

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

UNITED STATES OF AMERICA)	
and)	07cv00681-BB
ZUNI INDIAN TRIBE)	
Plaintiffs,)	ZUNI RIVER BASIN
)	ADJUDICATION
-v-)	
)	
STATE OF NEW MEXICO, ex rel. State)	Subproceeding 1
ENGINEER, et al.)	Zuni Indian Claims
Defendants)	
_____)	

JOINT MOTION TO AMEND SCHEDULING ORDER

The State of New Mexico *ex rel.* State Engineer (“State”) and the United States of America (“United States”), with the concurrence of the Zuni Indian Tribe and the Navajo Nation, move the Special Master to enter an order amending the September 24, 2008 *Scheduling Order* (No. 278), as amended by the December 4, 2009 *Order Granting Motion to Amend Scheduling Order* (No. 280), governing discovery and trial in this subproceeding. In support of this motion, the moving Parties state as follows:

1. The current deadlines governing discovery, other pre-trial, and trial activities of this subproceeding were amended by the December 4, 2009 *Order Granting Motion to Amend Scheduling Order* (No. 280) and the January 28, 2010 *Order Granting Motion to Extend Time for Rule 26(a)(2) Disclosures* (No. 283). The parties have exchanged expert reports, and are

now under a March 4, 2011 deadline for the close of discovery on the Zuni Indian Tribe's PPPW claims.

2. The State and the United States are also parties in the Rio Santa Cruz and Rio Truchas consolidated adjudication suit, *State of New Mexico ex rel State Engineer v. Abbott, et al*, U.S. District Court Nos. 68cv07488-BB and 70cv08650-BB. A trial on the claims of Ohkay Owingeh in Subproceeding 2 in that adjudication is currently scheduled to begin on January 31, 2011, and may extend into March of 2011. *See Amended Order Setting Motions Deadlines, Briefing Schedule and Trial Date* (No. 2709) under 68cv07488-BB. The State and the United States face competing demands upon their expert witnesses as well as upon counsel under these overlapping deadlines. In addition, the State is experiencing significant limitations to its resources due to the recent budget reductions, which impact its ability to engage in an active deposition schedule in one adjudication concurrently with being in trial in another.

3. In light of these constraints on resources, the State and the United States therefore respectfully request that the deadlines set out in the September 24, 2008 *Scheduling Order*, as amended by the December 4, 2009 *Order Granting Motion to Amend Scheduling Order*, be amended as set out below:

<u>Activity</u>	<u>Scheduling Order: Activity Deadline</u>	<u>Moving Parties' Proposal</u>
Close of Discovery	March 4, 2011	March 2, 2012
Pretrial Motions	May 6, 2011	May 4, 2012

Final Witness Lists & Exhibits	July 8, 2011	July 13, 2012
Trial	September 8, 2011	September 12, 2012
United States Rule 26(a)(2) Expert Reports re DCMI	May 2, 2012	May 3, 2013
Zuni Expert Reports	September 5, 2012	September 5, 2013
State Expert Reports	May 3, 2013	May 2, 2014
“All other” parties’ reports	August 2, 2013	August 1, 2014
Close of Discovery	December 20, 2013	December 19, 2014
Pretrial Motions	February 28, 2014	February 27, 2015
Final Witness Lists & Exhibits	May 6, 2014	May 5, 2015
Trial	June 9, 2014	June 9, 2015

4. The Zuni Indian Tribe and the Navajo Nation concur in this motion. The State has contacted other counsel in this subproceeding to request concurrence, and no notice of expected opposition to this motion has been received.

5. Counsel for the State, the United States, the Zuni Indian Tribe, and the Navajo Nation have also discussed other changes to the schedule in Subproceeding 2, which will adjudicate the Navajo Nation’s water rights claims. The parties are also filing a motion to amend the *Preliminary Procedural and Scheduling Order for Subproceeding 2* (No. 1767) filed May 12, 2008.

6. Due to the uncertainties inherent in scheduling for multiple adjudications, the movants, the Zuni Indian Tribe, and the Navajo Nation have agreed to confer again about the deadlines proposed herein no later than no later than January 14, 2011. If these parties then agree that there is a need to revisit the deadlines, they will notify the Special Master through a joint report filed on or before February 18, 2011.

WHEREFORE, the undersigned movants request that, the Special Master adopt the above proposed amendments to the existing Scheduling Order to govern the discovery, other pretrial, and trial activities of this subproceeding.

Electronically Filed

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 9, 2010, I filed the foregoing electronically through the CM/ECF system, which caused the parties or counsel reflected on the Notice of Electronic Filing to be served by electronic means.

/s/ Arianne Singer