

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

STATE OF NEW MEXICO, ex rel.)	
State Engineer,)	No. 69 CV 07941 MV/KK
)	
Plaintiff,)	Rio Chama Adjudication
)	
v.)	Pueblo Claims Subproceeding 1
)	
ROMAN ARAGON, et al.,)	
)	
Defendants.)	
_____)	

JOINT STATUS REPORT

Pursuant to this Court’s Order of July 21, 2015 (Document 11090), the undersigned Parties submit this Joint Status Report. The parties are discussing possible resolution of all of Ohkay Owingeh’s water rights claims to all sources of water. As a result, this Joint Status Report is being filed simultaneously in the companion case styled *State of New Mexico ex rel. State Engineer, et al. v. Abbott*, No. 68-cv-7488 (MV/WPL) (*Abbott*).

1. Settlement Negotiations

In the preceding 120 days, the negotiating Parties have continued their discussions aimed at addressing both Ohkay Owingeh’s pending settlement proposal and the interests and concerns of the other negotiating Parties. Confidentiality agreements preclude the Parties from disclosing the specifics of the topics being discussed, but, as a general

matter, the focus of the discussions has not substantially changed. As to Ohkay Owingeh's proposal, the Pueblo provided additional factual support to the State of New Mexico at its request, and the proposal is now being evaluated by the State. As to the concerns of the non-Pueblo Parties, representatives of the Pueblo and the Acéquias have conducted tours of the water systems on which the Acéquias rely. These tours have enhanced the Pueblo's understanding of the water delivery systems of the Acéquias and their need for a reliable water supply. Further, representatives of the Pueblo and the Acéquias have conducted discussions aimed at the development of mechanisms to enhance the reliability and availability of water supplies in the basins where Ohkay Owingeh has asserted water rights claims. The number of feasible options has been narrowed, the analysis of legal issues has progressed, and the negotiating Parties are developing a plan to obtain technical data and analyses necessary to facilitate evaluation of the options. Steady progress is being made on each these issues.

Ohkay Owingeh has continued to work on developing a proposal for the second phase of the settlement discussions concerning its water requirements within the Grant Lands beyond its current needs. The Pueblo has devoted substantial effort and resources to this issue and will be prepared in the coming months to present this aspect of its proposal to the negotiating Parties.

Further, the on-going efforts to assess the reliability and availability of water to meet Ohkay Owingeh's needs within its Grant lands have advanced, with the United States and the Pueblo collaborating in these efforts.

At the urging of the negotiating Parties, the U.S. Department of the Interior has appointed a Federal Assessment Team to assist the negotiating Parties in evaluating settlement proposals and related issues. The representatives of the federal agency members of the Team are in the process of being appointed.

The Pueblo held meetings with one or more of the negotiating parties on:

- June 18: Representatives of the United States (telephonic meeting)
- June 18: Santa Clara Pueblo (report on status of negotiations)
- June 18: State of New Mexico
- July 15: Association de Acéquias Norteñas de Rio Arriba
- July 16: Santa Cruz Stream Systems' Community Ditch Association and
Santa Cruz Irrigation District
- Sept. 9: Bureau of Indian Affairs

In addition, counsel for Ohkay Owingeh and counsel for various parties have discussed certain issues by telephone as the need has arisen. These discussions have moved the negotiations toward settlement.

2. Scheduling of Dispositive Motions

The resumption of litigation would detract from the negotiating Parties' efforts to resolve Ohkay Owingeh's water rights claims through negotiation. The undersigned Parties are committed to the negotiation process and are scheduling additional meetings in the coming weeks. As a result, the undersigned Parties do not anticipate the need for the Court to schedule the filing and briefing of motions for summary or other dispositive motions within the next four months.

3. Rescheduling the Trial

For the same reasons, the undersigned Parties do not believe that the trial should be scheduled at this time.

4. Other Matters

The undersigned Parties suggest that the Court require the filing of a joint status report four months from now, or February 8, 2016, at which time they will report to the Court on their progress and on the question of whether they believe the Court should schedule dispositive motions or otherwise resume litigation.

Dated: October 7, 2015

Respectfully submitted,

/s/ Curtis G. Berkey

Attorneys for Ohkay Owingeh

Curtis G. Berkey (CA State Bar No. 195485)

E-mail: cberkey@berkeywilliams.com

Scott W. Williams (CA State Bar No. 097966)

E-mail: swilliams@berkeywilliams.com

Berkey Williams LLP

2030 Addison Street, Suite 410

Berkeley, California 94704

Lee Bergen

Bergen Law Offices, LLC

4110 Wolcott Avenue NE, Suite A

Albuquerque, New Mexico 87109

lbergen@nativeamericanlawyers.com

///

Attorney for the United States

/s/ Bradley Bridgewater

Bradley Bridgewater
U.S. Department of Justice
South Terrace, Suite 370
999 18th Street
Denver, CO 80202
Bradley.S.Bridgewater@usdoj.gov

Attorneys for State of New Mexico

/s/ Arianne Singer

Arianne Singer
Special Assistant Attorneys General
New Mexico Office of the State Engineer
P.O. Box 25102
Santa Fe, NM 87504
arianne.singer@state.nm.us

Attorneys for City of Española

/s/ Seth R. Fullerton

Jay Stein
Seth R. Fullerton
Stein & Brockmann, PA
P.O. Box 2067
Santa Fe, NM 87504-2067
jfstein@newmexicowaterlaw.com
sfullerton@newmexicowaterlaw.com

Attorney for Rio Chama Acéquias Association

/s/ Peter Thomas White

Peter Thomas White
Sena Plaza, Suite 50
125 East Palace Avenue
Santa Fe, NM 87501
pwhite9098@aol.com

Attorneys for El Rito Ditch Association and its acéquia members; Gallin-Capulín Acéquia Association and its acequia members; La Asociación de las Acéquias del Río Tusas, Vallecitos y Ojo Caliente and its acéquia members

/s/ Mary E. Humphrey

Mary E. Humphrey
Connie Odé
Humphrey & Odé, PC
P.O. Box 1574
El Prado, NM 87529
humphrey@newmex.com
code@newmex.com

Attorneys for Asociación de Acéquias Norteñas de Río Arriba

/s/ John W. Utton

John W. Utton
Sheehan & Sheehan, PA
P. O. Box 271
Albuquerque, NM 83703-0271
jwu@sheehansheehan.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 7th day of October, 2015, I filed the foregoing electronically through the CM/ECF system, which caused the parties listed on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail.

/s/ Curtis G. Berkey

Curtis G. Berkey