

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].

Technical Work in Support of Settlement Negotiations. The Parties are engaged in a cooperative effort to develop factual information necessary to provide the foundation for a settlement. Since the Parties’ May 24, 2019 status report [Doc. 419], the Zuni River Basin Technical Committee (“Technical Committee”), consisting of technical staff representing each of the Parties, has continued to meet and confer via weekly telephone calls, 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 Technical Committee has been working towards creating a transient model. The Technical Committee had been working on a Steady-state model as a first step towards the transient model. The Steady-state model was used to determine

pre-development conditions present in the Zuni River Basin. The Technical Committee held a meeting on June 10, 2019, where results from the Steady-state model were presented. The Steady-state model was not calibrated at this stage. Once the calibration phase was completed, the Steady-state model was then converted to a transient model. The Technical Committee discussed how the Steady-state model would be developed further for a transient simulation. They described the type of data that each party would need to give to the Technical Committee in order to prepare for the historical transient model. The Technical Committee met again on September 19, 2019, to discuss model calibration and future steps necessary to advance to a transient model. The model has now been successfully transitioned from a Steady-state model to a combined Steady-state/transient model. The Parties are currently collecting historic pumping data that will be used to bridge the gap between a time when no pumping occurred and the time when modern pumping records begin. After this step is completed, the Technical Committee will move forward to incorporate and evaluate future water rights claims using the model. The next Technical Committee meeting is scheduled for January 16, 2020.

Settlement Discussions. On June 10, 2019, counsel for the Navajo Nation, Zuni Tribe and the United States engaged in discussions regarding the Navajo Nation's Draft Settlement Proposal. The Navajo Nation continues to gather information to further refine the Draft Settlement Proposal. On July 11, September 4, and October 18, 2019, the Navajo Nation and the United States met to discuss the Navajo Nation's Draft settlement proposal and the water rights claims asserted by the United States on behalf of the Navajo Nation and the Navajo allottees. The Navajo Nation and the Zuni Tribe will meet on December 20, 2019, to continue settlement discussions.

The Parties jointly agree that further work by the Technical Committee and the Settlement Teams 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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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 2, 2019, 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