

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

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

vs.

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

**CV-75-184
HON. JAMES J. WECHSLER
Presiding Judge**

**SAN JUAN RIVER
GENERAL STREAM
ADJUDICATION**

**Claims of the Navajo Nation
Case No. AB-07-1**

NAME OF PARTY: Navajo Nation.

DESCRIPTIVE SUMMARY: The Navajo Nation's Notice of Response to Non-Settling Parties Discovery Requests

NUMBER OF PAGES: 5.

DATE OF MAILING: August 17, 2012.

**NOTICE OF THE NAVAJO NATION OF
RESPONSE TO NON-SETTLING PARTIES REQUESTS FOR DISCOVERY**

Pursuant to the Court's *Order ... Setting Schedule Governing Discovery and Remaining Procedures* (February 3, 2012) ("Scheduling Order"), and additional Orders clarifying the obligations of the Navajo Nation to respond to discovery requests propounded by various non-settling parties, *see Order Concerning the Objections of the Navajo Nation, The United States and the State of New Mexico to Discovery Requests* (July 9, 2012); and *Order Concerning the Objections to Discovery Requests Ruled "Overly Broad"* (July 24, 2012) (cumulatively "Orders Concerning Objections"); the Navajo Nation responds to the following requests of the non-settling parties:

1. Responses of the Navajo Nation to Gary L. Horner's First Set of Discovery;

2. Responses of the Navajo Nation to the Marshall Interests' Joint Discovery Requests Concerning the BOR Hydrologic Determinations;
3. Responses of the Navajo Nation to the Marshall Interests' Joint Discovery Requests Concerning the NIIP;
4. Responses of the Navajo Nation to the Marshall Interests' Joint Discovery Requests Concerning Navajo Population;
5. Responses of the Navajo Nation to LPAA's First Set of Interrogatories;
6. Responses of the Navajo Nation to LPAA's First Set of Requests for Production of Documents;
7. Responses of the Navajo Nation to the Cities of Aztec and Bloomfield's First Set of Interrogatories to the United States of America, the State of New Mexico and the Navajo Nation;
8. Responses of the Navajo Nation to the SJWC's First Set of Interrogatories;
9. Responses of the Navajo Nation to the SJWC's First Set of Joint Requests for Production;
10. Responses of the Navajo Nation to Discovery Requests by CP-EP; and
11. Responses of the Navajo Nation to HMC Leasing, Inc.'s Request for Production of Documents.

Documents Responsive to Discovery Requests

Documents produced in response to the non-settling parties requests fall into three categories:

1. Documents transmitted to the E-Repository at the Joe M. Stell Ombudsman Program of the Utton Center at the University of New Mexico School of Law pursuant to the Scheduling Order, identified in the Responses, and each assigned a unique number for identification;
2. Documents kept in the ordinary course of business by the Navajo Nation Department of Water Resources, Water Management Branch, and, pursuant to

Rule 1-033.E, NMRA, made available for review and copying in Fort Defiance, Navajo Nation (AZ), each identified in bibliographies prepared by the Navajo Nation, identified in the Responses, and each assigned a unique number for identification; and

3. Documents kept in the ordinary course of business of the Navajo Nation Council, and, pursuant to Rule 1-033E, NMRA, made available for review and copying at the Navajo Nation Records Management Department in Window Rock, Navajo Nation (AZ), identified in in the response to SJWC Request for Production No. 41.

When documents are available readily available on the internet, the document is not produced and a URL is provided.

Interrogatory Certification Pursuant to Rule 1-033(C)(1) and (C)(2), NMRA 2012

Pursuant to Rule 1-033.C.1, NMRA, the Verified Statement of Dr. John Leeper is included with this Notice as Attachment A.

Objection Certification Pursuant to Rule 1-033(C)(1) and (C)(2), NMRA 2012

By signing below, counsel for the Navajo Nation certifies that the objections stated within the Nation's discovery responses are true and correct. As more specifically set forth in the Navajo Nation's responses, the Navajo Nation previously filed Objections and continues to object, to many of the discovery requests. Despite these continuing objections, as instructed by the Court the Navajo Nation has responded to each discovery request. *See* Orders Concerning Objections.

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Claims of Privilege Pursuant to Rule 1-026(B)(7)(a), NMRA 2012

The Navajo Nation asserts that some documents potentially responsive to the non-settling parties' discovery requests are privileged. Those documents are identified as privileged, and the grounds for the privilege asserted are set forth in the Responses.

Supplementation of the Responses of the Navajo Nation Pursuant to Rule 1-026(E), NMRA 2012

The Navajo Nation acknowledges the duty, and reserves the right, to supplement the responses enumerated in this Notice if and when it appears that any response is materially incomplete or incorrect and if additional information has not otherwise been made known to the parties during the discovery process or in writing.

Respectfully submitted, this 17th day of August 2012.

NAVAJO NATION



Stanley M. Pollack
M. Kathryn Hoover
Navajo Nation Department of Justice
Post Office Drawer 2010
Window Rock, Navajo Nation (AZ) 86515
(928) 871-7510

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of August, an electronic version of this *Notice of the Navajo Nation of Response to Non-Settling Parties Requests for Discovery*, together with the responsive documents, was served by electronic mail to: wnavajointerse@nmcourts.gov and aoccaj@nmcourts.gov.

A handwritten signature in black ink, appearing to read "SM Pollack".

Stanley M. Pollack

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THE ELEVENTH JUDICIAL DISTRICT COURT**

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

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Defendants,

**THE JICARILLA APACHE TRIBE AND THE
NAVAJO NATION,**

Defendant-Intervenors.

CV-75-184

**HON. JAMES J. WECHSLER
Presiding Judge**

**SAN JUAN RIVER
GENERAL STREAM
ADJUDICATION**

**Claims of the Navajo Nation
Case No. AB-07-1**

NAME OF PARTY: The Navajo Nation

DESCRIPTIVE SUMMARY: Rule 1-033(C)(1), NMRA, verified statement of John Leeper, Ph.D., P.E.

NUMBER OF PAGES: 3

DATE OF MAILING FOR FILING: August 17, 2012

VERIFIED STATEMENT OF JOHN LEEPER

I, John Leeper, Ph.D., P.E., state under oath:

1. I am licensed as a Professional Engineer, with a Ph.D. in Civil Engineering from Colorado State University.

2. I am a Senior Project Manager with AMEC Environmental and Infrastructure Inc. (AMEC), P. O. Box 445, 415 West Abeyta Street, Suite A, Socorro, New Mexico 87801.

3. Between 1995 and 1997 I was employed as a Civil Engineer with the Water Management Branch (“WMB”) of the Navajo Nation Department of Water Resources and from 1997 until December, 2011, I served as the Branch Manager.

4. The WMB includes a staff of approximately 20 technical professionals. The responsibilities of the WMB include the water monitoring and inventory program which operates the hydro-meteorological network for the Navajo Nation and provides drought response and mitigation. The WMB provides technical support for the Navajo Nation’s water rights litigation and negotiations. The WMB also provides planning and pre-development assistance for local and regional Navajo water projects.

5. In my current position I continue to provide technical support to the Navajo Nation in water rights matters pursuant to a contract between AMEC and the Navajo Nation.

6. Based upon my experience, I have personal knowledge of current and future Navajo Nation water demands, historic and current water use, sources of supply, and plans for water infrastructure development. I have been directly involved in the negotiations that resulted in the settlement of the Navajo Nation’s water rights claims in the San Juan River basin in New Mexico.

7. I have participated in the preparation of the Navajo Nation’s responses to the interrogatories of various non-settling parties and reviewed the responses set forth in: Responses of the Navajo Nation to Gary L. Horner’s First Set of Discovery; Responses of the Navajo Nation to the Marshall Interests’ Joint Discovery Requests (a) Concerning the BOR Hydrologic Determinations, (b) Concerning the NIIP, and (c) Concerning Navajo Population; Responses of the Navajo Nation to LPAA’s First Set of Interrogatories; Responses of the Navajo Nation to the Cities of Aztec and Bloomfield’s First Set of Interrogatories to the United States of America, the

State of New Mexico and the Navajo Nation; Responses of the Navajo Nation to the SJWC's First Set of Interrogatories; and Responses of the Navajo Nation to Discovery Requests by CP-EP.

8. Based on my knowledge and belief, the responses of the Navajo Nation to the interrogatories propounded by various non-settling parties are correct.

John Leeper, Ph.D., P.E.

Subscribed and sworn before me this _____ day of August, 2012.

Notary Public

My Commission Expires