

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

DISTRICT COURT
SAN JUAN COUNTY NM
AS FILED
2013 SEP -5 PM 12:40

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: Oxford affidavit for motion to correct opinion concerning Hogback and Fruitland, and for motion to visit the projects.

NUMBER OF PAGES: 4

DATE OF FILING: September 5, 2013

AFFIDAVIT OF ROBERT E. OXFORD

STATE OF NEW MEXICO)

COUNTY OF SAN JUAN)

) ss

)

I, Robert E. Oxford, being duly sworn, allege and state:

1. My name is Robert E. Oxford. I qualified and took the Professional Engineer's test in 1964 in Kansas, and received my license (#5461) in 1964.

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2. I had attended the University of Kansas from September 1956 till April of 1958, taking civil engineering courses, but did not graduate. I had accumulated 104 credit hours toward a B.S. in Civil Engineering.

3. I took the New Mexico Professional Engineer's test in 1981 and received my professional license number 7332. I was also registered in Colorado until retirement.

4. From December 1987 till December 1999 I was employed by the New Mexico State Engineer and was manager of the Aztec office of the State Engineer, administering the water rights in the San Juan River Basin and those under the Echo Ditch Decree of 1948.

5. I have been President of B.J. Resources, Inc. since retirement from the State in 1999, and specialize in consulting on water rights in the San Juan River Basin.

6. The court should correct its opinion concerning the Hogback and Fruitland projects. See August 16, 2013 Decision at 21. The judge has gotten the historic diversion numbers wrong. The judge misread what the settling parties actually said about Hogback and Fruitland. This is not easy to spot because Mr. Whipple and Mr. Leeper and the others were deliberately fuzzy in their affidavits, so those affidavits have to be read very carefully.

7. In Mr. Whipple's affidavit filed April 15, 2013, he says that the Navajo Nation reported to the state that "the diversion capacity of the Hogback Canal as originally constructed was about 300 cfs, though the existing capacity is less due to an siltation." Whipple Affidavit ¶ 33. I agree with Mr. Whipple that the existing capacity

of the Hogback project is less than 300 cfs. It is much less than 300 cfs, and I know that from my own personal knowledge – my work at the state engineer’s office, the diversion records, and my own observations of the Hogback and Fruitland projects.

8. In paragraph 16 Mr. Whipple says that BIA records show that the maximum peak acreage irrigated on the Hogback was “about 6,327 acres in 1966.” I know from my own experience that BIA records are completely unreliable. No competent engineer would rely on them without verifying them first, and Mr. Whipple and Mr. Leeper didn’t do that. Also Mr. Whipple is claiming one peak year more than 50 years ago. That doesn’t tell anybody what has happened since then. And it doesn’t tell you actual or average irrigable acres irrigated for the project.

9. If somebody wants to use that inflated and inaccurate number of 6,327 acres, and divide it by one cfs per 40 acres, that comes out to a maximum diversion rate for the Hogback of 158.2 cfs.

10. On the Fruitland-Cambridge project, Mr. Whipple says that “based on BIA records” (which are unreliable and unchecked), the maximum acreage irrigated in any one year was “about 3,120 acres in 1965.” That number is wrong, and it doesn’t tell you what acreage is sustainable PIA, and it’s more than 50 years old. I know from my own personal knowledge that that number is inflated.

11. If somebody wants to use that inflated and unverified number of 3,120 acres and divide that number by 40 cfs per acre, that is a maximum diversion of 78 cfs.

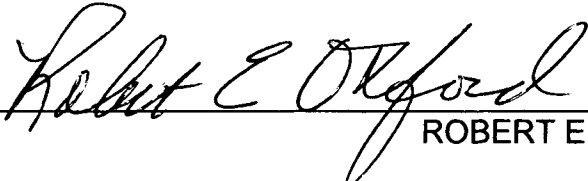
12. Using those inflated numbers, the maximum diversion rate for Hogback and Fruitland is $158.2+78$, which equals 236.2 cfs for both projects combined.

13. The judge misread the Whipple and Leeper affidavits. They did not say that the historic maximum diversion rate for Hogback and Fruitland was "524 to 1,209 cfs." Decision at 21. Those numbers are apparently total diversion rates including NIIP, not just Hogback and Fruitland. The judge has misread their testimony.

14. I know based on my own personal experience and observations that Hogback and Fruitland have never diverted anything close to 524 to 1,209 cfs. I also know that there is no way they could possibly do that.


15. My testimony will be confirmed by going out to the Hogback and Fruitland projects and looking at them right now. I ask the judge to come visit those projects before making a final decision, because he and all the parties will see that those paper numbers for the Hogback and Fruitland are wildly inflated.

FURTHER AFFIANT SAYETH NOT.



ROBERT E. OXFORD

SUBSCRIBED AND SWORN TO before me by Robert E. Oxford on this 5th day of September, 2013.



Notary Public

My commission expires December 8, 2016.

