

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

STATE OF NEW MEXICO <i>ex rel.</i>	)	
State Engineer,	)	
	)	
Plaintiff,	)	No. 69cv07941-BB/LFG
	)	
v.	)	Rio Chama Stream System
	)	
ROMAN ARAGON, <i>et al.</i> ,	)	Pueblo Claims Subproceeding 1
	)	
Defendants.	)	
_____	)	

**UNITED STATES' MOTION TO EXTEND PUEBLO CLAIMS SCHEDULE**

The United States of America (“United States”) hereby moves the Court to extend all deadlines established by the July 21, 2011 *Third Amended Scheduling Order on Pueblo Claims* (No. 10526) (“Third Amended Order”) as detailed herein. In support of this motion, the United States asserts:

1. The Third Amended Order sets an April 2, 2012 deadline for disclosure of the United States’ Rule 26(a)(2) expert witness reports.
2. Finalization of one of those expert reports has been hampered by delays in obtaining access to pertinent data and a hydraulic model subject to the terms of an inter-governmental agreement. Although the model and data were first requested by undersigned counsel for the United States in April of 2011, they were not received until February 7, 2012. Shortly thereafter, the United States’ expert consultant who had been awaiting the model and data was hospitalized with a severe illness, causing further unexpected delay in the preparation of the expert report.
3. Another of the United States expert witnesses, Christopher Banet, who is contributing to multiple reports in this case, is also a Bureau of Indian Affairs

official with responsibilities, among other things, for the implementation of three Indian water rights settlements, approved by Congress and currently pending in the following cases in the State of New Mexico: New Mexico ex rel. State Engineer v. Abeyta, Nos. 69cv07896-BB & 69cv07939-BB consolidated (D.N.M.) (Taos Adjudication); New Mexico ex rel. State Engineer v. Aamodt, No. 66cv6639-MV (D.N.M.) (Rio Pojoaque Adjudication); and New Mexico ex rel. State Engineer v. United States, No. CIV 75-184 (N.M. 11th Dist., San Juan County) (San Juan River Adjudication). Mr. Banet's involvement in implementation of the Navajo Nation settlement in the San Juan River Adjudication has been particularly time-demanding in recent months and has, in conjunction with his other duties, prevented him from completing his reports in the present case.

4. Accordingly, a two month extension of the deadline established by the Third Amended Order is needed for the United States to provide the disclosure of expert testimony contemplated by Rule 26(a)(2). Because the schedule negotiated by the parties contemplates that expert disclosures by other parties, and other pre-trial activities, will follow a set period for review of the United States' disclosures, the United States is asking the Court to extend all deadlines set by the Third Amended Order as indicated in the following table:

<b>Event</b>	<b>3rd Amended Order</b>	<b>U.S. Proposed Date</b>
United States Rule 26(a)(2) disclosures	4/2/2012	6/1/2012
Ohkay Owingeh Rule 26(a)(2) disclosures	7/8/2013	9/6/2013
State Rule 26(a)(2) disclosures <sup>1</sup>	1/13/2015	4/16/2015

<sup>1</sup> At the request of the State, this motion proposes to extend the deadline for the State's Rule 26(a)(2) disclosure by an additional month, in order to avoid a potential conflict with responsibilities the State's expert witnesses may have during a State legislative session.

<b>Event</b>	<b>3rd Amended Order</b>	<b>U.S. Proposed Date</b>
All other parties Rule 26(a)(2) disclosures	7/13/2015	10/14/2015
All parties' expert rebuttal reports	1/12/2016	4/14/2016
Close of discovery	1/13/2017	4/18/2017
Discovery motions <sup>2</sup>	2/27/2017	6/7/2017
Substantive pretrial motions	4/3/2017	7/12/2017
Rule 26(a)(3)(i) & (ii) final witness lists	7/14/2017	10/24/2017
Motions re: expert qualifications	8/7/2017	11/15/2017
Rule 26(a)(3)(iii) final exhibit lists	10/2/2017	1/10/2017
Case ready for trial	January 2018	April 2018

5. Undersigned counsel for the United States communicated via email with counsel for the other parties to Subproceeding 1, indicating the reasons why the United States would request a two month extension and attaching a draft of the present motion. As of the filing of this motion, counsel for all parties other than El Barranco have responded via email indicating they do not object to the extended schedule proposed herein by the United States. The United States has received no response from counsel for El Barranco.

WHEREFORE the United States respectfully moves that the deadlines established by the Third Amended Order be extended as detailed in Paragraph 4 of this motion.

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<sup>2</sup> This motion proposes to extend the discovery motions deadline by an additional week in order to avoid schedule conflicts with holidays.

Electronically Filed

/s/Bradley S. Bridgewater

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, on March 5, 2012, I filed the foregoing *United States' Motion To Extend Pueblo Claims Schedule* 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.

\_\_\_\_\_/s/\_\_\_\_\_  
Bradley S. Bridgewater