

**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 April 2, 2020 (Document 11579), the undersigned Parties submit this Joint Status Report. The Parties are discussing possible resolution of all 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 v. Abbott*, No. 68-cv-07488 (MV/JHR).

1. Settlement Negotiations

Since the last status report, the Parties have held numerous telephonic meetings and several in-person meetings to continue settlement discussions. The Parties are focusing on the key components of a settlement of the Pueblo’s water rights claims. Substantial progress is being made toward a resolution of the Pueblo’s water rights claims. Since the last status report, at the request of Ohkay Owingeh and with the support of the settlement parties, the Federal Assessment Team was converted into a Federal Negotiation Team, which will provide for a more active role for the United States in the settlement discussions. Further, the settlement parties have decided to retain the services of a neutral third party to serve as a mediator in the settlement

process. Four candidates have been interviewed and a decision is pending, once the Parties have clarified the process for choosing a candidate, including the relative weight given to the Parties making financial contributions to the cost of retaining a mediator.

Ohkay Owingeh had meetings with one or more of the negotiating Parties on the following dates:

- January 9: Telephonic meeting between Ohkay Owingeh and State of New Mexico
- January 15: In-person meeting between Ohkay Owingeh and Federal Assessment Team
- January 29: Meeting between Ohkay Owingeh and United States
- February 3: Telephonic meeting between Ohkay Owingeh and Truchas acéquiás representatives
- February 24: In-person meeting between Ohkay Owingeh and Federal Assessment Team  
In-person meeting between Ohkay Owingeh, Federal Assessment Team and Pueblo of Santa Clara
- February 25: In-person meeting between Ohkay Owingeh and certain settlement parties  
In-person meeting between Ohkay Owingeh and City of Española
- February 25: In-person meeting between Ohkay Owingeh and certain settlement parties
- March 4: In-person meeting between Ohkay Owingeh, Rio Chama Acéquiás Asociación and the State of New Mexico
- March 9: Telephonic meeting between Ohkay Owingeh and Federal Negotiation Team
- March 13: Telephonic meeting between Ohkay Owingeh and Federal Negotiation Team
- March 19: Telephonic meeting between Ohkay Owingeh and Federal Negotiation Team
- April 6: Telephonic meeting between Ohkay Owingeh and Federal Negotiation Team

- April 9: Telephonic meeting between Ohkay Owingeh and Federal Negotiation Team
- April 13: Telephonic meeting between Ohkay Owingeh and Federal Negotiation Team
- April 14: Telephonic meeting between Ohkay Owingeh and certain settlement parties
- April 23: Telephonic meeting between Ohkay Owingeh and Federal Negotiation Team
- May 4: Telephonic meeting between Ohkay Owingeh and Federal Negotiation Team
- May 11: Telephonic meeting between Ohkay Owingeh and Federal Negotiation Team
- May 15: Telephonic meeting between Ohkay Owingeh and Federal Negotiation Team
- May 21: Parties' telephonic interview with mediator candidate
- May 26: Parties' telephonic interview with mediator candidate
- May 27: Telephonic meeting between Ohkay Owingeh and State of New Mexico
- June 1: Parties' telephonic interviews with mediator candidates
- June 2: Telephonic meeting between Ohkay Owingeh and certain settlement parties
- June 9: Telephonic meeting between Ohkay Owingeh and Federal Negotiation Team

In addition, counsel for Ohkay Owingeh have met frequently with the Pueblo's leadership, staff, and consultants to discuss the development of settlement proposals and the analyses of data in support of such proposals. The Parties regularly confer outside scheduled meetings on issues of mutual concern.

2. Scheduling of Dispositive Motions

The undersigned Parties continue to believe that the resumption of litigation would hamper their efforts to resolve Ohkay Owingeh's water rights claims through negotiation. The undersigned Parties continue to be committed to the negotiation process. Therefore, they do not anticipate the need for this Court to schedule the filing and briefing of dispositive motions within the next six 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. Expectations on Timing of Settlement

In addition to completion of the groundwater model, which is estimated to take at least another six months, the Parties have concluded that additional investigation and characterization of the groundwater aquifer underlying the Ohkay Owingeh Grant lands is necessary to determine the amount of water available. In addition, the Pueblo wishes to conduct additional investigation of the Pueblo's historical water use to assist in elucidating the basis for some of the Pueblo's water rights claims.

Ohkay Owingeh anticipates that work on the settlement for the next six months will focus on these tasks as well as discussion of the big-picture issues that the Pueblo's settlement agreement draft has raised. As a result, these settlement negotiations will extend into 2021. The Parties have reason to believe that the services of a professional mediator will assist in expediting the progress toward a settlement.

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5. Other Matters

The undersigned Parties suggest that the Court require the filing of a joint status report six months from now, on December 10, 2020, at which time they will report to the Court on their progress and on the question of whether dispositive motions should be scheduled, or litigation should otherwise resume. All Parties, except the City of Española, join in this Joint Status Report. The City of Española has informed the Parties that it intends to file a separate report of its own.

Dated: June 10, 2020

Respectfully submitted,

*/s/ Curtis G. Berkey*

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*Declined to sign*

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 10th day of June, 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/ Curtis G. Berkey*

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Curtis G. Berkey