

DISTRICT COURT
SAN JUAN COUNTY NM
FILED

2012 NOV 30 PM 2:34

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: Joint discovery about the other claims of the United States which might affect the water available in the San Juan basin, such as claims for endangered species, other Indian tribes, or federal lands.

NUMBER OF PAGES: 5

DATE OF FILING: November 30, 2012

**JOINT DISCOVERY ABOUT OTHER WATER CLAIMS
BY THE UNITED STATES**

On behalf of various defendant non-settling parties, the following discovery is jointly propounded to the United States.

INTERROGATORIES

I. In addition to the claims which the United States is asserting on behalf of the Navajo Nation in case number AB 07-1, does the United States claim any other water rights in the San Juan River basin, on behalf of itself or others?

ANSWER:



2. Does the United States claim any water rights in the San Juan River basin for endangered species, including the razorback sucker (*Xyrauchen texanus*); Colorado pikeminnow, formerly known as Colorado squawfish (*Ptychocheilus lucius*); humpback chub (*Gila cypha*); bonytail chub or bonytail (*Gila elegans*); and southwestern willow flycatcher (*Empidonax trailli extimus*)?

ANSWER:

3. What are the minimum flows which the United States currently requires (or intends to require) in the San Juan River below Shiprock for the protection of endangered species? Please include the cfs and acre-feet for the base flow and also for the additional spring releases from Navajo Dam. Please include the time periods when these flows apply, including the spring ramp up period, the peak period, and the ramp down period, and explain how the U.S. decides what quantities to require.

ANSWER:

4. Does the United States claim any water rights in the San Juan River basin on behalf of any Native American tribe other than the Navajo Nation, for example the Ute Mountain Ute Tribe or the Southern Ute Indian Tribe?

ANSWER:

5. Does the United States claim any water rights in the San Juan River basin for national forests, Bureau of Land Management lands, or other federal lands, or other federal purpose?

ANSWER:

6. Does the United States have any other claims or rights or duties or obligations which might affect water flows in the San Juan River basin, or the amount of water which can be diverted or consumed in New Mexico? If so, please identify and describe each such right, duty or obligation, and explain how it might affect water flows or amounts, and under what conditions.

ANSWER:

7. Does the United States claim any other water rights or obligations in the Upper Basin of the Colorado River which might directly or indirectly affect the amount of water available for diversion or use in New Mexico?

ANSWER:

8. Does the United States claim any other water rights or obligations in the Lower Basin of the Colorado River which might directly or indirectly affect the amount of water available for diversion or use in New Mexico?

ANSWER:

9. Does the United States claim any other water rights or obligations with regard to the Colorado River which might directly or indirectly affect the amount of water available for diversion or use in New Mexico, such as treaty obligations to Mexico, shortage sharing agreements, or agreements for operating the River?

ANSWER:

10. If the answer to any of the foregoing interrogatories is "yes," please identify and describe each water right claimed by the United States, including the nature, purpose, amount, and priority of each such right or obligation, and identify a person or persons to testify about the right or obligation pursuant to Rule 1-030(B)(6), NMRA.

ANSWER:

Notes: "Including" means including but not limited to.

For purposes of this discovery, terms like "claim" and "water rights" and "obligations" are used broadly, to include any demands or claims which might affect the availability of water in the river system. The terms include claims which are not yet quantified; claims for "reserved federal rights"; claims for priority federal rights; *Winters* claims; statutory claims; claims which the U.S. has asserted formally or informally in the past or might assert in the

future; and claims or obligations or responsibilities which are not necessarily property rights (such as shortage sharing agreements, compact obligations, agreements for operating the river, etc).

For purposes of this discovery, "San Juan River basin" includes the basin within New Mexico and other states, e.g. Colorado.

REQUESTS FOR PRODUCTION

1. Please produce records relating to the answer to each of the above interrogatories.

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 30th 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: wrvajointerse@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.