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

STATE OF NEW MEXICO ex rel. State Engineer,	)	
Plaintiff,	)	
v.	)	
R. LEE AAMODT, et al.,	)	
Defendants,	)	
and	)	
	)	**NO. 66cv6639 MV/WPL**
UNITED STATES OF AMERICA, PUEBLO DE NAMBE, PUEBLO DE POJOAQUE, PUEBLO DE SAN ILDEFONSO, and PUEBLO DE TESUQUE,	)	
Plaintiffs-in-Intervention.	)	

JOINT REPLY TO DEFENDANT-OBJECTORS GROUP 1'S RESPONSE TO JOINT MOTION FOR CASE MANAGEMENT ORDER

The State of New Mexico, ex rel., State Engineer ("State"), Santa Fe County, and the City of Santa Fe hereby reply to Defendant-Objectors Group 1's[1] *Response in Opposition to Plaintiffs' Joint Motions for Entry of Case Management and Service order and Notice of Threshold Issues* ("*Response*") (No. 9430) filed on May 21, 2014.

I. Introduction

On May 7, 2014, the State, County and City ("Movants") filed their *Joint Motion for Entry of Case Management and Service Order* (No. 9409), proposing a case management order for adoption by the Court that would provide an orderly process for the categorization, cross-referencing and

[1] Defendants' counsel characterizes the parties responding to the *Joint Motion* alternatively as "Defendant-Objectors Group 1" and as "Defendants," without actually identifying who these defendants are. Presumably responding parties include all defendants identified by counsel's May 21, 2014 *Entry of Appearance* (No. 9427), although this is

ultimate decision on the hundreds of duplicative and redundant objections that have been filed, together with an approach to address the difficulties of service posed by such a large number of *pro se* objectors. The Defendant-Objectors Group 1 did not address these subjects, but asserted instead that three "threshold issues" should be resolved prior to the entry of any case management order by the Court:

1. a claimed lack of authority of the State to enter into the Settlement Agreement;
2. an alleged "lack of proper service"; and
3. a "request for opportunity for disclosure of conflicts and opportunity to discuss with the Court any appearances of conflict between Judge Vazquez and Settling Party City of Santa Fe." *Response*, at 2.

None of these proposed "threshold issues" should prevent the Court from entering the Movants' proposed Case Management and Service Order for the timely resolution of objections. First, the issue of the State's authority to enter into the Settlement Agreement is a legal issue that will be addressed under the legal standard already adopted by the Court, where other objectors who have raised similar issues will have an opportunity to be heard. Second, service of the Order to Show Cause complied with the Court's scheduling orders and the Federal Rules of Civil Procedure. Finally, with respect to the claim of an appearance of conflict of interest, the *Response* fails to identify any facts or the correct law by which to request the recusal of a federal judge.

II. The issue of the State's authority to enter into the Settlement Agreement is not a threshold issue.

Defendant-Objectors Group 1 argue that the State of New Mexico lacked authority to sign the Settlement Agreement without approval of the New Mexico Legislature. This argument is defective

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not expressly stated.

both procedurally and legally. First, as discussed below, this Court has established standards for considering the settlement agreement that encompasses this argument. There is no reason for the Court to address this argument out of order. Second, Defendant-Objectors Group 1 do not show how their "compact" argument applies to the Settlement Agreement. By long-standing state statutes, the Legislature has already directed and authorized adjudication of water rights and settlement of legal disputes as proposed in this case.

A. The Case Management Order will provide an orderly process for resolving objections, including any contentions the Settlement Agreement does not comply with applicable law.

Defendant-Objectors Group 1's argument that the State of New Mexico lacked authority to settle is a contention the Settlement Agreement does not comply with applicable law. This is not a threshold issue that needs to be addressed prior to the Order to Show Cause proceeding. This Court has already anticipated that objections to the Settlement Agreement would raise legal issues requiring resolution. The Court's 2007 order establishing procedures for approval of the Settlement Agreement sets forth the standards for considering objections, including contentions that the Settlement Agreement does not comply with applicable law:

> Objections shall be required to demonstrate that adoption and implementation of the Settlement Agreement is not fair, adequate, reasonable, is not in the public interest, or *is not consistent with applicable law*. Objections must include the following: (1) name and address of objector; (2) description of water rights claimed by objector; (3) statement of the specific legal and factual basis of the objection; and (4) how the objector will be injured or harmed by the Settlement Agreement in a legally cognizable way.

See Order Granting Motion of Settlement Parties to Establish Procedures for (1) Approval of Settlement Agreement, (2) Entry of a Partial Final Decree, (3) Entry of a Final Decree (Dec. 18, 2007) (No. 6282) ("Procedural Order")2 at 4-5 (emphasis added).

The issue of whether the State's approval of the Settlement Agreement is in accordance with applicable law is only one of a number of legal issues that have been raised by these and other objectors generally. The Procedural Order establishes an orderly and efficient process for considering objections, including all legal issues. Once objections are filed and following briefing on a proposed Case Management Order, "the Court will set a case management conference to address the objection process." *Id*. at 5. The Procedural Order further provides:

> The case management order may include the following for purposes of addressing objections:
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> a. Summary disposition
> b. Responses to objections as requested by Settlement Parties and as determined necessary by the Court
> c. Briefing on any necessary consolidated legal issues raised by the specific request for Settlement approval
> d. Discovery as requested by objectors or settling parties and as determined necessary by the Court
> e. Expedited hearing on objections not subject to summary disposition
> f. Process for informal resolution of objections
> g. Any necessary modifications to the service list
> h. Process for non-responders pursuant to Section 3.1.9 of the Settlement Agreement

Id. at 5. Nowhere does the Procedural Order provide for any particular legal issue or objection to be

[2] The Procedural Order, as amended, governs these proceedings. *See Amended Order Establishing Procedures for (1) Approval of Settlement Agreement, (2) Entry of a Partial Final Decree, and (3) Entry of Interim Administrative Order* (Feb. 9, 2011) (No. 7310); *Second Amended Procedural Order Regarding Approval of Settlement Agreement* (Nov. 4, 2013) (No 7988).

taken out of order. There is no provision for elongating the process by identifying "threshold issues." As cited in the *Response*, there is law for the Court to apply in determining whether the State's approval was consistent with applicable law. The Court should not delay holding a case management conference and entering a case management order that will encompass Defendant-Objectors Group 1's concerns along with those of all other objectors.

B. The Settlement Agreement is not a compact requiring additional approval by the Legislature.

As stated above, this is not a "threshold issue" and it would be procedurally improper to decide this issue on the basis merely of the arguments by the Settling Parties and the Defendant-Objectors Group 1, without allowing all other objectors who may have raised this issue an opportunity to participate. However, if the Court nevertheless intends to decide this issue, without waiving their right to fully brief this issue in later proceedings, the State, County and City wish to be on record as having made clear that the New Mexico Legislature has already explicitly and unmistakably authorized the Attorney General to act on behalf of the State to adjudicate water rights and to enter into settlements of claims. By passage of the 1907 water code, the Territorial Legislature set forth the procedures and requirements for determination of rights to use waters within the State of New Mexico. *See* NMSA 1978, §§ 72-4-13 to -19 (1907). The adjudication statutes authorize and direct the territorial [now state] engineer to conduct hydrographic survey work necessary for the determination of rights, *id*. at §§ 13-17, and direct the attorney general to "enter suit on behalf of the state for the determination of all rights to the use of such water….and [the attorney general] shall diligently prosecute the same to a final adjudication …." *Id.* at §15.

The Attorney General's statutory charge includes the duty to "prosecute and defend in any other court or tribunal [in addition to the New Mexico Supreme Court] all actions and proceedings,

civil or criminal, in which the state may be a party.…" NMSA 1978, § 8-5-2(B) (1975). In representing the state in any lawsuit, the Attorney General has the power to:

> compromise or settle said suit or proceedings, or grant a release or enter satisfaction in whole or in part, of any claim or judgment in the name of the state or county, or dismiss the same, or take any other steps or proceedings therein which to him may appear proper and right; and all such civil suits and proceedings shall be entirely under the management and control of the said attorney general or district attorneys, and all compromises, releases and satisfactions heretofore made or entered into by said officers are hereby confirmed and ratified.

NMSA 1978, § 36-1-22 (1876). In upholding the Attorney General's authority to settle legal disputes on behalf of the State, the New Mexico Supreme Court held: "In the absence of explicit legislative expression to the contrary, the attorney general possesses entire dominion over every suit instituted by him in his official capacity whether there is a relator or not." *Lyle v. Luna* 65 N.M. 429, 437, 338 P.2d 1060, 1065, 1959-NMSC-042 (1959). The Court further explained: "the attorney general has power to dismiss or to discontinue suits brought by him either with or without a stipulation by the other party, and to make any dispositions of such suits that he deems best for the interest of the State." *Id.* 437-438. *See also, Battle v. Anderson,* 708 F.2d 1523, 1529 (10th Cir. 1983) (citing *Lyle v. Luna* to interpret similar provision under Oklahoma law).

After years of settlement negotiations, New Mexico Attorney General Patricia Madrid and State Engineer John D'Antonio signed the Aamodt Settlement Agreement on May 3, 2006 on behalf of the State of New Mexico, along with a number of other settling parties. The agreement was not yet effective because Congressional approval was necessary to authorize the Secretary of the Interior to sign as trustee for the Pueblos and to fund, and direct the U.S. Bureau of Reclamation to build, the regional water supply project contemplated by the settlement. After Congress enacted the Claims Resolution Act of 2010, Title VI of which is the Aamodt Litigation (Pub. L. No. 111-291, 124 Stat.

3064, 3134-3156), New Mexico Attorney General Gary K. King signed the final Settlement Agreement on May 13, 2013 (No. 7970-1), along with Governor Susana Martinez, State Engineer Scott A. Verhines and State Engineer Chief Counsel.

Defendant-Objectors Group 1's reliance on *State ex rel. Clark v. Johnson* is unavailing. The New Mexico Supreme Court in *Johnson* considered whether by signing Indian gaming compacts the Governor had infringed on powers properly belonging to Legislature, in particular the Legislature's power to regulate gambling. The Court determined that a violation of separation of powers occurs when an action by one branch of government disrupts the proper balance with another branch, and thereby prevents the other branch from accomplishing its constitutionally assigned functions. 120 N.M. 562, 574, 904 P.2d 11, 23, 1995-NMSC-048 (1995). With respect to the effect of the executive branch action's on legislative functions the Court noted:

> One mark of undue disruption would be an attempt to foreclose legislative action in areas where legislative authority is undisputed. The Governor's present authority could not preclude future legislative action, and he could not execute an agreement that foreclosed inconsistent legislative action or precluded the application of such legislation to the agreement.

Id. Because the Governor had no express or implied authority to bind the State to terms of a gaming compact falling squarely within an area regulated by the Legislature and inconsistent with existing statutory law, the Governor's action violated constitutional separation of powers. *Id.* 120 N.M. at 574-76, 904 P.2d at 23-25.

In contrast to the facts and holding in *State ex rel. Clark v. Johnson*, no further legislative approval was needed in order for the Attorney General and other state officials to execute the Aamodt Settlement Agreement. The executive action in *Johnson* infringed on an area directly regulated by the Legislature without either an express or implied legislative grant of authority to the

executive. *Id.* By contrast, the actions taken by the Attorney General in litigating and settling Indian water rights settlements are sanctioned by broad statutory grants in existence for over a century, discussed above. NMSA 1978, § 36-1-22 (1876); NMSA 1978, § 8-5-2(B) (1975); NMSA 1978, §§ 72-4-13 to -19 (1907). Although the Aamodt settlement calls for the State to share in costs of settlement implementation, nowhere does the settlement purport to bind the State to provide funding. Instead, the terms of the settlement expressly condition funding on appropriations by the Legislature:

> Condition of Appropriations The Requirements of Section [3.0] of this Cost Sharing Agreement are contingent upon sufficient appropriations and authorizations being made by the Santa Fe County Commission, the Santa Fe City Council, the Legislature of the State of New Mexico and the United States Congress. Each Party is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered and approved for expenditure.

See Aamodt Cost-Sharing and System Integration Agreement (Mar. 14, 2013) at para. 4.1.

Movants request the Court to hold a case management conference and then enter a case management order establishing procedures for considering all issues raised by the objections.

III. The Order to Show Cause was properly served in full compliance with the law.

Defendant-Objectors Group 1 allege there was a lack of proper service of the Court's *Order to Show Cause*, and that as a result "there are many people currently deprived of due process and the opportunity to protect their constitutional rights." *Response* at 4-5. However, the *Response* fails to identify any water right claimant so deprived. Indeed, Defendant-Objectors Group 1 themselves obviously did receive notice given the fact that they are participating in this proceeding.

Moreover, Defendant-Objectors Group 1 fail to identify any failure by the State or the United States in complying with the Court's Orders regarding service, or any conflict with the Federal Rules of Civil Procedure. The procedures adopted by the Court for service of the *Order to Show Cause*

were never objected to, the State and the United States complied fully with the Court's directions and the requirements of the Federal Rules of Civil Procedure, and the State made every reasonable effort to ensure the mailing list used was current and correct. In addition, the Court contemplated the likelihood that there would be unknown claimants and known claimants with unknown addresses, and for that reason also provided for publication and posting of the Order to Show Cause.

Further, extensive public outreach, including twenty (20) public meetings, and a ten (10) year history of community involvement in the *Aamodt* Settlement Agreement negotiations contributed to a robust public participation in this *Order to Show Cause* process. Over one thousand (1,000) responses to the Court's *Order to Show Cause*, in a case with a total of only 3,135 subfiles, have so far been filed, indicating an approximately 32% response rate, and the corresponding widespread success of the Court's notice procedures.

Defendant-Objectors Group 1's assertion that there was a lack of proper service is without mer

A. Notice was properly served by first class mail.

On February 9, 2011, the Court entered its *Amended Order Establishing Procedures* setting forth the process for notice of the Settlement Agreement and of the approval process. *Amended Order Establishing Procedures for (1) Approval of Settlement Agreement, (2) Entry of partial Final decree, and (3) Entry of Interim Administrative Order* ("*Amended Order*") (No. 7310). On November 4, 2013, the Court entered its *Second Amended Procedural Order Regarding Approval of Settlement Agreement*, shortening certain of the deadlines set by the *Amended Order*. ("*Second Amended Order*") (No. 7988). Together, the two Orders provided that notice of the Settlement Agreement and of the approval process should be undertaken as follows:

1) The State shall provide an updated service list ("Updated List") to the Court "as to all known water right claimants in the Pojoaque Basin for purposes of providing notice of the Settlement Agreement";

2) the Court then will enter an Order to Show Cause why the Court should not, *inter alia*, approve the Settlement Agreement; and

3) within (60) days the State and the United States shall serve the Order to Show Cause "by first class mail to those parties identified in the updated service list."

No responses were filed in response to the Motions (No. 7200, filed December 15, 2010 and No. 7971, filed October 3, 2013) which requested the Court enter these Orders, and no party raised any objection to the procedures for notice adopted by the Court.

The State and the United States strictly followed the Court's orders regarding notice. On December 2, 2013, the State filed its Updated List with the Court, as required. *Notice of Filing of Updated Service List as to All Known Water Right Claimants in the Pojoaque Basin for Purposes of providing Notice of the Settlement Agreement* ("*Notice of Filing Updated Service List*") (No. 8028). No responses, comments or objections to this proposed service list were filed. On December 6, 2013, the Court entered its Order to Show Cause. *Order to Show Cause and Notice of Proceeding to Approve Settlement Agreement and Enter Proposed Partial Final Judgment and Decree on the Water Rights of the Pueblos of Tesuque, Pojoaque, Nambe and San Ildefonso* ("*Order to Show Cause*") (No. 8035). On January 24, 2014, well within the sixty days allowed from the entry of the *Order to Show Cause*, the United States deposited with the United States Postal Service 6,949 copies of the *Order to Show Cause* for delivery by first class mail to the parties that had been identified by the State with the filing of its Updated List.

The Updated List submitted to the Court, and used for the mailing was prepared from (a) the State's current adjudication records; (b) the electronic public records of the Office of the State

Engineer ("OSE"); and (c) the public records of irrigation districts, acequias and community ditches in the Pojoaque Basin. See December 2, 2013 *Notice of Filing Updated Service List* at 2. The Updated List was prepared initially by using the names and addresses of all parties and claimants in this adjudication identified from 1966 to the present in the adjudication records of the State. In the ordinary course of business, assessor data from Santa Fe County is used to identify and update ownership and contact information for those adjudication records. To this initial list were added the names and addresses of all surface and groundwater rights owners and permit holders in the Pojoaque Basin which were available from the OSE Water Administration and Technical Engineering Resource System (W.A.T.E.R.S) database. This database includes all declarations, changes of ownership and transfers of water rights that had been filed with the OSE, as well as all permits issued in the Pojoaque Basin. Where information was lacking or incomplete, such as a missing zip code or postal code, additional available information was added.

In addition, irrigation districts, acequias and community ditches in the Pojoaque Basin were contacted directly for current information as to water right owners. *See e.g.* October 7, 2013 letter to Mr. Larry C. White, Esq., attached hereto as Exhibit A.

Upon subsequent review of the Updated List, and before the mailing, the State and the United States noted that many of the addresses included route number designations. Some years ago the Santa Fe County made changes to its address system to accommodate emergency services, and went from route numbers to a street number system. The State's Updated List reflected this change in addressing. However, because, as noted above, the Updated List was also based in part on the electronic public records of the OSE, and because over the years large numbers of water right owners had not updated their ownership and contact information with the OSE, many of the addresses on the

Updated List were in the old route number style. Notice of the settlement agreement mailed to those addresses would not have been delivered, and would have been returned. To address this issue, the State and the United States submitted the Updated List for comparison to the National Change of Address database, a secure database maintained by the United States Post Office. Prior to mailing, the Updated List was revised to remove the old undeliverable forms of address, and to update addresses where possible. As a result, the Updated List was reduced from approximately 8,000 addresses to a revised list of 6,949.

Of the 6,949 packets that were mailed, 2,665 were returned, or approximately 38% of the total. This is commensurate with other large mailings the State has undertaken in this and other adjudications, and reflects the fact that when ownership of a water right changes, or a water right owner's address changes, neither the Court nor the OSE is usually informed, despite the fact that both New Mexico law and the Federal Rules of Civil Procedure require it. Under the Federal Rules of Civil Procedure, Fed.R.Civ.P. 25 provides that:

> In case of any transfer of interest, the action may be continued by or against the original party, unless the court upon motion directs the person to whom to whom the interest is transferred to be substituted in the action or joined with the original party. . .

Fed.R.Civ.P. 25(c). New Mexico has a similar statutory requirement:

> In the event of any changes of ownership of a water right, whether by sale, gift or any other type of conveyance, affecting the title to a water right that has been permitted or licensed by the state engineer, has been declared with the state engineer or has been adjudicated and is evidenced by a subfile order, partial final decree, final decree or any other court order, the new owner of the water right shall file a change of ownership form with the state engineer.

NMSA 72-1-2.1 (emphasis added). Notwithstanding those requirements, notices of substitution are rarely filed with the court, and changes of ownership are not routinely filed with the OSE.

The general failure of water right owners to update their contact information is illustrated by the fact that after the Order to Show Cause was mailed and published, 400 changes of ownership and changes of address were suddenly filed with the OSE by concerned water right owners who wanted to ensure they received future notices from the Court.[3] Many of these filings reflected changes that had occurred years or even decades before. The difficulty of maintaining current contact information is further illustrated by the Objections to the *Aamodt* Settlement Agreement recently filed. The State served the instant *Motion* on all the objecting parties at the very addresses identified by them in their own Objections, many as recently as April 7, 2014, and still got sixteen (16) pieces of mail back.

In sum, the procedures adopted by the Court for service to the *Order to Show Cause* were never objected to, the State and the United States followed the Court's directions to the letter, and the State made every reasonable effort to insure the Updated List was current and correct. Moreover, the amount of returned mail was entirely consistent with the State's previous experience with such mailings, and for the most part accounted for by the chronic failure of water right claimants to substitute into this lawsuit or update their contact information with the OSE. The Court contemplated the likelihood that there would be unknown claimants and known claimants with unknown addresses, and for that reason also provided for publication and posting of the Order to Show Cause. There was no deficiency in the mailed notice of the *Order to Show Cause*.

B. Notice by Publication was sufficient to serve those claimants whose addresses were unknown.

The *Amended Order* and the *Second Amended Order* also recognized that notification was

[3] Packets containing the *Order to Show Cause* and other materials that were mailed on January 24, 2014 were available at the OSE for those water right owners that filed these changes of address and ownership, and were

needed for those water right claimants who were not known, and known claimants whose addresses were not on the updated service list, and provided that notice of the Settlement Agreement and of the approval process should also be published and posted. The two *Orders* specifically required:

> 1) [P]ublish[ing of] the Order to Show Cause in English and Spanish, without exhibits, in at least one newspaper(s) of general circulation in the Pojoaque Basin and in the City and County of Santa Fe once a week for four weeks;
>
> 2) post[ing of] an electronic version of the Order to Show Cause in English and Spanish and all exhibits on the Court's and the Office of the State Engineer's websites; and
>
> 3) post[ing of] the Order to Show Cause and all exhibits publicly at [a number of locations].

Amended Order at 2-3; *Second Amended Order* at 2. Pursuant to that direction, the State caused the *Order to Show Cause* to be published in both English and Spanish in the Albuquerque Journal on January 3, 10, 17 and 24 of 2014. The *Order to Show Cause* in both English and Spanish, along with all related exhibits was, and continues to be available on the OSE's website, and physically at the OSE offices, at the Santa Fe County Pojoaque Satellite Office and the Joe M Stell Ombudsman Program at the Utton Center.

C. The form of notice ordered by the Court is sufficient under Mullane and Rule 5.

Indeed, the Court's Orders regarding service are entirely consistent with the Federal Rules of Civil Procedure. Rule 5 provides that once a person is made a party to a lawsuit, service of a document may be made by "mailing it to the person's last known address – in which event service is complete upon mailing." Fed.R.Civ.P. 5(b)(2)(C). As an order of the Court, the Order to Show Cause was required to be served upon parties to the adjudication, not the public at large. Moreover, in *Mullane v. Central Hanover Bank and Trust Co, et al.*, the United States Supreme Court provided

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provided to those that had not received them by mail.

further guidance with regard to matters which involve an unusually large number of defendants. 70 S.Ct. 652 (1950). Specifically, in dealing with notice to large numbers of beneficiaries of a common trust fund, the Supreme Court stated that:

> We recognize the practical difficulties and costs that would be attendant on frequent investigations into the status of great numbers of beneficiaries, many of whose interest in the common fund are so remote as to be ephemeral, and we have no doubt that such impracticable and extended searches are not required in the name of due process. The expense of keeping informed from day to day of substitutions among even current income beneficiaries and presumptive remaindermen, to say nothing of the far greater number of contingent beneficiaries, would impose a sever burden on the plan, and would likely dissipate its advantages.

Id. at 317-318 (emphasis added). The Supreme Court consequently allowed published notice for "beneficiaries whose interests or addresses are unknown to the trustee." *Id.* at 318. Similarly, here, where keeping track of the day-to-day substitution of parties would impose a severe burden, the Court has provided that publication "shall serve as notification to those water right claimants who were not known with reasonable diligence to the Settling parties and claimants whose addresses are not on the updated service list . . ." *Amended Order* at 4. The service by mail and by publication made pursuant to the Court's Orders here is entirely sufficient.

IV. The allegations of a conflict of interest are insufficient.

The Group 1 defendants appear to be concerned about a possible "appearance of conflict between Judge Vazquez and Settling Party City of Santa Fe and Bureau of Reclamation." Response at 5. However, the Response fails to contain any specific allegations to determine whether there is any merit to their allegations, or the correct law by which to request the recusal of a federal judge. Moreover, if the *Response* is referring to the fact that Judge Vasquez' spouse is a member of the Santa Fe City Council, the Council approved the initial Settlement in 2006, and re-approved the conformed version of the Settlement on March 13, 2013. Both approvals

were prior to Councilor Maestas being elected into office for City Council District 2. As neither the City nor the Councilor have any pecuniary interest in the Settlement, and by extension nor would Judge Vasquez, the Objector's have not demonstrated a factual basis to question the impartiality of Judge Vasquez.

The Court should not delay entry of the proposed Case Management Order.

WHEREFORE the State of New Mexico, Santa Fe County and the City of Santa Fe request that the Court overrule Group 1 defendants' objections, grant the *Joint Motion for Entry of Case Management and Service Order* and enter the proposed Case Management Order.

Respectfully submitted this 16th day of June, 2014.

Electronically Filed

/s/ Edward C. Bagley

Arianne Singer
Edward C. Bagley
John Stroud
Special Assistant Attorneys General
Attorneys for State of New Mexico
P.O. Box 25102
Santa Fe, NM 87504-5102
Telephone: (505) 827-7844

/s/ John W. Utton

John W. Utton
Sheehan & Sheehan, P.A.
P.O. Box 271
Albuquerque, NM 87103
Telephone: 505-247-0411
Attorney for Santa Fe County

/s/ Marcos D. Martínez
Marcos D. Martínez
Assistant City Attorney
City of Santa Fe
Santa Fe, NM 87505
505-955-6511

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on June 16, 2014 I filed the foregoing electronically through the CM/ECF system, which caused the parties or counsel reflected on the Notice of Electronic Filing to be served by electronic means, and to the following person(s) by United States Mail:

Waldimir Senutovitch
P.O. Box 303
Santa Fe, NM 87504

Waldimir Senutovitch
P.O. Box 217
Santa Cruz, NM 87567

Mrs. Leslie Beaty
P.O. Box 177
Tesuque, NM 87574

Tom Berg
31 Don Bernardo
Santa Fe, NM 87506-2669

Barak Wolff & Cecilia G. Popp
28 Harriets Rd.
Santa Fe, NM 87506

Gail Factor
P.O. Box 276
Tesuque, NM 87574

Chester H. Johnson
551 Canyon Rd
Santa Fe, NM 87501

Andy Welch
P.O Box 642
Tesuque, NM 87574

Carlos Sena
P.O. Box 366
Tesuque, NM 87574

Leonard A. Roy
19 Tano Trail
Santa Fe, NM 87506

Craig E. Watts
4 Big Tesuque Canyon
Santa Fe, NM 87506-0010

Elaine & Donald Yardman
16 Calle De Vecinos
Santa Fe, NM 87506

Elmer Lee & Mary G.B. Waite
55 Banana Ln
Santa Fe, NM 87506

Claudia Lewis & Tim A. Johnson
P.O. Box 3627
Santa Fe, NM 87501

Jose E. Trujillo
Margarita Trujillo
28A Grazing Elk Drive
Santa Fe, NM 87506

Eileen Carter
44 County Road 113A
Santa Fe, NM 87506