

DISTRICT COURT  
SAN JUAN COUNTY NM  
FILED

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

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: The Community Ditch Defendant-Counterclaimants move the court to disclose all *ex parte* communications with any parties in this adjudication, in compliance with NMRA Rule 21-209.

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**MOTION FOR DISCLOSURE OF EX PARTE COMMUNICATIONS**

The Community Ditch Defendant-Counterclaimants move the court to disclose all *ex parte* communications with any parties in this adjudication, including but not limited to the Office of the State Engineer.

Rule 1-071.4 allows some *ex parte* communications. Those *ex parte* communications, like all *ex parte* communications, are subject to the disclosure requirements of Rule 21-209:

**21-209. Ex parte communications.**

A. A judge shall not initiate, permit, or consider *ex parte* communications, or consider other communications made to

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the judge outside the presence of the parties or their lawyers, concerning a pending or impending matter, except as follows:

(1) When circumstances require it, ex parte communication for scheduling, administrative, or emergency purposes, which does not address substantive matters, is permitted, provided:

(a) the judge reasonably believes that no party will gain a procedural, substantive, or tactical advantage as a result of the ex parte communication; and

(b) the judge makes provision promptly to notify all other parties of the substance of the ex parte communication, and gives the parties an opportunity to respond.

Movants therefore ask the court to disclose all ex parte communications, including the date of each communication, the names of the participants, the specific matters discussed, along with any records relating thereto. This motion includes ex parte communications by judges assigned to the San Juan adjudication prior to the currently assigned judge. This motion also applies to any party who has had ex parte communications; they must also assemble and disclose the above information.

Respectfully submitted,

VICTOR R. MARSHALL & ASSOCIATES, P.C.

By /s/ Victor R. Marshall

Victor R. Marshall  
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## CERTIFICATE OF SERVICE

I hereby certify that on December 2, 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](mailto: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.