

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 31, 2020 status report [Doc. 422], 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 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 September 30, 2020, where an update on the current status of the model was given and an update on the status of the data gathering of all parties were presented. The model has now been successfully transitioned from a Steady-state model to a combined Steady-state/transient model. The model currently contains all Navajo, Zuni, and State historical pumping data (1961-2014). During the first week of November, the first model of the historic period successfully ran to completion. The Navajo, Zuni, and State have provided preliminary data on future pumping (2014-2020). NRCE is working to gather data for historic and future pumping for the Non-Indian wells in Arizona. Once the information has been gathered, the Technical Committee will move forward to incorporate the data to allow the Parties to evaluate future water rights claims using the model. In addition, the Technical Committee will analyze whether all of the wells are pumping the full amounts that have been assigned to them. The Technical Team met on November 10, 2020, and discussed the best method to complete this analysis. The modeling team should have a more detailed analysis of the locations and depths of wells that are not pumping at the full amounts within a week. Once they have this information, they will be able to analyze how much water is being extracted from the aquifers.

Settlement Discussions. The Navajo Nation spent a majority of its time gathering the necessary data that was required for the modeling efforts and will now return to further refining its Draft Settlement Proposal.

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/ Lisa Yellow Eagle

Daniel G. Moquin
Lisa Yellow Eagle
Navajo Nation Department of Justice
P.O. Box 2010
Window Rock, Navajo Nation (AZ) 86515
Phone: (928) 871-7510
Attorneys for the Navajo Nation

APPROVED: 11/19/20

Jane Marx
Jane Marx, Attorney at Law, P.C.
2825 Candelaria Rd. NW
Albuquerque, NM 87107
Phone: (505) 344-1176
Attorney for Zuni Indian Tribe

APPROVED: 11/19/20

Arianne Singer
Edward C. Bagley
Special Assistant Attorney General
Office of the State Engineer
PO Box 25102
Santa Fe, NM 87504-5102
Phone: (505) 827-3866
Attorney for the State of New Mexico

APPROVED: 11/19/20

Bradley S. Bridgewater
Andrew Guss Guarino
U.S. Department of Justice
Suite 370, South Terrace
999 18th Street
Denver, CO 80202
Phone: (303) 844-1359
Attorneys for the United States

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on November 20, 2020, 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