

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,

vs.

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

UNITED STATES OF AMERICA, *et al.*,

Defendants.

AB-07-1  
Claims of the Navajo Nation

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

**THIRD AMENDED ORDER GRANTING MOTIONS TO EXTEND DEADLINES IN PART  
AND SETTING SCHEDULE GOVERNING  
DISCOVERY AND REMAINING PROCEEDINGS**

This matter comes before the Court upon the motions to extend deadlines by 120 days filed by the Community Ditch Defendants and B Square Ranch, LLC et al. filed March 1, 2013 and March 6, 2013 respectively. The current schedule for discovery and remaining proceedings was set in the second amended scheduling order, entered November 6, 2012, and specified a deadline of March 1, 2012 for the close of discovery.

The second amended order followed the filing of motions for extension of time filed by several parties, including B Square Ranch and the Community Ditch Defendants. B Square Ranch and the Community Ditch Defendants sought an extension of 180 days; deadlines were extended by thirty days.

Although filed after the close of discovery, the current motions to extend deadlines raise issues that warrant consideration. On February 12, 2013, near the close of discovery, the San Juan Water Commission ("SJWC") filed a notice of settlement and withdrew its participation in depositions. On February 13, 2013, ConocoPhillips Company and Burlington Resources oil and Gas Company LP ("ConocoPhillips") and El Paso Natural Gas ("EPNG") filed a notice

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withdrawing its notices of deposition and stipulation on February 15, 2013, indicating its engagement in settlement negotiations with the Settling Parties. Prior to the withdrawals, SJWC and ConocoPhillips and EPNG had assumed the lead in the depositions of the Settling Parties' expert witnesses. ConocoPhillips filed notices of deposition for John Whipple, John Leeper, a Rule 1-30(B)(6) NMRA witness designated by the United States, and a Rule 1-30(B)(6) witness designated by the Navajo Nation to be deposed on February 19 through February 21, 2013.

Following the withdrawal of the SJWC and ConocoPhillips' withdrawal of its notices of deposition, the Community Ditch Defendants filed notices to depose Christopher Banet and Lionel Haskie on February 25, 2013, John Whipple on February 26, 2013, and John Leeper on February 27, 2013, but subsequently vacated the scheduled depositions. The current motions to extend deadlines contend that the Non-Settling Parties need additional time to conduct research and adequately prepare for the depositions originally scheduled by the SJWC. After a telephonic hearing on the motion on March 8, 2013, and considering the current circumstances associated with the Non-Settling Parties' discovery efforts, the Court hereby GRANTS the motions to extend deadlines in part and ORDERS that the Non-Settling Parties may by March 31, 2013 (1) take the depositions of John Leeper, Christopher Banet, and John Whipple, previously noticed by SJWC and ConocoPhillips and EPNG and (2) access the Settling Parties' document repositories. In addition, because the Community Ditch Defendants noticed the deposition of Lionel Haskie prior to the close of discovery, they may also depose him by March 31, 2013. No further discovery may be conducted without leave of the Court.


### **Third Amended Schedule Governing Discovery and Remaining Proceedings**

1. Document E-Repository: Only discovery documents shall be posted on the electronic document repository ("e-repository" at <http://uttoncenter.unm.edu/ombudsman/san-juan-discovery.php>) at the Joe M. Stell Ombudsman Program at the Utton Center at the University of New Mexico School of Law. This website shall be accessible to the general public, and all discovery documents shall be available on the website. All documents shall be sent in electronic form to the Ombudsman Program. (See Notice Regarding Discovery Document E-Repository filed February 22, 2012).
2. March 31, 2013: Close of Discovery.

3. Dispositive Motions

- a. April 15, 2013: Settling Parties' memorandum in support of the Settlement Motion of the United States, Navajo Nation and State of New Mexico for Entry of Partial Final Decrees, filed January 3, 2011.
  - b. April 15, 2013: Non-Settling Parties' dispositive motions.
  - c. May 10, 2013: Responses to dispositive motions.
  - d. May 24, 2013: Replies to responses to dispositive motions.
  - e. Week of June 10, 2013: Hearing on dispositive motions.
4. Week of July 8, 2013: Decision on the need for evidentiary hearing.
  5. July 22, 2013: Submittal of Witness Lists and Exchange of Exhibits.
  6. July 25, 2013: Parties Submit Proposed Pretrial Order.
  7. July 30, 2013: Pre-hearing Conference
  8. August 19, 2013: Parties Submit Proposed pre-hearing findings of facts and conclusions of law.
  9. Weeks of August 26, September 2, September 9, 2013, and September 16 (if necessary): Evidentiary Hearing.
  10. Post-Hearing Briefing
    - a. 24 Days After Evidentiary Hearing: Proposed post-hearing findings of fact and conclusions of law and memorandum in support (Settling Parties and Non-Settling Parties).
    - b. 10 Days After Proposed Findings of Fact and Conclusion of Law: Responses.
  11. December 31, 2013: Decision of the Court.

**IT IS SO ORDERED.**

  
James J. Wechsler  
Presiding Judge