

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

DISTRICT COURT
SAN JUAN COUNTY NM
FILED
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STATE OF NEW MEXICO, *ex rel.*
State Engineer,

Plaintiff,

vs.

D-1116- CV 75-184
Hon. James J. Wechsler

UNITED STATES OF AMERICA, *et al.*,

Defendants.

JICARILLA APACHE TRIBE and the
NAVAJO NATION,
Defendant-Intervenor.

AB-07-1
Claims of the Navajo Nation

**ORDER CONCERNING DISCOVERY DISPUTES RAISED BY THE
UNITED STATES AND THE NAVAJO NATION**

This matter comes before the Court upon the notices of discovery disputes filed by the Navajo Nation and the United States on February 1, 2013. The Navajo Nation's notice concerns verification of the Community Ditch Defendants' interrogatory answers and the Community Ditch Defendants responses to discovery requests. The United States' notice concerns the responses of Gary Horner, the Community Ditch Defendants, the Cities of Aztec and Bloomfield, the La Plata Acequia Association, and Robert Oxford. Both notices request an order compelling supplemental discovery responses to particular discovery requests. The parties addressed this discovery dispute at the discovery conference held on February 4, 2013.

Supplemental Discovery Responses

In its November 30, 2013 order addressing the Non-Settling Parties' responses and objections to discovery requests, the Court categorized certain responses as possibly inadequate and permitted supplemental responses to be filed until December 21, 2013. The order did not require the Non-Settling Parties to supplement responses.

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The Navajo Nation and the United States now request that the Court require certain Non-Settling Parties to submit supplemental responses to particular discovery requests. As in the November 30, 2013 order, parties will not be compelled to supplement discovery responses. However, all parties in this proceeding are advised that they must respond to discovery requests by adequately disclosing the information and materials they intend to rely upon to support their respective positions. To the extent that the Court determined in its November 30, 2012 order that a responding party may supplement its responses and the responses have not been supplemented, or, if such responses have been supplemented and the parties propounding discovery have requested that further supplemental responses be compelled, a responding party that does not supplement such responses or that does so in an incomplete manner bears the risk that it will not be permitted to pursue positions addressed by the discovery in this proceeding. Thus, because a responding party best knows the positions it wishes to pursue, it must ensure that its responses to discovery requests addressed to those positions adequately set forth the basis for a particular position and supplement its responses accordingly. The parties shall work together reasonably and in good faith to resolve disputes concerning the adequacy of discovery responses.

Community Ditch Defendants Verification of Interrogatories

The Navajo Nation has requested that the Community Ditch Defendants verify interrogatory answers as required by Rule 1-033(C)(2) NMRA. The Community Ditch Defendants have requested an opportunity to file a brief responding to this request.

IT IS THEREFORE ORDERED:

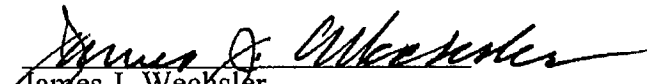
- (1) Parties may supplement discovery responses in accordance with this order, the November 30, 2012 order, and the rules of civil procedure until March 1, 2013;

(2) Concerning verification of interrogatory answers:

(a) the Community Ditch Defendants may file a response no later than February 19, 2013; and

(b) the Navajo Nation may file a reply no later than February 25, 2013.

IT IS SO ORDERED.


James J. Wechsler
Presiding Judge