

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

DISTRICT COURT
SAN JUAN COUNTY NM
FILED
2013 JUN -5 PM 11: 01

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: Attached herewith is the verified and notarized affidavit of Jim Rogers first filed April 15, 2013 as Exhibit 1 to Motion for Partial Summary Judgment Concerning NIIP.

NUMBER OF PAGES: 2 +3 page attachment

DATE OF MAILING: June 4, 2013

VERIFICATION OF AFFIDAVIT OF JIM ROGERS FILED APRIL 15, 2013

The Community Ditch Defendants file herewith the verified and notarized affidavit of Jim Rogers concerning NIIP-NAPI. This affidavit was originally filed on April 15, 2013 as Exhibit 1 to Motion for Partial Summary Judgment Concerning NIIP.

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 June 4, 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.

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AFFIDAVIT OF JIM ROGERS

STATE OF NEW MEXICO)
) ss
COUNTY OF SAN JUAN)

I, Jim Rogers, being duly sworn, allege and state:

1. My name is Jim Rogers. I live in Waterflow, New Mexico near the Navajo Indian Irrigation Project. I am a farmer, rancher, and cattleman. I have lived and farmed in this valley for more than 40 years, and my family for 70 years before that. My property gets water from the Jewett Valley Water Users Association. I have been the chairman of that Association and overseen the operation and delivery of water from it since 1996. This ditch was constructed by the farmers in this valley well before 1900. It continues to be operated by these farmers.

2. For these same more than 40 years I have observed NIIP and NAPI operations on a regular basis. On average I would say that I visit NIIP-NAPI around six to twelve times per year, mostly during the growing season. I buy commodities such as hay,



silage, corn, and potatoes for my cattle-feeding operation. I know and regularly talk with the people at NIIP-NAPI.

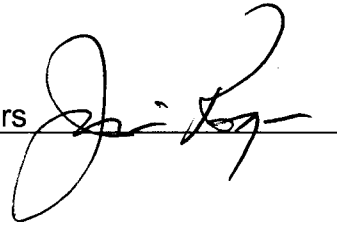
3. As part of my business I follow what is happening at NIIP-NAPI, including its financial performance and the problems in irrigating that terrain. To the best of my knowledge and experience, NIIP-NAPI has never been able to make a profit for any period of years, taking into account all the costs necessary to operate NIIP-NAPI. I have followed the feed-lot operations since inception, and note that they have never been competitive in that market place.

4. From my observations, the primary problems are the cost of building, maintaining and repairing the hundreds of miles of canals and pipelines needed to transport water so far from the San Juan River, and the cost of pumping water uphill. A secondary problem is that the terrain at NIIP is more exposed to the wind, meaning higher evaporation rates. I operate sprinklers on a portion of my farm, and when the wind blows, the sprinklers must be run longer, resulting in much higher production costs.


5. The community ditches down in the valley operate by gravity flow from the San Juan River, so they do not have the additional costs necessary to operate that NIIP-NAPI does. Based upon my own observations of NIIP-NAPI over many years, it is not an economically viable irrigation project. The lands occupied by NIIP are not suitable for sustained irrigation at reasonable cost.

FURTHER AFFIANT SAYETH NOT.

/s/ Jim Rogers
JIM ROGERS



SUBSCRIBED AND SWORN TO before me by Jim Rogers on ~~April~~ ^{May} 30, 2013.



Notary Public

My commission expires

July 25, 2016

