

DISTRICT COURT  
SAN JUAN COUNTY NM  
FILED

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

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

Plaintiff,

vs.

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

Defendants,

THE JICARILLA APACHE TRIBE AND THE  
NAVAJO NATION,

Defendant-Intervenors.

D-1116-CV-75-184  
Hon. James J. Wechsler  
Presiding Judge

SAN JUAN RIVER GENERAL  
STREAM ADJUDICATION

Ute Mountain Ute Subproceeding

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**JOINT MOTION FOR EXTENSION OF THE DEADLINE SET FORTH IN THE  
PRELIMINARY SCHEDULING ORDER FOR THE ADJUDICATION OF WATER  
RIGHTS OF THE UTE MOUNTAIN UTE TRIBE TO JULY 31, 2023**

The Ute Mountain Ute Tribe (“Tribe”) and the State of New Mexico (“State”) respectfully move for an extension of time until **July 31, 2023**, to file the motion seeking Court approval of procedures concerning the Ute Mountain Ute Subproceedings as directed by the Court’s August 4, 2009 *Preliminary Scheduling Order for the Adjudication of the Water Rights of the Ute Mountain Ute Tribe*. In support, the Movants state the following:

1. On August 4, 2009, the Court entered its *Preliminary Scheduling Order for the Adjudication of the Water Rights of the Ute Mountain Ute Tribe*, setting the March 30, 2020, deadline to file the motion seeking Court approval of procedures concerning the Ute Mountain Ute Subproceedings. [8-4-09 ORD 8].

2. The Court has subsequently granted the Tribe and State’s requests for additional time to continue negotiations and maintain the progress made toward a potential settlement,

including the April 24, 2022 *Order Granting the Joint Motion for Extension* to November 30, 2022. [4-25-22 ORD 1] <sup>1</sup>

3. Since the last joint motion for extension was filed on March 24, 2022, the Tribe, State, and United States (“Parties”) have continued to make progress towards resolution of the Tribe’s claims. Although some aspects of the settlement process have slowed due to COVID-19, the Parties have been able to resume in-person meetings after safety regulations were lifted in May of 2022. Additionally, the Parties have virtual meetings regularly and continued to allocate resources to technical and legal support for purposes of negotiating the settlement of the Tribe’s claims.

4. The Parties have expanded the hydrological analysis and continued the ongoing development of the groundwater model. An extension of time will allow for the Parties to continue the hydrological evaluation of water use on the Tribe’s land and further the potential for collective resolution of the Tribe’s claims.

5. On May 19, 2022, the Tribe submitted a formal request to the Department of Interior, Secretary’s Indian Water Rights Office for approval of a federal negotiation team. The appointment of a negotiation team will assist the Tribe in accessing resources and continue the progress made thus far. The State of New Mexico and the State of Colorado both submitted

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<sup>1</sup>On September 19, 2019, the Tribe and State filed 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 to November 30, 2020*. [9-19-19 MOT 2]; On November 20, 2019, the Court issued its Order granting the extension of time for submission of the procedures and a proposed form of notice to November 30, 2020. [11-20-19 ORD 1]; On November 2, 2020, the Tribe and State filed a *Joint Motion for Extension of the November 30, 2020 Deadline Set Forth in the Preliminary Scheduling Order for the Adjudication of Water Rights of the Ute Mountain Ute Tribe*, requesting to extend the deadline to July 30, 2021, in order to continue the progress toward a potential settlement. [11-2-20 MOT 1]; On November 4, 2020, the Court issued its Order granting the additional time allowing for further discussions of the terms and technical aspects of the negotiations to July 30, 2021. [11-4-20 ORD 1]; On July 22, 2021, the Tribe and State filed the *Joint Motion for Extension of the November 30, 2020 Deadline Set Forth in the Preliminary Scheduling Order for the Adjudication of Water Rights of the Ute Mountain Ute Tribe*, requesting to extend the deadline to March 31, 2022 [7-22-21 MOT 1]; On September 8, 2021, the Court issued its Order granting the additional time for the negotiation. [9-8-21 ORD 1].

letters of support for the Tribe's request and all Parties anticipate a decision to be made well before the requested extension date, July 31, 2023. Additional time to access federal resources will assist the Parties come to a fair and administrable settlement.

7. No Parties would be prejudiced by an extension of time because settlement negotiations will ultimately expedite the adjudication process, conserve both judicial and Tribal resources, and allow for a more cooperative resolution.

8. Given the large number of counsel and parties in the general stream adjudication, contacting all of them in advance of filing would not be possible, so opposition has been assumed with regard to this Motion. The Movants have contacted counsel for the United States, who do not oppose this Motion.

WHEREFORE, the Ute Mountain Ute Tribe and the State of New Mexico request an additional extension for filing the motion seeking Court approval of procedures concerning the Ute Mountain Ute Subproceedings to **July 31, 2023**.

Respectfully Submitted:

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**CERTIFICATE OF SERVICE**

I certify that on the 29<sup>th</sup> day of November, 2022, an electronic version of this document was filed by electronic mail to: [sjwaterfilings@nmcourts.gov](mailto:sjwaterfilings@nmcourts.gov) and served on all counsel of record on the electronic service list for D-1116-CV-7500184 by electronic mail address to: [sanjuanwater-grp@nmcourt.gov](mailto:sanjuanwater-grp@nmcourt.gov).

*/s/ Nicole C. Greenspan*  
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