

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.*  
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

NAME OF PARTY: ConocoPhillips, its subsidiaries and affiliates, ConocoPhillips Company, Burlington Resources Oil and Gas Company LP ("ConocoPhillips"), and El Paso Natural Gas Company.

DESCRIPTIVE SUMMARY: ConocoPhillips and El Paso Natural Gas Company second joint requests for admission, interrogatories, and requests for production of documents to the Settling Parties.

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DATE OF FILING: January 25, 2013.

**CONOCOPHILLIPS AND EL PASO NATURAL GAS COMPANY'S SECOND JOINT  
REQUESTS FOR ADMISSION, INTERROGATORIES, AND REQUESTS FOR  
PRODUCTION OF DOCUMENTS TO THE SETTLING PARTIES**

To:

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Pursuant to Rules 1-026, 1-033, and 1-034 NMRA, Defendants ConocoPhillips, its subsidiaries and affiliates, ConocoPhillips Company, and Burlington Resources Oil and Gas Company LP (“ConocoPhillips”), and El Paso Natural Gas Company, requests that the United States, the Navajo Nation, and the State of New Mexico (collectively the “Settling Parties”) each separately respond to the following joint discovery requests.

The Ute Mountain Ute Tribe and the Jicarilla Apache Nation do not join in this discovery request. At this time, both the Ute Mountain Ute Tribe and the Jicarilla Apache Nation are participating in the Navajo Nation *inter se* subproceeding, and both the Ute Mountain Ute Tribe and the Jicarilla Apache Nation are claimants to the waters of the San Juan River Basin, but neither the Ute Mountain Ute Tribe nor the Jicarilla Apache Nation have taken a position objecting to the Navajo Nation’s settlement efforts.

#### **Requests for Admission of Fact**

**Request No. 3:** Admit that the United States, the Navajo Nation, and the State of New Mexico (collectively “Settling Parties”) have conducted no practicably irrigable acreage analysis of the lands, subject to the Proposed Decrees, which the Settling Parties claim have been historically irrigated.

#### **Response:**

**Request No. 4:** Admit that the Settling Parties have conducted no economic feasibility study, including any or cost-benefit analysis, relating to the irrigation of any lands, subject to the Proposed Decrees, which the Settling Parties claim have been historically irrigated.

**Response:**

**Request No. 5:** Admit that the Settling Parties' contention that the Navajo Nation's water rights "claims that could be secured at trial" are greater than the water rights provided by the settlement agreement is based on the "homeland purpose" theory of water rights described in *In re General Adjudication of Gila River System*, 35 P.3d 68 (Ariz. 2001).

**Response:**

### **Interrogatories**

**Interrogatory No. 13:** With respect to Request for Admission No. 3, to the extent that your answer is anything other than an unqualified admission of such fact, answer fully and under oath the following:

- A. Explain the basis for your denial or any qualified admission;
- B. Describe with particularity which historically irrigated lands, if any, identified in the Proposed Decrees are the subject of any practicably irrigable acreage analysis;
- C. State all material facts on which the answers to subparts A and B above are based and identify all documents relating to any practicably irrigable acreage analysis which show, tend to show, or otherwise establish any facts set forth in your answers to the subparts above.

**Answer:**

**Interrogatory No. 14:** With respect to Request for Admission No. 4, to the extent that your answer is anything other than an unqualified admission of such fact, answer fully and under oath the following:

- A. Explain the basis for the denial or qualified admission;
- B. Describe with particularity which historically irrigated lands, if any, identified in the Proposed Decrees are the subject of an economic feasibility analysis or cost-benefit study;
- C. State all material facts on which the answers to subparts A and B above are based and identify all documents relating to any economic feasibility study and which show, tend to show, or otherwise establish any facts set forth in your answers to the subparts above.

**Answer:**

**Interrogatory No. 15:** With respect to Request for Admission No. 5, to the extent that your answer is anything other than an unqualified admission of such contention, describe fully and under oath the factual basis for your denial or any qualified admission.

**Answer:**

**Interrogatory No. 16:** In response to COP/EPNG’s Interrogatory No. 2, the United States identified Tracts Tr NMS-1 through Tr NMS-138 and a portion of Tract Tr NMS-139 as land that was not a part of the reservation of land in 1868 comprising the Navajo Indian Reservation.

With respect to each such tract, state the following information:

- A. The total arable acreage of each tract;
- B. The total diversion right allocable to each tract pursuant to the Proposed Decrees; and
- C. The total depletion right, or consumptive irrigation right, allocable to each tract pursuant to the Proposed Decrees.

**Answer:**

**Interrogatory No. 17:** Provide the historical and current cropping patterns for each tract identified in the Proposed Decrees as having been historically irrigated.

**Answer:**

**Interrogatory No. 18:** Based upon current cropping patterns and existing irrigation efficiencies, state the acreage that the quantity of water provided as a diversion right in the Proposed Decrees will irrigate.

**Answer:**

**Interrogatory No. 19:** For each tract identified in the Proposed Decrees as having been historically irrigated, provide the following information:

- A. The consumptive irrigation requirement;
- B. The farm delivery requirement;
- C. The project delivery requirement; and
- D. The effective precipitation.

**Answer:**

**Interrogatory No. 19:** Explain the methodology used by the Settling Parties to determine the diversion quantity provided in the Proposed Decrees for the Hogback-Cudei and Fruitland-Cambridge irrigation projects, respectively, and identify all documents which show, tend to show, or otherwise establish the facts set forth in your answer.

**Answer:**

**Interrogatory No. 20:** With respect to the United States' Statement of Claims for claims for future irrigation on behalf of the Navajo Nation, state the following information or, to the extent such information has been provided, identify the specific documents which contain the requested information:

- A. The material facts which show, tend to show, or otherwise establish that the claimed acreage for future irrigation purposes is arable land;

- B. The material facts which show, tend to show, or otherwise establish that the engineering necessary to accomplish irrigation of the claimed acreage for future irrigation purposes is feasible;
- C. The material facts which show, tend to show, or otherwise establish that irrigation of the claimed acreage for future irrigation purposes is economically feasible; and
- D. Identify all documents which show, tend to show, or otherwise establish the facts set forth in your answers to the subparts above.

**Answer:**

**Interrogatory No. 21:** For every person who participated substantively in the preparation of answers to these interrogatories, state such person's name, address, phone number, title or position, and the identity of each interrogatory, including any subpart, in which he or she participated answering.

**Answer:**

**Requests for Production of Documents**

**Request No. 17:** Produce all documents relied upon, referred to, and/or identified in response to Interrogatory No. 13.

**Response:**

**Request No. 18:** Produce all documents relied upon, referred to, and/or identified in response to Interrogatory No. 14.

**Response:**

**Request No. 19:** Produce all documents relied upon, referred to, and/or identified in response to Interrogatory No. 15.

**Response:**

**Request No. 20:** Produce all documents relied upon, referred to, and/or identified in response to Interrogatory No. 16.

**Response:**

**Request No. 21:** Produce all documents relied upon, referred to, and/or identified in response to Interrogatory No. 17.

**Response:**

**Request No. 22:** Produce all documents relied upon, referred to, and/or identified in response to Interrogatory No. 18.

**Response:**



**Request No. 23:** Produce all documents relied upon, referred to, and/or identified in response to Interrogatory No. 19.

**Response:**

**Request No. 24:** Produce all documents relied upon, referred to, and/or identified in response to Interrogatory No. 20.

**Response:**

**Dated: January 25, 2013**

Respectfully Submitted,

HOLLAND & HART LLP

By:  \_\_\_\_\_

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