

DISTRICT COURT  
SAN JUAN COUNTY NM  
FILED

2012 NOV 27 AM 11:04

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

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

Plaintiff,

vs.

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

Defendants.

**AB-07-1**

Claims of Navajo Nation

No. CV 75-184

Honorable James J. Wechsler  
Presiding Judge

**DESCRIPTIVE SUMMARY:** There is a continuing discovery impasse over Navajo population data, especially the 2010 census data. The Navajo Nation and the U.S. have refused to confirm that they have such data. Therefore the defendant non-settling parties request the court's assistance at the November 28 discovery conference.

**NUMBER OF PAGES:** 2 + 3 of attachments

**DATE OF FILING:** November 27, 2012

**NOTICE OF CONTINUED IMPASSE ON NAVAJO POPULATION DATA AND REQUEST FOR COURT ASSISTANCE**

Per the court's instructions, various defendant non-settling parties give notice that there is a continuing impasse over Navajo population data, including but not limited to the 2010 census data. As shown by the attached emails, the United States and the Navajo Nation have been evasive and non-responsive to the discovery request for 2010 population data. The Navajo Nation and the United States refused to say whether they have 2010 census data in some form, even if the data has not yet been published in booklet form.

D ✓

Defendant non-settling parties therefore request the court's assistance in obtaining this information, and ask that the court address this topic at the discovery conference on November 28, 2012.

Note: the Navajo Nation did produce 2 booklets which contained detailed population data derived from the 1990 census and the 2000 census. However, the Navajo Nation and the United States have refused to produce similar data from the 2010 census. They have refused to confirm whether such data exists, or exactly where it can be found. Unverified press reports have indicated that the population on the Navajo reservation actually declined from 2000 to 2010, but these reports are unofficial and cannot be checked for accuracy.

Respectfully submitted,

VICTOR R. MARSHALL & ASSOCIATES, P.C.

By /s/ Victor R. Marshall

Victor R. Marshall  
Attorneys for San Juan Agricultural Water Users  
Association; Hammond Conservancy District;  
Bloomfield Irrigation District; various ditches; and  
various members thereof.  
12509 Oakland NE  
Albuquerque, NM 87122  
505-332-9400 / 505-332-3793 FAX

#### CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of November, 2012, a true and correct copy of the foregoing was served on the parties and claimants by attaching a copy of said document to an email sent to the following list server: [wrvnavajointerse@nmcourts.gov](mailto:wrvnavajointerse@nmcourts.gov) and to the filing list referred to in paragraph 8 of the court's November 19, 2012 Corrected Order.

/s/ Victor R. Marshall

Victor R. Marshall, Esq.

Re: Population of the Navajo Nation - 2000 and 2010 figures

**Subject:** Re: Population of the Navajo Nation - 2000 and 2010 figures

**From:** "Victor R. Marshall" <victor@vrmarshall.com>

**Date:** 11/26/2012 11:55 AM

**To:** "Stanley M. Pollack" <smpollack@nndoj.org>

**CC:** "Guss.Guarino@usdoj.gov" <Guss.Guarino@usdoj.gov>, "Singer, Arianne, OSE" <arianne.singer@state.nm.us>, Richard Cole <rbc@keleher-law.com>, Adam Rankin <AGRankin@hollandhart.com>, GARY RISLEY <gary@risleylaw.net>, "Gary L. Horner" <ghorner@zianet.com>, Rick Tully <tullylawfirm@qwestoffice.net>, Sheri Heying <sheri@vrmarshall.com>, Shirley Meridith <shirley@vrmarshall.com>, Kate Hoover <khoover@nndoj.org>, Joe Hardy <joe@joehardylaw.com>, vrm <victor@vrmarshall.com>

Stanley ( and Guss ),

Thanks for your email, Stanley, which is partly but not entirely responsive. Our request is not limited to reports that were published on paper. We need the population figures from the 2010 census, whether or not the figures have been published in books like the ones you gave me. It's the data that counts, not the publication.

Where is the 2010 census data? The Navajo Nation must have this information to operate. Likewise for the United States. I'm asking each of you to let me know today, so we can cross this off the discovery list, or present it to Judge Wechsler at the Nov. 28 conference.

There are unconfirmed press reports which suggest that the population on the Navajo Reservation actually declined from 2000 to 2010. This raises a concern that the plaintiff settling parties might be trying to avoid turning over the information. Press reports might or might not be accurate, so we are asking both of you to provide the complete official data.

Thanks,  
Victor Marshall

On 11/21/2012 11:29 AM, Stanley M. Pollack wrote:

Victor,

Re: Population of the Navajo Nation - 2000 and 2010 figures

I'm glad you found the reports I shared with you at the November 6, 2012 Discovery Conference to be helpful. Please return them to me at the Discovery Conference next Wednesday in Santa Fe.

You inquired whether there were additional reports for the 2000 and 2010 censuses. The answer is "no." You have all of the reports prepared by the Navajo Nation concerning the 2000 and 2010 censuses. If there were additional reports, they would have been disclosed and produced.

Have a Happy Thanksgiving.

Stanley M. Pollack, Assistant Attorney General  
Water Rights Unit  
Navajo Nation Department of Justice  
P.O. Drawer 2010  
Window Rock, AZ 86515

928.871.7510  
928.871.6200 (Fax)  
928.205.5891 (Cell)

*This message is intended only for the use of the Addressee and may contain information that is PRIVILEGED and CONFIDENTIAL. If you are not the intended recipient, please delete the email and inform the sender immediately. Thank you.*

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**From:** Victor R. Marshall [<mailto:victor@vrmarshall.com>]

**Sent:** Saturday, November 10, 2012 11:01 AM

**To:** Stanley M. Pollack; [Guss.Guarino@usdoj.gov](mailto:Guss.Guarino@usdoj.gov); Singer, Arianne, OSE; Richard Cole; Adam Rankin; GARY RISLEY; Gary L. Horner; Rick Tully; vrm; Sheri Heying; Shirley Meridith

**Subject:** Population of the Navajo Nation - 2000 and 2010 figures

Stanley-

Thank you for lending me some Navajo Nation publications to look through. I will return them after I look through them and figure out what needs to be copied.

One of the publications is called "1990 Census: Population and Housing Characteristics of the Navajo Nation". It says it was published by the Navajo Nation Division of Community Development in Window Rock. It appears to be based almost entirely on 1990 census data, with some conversions from census blocks to chapter boundaries, and some useful maps.

Query: Is there a comparable publication for the 2000 census? For the 2010 census? If so, I would like to borrow them.

If there isn't a comparable Navajo publication for 2000, or 2010, we request the comparable data tables from the United States and the Census Bureau.

Re: Population of the Navajo Nation - 2000 and 2010 figures

Guss,, please tell us specifically where these data tables can be located in the materials which you have produced.

Thanks,

Victor Marshall