

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

| | | |
|---------------------------------|---|-------------------------------|
| STATE OF NEW MEXICO ex rel. |) | |
| State Engineer, <i>et al.</i> , |) | |
| |) | |
| Plaintiffs, |) | No. 69cv07941 MV/KK |
| |) | |
| v. |) | Rio Chama Adjudication |
| |) | |
| RAMON ARAGON, et al., |) | Pueblo Claims Subproceeding 1 |
| |) | |
| Defendants. |) | |
| _____ |) | |

**JOINT MOTION FOR ORDER PROTECTING CONFIDENTIALITY OF
SETTLEMENT NEGOTIATIONS**

The undersigned parties (“Negotiation Parties”) hereby move the Court to enter an order to protect the confidentiality of negotiations in this subproceeding in the above captioned case.

In support of this motion, the Negotiation Parties assert the following:

1. The Negotiation Parties have agreed to seek an efficient and mutually beneficial resolution of the water rights claimed by Ohkay Owingeh, and by the United States on behalf of Ohkay Owingeh, and related issues through compromise negotiations.
2. The Negotiation Parties represent a diverse range of interests and are participating in negotiations which are becoming increasingly technical, detailed, and complex.
3. To facilitate the negotiation process, the Negotiation Parties have agreed to seek the assistance of professional Mediators.
4. In connection with the settlement negotiations, the Negotiation Parties in 2013 - 2014 executed an *Agreement Protecting Confidentiality of Settlement Discussions Concerning*

Ohkay Owingeh Claims in the Rio Santa Cruz, Rio de Truchas, and Rio Chama Stream Systems, and Other Matters, which sets the terms and conditions for the negotiation process, including that the Negotiation Parties may request that the Court enter order(s) protecting the confidentiality of negotiations. An amendment to this agreement concerning certain technical exchanges was executed by the Negotiation Parties, with the exception of the City of Española, in 2018 – 2019.

5. At this stage of the negotiations, the Negotiation Parties believe that entry of a confidentiality order will be beneficial. The negotiation process requires a free and frank exchange of ideas and information among the Negotiation Parties, which can only occur if the confidentiality of the negotiation process, including any documents prepared for purposes of the mediation, is protected.
6. These negotiations are combined with simultaneous negotiations in the companion case styled *State of New Mexico ex rel. State Engineer v. Abbott*, Nos. 68cv07488 & 70cv08650 consolidated (MV/JHR). The Negotiating Parties seek to preserve the confidentiality of their settlement negotiations, whether related to this proceeding or the *Abbott* proceeding.
7. A successfully negotiated settlement of the issues involved ultimately will be made public and subject to review by other parties to the lawsuit, and the settlement of the Pueblo's water rights claims will require review and approval by this Court before it can be finalized by entry of a Partial Final Judgment and Decree.

8. WHEREFORE, the Negotiation Parties move the Court to enter an order protecting the confidentiality of their settlement negotiations, and respectfully submit herewith a stipulated proposed form of order for the Court's consideration.

Dated this 5th day of October, 2020.

Attorney for the United States

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

Attorneys for Ohkay Owingeh

Approved via email 9/10/2020
Curtis G. Berkey (CA State Bar No.
195485)
Scott W. Williams (CA State Bar No.
97966)
Berkey Williams LLP
2030 Addison Street, Suite 410
Berkeley, California 94704
E-mail: cberkey@berkeywilliams.com
E-mail: swilliams@berkeywilliams.com

Lee Bergen
Bergen Law Offices, LLC
4110 Wolcott Avenue NE, Suite A
Albuquerque, New Mexico 87109
leebergen@nativeamericanlawyers.com

Attorneys for State of New Mexico

Approved via email 9/17/2020
Arianne Singer
Kelly Brooks Smith
Special Assistant Attorneys General
New Mexico Office of the State Engineer
P.O. Box 25102
Santa Fe, NM 87504
arianne.singer@state.nm.us
kelly.smith@state.nm.us

**Attorneys for Rio Chama Acéquia
Association**

Approved via email 9/10/2020
Seth R. Fullerton
Katz Herdman MacGillivray & Fullerton PC
P. O. Box 250
Santa Fe, NM 87504-0250
srf@santafelawgroup.com

**Attorneys for El Rito Ditch Asociación
and its acéquia members; Gallina-
Capulin Acéquia Asociación and its
acéquia members; La Asociación de las**

**Acéquias del Rio Tusas, Vallecitos y Ojo
Caliente and its acéquia members**

Approved via email 9/11/2020

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 Rio Arriba**

Approved via email 9/11/2020

John W. Utton
Utton & Kery, PA
P. O. Box 2386
Santa Fe, NM 87504-2386
john@uttonkery.com

Attorneys for the City of Española

Approved via email 10/3/2020

Jay Stein
Cristina A. Mulcahy
Stein & Brockmann, PA
P.O. Box 2067
Santa Fe, NM 87504-2067
jfstein@newmexicowaterlaw.com
camulcahy@newmexicowaterlaw.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5th day of October, 2020, 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/ Bradley S. Bridgewater
Bradley S. Bridgewater