

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

DISTRICT COURT  
SAN JUAN COUNTY NM  
FILED  
2013 MAY 20 PM 7:35

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.

**ORDER DENYING COMMUNITY DITCH DEFENDANTS'  
MOTION FOR RECONSIDERATION ABOUT EVAPORATION  
FROM COLORADO RIVER RESERVOIRS**

This matter comes before the Court on the Community Ditch Defendants' April 1, 2013 motion to reconsider the Court's decision to limit discovery concerning evaporative losses from the Navajo Reservoir in New Mexico. *See Order Granting In Part Motion To Compel, entered February 25, 2013.* After full briefing on the matter, a hearing was conducted on April 30, 2013.<sup>1</sup>

The Community Ditch Defendants contend that the Court's February 25, 2013 order was based upon the Settling Parties' representations that evaporation from reservoirs outside of New Mexico does not affect available water supply in the San Juan River Basin. "The Court's ruling was based on statements by counsel for the plaintiff settling parties that evaporation from these reservoirs was irrelevant because it does not affect the water supply available from the San Juan River in New

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<sup>1</sup>On April 16, 2013, the United States filed a response. The Community Ditch Defendants filed a reply on April 29, 2013.

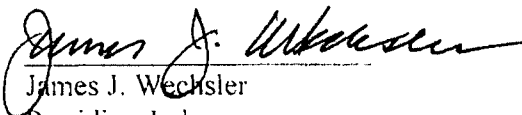
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Mexico.” Motion at 1. The Community Ditch Defendants do not reference a particular document or judicial proceeding where these representations were made to the Court.

As discussed in previous orders, this Court’s discovery ruling have considered the nature of this proceeding and the time frame for discovery. *See* February 15, 2013 Order Granting In Part Motion For Protective Order, and July 9, 2013 Order Concerning the Objections of the Navajo Nation, the United States, and the State of New Mexico to Discovery Requests. The Court’s February 15, 2013 order did not conclude, and was not based upon, statements that evaporative losses outside of the New Mexico do not affect water supply within the San Juan River Basin. Rather, the Court’s order held that the discovery requests at issue were overly broad in that they were not directly related to the four prongs of the legal standard this Court has adopted to evaluate the Settlement Agreement.

The Community Ditch Defendants’ motion to reconsider is DENIED.

**IT IS SO ORDERED.**

  
James J. Wechsler  
Presiding Judge