

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

and

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

and

ZUNI INDIAN TRIBE, NAVAJO NATION,
Plaintiffs-in-Intervention,

-vs-

A & R Productions, et al.,
Defendants.

No. 01cv00072-MV-WPL
Subfile No. ZRB-2-00098
JAY Land Ltd. Co., Yates
Ranch Property LLP

MEMORANDUM IN SUPPORT OF MOTION REQUESTING ORAL ARGUMENT

Defendants JAY Land Ltd. Co., and Yates Ranch Property LLP submit the following authorities in support of their Motion requesting oral argument in connection with the motions for Partial Summary Judgment (Doc. 3059), the United States' consolidated Response and Cross-Motion for Summary Judgment (Doc. 3076), Defendants' consolidated Reply/Response (Doc. 3093) and the United States Reply (Doc. 3097).

It is a matter of the Court's discretion whether to allow oral argument. LR 7.6 contains the only mention of oral argument and does not provide much guidance: "(a) . . . A motion will be decided on the briefs unless the Court sets oral argument."

Cases from elsewhere, for the most part minute orders, set forth the factors the Court should consider: Will oral argument aid the decisional process. Fleetwood Transp. Corp. v.

Packaging Corp. of America, (D.S.C., 2012). Will oral argument be necessary or helpful. SE Prop. Holdings, LLC v. Rookery, (S.D. Ala., 2013) [fn].

The Court should consider whether explanations at oral argument might provide a basis for the Court to act. Foundation v. Modernica, Inc., 12 F.Supp.3d 635 (S.D.N.Y., 2014).

Explanations may well be desirable in this case because of the rather arcane nature of New Mexico water law and because of the relative inexperience of the United States as a Plaintiff in omnibus water rights adjudications such as this, as well as the United States' odd double role as trustee and advocate for Zuni and Navajo, and at the same time as substitute stakeholder of the public waters. (See State of Idaho, et al., v. United States, 912 P.2d 614, 128 Idaho 246 (Idaho, 1995):

A general water adjudication brought by the state is analogous to an interpleader action. The position of the director of the Department of Water Resources is analogous to the "stakeholder" in an interpleader action. The director is really a disinterested party. The only interest the director has is to see that all rights are accurately adjudicated. The director does not oppose a claim, trying to subvert a valid claim. Nor does the director stand to gain if a claim is invalidated.

PETER B. SHOENFELD, P.A.
P.O. Box 2421
Santa Fe, New Mexico 87504-2421
(505) 982-3566; FAX: (505) 982-5520

By:  _____

Attorney for JAY Land Ltd. Co., and
Yates Ranch Property, LLP

CERTIFICATE OF SERVICE

I served a copy of the foregoing on all counsel and parties served by the Court's digital filing and service system on October 5, 2015.



A handwritten signature in black ink, appearing to read "M. J. [unclear]", is written over a horizontal line. The signature is cursive and somewhat stylized.