

# Bi-Weekly Navajo *Inter Se* Report November 6, 2013

## San Juan River Basin Adjudication Claims of the Navajo Nation CV-75-184; Case No. AB-07-1

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Eleventh Judicial District Court  
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<http://sjrba.11thjdc.com/Navajo%20Claim%20Subfiles>

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FILED  
SAN JUAN COUNTY NM  
DISTRICT COURT

**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**

<b>Date Filed:</b>	<b>Document Title</b>
March 15, 2013	Third Amended Order Granting Motions to Extend Deadlines In Part and Setting Schedule Governing Discovery and Remaining proceedings

**PENDING HEARINGS**

<b><u>DATE / TIME / TYPE OF HEARING</u></b>	<b><u>LOCATIONS</u></b>
<b>None Currently Scheduled</b>	

**PENDING DEADLINES**

<b>No Current Deadlines</b>	
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**DOCUMENTS FILED July 12, 2013 through November 6, 2013**

<b>Date Filed</b>	<b>Document Title</b>
<b>7-12-2013</b>	<u>DECISION REGARDING THE NEED FOR AN EVIDENTIARY HEARING</u> After reviewing the dispositive motions and memoranda filed in accordance with this Court's third amended scheduling order entered March 15, 2013, and considering the arguments of the parties presented at the hearing on dispositive motions conducted on June 11 and 12, 2013, the Court hereby determines that an evidentiary hearing is not warranted. An order addressing the issues raised by the parties shall be entered forthwith
<b>7-16-2013</b>	Bi-Weekly Report for 7-1-13 through 7-12-13
<b>7-22-2013</b>	State's Reply to Community Ditch Defendants' Response to Motion to Strike Affidavit of Jim Rogers <u>Summary: State's Reply to Community Ditch Defendants' Response to Motion to Strike Affidavit of Jim Rogers</u>
<b>8-20-2013</b>	Defendants B Square Ranch, LLC Et al.'s Motion to Comply with Rules Pertaining to Preparation and Entry of Orders and Judgments

	<u>Summary</u> : Defendants B Square Ranch, LLC Et al.'s Motion to Comply with Rules Pertaining to Preparation and Entry of Orders and Judgments ("Motion to Comply with Rules")
<b>8-20-2013</b>	Certificate of Service by Richard T.C. Tully <u>Summary</u> : None
<b>8-21-2013</b>	Motion For A Reasonable Time To Address The Issues Raised By The Court's August 16 Opinion <u>Summary</u> : Motion by Community Ditch Defendants and others for the court to set a reasonable time for all parties to address the issues raised by the August 16 opinion (many of which are new), and to defer entering a final judgment until the court can consider such filings
<b>8-22-2013</b>	Notice of Teleconference on 8/26/2013
<b>8-23-2013</b>	Settling Parties Notice of Filing of Proposed Decrees <u>Summary</u> : Settling Parties Notice of Filing of Proposed Decrees
<b>8-28-2013</b>	Order Granting Motion Concerning Preparation And Entry Of Decrees
<b>8-28-2013</b>	Order Granting Community Ditch Defendants' Motion Regarding Time to File Motions to Address The Order Granting The Settlement Motion
<b>8-30-2013</b>	Settling Parties' Proposed Edits to the Proposed Decrees <u>Summary</u> : Settling Parties' proposed edits to the decrees attached to the <i>Order granting Motion Concerning Preparation and Entry of Decrees, August 28, 2013</i>
<b>9-5-2013</b>	Motion by Robert E Oxford for Corrections Concerning Hogback and Fruitland <u>Summary</u> : Robert Oxford makes a motion for the court to correct its August 16 concerning the diversions by Hogback and Fruitland. The judge misread what Whipple and Leeper said in their affidavits. Oxford also makes a motion for the court and parties to go visit the Hogback and Fruitland to see for themselves.
<b>9-5-2013</b>	Affidavit of Robert E. Oxford <u>Summary</u> : Oxford affidavit for motion to correct opinion concerning Hogback and Fruitland, and for motion to visit the projects
<b>9-5-2013</b>	Motion for Correction of Factual Record and August 16 Opinion Concerning NIIP <u>Summary</u> : It is undisputed fact that NIIP is not PIA. The court should correct the factual record and its August 16 opinion accordingly
<b>9-5-2013</b>	State's Motion to Correct Order Granting The Settlement Motion For Entry of Partial Final Decrees Describing the Water Rights of The Navajo Nation <u>Summary</u> : State's Motion to Correct August 16 Order to clarify that the alternate water provision under Section 9.2 of the Settlement Agreement is not conditioned upon the Navajo Reservoir containing at least one million acre feet of storage water.
<b>9-6-2013</b>	Motion for Correction of Factual Record and August 16 Opinion Concerning Navajo Population <u>Summary</u> : The August 16 opinion overlooks the 2000 and 2010 census data in the record which shows that the Navajo population on the Reservation is shrinking, not growing. Gretchen Greene excluded the 2010 census data from her projections of future Navajo population, even though the 2010 census data was available to her before she filed her report on April 15, 2013
<b>9-6-2013</b>	Motion For Correction of Record and August 16 Opinion Concerning Expert Reports <u>Summary</u> : The record shows that several of the purported experts employed by the

	US, NN, and OSE relied on raw data which they did not check. The underlying data was supplied by unidentified persons, using unidentified methods and unreliable records. The court should correct its August 16 opinion accordingly
<b>9-20-2013</b>	Response of the Navajo Nation and United States in Opposition to the Motions of Community Ditch Objectors and Robert E. Oxford Seeking "Correction" of the Order Granting The Settlement Motion <u>Summary:</u> Response in Opposition to the Motions of the Community Ditch Objectors and Robert E. Oxford seeking corrections of the Court's August 16 Order
<b>9-20-2013</b>	States Response to Community Ditch Defendants and Robert E Oxfords Motions for Correction of Record <u>Summary:</u> State's Response to <i>Community Ditch Defendants' Motion for Correction of Record and August 16 Opinion Concerning Expert Reports and Motion by Robert E. Oxford for Corrections Concerning Hogback and Fruitland</i> . The report of the State's expert witness is admissible under the New Mexico Rules of Evidence, there is no evidence that factual statements in the expert witness' affidavit are incorrect, and the Motions should be denied
<b>10-01-2013</b>	Reply on Motion for Correction Concerning Navajo Population <u>Summary:</u> The OSE has conceded the motion. The NN and US have effectively conceded the motion, because they do not dispute that the 2010 census shows that the Navajo population on the Reservation is shrinking, contrary to the affidavit that Gretchen Greene filed in April 2013.
<b>10-01-2013</b>	Notice of Unavailability by Victor R Marshal from October 2 through October 21, 2013
<b>10-01-2013</b>	Reply Concerning Expert Affidavits <u>Summary:</u> The expert affidavits were filed after the discovery cut-off, so defendants had no opportunity to depose the experts on their affidavits; the court has misunderstood what the experts actually said; the settling parties deliberately obfuscate historic versus projected uses; they confuse admissibility with reliability; the settling parties must show that the BIA data is reliable, and no one testifying that it is
<b>10-4-2013</b>	Robert E Oxfords Reply to The Response of The State of New Mexico, U.S.A., and Navajo Nation, Filed September 20, 2013 <u>Summary:</u> Robert E. Oxford's reply to the response of the State of New Mexico, United States of America, and the Navajo Nation to the motion and affidavit of Robert E. Oxford filed to correct alleged errors in the courts opinion and decision of the Navajo Water Rights Settlement
<b>10-30-2013</b>	Motion to Amend and Supplement Answer, Objections, and Counterclaim with Attached Exhibits
<b>10-31-2013</b>	Order Denying Community Ditch Defendants' Motion to Amend and Supplement Answer , Objections, and Counterclaim
<b>10-31-2013</b>	Order Concerning Motions to Correct the August 16, 2013 Order Regarding the Water Rights of The Navajo Nation
<b>11-1-2013</b>	Partial Final Judgment and Decree of The Water Rights of The Navajo Nation
<b>11-1-2013</b>	Supplemental Partial Final Judgment and Decree of The Water Rights of The Navajo Nation

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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