

DISTRICT COURT
SAN JUAN COUNTY NM
FILED *DL*
2017 DEC 20 AM 11:30

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

STATE OF NEW MEXICO, *ex rel.*
NEW MEXICO STATE ENGINEER,

Plaintiff,

v.

THE UNITED STATES OF AMERICA, *et al.*,

Defendants,

D-1116-CV-75-184

Hon. James J. Wechsler
Presiding Judge

San Juan River Adjudication

vs.

THE JICARILLA APACHE TRIBE and
the NAVAJO NATION,

Defendants-Intervenors.

**SAN JUAN WATER COMMISSION'S RESPONSE TO ABCWUA'S AND MRGCD'S
BRIEFS CONCERNING THE
FIFTH AMENDED CASE MANAGEMENT PLAN**

Pursuant to the Court's September 29, 2017, *Order Concerning Briefing on the Fifth Amended Case Management Order* ("Order"), San Juan Water Commission ("SJWC") hereby responds to the *Albuquerque Bernalillo County Water Utility Authority's Brief Concerning the Fifth Amended Case Management Order* and the *Response of the Middle Rio Grande Conservancy District to the Order Concerning Briefing on the 5th Amended Case Management Order*.¹ Given the Court's admonition (Order at 1) that "[t]he parties shall not brief or address any substantive issue underlying the rights of any party," SJWC's response does not brief any

¹ The Order refers to a "Fifth Amended Case Management Order," but that document actually is titled "Fifth Amended Case Management Plan." SJWC will use the Court's current nomenclature (abbreviated as "5th CMO"), as have the other parties.

underlying legal issue. SJWC respectfully requests that, should this Court elect to entertain any particular modification to the 5th CMO, it provide the parties an opportunity to fully brief the legality of the modification.

Response

1. The Court's Order (at 1) directed "any party who wishes this Court to consider any modification to or amendment of the 5th CMO [to] file a brief and state the nature of the change and the reason(s) for the change." The briefs filed by the Albuquerque Bernalillo County Water Utility Authority ("ABCWUA") and the Middle Rio Grande Conservancy District ("MRGCD"), while identifying legal issues underlying their rights to receive water from the San Juan-Chama Project under contracts with the United States, do not propose any particular modifications to the adjudication procedures and schedule set forth in the 5th CMO.

2. At this time, SJWC takes no position on the merits of the legal issues identified by ABCWUA and MRGCD. Those issues should be raised by ABCWUA and MRGCD when the rights of the United States are adjudicated. In the alternative, ABCWUA and MRGCD should propose amending the 5th CMO to provide a timeline for the litigation of the rights of the San Juan-Chama Project contractors, including the issue of subject matter jurisdiction.

Respectfully submitted,

TAYLOR & McCALEB, P.A.

By: 

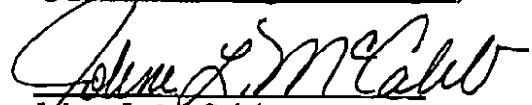
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CERTIFICATE OF SERVICE

I certify that I have caused a copy of the above to be served by e-mail to all counsel on the Electronic Service List for D-1116-CV-7500184 by using wrattorney-grp@nmcourts.gov, on December 20, 2017.


Jolene L. McCaleb