

DISTRICT COURT
SAN JUAN COUNTY NM
FILED
2013 APR -1 PM 3:48

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

STATE OF NEW MEXICO, *ex rel.*
THE STATE ENGINEER,

Plaintiff,

AB-07-1
Claims of Navajo Nation

vs.

No. CV 75-184
Honorable James J. Wechsler
Presiding Judge

THE UNITED STATES OF AMERICA, *et al.*,

Defendants.

DESCRIPTIVE SUMMARY: Additional motion to compel discovery concerning NIIP-NAPI. Mr. Lionel Haskie was deposed on March 26 as the designated Rule 1-030(B)(6) witness on NIIP-NAPI. He was unable to answer questions about the financial performance of NIIP-NAPI.

NUMBER OF PAGES: 3

DATE OF FILING: April 1, 2013

ADDITIONAL MOTION TO COMPEL CONCERNING NIIP-NAPI

The Community Ditch Defendants move the court to compel discovery from the plaintiffs concerning NIIP and NAPI, based upon the deposition testimony of Lionel Haskie on March 26, 2013. The plaintiffs had designated Mr. Haskie as their Rule 1-030(B)(6) witness, but he was unable to answer questions about the financial performance of NIIP and NAPI.

At his deposition, which has not yet been transcribed, Mr. Haskie testified along the following lines:

- He has been employed by NAPI only since mid-2010. His personal knowledge is limited to this short period of time.
- His employment is limited to the actual operation, maintenance, and repair of parts of the infrastructure for NIIP-NAPI. His responsibilities include most (but not all) of the current infrastructure that conveys irrigation water to the farm turnouts. He is not responsible for on-farm development and operations, or for business operations of NAPI.
- He has no personal knowledge or experience about the financial performance of NIIP-NAPI, such as the actual cost of building the infrastructure or the overall expenses and revenues of NIIP-NAPI.
- Although he was requested to, Mr. Haskie brought no documents with him to the deposition in Albuquerque. (The Community Ditch Defendants had offered to take Mr. Haskie's deposition in Farmington, where the documents would be available for him to consult for answering the questions at his deposition.)

Wherefore, the Community Ditch Defendants respectfully move the court to compel discovery concerning NIIP-NAPI or to impose appropriate sanctions for the plaintiffs' repeated failure to answer basic questions about NIIP-NAPI. The plaintiffs did not respond adequately to the request for documents which was first served on May 7, 2012. They did not respond adequately to the interrogatories which were served on December 4, 2012, per the court's instructions in an order dated November 30, 2012. And now they have failed to answer the questions which were supposed to be answered by their Rule 1-030(B)(6) witness at his long-awaited deposition. Further, Community Ditch Defendants ask that they be awarded their costs and attorneys fees under Rule 1-037.

Respectfully submitted,

VICTOR R. MARSHALL & ASSOCIATES, P.C.

By /s/ Victor R. Marshall

Victor R. Marshall
Attorneys for San Juan Agricultural Water Users
Association; Hammond Conservancy District;
Bloomfield Irrigation District; various ditches; and
various members thereof.
12509 Oakland NE
Albuquerque, NM 87122
505-332-9400 / 505-332-3793 FAX

CERTIFICATE OF SERVICE

I hereby certify that on April 1, 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: wrvajointerse@nmcourts.gov and to the filing list referred to in the Notice of Amended Service List filed February 25, 2013.

/s/ Victor R. Marshall

Victor R. Marshall, Esq.