

DISTRICT COURT
SAN JUAN COUNTY NM
FILED

2013 JAN 10 AM 11: 13

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: Partial transcript of hearing on November 17, 2009 before Special Master Snyder, in which the settling parties admit that they can extend the alleged "deadline" of December 31, 2013 by agreement, without action by Congress.

NUMBER OF PAGES: 2 pages + 2-page exhibit

DATE OF FILING: January 10, 2013

**PARTIAL TRANSCRIPT OF HEARING ON NOVEMBER 17, 2009
ABOUT THE ALLEGED "DEADLINE" OF 12/31/13**

The defendants jointly submit herewith a partial unofficial transcript of the hearing in this case conducted by Special Master Stephen Snyder on November 17, 2009. Exhibit 1, attached. This was Special Master Snyder's first hearing in court.

Special Master Snyder asked Mr. Guarino (for the United States) whether the deadline for entry of a judgment in this case could be extended by agreement of the settling parties, without further congressional action.

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Mr. Guarino answered no. Special Master Snyder persisted in his questioning, and Mr. Guarino ultimately admitted that the settling parties could extend the December 31, 2013 date by agreement.

Respectfully submitted,

VICTOR R. MARSHALL & ASSOCIATES, P.C.

By /s/ Victor R. Marshall

Victor R. Marshall
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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of January, 2013, 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: wnavajointerse@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.

Navajo inter se - Case

**Partial Unofficial Transcript of November 17, 2009 Hearing
before Special Master Snyder**

Starting at approximately 1:03 elapsed time

Special Master Snyder – That reminds me of a question I meant to ask. Is it true what the parties say in their opposing briefs that the settling parties can extend that deadline by an agreement amongst themselves?

Mr. Guarino – Not amongst themselves, your honor...special master. We would need congressional authority to do that. We can't simply just move these dates. It's just not that simple, and the notion that we can simply go back to congress and have that done at a turn of a key or a drop of a hat is simply not true...at all.

Special Master Snyder – OK, but I just want to make sure I'm clear about what you're saying here. It's been argued that the parties, without going back to congress, can unilaterally, I shouldn't say unilaterally, can by an agreement amongst themselves can extend the deadline, and they don't need to get congressional approval to do it. All I'm asking is that is that true or not true?

Guarino – We can make agreements amongst ourselves to do that - to make changes to some of the dates that have been set. But overall, congress has set out a timeline within which we have to operate, and if we disturb these dates we will ultimately jeopardize the ability for this settlement to be complete and final and for these water rights to be resolved.

Special Master Snyder – See, I don't know if I'm getting a, and I hate to degrade my own profession, but I don't know if I'm getting a lawyer's answer or not. All I really want to know is can you folks, folks being the settling parties, extend that deadline by agreement amongst yourselves?



And it may have consequences, I understand that, but can you extend that deadline?

Guarino - Yes.

Special Master Snyder – Alright, that’s what I wanted to know. (1:05)