

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

UNITED STATES OF AMERICA
and
NAVAJO NATION,
Plaintiffs,

v.

STATE OF NEW MEXICO, *ex rel.* STATE
ENGINEER, *et al.*
Defendants.

No. 12cv1298 MV/JHR

ZUNI RIVER BASIN
ADJUDICATION

Subproceeding 2
Navajo Indian Claims

JOINT STATUS REPORT

The State of New Mexico *ex rel.* State Engineer (“State”), the United States of America (“United States”), the Zuni Indian Tribe (“Zuni”), and the Navajo Nation (“Navajo”) (collectively, the “Parties”), through undersigned counsel, jointly submit this Status Report to the Court pursuant to its December 30, 2015 *Order for Periodic Status Reports* [Doc. 375].

The Parties are engaged in a cooperative effort to develop factual information necessary to provide the foundation for a settlement. Since the Parties’ May 31, 2018 status report [Doc. 416], the technical working group, consisting of technical staff representing each of the Parties, has continued to meet and confer regarding the development of a hydrologic model capable of assessing impacts of proposed water uses to provide information to the Parties in settlement discussions. The last meeting of the technical working group occurred on August 7, 2018 where there was a discussion of the steady state model calibration and the efforts needed to achieve the next step of creating a transient model. The groundwater model is in the calibration phase. While there is good correlation between the simulated and observed data points, the model team continues

to work towards reducing the complexity of the model in order to make the model run smoother. The current convergence criteria are too loose, which allows for larger than acceptable mass balance errors. After the calibration phase is complete, the steady state model will be converted to a transient model. The technical staff for the Navajo Nation and Zuni Tribe continue to collect the information necessary to model their respective water rights under various scenarios and determine potential impairment.

On September 27, 2018, counsel for the Navajo Nation met with counsel for the Zuni Tribe and the United States to discuss the Navajo Nation's initial response to the Zuni Tribe's settlement concepts.

On November 15 and November 16, 2018, a field tour of the Zuni River Basin was conducted for the attorneys and technical teams of the Navajo Nation, the United States, and the Zuni Tribe. On November 15, 2018, the Zuni Tribe led a tour of various reservoirs, springs, and lakes that lie within the Zuni Reservation. On November 16, 2018, the Navajo Nation led a tour of various reservoirs, wells, and an irrigation project that lie within the Navajo Reservation. The field tour was extremely helpful to the representatives of the Navajo Nation, the United States, and the Zuni Tribe in developing an understanding of the tribal water resources within the Zuni River Basin.

The Parties jointly agree that further work by the negotiation technical committee and the technical working group is needed and that further time is necessary to determine whether a negotiated resolution of Subproceeding 2 is feasible. The Parties respectfully request the Court to hold all litigation deadlines in Subproceeding 2 in abeyance so that the Parties may continue their settlement negotiations and related efforts.

Respectfully submitted:

/s/ Daniel G. Moquin

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APPROVED: 11/27/2018

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on November 29, 2018, I filed the foregoing *Joint Status Report* electronically through the CM/ECF system, which caused CM/ECF Participants to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

AND I FURTHER CERTIFY that a copy of the foregoing was mailed to the persons listed on the Manual Notice List for this matter who are not CM/ECF Participants.

/s/ Lisa Yellow Eagle
Lisa Yellow Eagle