

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

UNITED STATES,

Plaintiff,

vs.

NO. CIV-01-0072 BB/WWD

STATE OF NEW MEXICO ENGINEER, et al.,

Defendants.

**DEFENDANT PAUL PETRANTO'S COMMENTS AND OBJECTIONS
REGARDING STATUS CONFERENCE OF APRIL 12, 2003 AND
PROPOSED PRELIMINARY PROCEDURAL AND SCHEDULING ORDER**

1. **Service of pleadings.** To reduce the expense (labor, paper, envelopes, copying cost and postage) of having to serve all parties in this matter, the Court should issue an order allowing parties to file pleadings without service, but requiring all parties to review the court's file on this case at least once per week to see if any new pleadings have been filed. This can be accomplished by reviewing the electronic docket through the ACE system, reviewing the documents at the depository in Gallup, or reviewing the court file in Albuquerque. Additionally, certain attorneys can be designated as liaison counsel, who can be contacted by parties once per week to see whether any new pleadings have been filed. If a party has an e-mail address, then that party can be placed on a list to receive filed pleadings as an e-mail attachment or to receive notice that a new pleading has been filed in the matter.

2. Discovery. The parties should be allowed to conduct discovery in this matter. Discovery should begin by requiring all parties, including the United States, the Ramah Navajo Chapter, the Pueblo of Zuni, and the State of New Mexico, to submit an Initial Disclosure listing all known witnesses, including expert witnesses, and listing all relevant documents in a party's possession, custody or control. Parties should be given the right to inspect and copy all disclosed documents. The website should include scanned images of all relevant maps and documents in the possession, custody or control of the United States, the Ramah Navajo Chapter, the Pueblo of Zuni, and the State of New Mexico. The parties should be given access to all correspondence and communications between the United States, the Ramah Navajo Chapter, the Pueblo of Zuni, and the State of New Mexico. If claims of privilege or work product are raised, then a privilege log should be required.

3. Proposed Adjudication Area. Plaintiff continues to object to the proposed boundaries of the adjudication area. The hydrologists at the status conference were not able to provide any scientific evidence or basis for the proposed boundary showing, for example, that the water sources in the El Morro area are connected to the Zuni area. If there is no scientific connection, it makes no sense for the water claimants in the El Morro area to be in an adjudication with the water claimants in the Zuni area. The United States and the State of New Mexico should be required to prove the boundary through scientific evidence, rather than speculation and conjecture.

4. State Trust Lands. The Commissioner of Public Lands should be required to disclose the lessees of trust lands in the adjudication area, so that the lessees can be made parties to this action and put in claims for water rights.

5. Lis Pendens. A Lis Pendens should not be filed in this matter. The value of land in the proposed adjudication area has been adversely impacted by the filing of the complaint in this matter, and land sales have been reduced as a result. The adverse economic impact of a filed Lis Pendens covering an area which is already economically depressed is unfair to all landowners of the residents of the area, including the Navajos and Zunis. Such an action will further hurt the local economy.

6. Location of Future Status Conferences. As Gallup is not a part of the adjudication area, all future status conferences should be held in Ramah at the High School.

Date: April 30, 2003

Respectfully submitted,

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