

ELEVENTH JUDICIAL DISTRICT
COUNTY OF SAN JUAN
STATE OF NEW MEXICO

STATE OF NEW MEXICO ex rel.
State Engineer,
Plaintiff,

v.
UNITED STATES OF AMERICA, et al.,
Defendants.

v.
THE JICARILLA APACHE TRIBE and the
NAVAJO NATION,
Defendant-Intervenors.

FILE

OCT 7 2019

DISTRICT COURT
103 S. OLIVER
AZTEC, NEW MEXICO 87410

No.: D-1116-CV-75-184
SAN JUAN RIVER
ADJUDICATION SUIT

Ute Mountain Ute Subproceeding

**GARY L. HORNER'S RESPONSE TO THE "JOINT MOTION FOR EXTENSION OF
THE MARCH 30, 2020 DEADLINE SET FORTH IN THE PRELIMINARY
SCHEDULING ORDER FOR THE ADJUDICATION OF WATER RIGHTS OF THE
UTE MOUNTAIN UTE TRIBE"**

COMES NOW Gary L. Horner, Esq., *In Propria Persona* (hereinafter referred to in the first person), in response to the JOINT MOTION FOR EXTENSION OF THE MARCH 30, 2020 DEADLINE SET FORTH IN THE PRELIMINARY SCHEDULING ORDER FOR THE ADJUDICATION OF WATER RIGHTS OF THE UTE MOUNTAIN UTE TRIBE, filed in the present matter on September 19, 2019. (Hereinafter referred to as the subject "Motion".)

Pursuant to the subject Motion, Movants seek to extend the deadline (from March 30, 2020 until November 30, 2020) (for the deadline established pursuant to the PRELIMINARY SCHEDULING ORDER FOR THE ADJUDICATION OF THE WATER RIGHTS OF THE UTE MOUNTAIN UTE TRIBE, entered in the present matter on August 4, 2009 ("August 4, 2009 Order")) for the joint submission of a motion seeking court approval of procedures to be

*Horner's Response to the Joint Motion for
Extension re UMUT Water Rights*

followed concerning the UMUT subproceeding. (See August 4, 2004 Order, p. 8.) Further, pursuant to said August 4, 2009 Order, all discovery and motion practice with respect to the UMUT water rights were stayed until some time after the March 30, 2020 motion was to be filed, heard and determined.

The Complaint in this water rights adjudication suit was filed in the present matter on March 13, 1975. The purpose of this suit was primarily to determine the water rights of the federal government and Indian tribes within the San Juan Basin, that had not been previously determined pursuant to the 1948 Decree. That means, that by the time of the August 4, 2009 Order, thirty-four (34) years had elapsed without any effort on the part of this Court to determine the water rights of the UMUT in this matter. Said August 4, 2009 Order had the purpose and effect of putting off even the beginning of any consideration of the UMUT water rights for an additional eleven (11) years (for a total of more than forty-five (45) years). But, now, even with eleven (11) years advance notice, the Movants do not want to comply with the August 4, 2009 Order, and seek eight (8) additional months before the Court would even begin to consider such issues.¹ (That is, until Movants at some later point, seek even more extensions of time.)

On October 1, 2007, the UNITED STATES FILED THE UNITED STATES' AMENDED SUPPLEMENTAL ANSWER WITH RESPECT TO CLAIMS ON BEHALF OF THE UTE MOUNTAIN UTE TRIBE. On October 2, 2007, the UMUT filed its RESTATEMENT OF THE CLAIM OF THE UTE MOUNTAIN UTE TRIBE. On February 28, 2008, the State filed THE STATE OF NEW MEXICO'S ANSWER TO RESTATEMENT OF

¹ Then, anyone opposing Movants' anticipated November 30, 2020 Motion, would need to work over the Christmas holidays to respond to their anticipated Motion. Additionally, where Movants will have had more than eleven (11) years to prepare their anticipated Motion, any responding parties will probably end up with one or two months to respond to such anticipated Motion. That is, fairness to other water users does not appear to be part of Movants' plan.

THE CLAIM OF THE UTE MOUNTAIN UTE TRIBE. That is, by the subject March 30, 2020 deadline, the stage will have been set for the consideration of the issues surrounding the UMUT water rights for twelve (12) years, and still they seek an extension of time.

Pursuant to the subject Motion, Movants assert that:

“No parties would be prejudiced by an extension of time because all are in agreement that settlement negotiations will ultimately expedite the adjudication process, conserve both judicial and Tribal resources, and allow for a more cooperative resolution.” Motion, ¶ 5.

Such statement is knowingly false, in that Movants are well aware, that I, at least, for more than twenty (20) years, in this case, have been contesting the notion that Indian water rights be determined by negotiated settlements. Rather, I have repeatedly asserted that such water rights should be determined based upon hydrographic surveys of existing beneficial uses, in accordance with the New Mexico Constitution and laws of New Mexico. In fact, Movants, and all parties hereto are well aware that such issues are currently before the New Mexico Supreme Court, on appeal from this Court, with respect to the water rights of the Navajo Nation.

CONCLUSION

For the foregoing reasons, I respectfully request that the subject Motion be denied.

Respectfully submitted by:

/s/ Gary L. Horner
GARY L. HORNER, Esq., *In Propria Persona*
Post Office Box 2497
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(505) 326-2378

October 7, 2019

Date

PROOF OF SERVICE BY ELECTRONIC TRANSMISSION

I HEREBY CERTIFY that a true copy of the foregoing was served on the parties and Claimants in the present matter, by attaching a copy of said document to an email sent to the following email list server(s) maintained by the Court, this 7th day of October, 2019:

sanjuanwater@nmcourts.gov

/s/ Gary L. Horner

GARY L. HORNER