

DISTRICT COURT
SAN JUAN COUNTY NM
FILED

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

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

Plaintiff,

AB-07-1

Claims of Navajo Nation

vs.

No. CV 75-184

Honorable James J. Wechsler

Presiding Judge

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

Defendants.

DESCRIPTIVE SUMMARY: Additional discovery concerning
NIIP, per the Court's order entered November 30, 2012.

NUMBER OF PAGES: 5

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ADDITIONAL INTERROGATORIES ON NIIP

Per the Court's order entered November 30, 2012, the following interrogatories are propounded to the United States and to the Navajo Nation as a continuation and supplementation of the earlier joint discovery concerning NIIP which was originally served on May 7, 2012.

As with the earlier discovery, NIIP or the NIIP Project "means the Navajo Indian Irrigation Project near Bloomfield and Farmington, New Mexico, and all related enterprises such as Navajo Agricultural Products Industries ("NAPI"), and any other enterprises which have used water from the Project." Since NIIP and NAPI and others divide up the

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functions which are necessary to generate revenue for the irrigation project, the discovery looks at NIIP and NAPI as an integrated enterprise. The purpose of the discovery seeks to identify and quantify all of the costs, expenses or other economic inputs which are necessary for the enterprise to produce and sell agricultural products, or generate other revenues.

1. With respect to NIIP, who provided what functions at what times? Please identify the specific agencies or contractors which have performed particular functions for NIIP at various times, such as the BOR, the BLA, NIIP, NAPI, other agencies of the United States or the Navajo Nation, and government contractors.

ANSWER:

2. Who paid for what expenses of NIIP at what times, and out of which appropriations or other funds?

ANSWER:

3. What were the "sources and uses of funds" for NIIP since inception?
("Sources and uses of funds" refers to a basic accounting concept.)

ANSWER:

4. What are the total capital costs for NIIP since inception, and who has paid them, and from what appropriations or other sources? This includes the costs of all

infrastructure, including Navajo Dam; the diversion structures, canals, siphons, pipes, pumps, tanks, and sprinklers that convey water to NIIP; roads; controls; computers and software; farm machinery; and buildings, plant, and equipment.

ANSWER:

5. Who incurred the labor and management costs for NIIP at what times?

ANSWER:

6. In terms of construction and capital costs, what else needs to be done to complete NIIP and extend it to approximately 110,000 acres of irrigated land? What are the planned stages, when will those stages occur, how much will completion cost, and when will NIIP be completed? What is the probability that NIIP will be fully completed?

ANSWER:

7. What happens to the water which the United States and the Navajo Nation are claiming for NIIP (A) if NIIP is never fully completed, or (B) if the water claimed for NIIP is not used on NIIP during the years until NIIP is completed, or (C) if some or all of the water used for NIIP is wasted? Does the United States or the Navajo Nation contend that the Navajo Nation is entitled to water which has never been or never will be put to beneficial use at NIIP? If so, what is the factual and legal basis for such a claim?

ANSWER:

REQUEST FOR PRODUCTION

1. Please produce the records which pertain to your answers to the foregoing interrogatories.

REQUEST FOR DESIGNATION OF WITNESSES UNDER RULE 30(B)(6)

1. Please identify witnesses who have personal knowledge of the matters above who can testify under Rule 30(B)(6), and identify the particular matters about which each witness can testify.

Notes: Please provide partial answers to these interrogatories and request for production even if you claim that it is impossible or impractical to provide all of the information requested. Since the functions necessary for NIIP are divided between the Navajo Nation and the United States, joint answers by the Navajo Nation and the U.S.

If certain functions or costs are included within certain reports which have already been provided, please identify the line items where they are included in the reports. (For example, some labor costs might be included in the "cost of goods sold" shown on the audited statements, while other labor costs might be reported somewhere else, or not reported at all.)

Respectfully submitted,

VICTOR R. MARSHALL & ASSOCIATES, P.C.

By /s/ Victor R. Marshall

Victor R. Marshall
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Association; Hammond Conservancy District;
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CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of December, 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: wrvavajointerse@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.