

**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 consent of the Zuni Indian Tribe and the Navajo Nation, move the Court 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), and the April 20, 2011 *Order Granting Joint Motion to Amend Scheduling Order* (No. 306) governing discovery and trial in this subproceeding.

1. The State and the United States 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* and the April 20, 2011 *Order Granting Joint Motion to Amend Scheduling Order* be amended as set out below in order to make express provision for rebuttal or supplemental reports by expert witnesses, to allow the State to substitute its expert historian and file a corresponding Rule 26(a)(2) report, and to establish target dates for

the parties to discuss proposed fact stipulations and for other necessary pre-trial and post-trial activities:

Activity	Previous Activity Date	Amended Date
United States to propose PPPW stipulations of fact (not to be filed with Court)		August 1, 2012
Written responses to U.S. proposed fact stipulations (not to be filed with Court)		October 17, 2012
Parties meet and confer re: fact stipulations		November 15, 2012
PPPW Rebuttal/Supplemental Reports by non- US/Zuni parties and State's Rule 26(a)(2) expert historical report		April 5, 2013
Rebuttal reports to State's expert historical report		October 5, 2013
Restart PPPW discovery	January 3, 2012	June 3, 2013
Close of PPPW Discovery	August 10, 2012	January 31, 2014
Dispositive Motions re: PPPW	November 2, 2012	April 25, 2014
Responses	December 14, 2012	June 13, 2014
Replies	January 18, 2013	July 18, 2014
Reserve courtroom	January 18, 2013	July 18, 2014
Proposals for stipulations for exhibits:	February 1, 2013	August 1, 2014
Rule 26(a)(3) Final PPPW Witness & Exhibit Lists	February 15, 2013	August 20, 2014
PPPW Pretrial Motions	March 8, 2013	September 12, 2014
Responses	March 29, 2013	October 3, 2014
Replies	April 12, 2013	October 17, 2014
Pretrial Conference	June 12, 2013	December 11, 2014
PPPW Trial begins	July 8, 2013	January 13, 2015
PPPW Trial ends		April 11, 2015
Requested Findings of Fact & Conclusions of Law re: PPPW		June 12, 2015
Responses to RFFCL		July 17, 2015
Replies to RFFCL		August 14, 2015

Activity	Previous Activity Date	Amended Date
United States Rule 26(a)(2) Expert Reports re DCMI	April 4, 2014	October 2, 2015
Zuni Expert DCMI Reports	August 1, 2014	February 5, 2016
State Expert DCMI Reports	April 3, 2015	November 4, 2016
“All other” parties’ reports	July 2, 2015	February 3, 2017
DCMI Rebuttal Reports from all parties		September 8, 2017
Close of DCMI Discovery	December 18, 2015	June 8, 2018
Dispositive Motions re: DCMI	February 5, 2016	August 10, 2018
Responses	February 26, 2016	September 7, 2018
Replies	March 11, 2016	September 21, 2018
Reserve courtroom	March 11, 2016	September 21, 2018
Proposals for stipulations for exhibits:	March 18, 2016	October 5, 2018
Rule 26(a)(3) Final DCMI Witness & Exhibits Lists	April 22, 2016	November 16, 2018
Pretrial Motions	May 13, 2016	December 14, 2018
Responses	June 3, 2016	January 11, 2019
Replies	June 17, 2016	January 25, 2019
Pretrial Conference	August 10, 2016	March 20, 2019
DCMI Trial	September 19, 2016	June 4, 2019
DCMI Trial ends		June 21, 2019
Requested Findings of Fact & Conclusions of Law		August 23, 2019
Responses to RFFCL		September 20, 2019
Replies to RFFCL		October 25, 2019

2. The State is substituting its expert historian due to the unavailability of its current expert for health reasons. The amendment to the schedule provides for the State to file an initial Rule 26(a)(2) report, and for the other parties to file rebuttal reports, within the time provided for discovery.

3. There will be no other rebuttal reports except as specifically provided by the schedule above.

4. The Zuni Indian Tribe and the Navajo Nation do not oppose 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 April 20, 2011, *Order Granting Joint Motion to Amend Scheduling Order* (No. 2650).

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

/s/ Arianne Singer
Arianne Singer
Edward C. Bagley
John Stroud
Special Assistant Attorneys General
P.O. Box 25102
Santa Fe, NM 87504-5102
(505) 827-6150
Attorneys for State of New Mexico

(approved electronically)
BRADLEY S. BRIDGEWATER
U.S. Department of Justice
South Terrace, Suite 370
999 18th St.
Denver, CO 80202
(303) 844-1359
COUNSEL FOR THE UNITED STATES

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 11, 2012, 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