

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, ex rel.
State Engineer,

Plaintiff,

v.

JOHN ABBOTT, *et al.*,

Defendants.

68cv7488 BB-ACE

70cv8650 BB-ACE

Consolidated

Rio Santa Cruz and Rio Truchas

Stream Systems

Pueblo Claims Subproceeding II

**UNOPPOSED MOTION BY OHKAY OWINGEH
TO EXCEED REPLY BRIEF PAGE LIMITATION**

Ohkay Owingeh (formerly Pueblo of San Juan, hereafter “the Pueblo”) hereby moves for an order to allow the Pueblo to exceed the page limitation for Reply Briefs set out in paragraph 5 of the Amended Order Setting Motions Deadlines, Briefing Schedule and Trial Date, dated February 5, 2010, with the filing of its Reply in Support of the Pueblo’s Motion for Partial Summary Judgment, which is due tomorrow, July 8, 2010.¹ The Pueblo requests that it be allowed to file a Reply not to exceed thirty (30) pages. Counsel for the other parties to this subproceeding have advised that they have no objection to the granting of this motion.

The Pueblo sets forth the following information in support of this Motion:

¹ The Reply in Support of the Pueblo’s Motion for Partial Summary Judgment, which is the subject of this motion to exceed page limitation, should not be confused with the Pueblo’s proposed Reply to the Responses of the Santa Cruz Acequias and the State of New Mexico (Docs. #2736 & #2751) in Support of the Truchas Acequias’ Motion for Partial Summary Judgment (Doc. #2719). The Pueblo’s Motion for Leave to file that Reply (Doc. #2763) is ready for decision. (Doc. #2775). All Replies are now due tomorrow, July 8, 2010, by minute Order of June 24, 2010 (Doc. #2770).

1) Paragraph 5 of the aforesaid Amended Scheduling Order (Doc. #2709) pertaining to pre-trial motions directed to substantive issues states:

Motions and briefs (together) shall not exceed 40 pages; response briefs shall not exceed 35 pages, and any replies shall not exceed 25 pages. The parties agree that the requirement in D.N.M.LR-Civ. 10.5 that exhibits not exceed 50 pages will not apply to the motions or responses thereto.

2) Ohkay Owingeh filed a Motion for Partial Summary Judgment (Doc. #2717) on March 1, 2010, together with a Statement of Undisputed Material Facts (Doc. #2722, corrected), totaling 30 pages, attaching 16 exhibits which exceeded 100 total pages.

3) On May 3, 2010, Truchas Acequias timely filed a Response in Opposition (Doc. #2745) to the Pueblo's Motion, which Response was 35 pages long, attaching 30 exhibits which exceeded 100 total pages.

4) On May 3, 2010, Santa Cruz Acequias timely filed a Response in Opposition (Doc. #2737) to the Pueblo's Motion, which Response was 15 pages long, attaching nine exhibits totaling 52 pages.

5) On May 3, 2010, the State of New Mexico timely filed a Response in Opposition (Doc. #2752) to the Pueblo's Motion, which Response was 12 pages long, attaching three exhibits totaling three pages.

6) Ohkay Owingeh proposes to file a single Reply Brief addressing the points made in all three Responses in Opposition, which total 62 pages, with 42 exhibits; but the Pueblo is not able to do so with a 25-page limitation. The Pueblo seeks leave to file a Reply not to exceed 30 pages.

WHEREFORE Ohkay Owingeh respectfully requests the Special Master to enter an Order allowing the Pueblo to file a Reply Brief in Support of its Motion for Partial

Summary Judgment, which exceeds the 25-page limitation in the February 5, 2010, Amended Scheduling Order, but not to exceed 30 pages.

A proposed Order is being sent separately to the Special Master (copies to all counsel.)

Dated: July 7, 2010

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on July 7, 2010, I filed the foregoing Unopposed Motion by Ohkay Owingeh to Exceed Reply Brief Page Limitation electronically through the CM/ECF system, which caused CM/ECF participants to be served electronically pursuant to Local Rule CV 5.6.

_____/s/_____
Tim Vollmann