

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

STATE OF NEW MEXICO *ex rel.*
State Engineer, *et al.*,

Plaintiffs,

v.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941 MV/KK
Rio Chama Adjudication

Section 3: Canjilon Creek

Section 7: Rito de Tierra Amarilla

Subfile Nos.: CHTA-003-0002
CHTA-003-0005

ORDER DENYING MOTIONS FOR PRETRIAL CONFERENCES

THIS MATTER is before the Court on the State of New Mexico's ("State") Motion for Mandatory Pretrial Conference to Address Claims Based on the Treaty of Guadalupe Hidalgo in the Rito de Tierra Amarilla Subsection of Section 7 of the Rio Chama Stream System, Doc. 11297, filed November 9, 2017 ("Tierra Amarilla Motion"), and Motion for Mandatory Pretrial Conference to Address Objections to the State's Proposed Priority Dates and Irrigation Water Requirements in the Canjilon Creek Subsection of Section 3 of the Rio Chama Stream System, Doc. 11298, filed November 9, 2017 ("Canjilon Creek Motion").

There are two outstanding claims of the right to use water based on the Treaty of Guadalupe Hidalgo in the Tierra Amarilla Subsection of Section 7 of the Rio Chama Stream System. The Court's Notice and Order regarding Treaty-based claims states:

After the deadline for filing statements of Treaty-based claims has passed, the State shall file a motion with a proposed order that addresses the following matters:

- a. A proposed schedule for discovery including initial disclosures, disclosure of expert testimony and reports, identification of lay witnesses and exchange of exhibits;

- b. Scheduling of any anticipated dispositive motion; and
- c. Scheduling of a final pretrial conference and entry of a pretrial order.

Doc. 11029 at 2, filed June 20, 2014. The deadline for filing Treaty-based claims has passed. The State indicates that it “has attempted to confer with the Treaty claimants regarding a pretrial order, but has been unsuccessful” and moves the Court to set a pretrial conference to discuss the scheduling of pretrial disclosures, discovery, and motions. Tierra Amarilla Motion at 2. No responses opposing the State’s Tierra Amarilla Motion for a pretrial conference have been filed. The Court will deny the State’s Tierra Amarilla Motion for a pretrial conference. The State shall, within 21 days of entry of this Order, file its proposed pretrial order addressing the matters identified in the Court’s June 20, 2014, Notice and Order, quoted above, and serve a copy of this Order and the State’s proposed pretrial order on Defendants Harry O. Martinez (Subfile No. CHTA-003-0002) and Mario R. Martinez (Subfile No. CHTA-003-0005). Defendants Harry O. Martinez and Mario R. Martinez shall have 14 days after service of a copy of this Order and the State’s proposed pretrial order to file a response to the State’s proposed pretrial order.

There are three outstanding objections to the State’s proposed priority dates and irrigation water requirements in the Canjilon Creek Subsection of Section 3 of the Rio Chama Stream System. The Court’s Scheduling and Procedural Order for Determination of Priority Dates and Irrigation Water Requirements in the Canjilon Subsection of Section 3 of the Rio Chama Stream System states: “After the deadline has expired for filing protests to the proposed determination of priority dates and irrigation water requirements, the State shall submit a proposed scheduling and procedural order to address and resolve any objections that are filed with the Court.” Doc. 11030 at 6, filed June 20, 2014. The State indicates it “has attempted to confer with [the] objectors regarding a pretrial order, but has not met with much success” and requests that the

Court set a pretrial conference “to discuss the scheduling of pretrial disclosures, discovery, and motions.” Canjilon Creek Motion at 2. No responses opposing the State’s Canjilon Creek Motion for a pretrial conference have been filed. The Court will deny the State’s Canjilon Creek Motion for a pretrial conference. The State shall, within 21 days of entry of this order, file its proposed pretrial order for resolving the objections, and serve a copy of this Order and the State’s proposed pretrial order on Defendants Abelardo E. and Geraldine Garcia, the Asociación de Acéquias Norteñas de Rio Arriba and Five Member Acéquias, and Maria Celina Montano. Defendants Abelardo E. and Geraldine Garcia, the Asociación de Acéquias Norteñas de Rio Arriba and Five Member Acéquias, and Maria Celina Montano shall have 14 days after service of a copy of this Order and the State’s proposed pretrial order to file a response to the State’s proposed pretrial order.

IT IS ORDERED that:

- (i) the State of New Mexico’s Motion for Mandatory Pretrial Conference to Address Claims Based on the Treaty of Guadalupe Hidalgo in the Rito de Tierra Amarilla Subsection of Section 7 of the Rio Chama Stream System, Doc. 11297, filed November 9, 2017, is **DENIED**;
- (ii) the State of New Mexico’s Motion for Mandatory Pretrial Conference to Address Objections to the State’s Proposed Priority Dates and Irrigation Water Requirements in the Canjilon Creek Subsection of Section 3 of the Rio Chama Stream System, Doc. 11298, filed November 9, 2017, is **DENIED**; and
- (iii) the State shall, within 21 days of entry of this Order, file its proposed pretrial orders and serve a copy of this Order and its proposed pretrial orders on Defendants as described above; Defendants shall have 14 days after service to file responses to the State’s proposed pretrial orders. The State shall have 14 days after the filing of any responses to file replies.

Kirtan Khalsa

KIRTAN KHALSA
UNITED STATES MAGISTRATE JUDGE