

**Bi-Weekly Navajo *Inter Se* Report
May 13, 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>

DISTRICT COURT
SAN JUAN COUNTY, NM
FILED
2013 MAY 13 AM 1:09
[Signature]

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>
June 11th & 12th, 2013 8:30 AM	Aztec District Court 103 South Oliver Drive Aztec, NM 87410

PENDING DEADLINES

<u>Dispositive Motions</u>	
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 29, 2013 through May 13, 2013

Date Filed	Document Title
4-29-2013	Bi-Weekly Navajo Inter-se Report
4-29-2013	Reply on Reservoir Evaporation <u>Summary:</u> The settling parties argued that evaporation from reservoirs outside of New Mexico is irrelevant in this case, but their own calculations show that evaporation from Lake Powell and Flaming Gorge reduces the amount of water available to New Mexico
4-29-2013	Reply on Request for Admission Concerning Water Units of Measurement <u>Summary:</u> The court and all the parties need a convenient table of agreed water measurements and conversion factors
4-30-2013	Community Ditch Reply on Additional Motion to Compel Concerning NIIP <u>Summary:</u> At his deposition on March 26, Mr. Lionel Haskie was unable to answer many questions about the topics on which he had been designated as a witness. And he brought with him no documents to consult for the answers
5-1-2013	Order Concerning Supplemental Documentation
5-2-2013	Community Ditch Joinder in Motions Filed by B-Square, Gary Horner and Robert Oxford <u>Summary:</u> The Community Ditch Defendants join in the potentially dispositive motions filed on or about April 15, 2013 by B Square Ranch, Gary Horner, and Robert Oxford
5-3-2013	Notice by The Cities of A Settlement Agreement With The State of New Mexico <u>Summary:</u> Notice of Settlement Agreement between the Cities and the State of New Mexico, the Cities' approval of the proposed settlement and that the Cities no longer intend to participate in this <i>inter se</i> proceeding
5-6-2013	Defendants B Square Ranch LLC et al.'s Errata Notice to Motion That Settling Party Navajo Nation Waived and Relinquished Its Winter Rights When Navajo Indian Irrigation Project Was Built <u>Summary:</u> Defendants B Square Ranch LLC et al.'s Errata Notice to Motion That Settling Party Navajo Nation Waived and Relinquished Its Winter Rights When

	Navajo Indian Irrigation Project Was Built
5-6-2013	Certificate of Service by Richard T.C. Tully <u>Summary:</u> None
5-6-2013	Concerning The Witness Lionel Haskie <u>Summary:</u> More information concerning Mr. Lionel Haskie's inability to answer questions about topics for which he was designated as a 30 (B)(6) witness
5-6-2013	Mary L McCarty, Stephen A. McCarty, and The McCarty Trust Response to Navajo Nation's Motion to Dismiss and Objections To The Navajo Nation Water Rights Settlement and Proposed Decrees <u>Summary:</u> None
5-7-2013	Mary L McCarty Stephen A McCarty and The McCarty Trust Joinder in Motions Filed by Gary Horner <u>Summary:</u> None
5-7-2013	5-7-2013 Notice of Erratum for Corrected Title <u>Summary:</u> None
5-8-2013	Bloomfield Schools Joinder in Potentially Dispositive Motions <u>Summary:</u> Board of Education, Bloomfield Schools' join in the potentially Dispositive Motions filed on or about April 15, 2013 by B Square Ranch and the Community Ditch Defendants
5-9-2013	Ute Mountain Ute Tribe's Answer Brief Opposing Non-Settling Parties' Dispositive Motions <u>Summary:</u> The Ute Mountain Ute Tribe's Answer Brief to Several Dispositive Motions and Briefs Filed by the Non-Settling Parties
5-10-2013	Affidavit of Robert E. Oxford <u>Summary:</u> None
5-10-2013	Robert E Oxfords Response to The Settling Parties Memorandums in Support of The Settlement Motion <u>Summary:</u> Court should rebuke the Navajo Nation and the United States of America's argument on pages 50-52 of their joint memorandum that declare water held in Navajo Reservoir, and releases of that water into the San Juan River, must have a contract with the USA (BOR) for it's use
5-10-2013	Jicarilla Apache Nation Brief in Support of Settling Parties <u>Summary:</u> The Jicarilla Apache Nation files a brief in support of the Settling Parties Motion requesting that the Court grant the Settlement Motion and enter the proposed Partial Final Decrees
5-10-2013	Jicarilla Apache Nation Response Brief to Motion and Brief Filed by Gary L Horner on 8 November 2012 <u>Summary:</u> The Jicarilla Apache Nation files a response brief to the Motion and Brief filed by Gary L. Horner on 8 November 2012 for the determination of the applicable standard for the determination of federal reserved water rights
5-10-2013	Response of the Navajo Nation and United States in Opposition to Community Ditch Objectors' Conditional Motion to Dismiss <u>Summary:</u> The Navajo Nation and United States respond to the <i>Conditional Motion to Dismiss for Lack of Jurisdiction and Failure to Join Indispensable Parties</i> , filed April 15, 2013, by the Community Ditch Objectors

<p>5-10-2013</p>	<p>BHP Navajo Coal Company and Enterprise Field Services LLC's Response in Support of the Joint Memorandum of The Navajo Nation and The United States in Support of The Settlement Motion and Response in Support of The State of New Mexico's Memorandum in Support of Settlement Motion for Entry of Partial Final Decrees</p> <p><u>Summary:</u> Response in Support of the Joint Memorandum of the Navajo Nation and the United States in Support of the Settlement Motion and Response in Support of the State of new Mexico's Memorandum in Support of Settlement Motion for Entry of Partial Final Decrees</p>
<p>5-10-2013</p>	<p>Community Ditch Response to Purported Dispositive Motions Filed by The Navajo Nation, The United states, and The Office of The State Engineer</p> <p><u>Summary:</u> On their face, the purported dispositive motions filed by the US, NN, and OSE do not meet the requirements of Rule 56 or the Rules of Evidence, so they should be summarily denied. The defendants dispute the major facts and points of law claimed by the other side. The US, NN, and OSE have the burden to overcome every one of the defenses raised by the Community Ditches</p>
<p>5-10-2013</p>	<p>Affidavit of Jim Rogers</p> <p><u>Summary:</u> Affidavit filed by Community Ditch Defendants as part of their response to purported dispositive motions filed by US, NN, and OSE on April 15, 2013. This affidavit is also filed in support of the Community Ditch motions for partial summary judgment</p>
<p>5-10-2013</p>	<p>Albuquerque Bernalillo County Water Utility Authority and City of Espanola's Response in Opposition to Community Ditch Defendants' Motion and Memo for Partial Summary Judgment and Gary Horner's Motion for Summary Judgment and Memorandum in Support</p> <p><u>Summary:</u> Albuquerque Bernalillo County Water Utility Authority and City of Espanola's Response in Opposition to Community Ditch Defendants' Motion and Memo for Partial Summary Judgment Concerning Applications for Permits from the State Engineer and Gary 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 and Memorandum in Support</p>
<p>5-10-2013</p>	<p>Gary L. Horner's Response to The State of New Mexico's Memorandum in Support of Settlement Motion for Entry of Partial Final Decree</p> <p><u>Summary:</u> This document represents Mr. Horner's response to the State of New Mexico's Memorandum in Support of Settlement Motion for Entry of Partial Final Decrees</p>
<p>5-10-2013</p>	<p>Gary L Horner's Response to the Joint Memorandum of The Navajo Nation and The United States in Support of The Settlement Motion</p> <p><u>Summary:</u> This document represents Mr. Horner's response to the Joint Memorandum of the Navajo Nation and the United States in Support of Settlement Motion for Entry of Partial Final Decrees</p>
<p>5-10-2013</p>	<p>Affidavit of Gary L Horner P.E., P.Ss, Esq.</p> <p><u>Summary:</u> None</p>
<p>5-10-2013</p>	<p>Response of The Navajo Nation and United States in Opposition of The Summary Judgment Motions of Objectors</p>

	<u>Summary</u> : The Navajo Nation and the United States respond to various motions for summary judgment filed by parties objecting to the Navajo settlement
5-10-2013	The United States' Response to Motions Seeking to Invalidate Bureau of Reclamation Water Rights <u>Summary</u> : The United States' response to Motions seeking to invalidate permits held by the United States for Bureau of Reclamation projects
5-10-2013	Defendants B Square Ranch, LLC et. al's Consolidated Response to Memorandum of The Navajo Nation and The United States in Support of the Settlement Motion and to State of New Mexico's Memorandum in Support of Settlement Motion for Entry of Partial Decreed <u>Summary</u> : Defendants B Square Ranch, LLC et. al's Consolidated Response to Settling Parties' Memorandums in Support of Settlement Motion
5-10-2013	Certificate of Service by Richard T.C. Tully <u>Summary</u> : None
5-10-2013	State's Consolidated Response to Motions Filed By Community Ditch Defendants, Gary L. Horner, Robert E. Oxford and Defendants B Square Ranch, LLC et al on April 15, 2013 <u>Summary</u> : <i>The State's Consolidated Response to Motions filed by Community Ditch Defendants, Gary L. Horner, Robert E. Oxford and Defendants B Square Ranch LLC et al on April 15, 2013</i>

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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