

Bi-Weekly Navajo *Inter Se* Report April 29, 2013

San Juan River Basin Adjudication Claims of the Navajo Nation CV-75-184; Case No. AB-07-1

Eleventh Judicial District Court
103 S. Oliver
Aztec, NM 87410
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<http://sjrba.11thjdc.com/Navajo%20Claim%20Subfiles>

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DISTRICT COURT
SAN JUAN COUNTY NM
FILED
2013 APR 29 AM 8:16

PLEASE NOTE: SUMMARY REQUIRED: As required by the **Order Mandating Alternative Method For Service of Orders, Motions, Notices and Other Court Papers** filed September 28, 2011, no motion or other request for relief will be considered by the Court unless it is accompanied by a separate written summary of the motion or other request for relief.

This summary must include:

1. The name of the party filing the pleading
2. The title of the pleading
3. A descriptive summary of the relief sought, **no longer than seventy-five (75) words**
4. The total number of pages in the pleading

PROCEDURAL AND SCHEDULING ORDERS CURRENTLY IN EFFECT

Date Filed:	Document Title
March 15, 2013	Third Amended Order Granting Motions to Extend Deadlines In Part and Setting Schedule Governing Discovery and Remaining proceedings
November 19, 2012	Corrected Order Summarizing Discovery Activities Discussed at the November 6, 2012 Discovery Conference
November 6, 2012	Second Amended Order Setting Schedule Governing Discovery on The Non-Settling Parties and Remaining Proceedings
September 28, 2011	Order Mandating Alternative Method For Service of Orders, Motions, Notices and Other Court Papers
August 7, 2012	Amended Order Setting Schedule Governing Discovery on the Non-Settling Parties and Remaining Proceedings

PENDING HEARINGS

<u>DATE / TIME / TYPE OF HEARING</u>	<u>LOCATIONS</u>
April 30, 2013	Telephonic Conference
June 11th & 12th, 2013 8:30 AM	Aztec District Court 103 South Oliver Drive Aztec, NM 87410

PENDING DEADLINES

<u>Dispositive Motions</u>	
May 10, 2013	Responses to dispositive motions
May 24, 2013	Replies to responses to dispositive motions
June 11th and June 12th, 2013	Hearing on dispositive motions
Week of July 8, 2013	Decision on the need for evidentiary hearing
July 22, 2013	Submittal of Witness Lists and Exchange of Exhibits
July 25, 2013	Parties Submit Proposed Pretrial Order
July 30, 2013	Pre-hearing Conference
August 19, 2013	Parties Submit Proposed pre-hearing findings of facts and conclusions of law

Weeks of August 26, September 2, and September 9, 2013:	Evidentiary Hearing (If necessary)
Post Hearing Briefing	
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)
10 Days After Proposed Findings of Facts and Conclusions of Law	Responses
December 31, 2013	Decision of Court

DOCUMENTS FILED April 15, 2013 through April 26, 2013

Date Filed	Document Title
4-15-2013	Order Denying Motion for Extension of Time
4-15-2013	Gary L. Horner's Motion for a Determination That Federal Law, Permits, or Contracts Do Not Define the Extent of the Water Rights for The Navajo Nation <u>Summary:</u> Mr. Horner seeks the Court's determination that federal law, permits, or contracts do not define the extent of the water rights for the Navajo Nation
4-15-2013	Gary L Horner's Brief in Support of Gary L. Horner's Motion for a Determination That Federal Law, Permits, or Contracts Do Not Define the Extent of the Water Rights for The Navajo Nation <u>Summary:</u> Mr. Horner seeks the Court's determination that federal law, permits, or contracts do not define the extent of the water rights for the Navajo Nation
4-15-2013	Exhibits Volume 1 of 2 referred to in Horner's Brief <u>Summary:</u> This document contains a portion of the Exhibits associated with, and referred to in: Gary L. Horner's Brief in Support of Gary L. Horner's Motion for a Determination That Federal Law, Permits, or Contracts Do Not Define the Extent of the Water Rights for The Navajo Nation
4-15-2013	Exhibits Volume 2 of 2 referred to in Horner's Brief <u>Summary:</u> This document contains a portion of the Exhibits associated with, and referred to in: Gary L. Horner's Brief in Support of Gary L. Horner's Motion for a Determination That Federal Law, Permits, or Contracts Do Not Define the Extent of the Water Rights for The Navajo Nation
4-15-2013	Gary L. Horner's Motion for Summary Judgment: That is, The "Settlement Motion of the United States, Navajo Nation and the State of New Mexico for Entry of Partial Final Decrees" Should be Denied <u>Summary:</u> This document represents Mr. Horner's Motion for Summary Judgment: that is, the Settling Parties' Settlement Motion should be denied
4-15-2013	Gary L. Horner's Memorandum in Support of Gary L. Horner's Motion for Summary Judgment: That is, the "Settlement Motion of The United States, Navajo Nation and The State of New Mexico for Entry of Partial Final Decrees: Should Be

	<p>Denied</p> <p><u>Summary:</u> This document represents Mr. Horner's Memorandum in Support of his Motion for Summary Judgment: that is, the Settling Parties' Settlement Motion should be denied</p>
4-15-2013	<p>Community Ditch Motion For Partial Summary Judgment Concerning Availability of Water and Impacts on Other Water Users</p> <p><u>Summary:</u> Motion for Partial Summary Judgment #3. The proposes decree cannot be approved because it provides for more water than is available and because it will not reduce or eliminate impacts on junior water rights</p>
4-15-2013	<p>Community Ditch Defendants' Motion for Partial Summary Judgment Concerning the Minimum Needs of The Navajo Reservation in New Mexico</p> <p><u>Summary:</u> Motion for Partial Summary Judgment #2. The proposed decree cannot be approved because it provides far more water than is necessary to meet the minimum needs of Navajos living on the reservation in New Mexico. The proposed decree violates <i>U.S. v New Mexico, Arizona v. California, and Cappaert</i></p>
4-15-2013	<p>Community Ditch Defendants' Motion and Memo for Partial Summary Judgment Concerning Applications for Permits From The State Engineer</p> <p><u>Summary:</u> Motion for Partial Summary Judgment #1. Community Ditch defendants' motion for partial, summary judgment concerning applications for permits from the state engineer</p>
4-15-2013	<p>Introduction to Community Ditch Motions for Partial Summary Judgment</p> <p><u>Summary:</u> Community Ditch Defendants' Introduction to dispositive pleadings, a statement of general parameters for the summary judgment process</p>
4-15-2013	<p>Motion for Partial Summary Judgment Concerning NIIP</p> <p><u>Summary:</u> Motion for Partial Summary Judgment #4. NIIP-NAPI is not practicably irrigable acreage (PIA). All of the applicable state and federal statutes and cases require that irrigation projects must meet the legal standards for PIA and beneficial use. NIIP-NAPI does not</p>
4-15-2013	<p>Conditional Motion to Dismiss for Lack of Jurisdiction and Failure to Join Indispensable Parties</p> <p><u>Summary:</u> Conditional motion to dismiss this case for lack of subject matter and personal jurisdiction, based upon the repeated assertions by the settling parties that this court lacks jurisdiction. If so, then this case is an exercise in futility and a waste of time and resources</p>
4-15-2013	<p>Defendants B Square Ranch, LLC et al.'s Motion That Settling Party Navajo nation Waived and Relinquished Its Winter Rights When Navajo Nation Indian Irrigation Project Was Built</p> <p><u>Summary:</u> Defendants B Square Ranch, LLC et al.'s Motion that Settling Party Navajo Nation Waived and Relinquished Its Winter Rights when Navajo Indian Irrigation Project was Built</p>
4-15-2013	<p>Certificate of Service by Richard T.C. Tully</p> <p><u>Summary:</u> None</p>
4-15-2013	<p>Joint Memorandum of The Navajo Nation and The United States in Support of The Settlement Motion</p> <p><u>Summary:</u> Memorandum in support of the Settlement Motion filed on January 3, 2011</p>

4-15-2013	State of New Mexico's Memorandum in Support of Settlement Motion for Entry of Partial Final Decrees <u>Summary:</u> The State submits its Memorandum in Support of Motion for Entry of Partial Final Decrees
4-16-2013	Bi-Weekly Navajo Inter Se Report
4-16-2013	United States' Response to The Community Ditch Motion for Reconsideration About Evaporation From Colorado River Reservoirs <u>Summary:</u> United States' response to Community Ditch Defendants motion to reconsider order concerning evaporation from reservoirs throughout the Colorado River basin
4-16-2013	State's Response to Motion to Compel Response to Request for Admission Concerning Water Units of Measurement <u>Summary:</u> State's Response to Motion to Compel
4-17-2013	The Navajo Nation's Response in Opposition to Additional Motion to Compel Concerning NIIP-NAPI <u>Summary:</u> The Navajo Nation responds to the Community Ditch Defendants' <i>Additional Motion to Compel Concerning NIIP-NAPI</i> , filed April 1, 2013
4-17-2013	Attachments to Joint Memorandum of The Navajo Nation and the United States in Support of The Settlement Motion <u>Summary:</u> Attachments to Joint Memorandum of The Navajo Nation and the United States, filed April 15, 2013
4-19-2013	Notice of Hearing (Telephonic Conference) on 4/30/2013 at 9:00 a.m.
4-19-2013	Exhibits to The Affidavit of John J Whipple Attached to The State's Memorandum in Support of Settlement Motion for Entry of Partial Final Decrees <u>Summary:</u> The State submits its Exhibits to the Affidavit of John J. Whipple attached to State's Memorandum in Support of Motion for Entry of Partial Final Decrees

OBTAINING DOCUMENTS CONTAINED IN THIS REPORT:

Documents are available in their entirety on the Court website, at <http://sjrba.11thjdc.com/Navajo%20Claim%20Subfiles>. A paper copy may be obtained from the Court by requesting a hardcopy from the Court in writing addressed to:

Water Clerk Specialist
Eleventh Judicial District Court
103 So. Oliver Dr.
Aztec, NM 87410

The request shall include a money order to cover copying costs, currently set at \$.35 per page. The request shall also include a self-addressed envelope of sufficient size and with sufficient postage for mailing the requested documents.

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