005.

**RESPONSE:** Admit.

**Request for Admission No. 4:** Admit that the SJWC or its staff had several opportunities to review, comment on and discuss draft terms of the Settlement Agreement, including: (1) a meeting with the State of New Mexico and non-Navajo stakeholders; (2) draft settlement documents made public in December 2003, July 2004 and December 2004; (3) written responses to public comments provided in December 2004; (4) public meetings of the Interstate Stream Commission (ISC) at which the ISC heard and received presentations from the State of New Mexico staff and comments from the public, including government entities, regarding drafts of the settlement during the period 2003-2005; and (5) a meeting of the Farmington City Council in 2005.

**RESPONSE:** Admit.

**Request for Admission No. 5:** Admit that the provisions of sections 9.1, 9.2 and 9.3 of the *San Juan River Basin in New Mexico Navajo Nation Water Rights Settlement Agreement*: (1) reduce or eliminate impacts on junior water rights in the basin in New Mexico, including the SJWC and its member entities; and (2) can be provided only through settlement, and cannot be provided by the Court through litigation of the Navajo Nation's water right claims.

**RESPONSE:** SJWC objects to Request for Admission No. 5 because it seeks a pure legal conclusion, rather than (i) a statement or opinion of fact or (ii) the application of law to fact. Such a request is improper under New Mexico Rule of Civil Procedure 1-036(A). *See Stark-Romero v. National R.R. Passenger Co.*, 275 F.R.D. 551, 554 (D. N.M. 2011) (interpreting Federal Rule of Civil Procedure 36(a)). Based on this objection, SJWC denies Request for Admission No. 5.

#### **Answers to Interrogatories**

**Interrogatory No. 1:** Unless your response to Request for Admission No. 1 was an unqualified admission, describe completely and in all detail every basis for your denial.

**ANSWER:** Based on SJWC's objection to Request for Admission No. 1, which is specifically incorporated, SJWC objects to this interrogatory. SJWC also objects to this interrogatory as overbroad to the extent it requests "in all detail every basis" for SJWC's denial. As discovery is ongoing, it is not possible at this time to provide each and every basis for SJWC's denial. SJWC will seasonably supplement its answer to this interrogatory as discovery proceeds. Without waiving these objections, SJWC answers as follows:

The State has not defined the term “water supply” in its Request for Admission No. 1. If “water supply” refers to the physical water supply for the NGWSP, then there are two points of diversion for the NGWSP: (i) a point on the San Juan River in the vicinity of Kirtland, New Mexico; and (ii) Navajo Reservoir. *See* Settlement Act, Sections 10602(b), 10603(b)(1). The physical water supply for Navajo Reservoir is the San Juan River above Navajo Dam. The physical water supply for a diversion near Kirtland, New Mexico, is the Animas, La Plata and San Juan Rivers.

“Water supply” may also be interpreted to refer to New Mexico’s apportionment of Colorado River water under the Upper Colorado River Basin Compact. For example, the July 2009 Planning Report and Final Environmental Impact Statement for the NGWSP, at page ES-8, describes the “water supply” for the NGWSP as being “supplied from the State of New Mexico’s Upper Basin apportionment . . . .” The Upper Colorado River Basin Compact, NMSA 1978, Section 72-15-26, which establishes New Mexico’s apportionment of Colorado River water, makes no distinction among physical sources of water in the San Juan Hydrologic Unit. Similarly, New Mexico’s Depletion Schedule, appended to the 2007 Hydrologic Determination, makes no distinction among physical sources of water in the San Juan River Basin.

In addition, the State has not defined the term “supplemental water” in Request for Admission No. 1. Neither the Settlement Agreement, the Settlement Act, nor the Final Environmental Impact Statement for the NGWSP uses the term “supplemental water.” Under the Settlement Act, all water for the NGWSP may be diverted either from Navajo Reservoir or below Navajo Dam near Kirtland, New Mexico.

**Interrogatory No. 2:** Unless your response to Request for Admission No. 2 was an unqualified admission, describe completely and in all detail every basis for your denial.



**ANSWER:** SJWC objects to this interrogatory as overbroad to the extent it requests "in all detail every basis" for SJWC's denial. Without waiving this objection, SJWC answers as follows: Application No. 4818 lists the source of water supply as the San Juan, Animas and La Plata Rivers.

**Interrogatory No. 3:** Unless your response to Request for Admission No. 3 was an unqualified admission, describe completely and in all detail every basis for your denial.

**ANSWER:** Not applicable.

**Interrogatory No. 4:** Unless your response to Request for Admission No. 4 was an unqualified admission, describe completely and in all detail every basis for your denial.

**ANSWER:** Not applicable.

**Interrogatory No. 5:** Unless your response to Request for Admission No. 5 was an unqualified admission, describe completely and in all detail every basis for your denial. Also identify all persons on whom the SJWC may rely to provide expert testimony as to the meaning, interpretation and application of these provisions.

**ANSWER:** Based on SJWC's objection to Request for Admission No. 5, which is specifically incorporated, SJWC objects to sentence number one of this interrogatory. In response to sentence number two of this interrogatory, SJWC states it may use one of its expert witnesses, Rick Cox, P.E., to provide expert testimony as to the meaning, interpretation and application of Sections 9.1, 9.2 and 9.3 of the Settlement Agreement.

**Interrogatory No. 6:** Explain how potential testimony described in *San Juan Water Commission's Initial Disclosures in Support of its Objections to the Navajo Nation Water Rights Settlement and Proposed Decrees* regarding the history of the Animas La Plata Project and drafting and adoption of section 72-5-33 NMSA is relevant to the scope of the Navajo *inter se* proceedings.

**ANSWER:** In *San Juan Water Comm'n v. D'Antonio*, No. D-116-CV-2008-1699 (Eleventh Judicial District) ("*D'Antonio*"), Judge Rozier Sanchez held that, pursuant to N.M. Stat. Ann. Section 72-5-33:

....

4. When Congress modified the scope of the ALP Project and authorized construction of a downsized project in the Colorado Ute Settlement Act Amendments of 2000, New Mexico's depletions—or the amount of water reserved for consumptive use in New Mexico from the ALP Project on an annual basis—were reduced from 34,100 AFY to 13,600 AFY, a reduction of over 20,000 AFY. Since a portion of the water originally reserved for the ALP Project in Permit 2883 is no longer part of the downsized and completed ALP Project, Section 72-5-33(A)(2) operates to release this portion of the reserved water for appropriation.

5. SJWC maintained a repayment contract with the BOR to receive ALP Project water, and therefore under Section 72-5-33(B)(1), shall receive first preference for appropriation of released water.

....

IT IS FURTHER ORDERED that no later than September 30, 2011, the State Engineer shall publish SJWC's Application No. 4818, and permit the application to proceed under the procedures described in Sections 72-5-4 through 72-5-6.

Judge Sanchez's order is based, in part, on the history of the Animas-La Plata Project and the history of Section 72-5-33.

As the Navajo Nation stated in its Responses of the Navajo Nation to SJWC's First Set of Interrogatories (August 17, 2012), SJWC's Application No. 4818 seeks to appropriate water "that would otherwise be available for use in settling the water rights claims of the Navajo Nation . . . ." Answer to Interrogatory No. 13. In addition, the Navajo Nation has stated that "[o]ne premise of the water rights negotiations between the Navajo Nation and the State of New Mexico was that the water rights settlement must be consistent with the amount of Colorado River water available for appropriation in New Mexico." Answer to Interrogatory No. 12. The New Mexico Depletion Schedule appended to the 2007 Hydrologic Determination indicates that there is not enough Colorado River water available within New Mexico's apportionment under

the Upper Colorado River Basin Compact to supply both SJWC's Application No. 4818 and the Navajo Settlement.

**Interrogatory No. 7:** For every person who participate substantively in the preparation of answers to these interrogatories, state each such person's name, address, phone number, title or position, and the identity of each interrogatory, including any subpart, in which he or she participated answering.

**RESPONSE:** With the assistance of undersigned counsel, L. Randy Kirkpatrick, Executive Director of the San Juan Water Commission, participated substantively in the preparation of answers to all of these interrogatories (with the exception of the objections). Mr. Kirkpatrick may be contacted through undersigned counsel.

With the assistance of undersigned counsel, Rick Cox, P.E., Water Services Manager at URS Corp., participated substantively in the preparation of the answer to Interrogatory No. 1. Mr. Cox has been retained by SJWC to present expert technical testimony in this matter. Mr. Cox's contact information is:

URS Corp.  
756 E. Winchester St., Suite 400  
Salt Lake City, UT 84107  
(801) 904-4096

### **Responses to Requests for Production of Documents**

#### **General Objection**

SJWC objects to each request for production to the extent it seeks documents protected by the attorney-client privilege or the work product doctrine. Subject to the specific objections set forth in the responses to each individual request below, SJWC will provide responsive, non-privileged documents. SJWC also will provide a privilege log identifying any documents withheld from production on the basis of the attorney-client privilege or the work product doctrine.

**RFP No. 1:** Produce all documents relied upon, referred to, and/or identified in response to Interrogatory No.1.

**RESPONSE:** Based on SJWC's objections to Request for Admission No. 1 and Interrogatory No. 1, which are specifically incorporated, SJWC objects to this request. Without waiving these objections, SJWC is producing the non-privileged documents within its custody or control that are responsive to this request. For example, the July 2009 Planning Report and Final Environmental Impact Statement for the NGWSP can be found at <http://www.usbr.gov/uc/envdocs/eis/navgallup/FEIS/index.html>; New Mexico's Depletion Schedule can be found at Bates No. SJWC 09170.

**RFP No. 2:** Produce all documents relied upon, referred to, and/or identified in response to Interrogatory No.2, including all documents in the SJWC's possession supporting the information included in the SJWC's Application No. 4818 and the attachments thereto, and all documents in the SJWC's possession relating to the SJWC's Repayment Contract and Amendatory Repayment Contract for the ALP.

**RESPONSE:** Based on SJWC's objection to Interrogatory No. 2, which is specifically incorporated, SJWC objects to this request. Without waiving this objection, SJWC is producing Application No. 4818 at Bates Nos. SJWC 09854-09873. SJWC also objects to this request as overbroad to the extent it requests "all documents . . . relating to" SJWC's Repayment and Amendatory Repayment Contracts. Without waiving this objection, SJWC's Repayment Contract and Amendatory Repayment Contract can be found at Bates Nos. SJWC 09991-10046.

**RFP No. 3:** Produce all documents relied upon, referred to, and/or identified in response to Interrogatory No. 3.

**RESPONSE:** Not applicable.

**RFP No. 4:** Produce all documents relied upon, referred to, and/or identified in response to Interrogatory No. 4, including all documents in the SJWC's possession that relate to the SJWC's participation in the settlement process, including all correspondence and presentation materials used by the SJWC to support or object to the Settlement Agreement and all documents in the SJWC's possession that relate in any way to introduction and consideration by Congress, and by

New Mexico's congressional delegation in particular, of legislation to approve the Settlement Agreement and authorize the NGWSP.

**RESPONSE:** SJWC objects to this request for production as overbroad to the extent it seeks "all documents in the SJWC's possession" that "relate to" or "relate in any way to" SJWC's participation in the settlement process or Congressional consideration of the Settlement Act. Without waiving this objection, SJWC is producing all non-privileged responsive documents within its custody or control, including, but not limited to, Bates Nos. SJWC 01367-01919 and SJWC 06428-06430.

**RFP No. 5:** Produce all documents relied upon, referred to, and/or identified in response to Interrogatory No. 5, including all documents in the SJWC's possession that support or do not support the SJWC's answer and all documents in the SJWC's possession that relate to the provisions of sections 9.1, 9.2 and 9.3, including to any evaluation of the reduction or elimination of impacts on junior water rights as a result of these provisions.

**RESPONSE:** Based on SJWC's objections to Request for Admission No. 5 and Interrogatory No. 5, which are specifically incorporated, SJWC objects to that part of this request relating to SJWC's response to Interrogatory No. 5. SJWC objects to the remainder of this request as overbroad to the extent it requests "all documents . . . that relate to" Sections 9.1, 9.2 and 9.3 of the Settlement Agreement. Without waiving this objection, SJWC is producing all non-privileged responsive documents in its custody or control.

**RFP No. 6:** Produce all documents relied upon, referred to, and/or identified in response to Interrogatory No. 6.

**RESPONSE:** SJWC is producing all non-privileged responsive documents within its custody or control, including, but not limited to:

1. all documents filed with the Eleventh Judicial District in *D'Antonio*, which can be found at <http://www.11thjdc.com/download/pfiledb.php?action=category&id=534>;

2. the State Engineer's document production in *D'Antonio*, which can be found at <http://www.ose.state.nm.us/LAP/NNWRS/Responses/Documents%20Produced%20to%20the%20SJWC%20in%20SJWC%20v.%20D%27Antonio/OSE-0001%20through%20OSE-0008.pdf>;

3. SJWC's document production in *D'Antonio*, which can be found at Bates Nos. SJWC 07424-07958; and

4. affidavits and deposition transcripts in *D'Antonio*, which can be found at Bates Nos. SJWC 07959-09853. Portions of the John Whipple deposition transcript and accompanying exhibits were withheld in *D'Antonio* pursuant to a confidentiality order entered by Judge Rozier Sanchez in that case, and those documents are not being produced. However, the State of New Mexico already is in possession of those documents. Counsel for SJWC has asked the State of New Mexico for permission to produce those documents, but the State has not responded to the request.

**RFP No. 7:** Produce all documents, maps, reports, analyses, studies, or communications which you intend to rely upon to support the contention in *the San Juan Water Commission's Initial Objections to the Navajo Nation Water Rights Settlement and Proposed Decrees* that "the Navajo Settlement Conflicts with Section 72-5-33 of the New Mexico Statutes and Interferes with SJWC's Pre-Existing Application No. 4818 to Appropriate Water Released from the Animas-La Plata Project."

**RESPONSE:** SJWC objects to this request for production as overbroad to the extent it seeks "all documents" on which SJWC intends to rely to support its contention. Without waiving this objection, see response to Request for Production No. 6.

**RFP No. 8:** Produce all documents, maps, reports, analyses, studies, or communications which you intend to rely upon to support the contention in *the San Juan Water Commission's Initial Objections to the Navajo Nation Water Rights Settlement and Proposed Decrees* that "the Navajo Settlement Conflicts with the PIA Requirements of *Lewis*."

**RESPONSE:** SJWC objects to this request for production as overbroad to the extent it seeks "all documents" on which SJWC intends to rely to support its contention. As

discovery is ongoing, it is not possible at this time to provide each and every basis for SJWC's contention. SJWC has not yet completed its analysis of the PIA issue. SJWC will seasonably supplement its answer to this interrogatory as discovery proceeds. Without waiving this objection, SJWC intends to rely on (i) documents produced by the Settling Parties in this matter and (ii) documents otherwise within the custody and control of the Settling Parties. SJWC also may rely on a PIA analysis by its expert witness, Rick Cox, P.E., if one is prepared.

**RFP No. 9:** Produce all documents, maps, reports, analyses, studies, or communications which you intend to rely upon to support the contention in *the San Juan Water Commission's Initial Objections to the Navajo Nation Water Rights Settlement and Proposed Decrees* that "the Navajo Settlement Conflicts with the PIA Requirements of *Lewis*."

**RESPONSE:** See response to Request for Production No. 8.

**RFP No. 10:** Produce all documents, maps, reports, analyses, studies, or communications which you intend to rely upon to support the contention in *the San Juan Water Commission's Initial Objections to the Navajo Nation Water Rights Settlement and Proposed Decrees* that "the Navajo Nation Waived its Federal Reserved Water Rights in Exchange for NIIP."

**RESPONSE:** SJWC objects to this request for production as overbroad to the extent it seeks "all documents" on which SJWC intends to rely to support its contention. As discovery is ongoing, it is not possible at this time to provide each and every basis for SJWC's contention. SJWC will seasonably supplement its answer to this interrogatory as discovery proceeds. Without waiving this objection, SJWC is producing the non-privileged documents within its custody or control that are responsive to this request. For example, see Bates Nos. SJWC 01941-01966, 01971-02025, 02761-03845, and 10047-10095. SJWC also intends to rely on (i) documents produced by the Settling Parties in this matter and (ii) documents otherwise within the custody and control of the Settling Parties.

Dated this 5th day of November, 2012.

TAYLOR & McCALEB, P.A.

By: 

Jolene L. McCaleb

Elizabeth Newlin Taylor

P.O. Box 2540

Corrales, NM 87048-2540

(505) 888-6600

(505) 888-6640 (fax)

*Attorneys for San Juan Water Commission*



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

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CV-75-184

HON. JAMES J. WECHSLER  
Presiding Judge

SAN JUAN RIVER BASIN  
ADJUDICATION

Subfile AB-07-1  
Claims of the Navajo Nation

**VERIFICATION OF SJWC'S RESPONSES TO THE  
STATE OF NEW MEXICO'S DISCOVERY REQUESTS**


I, L. Randy Kirkpatrick, being first duly sworn under oath, state:

1. I am Executive Director of San Juan Water Commission. I have held this position since 1993.
2. Based on my experience as Executive Director of San Juan Water Commission, I have personal knowledge of the history of the Animas-La Plata Project, SJWC's Application No. 4818 and the issues involved in the associated litigation, *San Juan Water Commission v. D'Antonio*, the amendment of NMSA Section 72-3-33, the development of the 2007 Hydrologic Determination and appended Depletion Schedule for the State of New Mexico, SJWC's repayment contracts with the Bureau of Reclamation, State Engineer Permit No. 2883, the Navajo Nation's protest of Application No. 4818, the State Engineer's rejection of the Application, the negotiation process for the Settlement Agreement, SJWC's water rights and

water permits, the supply of water available to meet SJWC's diversion demands, and SJWC's statements and actions taken concerning the Settlement Agreement.

3. I have participated in the preparation of and reviewed the responses set forth in San Juan Water Commission's Responses to the State of New Mexico's Discovery Requests. The responses were prepared based on information contained within the records of San Juan Water Commission or within the documentation produced by other parties in this lawsuit.

4. The factual assertions in the San Juan Water Commission's Responses to the State of New Mexico's Discovery Requests are true and correct to the best of my knowledge.

  
\_\_\_\_\_  
L. Randy Kirkpatrick

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me this 31 day of October, 2012, by L. Randy Kirkpatrick.

  
\_\_\_\_\_  
Notary Public

My Commission Expires:

March 23, 2013