

DISTRICT COURT
SAN JUAN COUNTY NM
FILED
2013 FEB 25 PM 3:02

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

STATE OF NEW MEXICO, *ex rel.*
State Engineer,

Plaintiff,

vs.

UNITED STATES OF AMERICA, *et al.*,

Defendants.

JICARILLA APACHE TRIBE and the
NAVAJO NATION,

Defendant-Intervenor.

CV 75-184
Hon. James J. Wechsler
Presiding Judge

AB-07-1
Claims of the Navajo Nation

ORDER REGARDING NOTICE OF IMPASSE WITH THE NAVAJO NATION

THIS MATTER comes before the Court on the Notice of Impasse and Filing of Navajo Nation's Responses and Objections to Additional Interrogatories on NIIP, filed February 12, 2013 by the Community Ditch Defendants. The Notice asserts that the Navajo Nation's December 4, 2012 responses to the Community Ditch Defendants' additional interrogatories regarding NIIP are inadequate. The Court heard argument at the February 21, 2013 discovery conference.

Having reviewed the Notice and having heard argument from the Community Ditch Defendants and the Navajo Nation, the Court finds:

1. In response to the Community Ditch Defendants' assertions at the November 28, 2012 discovery conference that the United States and Navajo Nation had not fully responded to the Community Ditch Defendant's discovery requests regarding NIIP operations and records, the Court permitted the Community Ditch Defendants to propound an additional ten interrogatories including all discrete subparts regarding NIIP. Order Concerning the Community Ditch Parties' Discovery Requests Regarding NIIP, entered November 30, 2012.

2. The Community Ditch Defendants again assert that the Navajo Nation's responses to the latest set of interrogatories refer only to documents that had been provided, or that exist at

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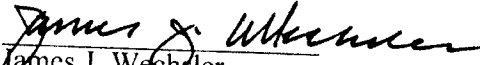
the document repositories, and do not provide “coherent, consistent and complete answers to the questions.” Notice of Impasse at 1 -2. The Navajo Nation again asserts that for every interrogatory, the Navajo Nation has provided every business record from which the answers to the interrogatory may be derived or ascertained.

3. None of the documents referenced has been provided to the Court to evaluate the complaints of the Community Ditch Defendants; consequently, the Court has no basis upon which to determine the adequacy of the Navajo Nation’s responses.

4. The Responses and Objections of the Navajo Nation dated January 7, 2013 and attached to the Notice of Impasse include a comprehensive list of the documents that were provided to the Community Ditch Defendants or that are located at the document repositories. From a reading of the titles, it appears that none of these business records is unusually complex or incomprehensible. In other words, the documents appear to be straightforward business records; and carrying out any analysis or data compilation does not appear to provide a greater burden for the Community Ditch Defendants than for the Navajo Nation. *See* Rule 1-033(E) NMRA(allowing a responding party to specify records from which an answer may be derived if the burden “is substantially the same for the party serving the interrogatory as for the party served . . .”).

5. The Community Ditch Defendants’ objections as expressed in the Notice of Impasse are overruled. The Community Ditch Defendants may seek more specific answers to their questions in depositions of potential witnesses named by the Navajo Nation with the condition that, except by leave of court, all discovery must end by March 1, 2013.

IT IS SO ORDERED.


James J. Wechsler
Presiding Judge