

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

STATE OF NEW MEXICO, <i>ex rel.</i>)	CASE NO. CV-75-184
STATE ENGINEER,)	HON. JAMES J. WECHSLER
)	Presiding Judge
Plaintiffs,)	
)	
v.)	
)	
THE UNITED STATES OF AMERICA)	SAN JUAN RIVER BASIN
<i>et al.</i> ,)	ADJUDICATION
)	
)	Claims of Navajo Nation
Defendants.)	Case No. AB-07-1
)	

**STATE OF NEW MEXICO'S RESPONSES TO
ABCWUA and CITY OF ESPANOLA'S
FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION TO THE
NAVAJO NATION, THE STATE OF NEW MEXICO, AND THE UNITED STATES**

Pursuant to Rules 1-026, 1-033, and 1-034 NMRA, the State of New Mexico, by and through its counsel, responds to Defendants *ABCWUA and the City of Espanola's First Set of Interrogatories and First Request for Production of Documents to the Navajo Nation, the State of New Mexico, and the United States* and reserves and restates any objections not previously ruled upon by the Court as follows:

INTERROGATORIES

INTERROGATORY No. 1:

Please identify all person(s) providing information for the answering of these Interrogatories and Requests for Production and identify the Interrogatory answers or Request for Production responses for which each person supplied information.

Answer: John Whipple provided information used to prepare answers to Interrogatories Nos. 2-8. Mr. Whipple currently is a subcontractor to the Office of the State Engineer, and is under contract with the Sheehan & Sheehan Law Firm.

INTERROGATORY No. 2:

Please identify all Analyses undertaken by the Settling Parties, or any Settling Party, with respect to any potential hydrologic impacts of the proposed Settlement Agreement on the average annual diversions for the San Juan-Chama Project.

Please identify all documents related to your answer.

Answer: In answer to this Interrogatory, the State of New Mexico is producing the following documents: (1) "Responses to Public Comments Received on Drafts of the San Juan River Basin in New Mexico Navajo Nation Water Rights Settlement," prepared by John Whipple and dated December 10, 2004; (2) an Interstate Stream Commission Memorandum on "San Juan River Basin in New Mexico Navajo Nation Water Rights Settlement Agreement: Issues Relating to the Entitlements, Availability and Sharing of Water for Navajo Reservoir Water Supply Contracts and the San Juan-Chama Project," prepared by John Whipple and dated March 22, 2005; (3) an Office of the State Engineer analysis on "San Juan River Basin in New Mexico Navajo Nation Water Rights Settlement Agreement: Legal Effect of Proposed Amendment to Shortage Sharing Provisions of the Act of June 13, 1962, Public Law 87-483," prepared by DL Sanders and dated March 22, 2005; (4) a letter from John R. D'Antonio, Jr., State Engineer, to John Stomp, City of Albuquerque, regarding "San Juan River Basin in New Mexico Navajo Nation Water Rights Settlement Agreement; Comments by the City of Albuquerque," dated March 22, 2005; (5) an Interstate Stream Commission Memorandum on "Institutional Processes and Computational Procedures for Implementing Section 11 of the Act of June 13, 1962, Public

Law 87-483,” prepared by John Whipple and dated May 31, 2005; and (6) the “Hydrologic Determination 2007, Water Availability from Navajo Reservoir and the Upper Colorado River Basin for Use in New Mexico,” prepared by the US Bureau of Reclamation in April 2007 and approved by the Secretary of the Interior on May 23, 2007. For additional information on San Juan Chama Project diversions see also a report on “San Juan-Chama Project Water Supply,” prepared by John Whipple and dated July 2007.

INTERROGATORY No. 3:

Please identify how any potential hydrologic impacts of the Settlement Agreement on the San Juan-Chama Project were determined by the Settling Parties or any Settling Party.

Please identify all documents related to your answer.

Answer: Information regarding how any potential hydrologic impacts of the Settlement Agreement on the San Juan-Chama Project were determined by the Settling Parties or any Settling Party is provided in the documents identified in the State of New Mexico’s answer to Interrogatory No. 2 above.

INTERROGATORY No. 4:

Please identify all Analyses undertaken by the Settling Parties, or any Settling Party, with respect to the Section 11 of the San Juan-Chama Project Authorization Act regarding “sharing of shortages” provision(s) and the impact of the proposed Settlement Agreement on such provision(s).

Please identify all documents related to your answer.

Answer: See the State of New Mexico’s answer to Interrogatory No. 2 above.

INTERROGATORY No. 5:

Please identify all Analyses undertaken by the Settling Parties, or any Settling Party, to identify how the “sharing of shortages” provision(s) for the San Juan-Chama Project will be implemented under the Settlement Agreement.

Please identify all documents related to your answer.

Answer: See the State of New Mexico’s answer to Interrogatory No. 2 above.

INTERROGATORY No. 6:

Please identify all Analyses undertaken by the Settling Parties, or any Settling Party, in regards to any potential hydrologic impacts on the firm yield of the San Juan-Chama Project as a result of the proposed Settlement Agreement.

Please identify all documents related to your answer.

Answer: See the State of New Mexico’s answer to Interrogatory No. 2 above.

INTERROGATORY No. 7: Please identify all Analyses undertaken by the Settling Parties, or any Settling Party, with respect to potential hydrologic changes in the yield of the Upper Colorado River Basin and their impact on New Mexico’s apportionment in the Upper Colorado River Basin Compact, 63 Stat. 31, and the San Juan-Chama Project, as a result of the proposed Settlement Agreement.

Please identify all documents related to your answer.

Answer: See the State of New Mexico’s answer to Interrogatory No. 2 above.

INTERROGATORY No. 8:

Please identify all Communications and Analyses pertaining to the San Juan-Chama Project utilized by the Settling Parties, or any Settling Party, in securing enactment of Public Law 111-11 of March 30, 2009.

Please identify all documents related to your answer.

Answer: See the State of New Mexico's answer to Interrogatory No. 2 above. By agreement with Defendants, the State is also producing a copy of the Congressional record containing the testimony of John R. D'Antonio, State Engineer, before the Senate Energy and Natural Resources Committee (Hearing before the Senate Energy and Natural Resources Committee S. 1171 Northwestern New Mexico Rural Water Projects Act, Statement of John R. D'Antonio, Jr., New Mexico State Engineer, June 27, 2007) and the testimony of Jim Dunlap, Interstate Stream Commission Director, before the House Committee on Natural Resources (Hearing before Subcommittee on Water and Power of the House Natural Resources Committee HR 1970 Northwestern New Mexico Rural Water Projects Act, Statement of Jim Dunlap, Chairman of the New Mexico Interstate Stream Commission July 24, 2007) .

REQUEST FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

Please produce all documents identified in your responses to Interrogatory Nos. 1 – 8 above.

RESPONSE: The State of New Mexico is producing the documents identified in Interrogatories Nos. 2-8 above.

REQUEST FOR PRODUCTION NO. 2:

Please produce all documents, including all Communications, among the Settling Parties, or any Settling Party, regarding any potential impacts of the Settlement Agreement on the San Juan-Chama Project.

RESPONSE: By agreement, the State of New Mexico is producing the documents and communications identified in Interrogatories Nos. 2-8 above.

REQUEST FOR PRODUCTION NO. 3:

Please produce the Hydrologic Determination entitled “Water Availability from Navajo Reservoir and the Upper Colorado River Basin for Use in New Mexico,” prepared by the Bureau of Reclamation pursuant to Section 11 of the Act of June 13, 1962 (Public Law 87-483; 76 Stat. 99), and dated May 23, 2007, in conjunction with the Settlement Agreement, including all supplements and related Analyses.

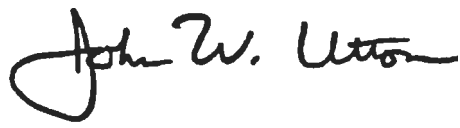
RESPONSE: By agreement, the State of New Mexico is producing the Hydrologic Determination dated May 23, 2007 and any attachments thereto.

Dated August 17, 2012

STATE OF NEW MEXICO



Arianne Singer
Special Assistant Attorney General
New Mexico Office of the State Engineer
P.O. Box 25102
Santa Fe, NM 87504-5102
(505) 827-6150

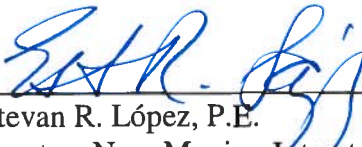
A handwritten signature in black ink that reads "John W. Utton". The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

John W. Utton
Special Assistant Attorney General
Sheehan & Sheehan, P.A
Post Office Box 271
Albuquerque, New Mexico 87103
(505)247-0411

VERIFICATION BY CERTIFICATION

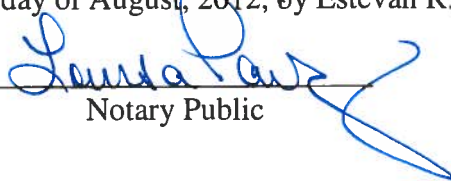
Estevan R. López, P.E. states that he is the Director of the New Mexico Interstate Stream Commission and Deputy State Engineer of the State of New Mexico, a named party in this action, and that he is the authorized agent for the purpose of executing this document on behalf of the State of New Mexico; that while he does not have personal knowledge of all facts recited in the *State of New Mexico's Answers to ABCWUA and the City of Espanola's First Set of Interrogatories and First Request for Production of Documents to the Navajo Nation, the State of New Mexico, and the United States*, the information contained therein has been collected and made available to him by counsel and employees of the Office of the State Engineer, and the *State of New Mexico's Answers to ABCWUA and the City of Espanola's First Set of Interrogatories and First Request for Production of Documents to the Navajo Nation, the State of New Mexico, and the United States* are true to the best of his knowledge and belief, based upon the information made available to him.

Accordingly, the undersigned, being first sworn upon oath, verifies on behalf of the State of New Mexico that the statements set forth in the *State of New Mexico's Answers to ABCWUA and the City of Espanola's First Set of Interrogatories and First Request for Production of Documents to the Navajo Nation, the State of New Mexico, and the United States* are true and correct, and hereby certifies the same, except as to matters stated to be on information and belief and as to such matters the undersigned certifies that he believes the same to be true.



Estevan R. López, P.E.
Director, New Mexico Interstate Stream Commission
Deputy New Mexico State Engineer

Subscribed and sworn to before me this 17 day of August, 2012, by Estevan R. López.



Notary Public

