

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.*  
THE STATE ENGINEER,

Plaintiff,

vs.

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

Defendants.

**AB-07-1**

Claims of Navajo Nation

No. CV 75-184

Honorable James J. Wechsler  
Presiding Judge

DESCRIPTIVE SUMMARY: More information concerning Mr. Lionel Haskie's inability to answer questions about topics for which he was designated as a 30(B)(6) witness.

NUMBER OF PAGES: 3 + 2 pages of exhibits

DATE OF FILING: May 6, 2013

**CONCERNING THE WITNESS LIONEL HASKIE**

Concerning the 30(B)(6) witness Lionel Haskie, the Community Ditch Defendants briefly make the following points:

1. The settling parties designated Lionel Haskie as a 30(B)(6) witness for NIIP on the following topics by interrogatory number: 1) who provided what functions at what times; 2) who for what expenses at what times; 3) what were the "sources and uses of funds" for NIIP; 4) what are total capital costs for NIIP; 5) who incurred labor and management costs for NIIP; and 6) what are costs of completing NIIP and likelihood of completion. *See* Notice of Impasse and Filing of Navajo Nation's Responses and Objections to Additional

*D*

Interrogatories on NIIP Exhibit *passim* and at 17 for designation of 30(B)(6) witness for Interrogatories Nos. 1 through 6 (Feb. 11, 2013).

2. Because the settling parties constantly referred to documents that were supposedly available in the document repositories in Farmington, the Community Ditch Defendants offered to travel to Farmington for Mr. Haskie's deposition, so that he would have the documents at hand. *See* Exhibit 1, email from Victor Marshall to Stanley Pollack. The settling parties refused that offer.

3. The deposition notice for Mr. Haskie asked him to bring documents with him, but he did not, except an early draft of interrogatory responses. *See* Exhibit 2, Haskie Dep. at 7.

4. Because the records were not locally available in Albuquerque, and because Mr. Haskie brought no documents with him, he was unable to answer many questions by finding the answers in pertinent documents. *See* Community Ditch Reply on Additional Motion To Compel Concerning NIIP, Attachment, previously filed April 29, 2013.

5. Mr. Haskie testified that NIIP and NAPI were closely integrated. He testified that NAPI could not operate without the infrastructure provided by NIIP. As an employee of NAPI, part of his job is to maintain and repair the NIIP infrastructure. *Id., passim.*

6. Even though Mr. Haskie had been designated to testify about the finances of NIIP/NAPI, he testified that he did not know about these subjects. *Id., passim.*

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.  
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CERTIFICATE OF SERVICE

I hereby certify that on May 6, 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: [wnavajointerse@nmcourts.gov](mailto:wnavajointerse@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.

Victor,

You are the party requesting the deposition. The Navajo Nation will not assume responsibility for arranging a court reporter or meeting place. Mr. Haskie and I will be in Albuquerque on March 26 for a deposition at a location to be disclosed once you submit notice of the deposition. It is not necessary for you to subpoena Mr. Haskie, and we will send you a bill for whatever fees may be owed per 38-6-4 NMSA.

Stanley M. Pollack, Assistant Attorney General  
Water Rights Unit  
Navajo Nation Department of Justice  
P.O. Drawer 2010  
Window Rock, AZ 86515

928.871.7510  
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This message is intended only for the use of the Addressee and may contain information that is PRIVILEGED and CONFIDENTIAL. If you are not the intended recipient, please delete the email and inform the sender immediately. Thank you.

Stanley -

Here's a possible solution - we would agree to depose Mr. Haskie at the NIIP offices in Farmington on March 26 if you can get a court reporter in Farmington. Alternatively March 28, 29 or April 1, 2, or 3 in Farmington

We'll pay for the court reporter so long as there is not some big travel fee. The witness and the reporter need to be in the same room; lawyers can call in.

Pls let me know asap - I'm trying to accommodate your family visit.

Regards,  
Victor



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1 MR. MARSHALL: Let's go on the record and  
 2 get started. Let's get the appearances of Counsel who  
 3 are here in person and then those who are on the phone.  
 4 I'm Victor Marshall, counsel for the Community  
 5 Ditch Defendants.  
 6 MR. TULLY: I'm Rick Tully representing the  
 7 Defendants B Square Ranch, LLC, et al.  
 8 MR. HORNER: I'm Gary Horner in propria  
 9 persona.  
 10 MR. GOLLIS: I'm Samuel D. Gollis,  
 11 co-counsel for the Navajo Nation.  
 12 THE WITNESS: My name is Lionel Haskie,  
 13 witness, Navajo Nation.  
 14 MR. POLLACK: Stanley Pollack, attorney for  
 15 the Navajo Nation.  
 16 MS. SHEEHAN: Christina Sheehan on behalf  
 17 of BPH Navajo Coal Company and Enterprise Field  
 18 Services.  
 19 MR. FRYE: And I'm Paul Frye. I represent  
 20 the Navajo Agricultural Product Industry.  
 21 MR. MARSHALL: And attending by telephone  
 22 are?  
 23 MS. UMSHLER: Sue Umshler with the  
 24 Department of the Interior.  
 25 MS. SINGER: Arianne Singer, State of

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1 New Mexico.  
 2 MR. UTTON: John Utton, State of  
 3 New Mexico.  
 4 MS. BRASWELL: Misty Braswell, State of  
 5 New Mexico.  
 6 MR. MARSHALL: Okay. Let's continue and  
 7 let's swear the witness.  
 8 LIONEL HASKIE  
 9 after having been duly sworn  
 10 under oath testified as follows:  
 11 EXAMINATION  
 12 BY MR. MARSHALL:  
 13 Q. Mr. Haskie, would you state your full name for  
 14 the record, please.  
 15 A. My name is Lionel Lynn Haskie.  
 16 Q. And "Lynn" is spelled L-Y -  
 17 A. N-N.  
 18 Q. - N-N. Two Ns, okay.  
 19 And where do you live?  
 20 A. I live in Cedar Hills, New Mexico. Aztec,  
 21 New Mexico.  
 22 Q. Okay. And where do you work?  
 23 A. I work at Navajo Agricultural Products Industry,  
 24 Farmington, New Mexico.  
 25 Q. And where is that located?

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1 A. It's located seven miles south on Highway 371 of  
 2 the -- of the City of Farmington.  
 3 Q. Okay. Mr. Haskie, have you ever had your  
 4 deposition taken before?  
 5 A. No.  
 6 Q. Okay. Well, let me explain just in general  
 7 terms, I'm sure your lawyers have gone over some of  
 8 this, but the lawyers are going to be asking you  
 9 questions which might or might not be used as testimony  
 10 in this case. You're answering under oath.  
 11 If at any time you don't understand the  
 12 question, please feel free to say so and ask for  
 13 clarification. If at any time you think of something  
 14 that you forgot to say or that you misspoke, you know,  
 15 didn't say it the way you wanted to, please feel free  
 16 to stop and make a correction, if you feel it's  
 17 necessary. Do you understand that?  
 18 A. Yes.  
 19 Q. Okay. Let me show you what we'll mark as  
 20 Exhibit 10, which is the notice of your deposition,  
 21 which asked you to bring with you certain documents.  
 22 And we'll mark this as Exhibit 11. All the others I  
 23 have premarked, I hope.  
 24 (Exhibit 11 marked for identification.)  
 25 Q. (By Mr. Marshall) Let me show you what I've

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1 marked as Exhibit 11, which is the revised Notice of  
 2 Deposition of Lionel Haskie for today.  
 3 Turning to the back page, and I'll read it into  
 4 the record. The notice asked to you bring with you,  
 5 "1. Any materials you used or consulted in the  
 6 preparation of or referred to in the Navajo Nation's  
 7 responses to Interrogatories Number 1 through 6 of the  
 8 Responses of the Navajo Nation to the Marshall Parties'  
 9 Additional Interrogatories."  
 10 Now, did you bring with you any documents today?  
 11 A. No.  
 12 Q. Okay.  
 13 A. Except for the -- my answers to the  
 14 repositories.  
 15 Q. Okay. If you could tell me --  
 16 A. Or interrogatories.  
 17 Q. Okay. Could you tell me what document that is,  
 18 if you could identify its date and what its title is.  
 19 A. This document is Verification of the Navajo  
 20 Nation's Responses to Marshall Parties' Additional  
 21 Interrogatories on NIIP, and it has my signature and a  
 22 notary public signature. The next document is the  
 23 Responses and Objections of the Navajo Nation to the  
 24 Marshall Parties' Additional Interrogatories on NIIP.  
 25 Q. And if you could look at that document and give

