

**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’ November 20, 2020 status report [Doc. 423], 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 February 11 and April 16, 2021, where updates on the status of the model was given. The model currently contains all Navajo, Zuni, and State historical pumping data (1961-2014). In February, the Technical Committee informed the group, that in order to complete the historic transient period, the Technical Committee needed to update the non-Indian pumping information as well as the annual average recharge. Additionally, in order to complete the predictive transient period, the Technical Committee needed to add stress periods, assess climate scenarios, and look at future pumping scenarios. In April, the Technical Committee presented the steady state/historic transient model convergence. The Technical Committee had converted the annual recharge to average annual recharge and they started a dry historic well analysis. The model currently runs completely through the scenarios. The goal for the April 16<sup>th</sup> meeting was to present on results from a predictive transient model run, but the Technical Committee did not meet this goal. Currently, the Navajo, Zuni, State, and NRCE have provided preliminary data on future pumping (2014-2020). The Technical Committee will add future pumping scenarios to the model. The Technical Committee also plans to change the future recharge rates according to regional climate predictions. The goal for the next meeting is to present on results from a predictive transient model run, with an annual average recharge and to complete a predictive transient model run with the full buildout of pumping for each party. In addition, the Technical Committee will analyze how the model is performing because the model is appearing drier than it should be. The Technical Committee will follow up on data points to see whether all of the wells are pumping the full amounts that have been assigned to them. There is some percentage of wells that are not pumping at their full amount. The effort to determine if they are incidental wells or major water suppliers is ongoing. The modeling team should have a more detailed analysis of the locations and depths of wells that are not pumping at the full amounts.

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 is actively developing a Draft Settlement Proposal and expects to have a proposal that it can share with the other parties before the next Joint Status Report is due.

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

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, on May 27, 2021, 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