

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

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

Plaintiff,

v.

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

Defendants

CV-75-184

HON. JAMES J. WECHSLER  
PRESIDING JUDGE

SAN JUAN RIVER  
ADJUDICATION

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

**ORDER CONCERNING THE RESPONSES AND OBJECTIONS  
OF THE ON-SETTLING PARTIES TO DISCOVERY REQUESTS**

This matter comes before the Court on the responses and objections to discovery requests of the United States, the Navajo Nation, and the State of New Mexico by various Non-Settling Parties and the responses thereto. The Court, having held a full discussion of the issues related to discovery at the November 28, 2012 conference, concludes and orders as follows.

(1) Many of the Non-Settling Parties' objections are insufficient and non-responsive. For example, parties have made objections that are not specific and use boilerplate language, contrary to Rule 1-033(C)(4) NMRA. *See Lackey v. Mesa Petroleum Co.*, 90 N.M. 65, 559 P.2d 1192, 1195 (Ct. App. 1976) (stating that general objections that requests will require research and compilation of data are unreasonably burdensome or oppressive or seek information that is available to the other party are insufficient.) References to documents or prior pleadings without further details about how those documents or pleadings answer the questions posed are inadequate responses, and the failure to provide documents in the parties' possession does not comport with the discovery rules. The spirit of the rules of civil procedure entails liberal discovery. *Marchiondo v. Brown*, 98 N.M. 394, 397, 649 P.2d 462, 466 (1982); *United Nuclear Corp. V. Gen'l Atomic Co.*, 96 N.M. 155, 169-

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70, 629 P.2d 231, 245-46 (1980). The scope of discovery includes a party's opinions or contentions relating to fact or the application of law to fact. Rule 1-033(D).

(2) The Court has considered the Non-Settling Parties' objections concerning relevance with respect to the category of the information sought and the deadlines that have been established in this proceeding. The Court has determined that requests concerning the following areas are generally reasonably calculated to lead to the discovery of admissible evidence concerning the legal standard for approval of the settlement agreement ("legal standard") and will be permitted. Rule 1-026(B)(1) NMRA.

(A) the Non-Settling Parties' position with respect to each element of the legal standard for approval of the settlement agreement, because those elements involve questions of mixed law and fact and comprise the standard by which the Settlement Agreement will be evaluated, and

(B) the factual and legal bases for the Non-Settling Parties' filed objections to the Settlement Agreement, because the objections serve to define and shape the scope of the Non-Settling Parties' case.

(3) After considering the needs of this proceeding, the limitations on the parties' resources, and the importance of the issues at stake in the litigation pursuant to Rule 1-026(B)(2)(c), the Court has determined that requests concerning the following subjects are not generally reasonably calculated to lead to the discovery of admissible evidence, the subject matter is not relevant to the legal standard in this proceeding, or the burden or expense of the proposed discovery outweighs its likely benefit:

(A) the United States' good faith legal and technical basis for its Statement of

Claims, because the Statement of Claims is not a basis for evaluating any prong of the legal standard;

(B) a party's prior statements, assertions, testimony, meetings, correspondence, and the like with regard to the party's support of or opposition to the Settlement Agreement because this subject area is at most only tangentially related to the legal standard, and because the Settling Parties may develop inquiries along these lines of individual witnesses; and

(C) the nature and extent of a party's water rights, and past or potential harm to those water rights, because specific harm to an individual's water rights is only indirectly related to the question of mitigation of effects on junior water rights.

(4) The Court deems the United States' requests for admission to be denied unless specifically admitted. Notwithstanding those denials, the Non-Settling Parties must respond to the related interrogatories and requests for production of documents, if the Court has determined them to be relevant.

(5) Parties are permitted to respond to a request for production of documents by adopting the response of another party to the same request if the other party has properly responded to the same request.

(6) With respect to the Non-Settling Parties' responses that refer to relevant documents held under seal in *San Juan Water Commission v. D'Antonio, Jr.*, No. CV-2008-1699-8, this Court suggests that the involved parties apply to the appropriate court in that case for relief.

(7) The parties shall follow Rule 1-033(C)(1) with respect to the requirement that interrogatories be responded to under oath.

(8) The attached chart sets forth the specific rulings on each the Non-Settling Parties responses and objections that are the subject of the responses of the Settling Parties. The category "Objections Overruled" means that the party to whom the discovery request is directed must respond

by December 21, 2012. The category "Objections sustained/or Discovery Sought Deemed not Directly Relevant" means that the objection is sustained either because the responses are appropriate either for the reasons given or because the Court has determined that the subject matter is not relevant, as set out above. The category "Discovery sought is relevant, supplemental responses, if any, due December 21, 2012" means that the Non-Settling Parties' responses that may be inadequate may be supplemented with information available no later than December 21, 2012. The parties may, and are obligated to, supplement responses to discovery requests based on information that later becomes available through discovery or other means.

**ConocoPhillips and El Paso Natural Gas Company's Objections to the United States' Discovery Requests**

<p><b>Objections overruled</b></p> <p>Request for Production 13</p>	<p><b>Objections sustained / or Discovery Sought Deemed Not Directly Relevant</b></p> <p>Interrogatories 9, 10 and 12</p> <p>Requests for Production 9, 10, 11, 12, 14 and 15</p>	<p><b>Discovery sought is relevant, supplemental responses, if any, due Dec. 21, 2012</b></p> <p>Interrogatories: 1 and 3</p> <p>Requests for Production 1 and 3</p>
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**San Juan Water Commission's Objections to the United States' Discovery Requests**

<p><b>Objections overruled</b></p> <p>Interrogatory 3</p> <p>Request for Production 3</p>	<p><b>Objections sustained / or Discovery Sought Deemed Not Directly Relevant</b></p> <p>Interrogatories 4 and 8</p> <p>Requests for Production 4 and 8</p>	<p><b>Discovery sought is relevant, supplemental responses, if any, due Dec. 21, 2012</b></p>
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<b>Gary Horner's Objections to the United States' Discovery Requests</b>		
<p><b>Objections overruled</b></p> <p>Interrogatories 3, 5 and 6</p> <p>Requests for Production 5, 6</p>	<p><b>Objections sustained / or Discovery Sought Deemed Not Directly Relevant</b></p> <p>Interrogatories 2, 7, 8, 9, 10, 11, 12</p> <p>Requests for Production 2, 3, 7, 8, 9, 10, 11, 12</p>	<p><b>Discovery sought is relevant, supplemental responses, if any, due Dec. 21, 2012</b></p>
<b>Community Ditch Parties' Objections to the United States' Discovery Requests</b>		
<p><b>Objections overruled</b></p> <p>Request for Production 5</p>	<p><b>Objections sustained / or Discovery Sought Deemed Not Directly Relevant</b></p> <p>Interrogatories 3, 5, 8, 9, 11, 12, 13 and 14</p> <p>Requests for Production 2, 3, 4, 7, 8, 10, 11, 12, 13 and 14</p>	<p><b>Discovery sought is relevant, supplemental responses, if any, due Dec. 21, 2012</b></p> <p>Interrogatories 1, 2, 4, 6, 7, 15 and 16</p> <p>Requests for Production 1, 5 and 6</p>

<b>Cities of Aztec and Bloomfield's Objections to the United States' Discovery Requests<sup>1</sup></b>		
<b>Objections overruled</b>  Interrogatory 3  Requests for Production 1, 5, 6 and 20	<b>Objections sustained / or Discovery Sought Deemed Not Directly Relevant</b>  Interrogatories 2, 4, 9, 10 and 11  Requests for Production 2, 3, 4, 7, 9, 10, 11, 12 and 21	<b>Discovery sought is relevant, supplemental responses, if any, due Dec. 21, 2012</b>  Interrogatories 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22  Requests for Production 13, 14, 15, 16, 17, 18 and 19
<b>LPAA's Responses and Objections to the United States' Discovery Requests</b>		
<b>Objections overruled</b>	<b>Objections sustained / or Discovery Sought Deemed Not Directly Relevant</b>  Interrogatories 9, 11, and 12  Requests for Production 9 and 11	<b>Discovery sought is relevant, supplemental responses, if any, due Dec. 21, 2012</b>  Interrogatories 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22

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<sup>1</sup> Board of Education, Bloomfield Schools has joined the Cities' responses to discovery, with the following exceptions: Bloomfield Schools has answered interrogatories 10, 12, and 22, and Requests for Production 9, 10, 12, and 21.

<b>B-Square Ranch's Objections to the United States' Discovery Requests</b>		
<p><b>Objections overruled</b></p> <p>Interrogatories 1, 3, 5, 6, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 and 25</p> <p>Requests for Production 1, 5, 6, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23 and 24</p>	<p><b>Objections sustained / or Discovery Sought Deemed Not Directly Relevant</b></p> <p>Interrogatories 2, 4, 7, 8, 9, 10, 11 and 12</p> <p>Requests for Production 2, 3, 4, 7, 8, 9, 10, 11, 12 and 25</p>	<p><b>Discovery sought is relevant, supplemental responses, if any, due Dec. 21, 2012</b></p>
<b>Robert Oxford's Objections to the United States' Discovery Requests</b>		
<p><b>Objections overruled</b></p> <p>Interrogatory 14</p> <p>Requests for Production 1, 5, 6 and 9</p>	<p><b>Objections sustained / or Discovery Sought Deemed Not Directly Relevant</b></p> <p>Interrogatory 13</p> <p>Requests for Production 2, 3, 4, 7, 8, 10, 11, 12, 13 and 14</p>	<p><b>Discovery sought is relevant, supplemental responses, if any, due Dec. 21, 2012</b></p>



**Community Ditch Parties Responses to the Navajo Nation's Discovery Requests**

<p><b>Objections Overruled</b></p>	<p><b>Objections sustained / or Discovery Sought Deemed Not Directly Relevant</b></p> <p>Requests for Production 1, 2, 3, 4 and 9</p>	<p><b>Discovery sought is relevant, supplemental responses, if any, due Dec. 21, 2012</b></p> <p>Interrogatories 8, 11, 12, 13, 15, 18, 19, 20, 22, 26 and 28</p> <p>Requests for Production 5, 6, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32</p>
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**La Plata Acequia Association Responses to the Navajo Nation's Discovery Requests**


<p><b>Objections overruled</b></p>	<p><b>Objections sustained / or Discovery Sought Deemed Not Directly Relevant</b></p> <p>Requests for Production 1, 2, 3, 4</p>	<p><b>Discovery sought is relevant, supplemental responses, if any, due Dec. 21, 2012</b></p>
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**B-Square Ranch Responses to the Navajo Nation's Discovery Requests**

<p><b>Objections overruled</b></p>	<p><b>Objections sustained / or Discovery Sought Deemed Not Directly Relevant</b></p> <p>Requests for Production 1, 2, 3, 4</p>	<p><b>Discovery sought is relevant, supplemental responses, if any, due Dec. 21, 2012</b></p>
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<b>San Juan Water Commission Responses to the State of New Mexico's Discovery Requests</b>		
<b>Objections overruled</b>  Interrogatory 6  Request for Production 8	<b>Objections sustained / or Discovery Sought Deemed Not Directly Relevant</b>	<b>Discovery sought is relevant, supplemental responses, if any, due Dec. 21, 2012</b>  Interrogatory 5
<b>Cities of Aztec and Bloomfield Responses to the State of New Mexico's Nation's Discovery Requests</b>		
<b>Objections overruled</b>  Interrogatories 1 and 5  Requests for Production 1 and 5	<b>Objections sustained / or Discovery Sought Deemed Not Directly Relevant</b>	<b>Discovery sought is relevant, supplemental responses, if any, due Dec. 21, 2012</b>  Requests for Production 10 and 13

IT IS SO ORDERED.

  
 James J. Wechsler  
 Presiding Judge