


STATE OF NEW MEXICO
SAN JUAN COUNTY
ELEVENTH JUDICIAL DISTRICT COURT

DISTRICT COURT 
SAN JUAN COUNTY NM
FILED
2019 JAN 17 AM 8:25

STATE OF NEW MEXICO, ex rel.
STATE ENGINEER,

CV-75-184
Hon. James J. Wechsler
Presiding Judge

Plaintiff,

SAN JUAN RIVER STREAM
SYSTEM ADJUDICATION

v.

THE UNITED STATES OF AMERICA, et al.,

Defendants,

v.

THE JICARILLA APACHE TRIBE and
THE NAVAJO NATION,

Defendants-Intervenors.

DESCRIPTIVE SUMMARY: Movants respectfully ask the Honorable James J. Wechsler to recuse himself voluntarily. Alternatively, movants move for disqualification for cause. They also move to revise all rulings pursuant to Rule 1-054(B).

NUMBER OF PAGES: 3

DATE OF FILING: January 16, 2019.

**REQUEST FOR VOLUNTARY RECUSAL;
OR IN THE ALTERNATIVE, MOTION FOR DISQUALIFICATION FOR CAUSE;
AND MOTION FOR REVISION OF ORDERS UNDER RULE 1-054(B)**

The movants Chris Velasquez, Linda Corwin, and San Juan Agricultural Water Users Association have water rights in the San Juan Basin. Like almost all of the water owners in the basin, movants have never been served with process in this case. They have not been served even though this case has been pending for more than 43 years – since 1975.

According to the report which the OSE filed on August 1, 2018, it will be at least 40 more years before the hydrographic survey and service of process are completed.

Movants are not making a general appearance in this case. They are not waiving service of process on them, or on all other claimants. Movants reserve all rights, claims and defenses which they might have, including but not limited to, the defenses enumerated in Rule 1-012, and the rights contained in the federal and state constitutions.

(1) Movants respectfully ask the Honorable James J. Wechsler to recuse himself voluntarily from this case, given the information which has recently emerged. According to his testimony, Judge Wechsler himself was not aware of key facts until recently. The information is summarized in the memorandum which is filed and incorporated herewith.

(2) Alternatively, if Judge Wechsler declines to recuse himself voluntarily, movants move for disqualification for cause.

(3) Movants also move for revision of orders under Rule 1-054(B). In the absence of a final appealable judgment as to all claims and parties, Rule 1-054(B) states:

Otherwise, any order or other decision, however designated, that adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties and may be revised at any time before the entry of the judgment adjudicating all the claims in all the parties rights' and liabilities.

All of the orders and decisions in this case ("the main case") fall into this category. None of them are final and appealable, and all of them are subject to revision at any time for any reason. For the reasons summarized in the memorandum, all of Judge Wechsler's rulings and decisions should be vacated. Since there has been no service of process, none of those rulings are binding anyway.

Concurrence of all counsel has not been sought due to the nature of these motions.

Respectfully submitted,

VICTOR R. MARSHALL & ASSOCIATES, P.C.

By /s/ Victor R. Marshall

Victor R. Marshall
Limited Special Appearance as Attorneys for
Movants Velasquez, Corwin and
San Juan Agricultural Water Users Association
12509 Oakland NE
Albuquerque, NM 87122
505-332-9400
victor@vrmarshall.com

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of January, 2019, a true and correct copy of the foregoing was served on the all counsel on the Electronic Service List for D-1116-CV-7500184 by emailing the filing to sanjuanwater-grp@nmcourts.gov.

/s/ Victor R. Marshall

Victor R. Marshall, Esq.