

DISTRICT COURT, WATER DIVISION 7, COLORADO La Plata County Courthouse 1060 East Second Avenue, Room 106 Durango, CO 81301 Telephone: 970-247-2304	DATE FILED: May 7, 2014 11:35 AM FILING ID: F95986851B0DC CASE NUMBER: 2013CW3011 ▲ COURT USE ONLY ▲
IN THE MATTER OF THE APPLICATION FOR WATER RIGHTS OF THE SOUTHWESTERN WATER CONSERVATION DISTRICT, IN LA PLATA COUNTY.	Case Number: 13CW3011 Div.: 7
Attorneys for the Opposer Southern Ute Indian Tribe: Scott B. McElroy, Atty. No. 13964 M. Catherine Condon, Atty. No. 20763 McElroy, Meyer, Walker & Condon, P.C. 1007 Pearl Street, Suite 220 Boulder, Colorado 80302 Phone Number: 303-442-2021 Fax Number: 303-444-3490 smcelroy@mmwclaw.com ccondon@mmwclaw.com	
OPPOSER SOUTHERN UTE INDIAN TRIBE'S C.R.C.P. 26(a)(1) DISCLOSURES	

Opposer the Southern Ute Indian Tribe (“Tribe”), by and through counsel, McElroy, Meyer, Walker & Condon, P.C., hereby submits the required disclosures pursuant to Colo. R. Civ. P. 26(a)(1) and the Uniform Local Rules for All State Water Court Divisions 11(b)(5)(A)(II):

A. Name, address and telephone number of each individual who may have discoverable information relevant to disputed facts alleged with particularity in the pleadings:

1. Lena Atencio, Director
 Department of Natural Resources
 Southern Ute Indian Tribe
 P.O. Box 737
 Ignacio, Colorado 81137
 Telephone: 970-563-0100

Ms. Atencio may have discoverable knowledge related to the Tribe's participation in the Animas-La Plata Project and the construction, operation, and maintenance of the facilities constructed under the Colorado Ute Settlement Act Amendments of 2000, Public Law No. 106-554, Title III ("2000 Settlement Act Amendments") ("Constructed Facilities").

2. Chuck Lawler, Division Head
Water Resources Division
Department of Natural Resources
Southern Ute Indian Tribe
P.O. Box 737
Ignacio, Colorado 81137
Telephone: 970-563-0100

Mr. Lawler may have discoverable knowledge related to the Tribe's participation in the Animas-La Plata Project and the construction, operation, and maintenance of the Constructed Facilities.

3. Acting Chairman Mike Olguin
Southern Ute Indian Tribe
P.O. Box 737
Ignacio, Colorado 81137
Telephone: 970-563-0100

Mr. Olguin may have discoverable knowledge related to the Tribe's participation in the Animas-La Plata Project.

4. Howard Richards
Tribal Council Member and Former Chairman
Southern Ute Indian Tribe
P.O. Box 737
Ignacio, Colorado 81137
Telephone: 970-563-0100

Mr. Richards may have discoverable knowledge related to the Tribe's participation in the Animas-La Plata Project and the construction, operation, and maintenance of the Constructed Facilities.

5. Clement Frost.
Former Tribal Council Member and Former Chairman
Southern Ute Indian Tribe
P.O. Box 737
Ignacio, Colorado 81137
Telephone: 970-563-0100

Mr. Frost may have discoverable knowledge related to the Tribe's participation in the Animas-La Plata Project.

6. Vida Peabody
Former Tribal Council Member
Southern Ute Indian Tribe
P.O. Box 737
Ignacio, Colorado 81137
Telephone: 970-563-0100

Ms. Peabody may have discoverable knowledge related to the Tribe's participation in the Animas-La Plata Project.

7. James Formea
Former Director, Department of Natural Resources
Southern Ute Indian Tribe
P.O. Box 737
Ignacio, Colorado 81137
Telephone: 970-563-0100

Mr. Formea may have discoverable knowledge related to the Tribe's participation in the Animas-La Plata Project and the construction, operation, and maintenance of the Constructed Facilities.

8. Pat Page
Bureau of Reclamation
2200 Bloomfield Hwy
Farmington, NM 87401
Telephone: 505-325-1794

Mr. Page may have discoverable knowledge related to the development of the Animas-La Plata Project and the design, construction, operation, and maintenance of the Constructed Facilities.

9. John Simon
Former Employee of the Bureau of Reclamation
Bureau of Reclamation
Durango Field Office
185 Suttle Street, Suite 2
Durango, CO 81303
Telephone: 970-385-6500

Mr. Simon may have information related to the design, development and operation of the Constructed Facilities and the water supply for those facilities.

10. Brad Dodd
Former Employee of the Bureau of Reclamation
Bureau of Reclamation
Durango Field Office
185 Suttle Street, Suite 2
Durango, CO 81303
Telephone: 970-385-6500

Mr. Dodd may have information related to the operation, maintenance and replacement of the Constructed Facilities.

11. Rick Ehat
Former Employee of the Bureau of Reclamation
Bureau of Reclamation
Durango Field Office
185 Suttle Street, Suite 2
Durango, CO 81303
Telephone: 970-385-6500

Mr. Ehat may have discoverable information related to the construction and design of the Constructed Facilities and the feasibility of developing the remainder of the project thereafter.

12. Barry Longwell, Construction Engineer
Four Corners Construction Office
Bureau of Reclamation
130 Everette Street
Durango, CO 81303
Telephone: 970-259-1110 Ext. 100

Mr. Longwell may have discoverable information related to the construction and design of the Constructed Facilities and the feasibility of developing the remainder of the project thereafter.

13. Mike Connor
Deputy Secretary
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240
Telephone: 202-208-3100

Mr. Connor may discoverable information related to the development of the Constructed Facilities and the development of the remainder of the project following enactment of the 2000 Amendments.

14. Mike Griswold
Former President of the Animas La Plata Water Conservancy District (“ALP District”)
Animas La Plata Water Conservancy District
841 East Second Avenue
Durango, CO 81301
Telephone: 970-247-2659

Mr. Griswold may have discoverable information about the development of the Constructed Facilities and the understanding of the ALP District concerning the development of the remainder of the project facilities following the enactment of the 2000 Settlement Act Amendments.

15. Ed Warner, Area Manager
Bureau of Reclamation
Western Colorado Area Office
2764 Compass Drive
Grand Junction, CO 81506
Telephone: 970-248-0690

Mr. Warner may have discoverable knowledge about the development and operation of the Constructed Facilities.

16. Randy Seaholm, Retired
Colorado Water Conservation Board
1313 Sherman Street, Room 721
Denver, CO 80204
Telephone: 303-866-3441

Mr. Seaholm may have discoverable information about the development and operation of the Constructed Facilities and the development of the remainder of the project following enactment of the 2000 Settlement Act Amendments.

17. Erin Wilson
Wilson Water Group
165 S. Union Boulevard
Lakewood, CO 80228
Telephone: 303-953-1923

Ms. Wilson is employed as an engineering consultant by the Tribe and may have discoverable evidence related to the water supply for the Constructed Facilities. As an expert, Ms. Wilson’s disclosure falls within the requirements of C.R.C.P. 26 (a)(2). She is disclosed here for completeness.

18. Pat Greer, Former Board Member
Animas La Plata Water Conservancy District
841 East Second Avenue
Durango, CO 81301
Telephone: 970-247-2659

Mr. Greer may have discoverable information about the development of the Constructed Facilities and the understanding of agricultural water users following the enactment of the 2000 Settlement Act Amendments.

19. Dr. William Miller
Miller Ecological
1113 Stoney Hill Drive, Suite A
Fort Collins, CO 80525
Telephone: 970-224-4505

Dr. Miller is retained by the Tribe as a fisheries biologist to assist in addressing issues arising under the Endangered Species Act. He serves as Chairman of the Biology Committee of the San Juan River Recovery Implementation Program. He may have relevant information related to the status and recovery of endangered fish in the San Juan River system and the issues related to obtaining federal approval of additional water delivery facilities in the San Juan Basin. As an expert, Dr. Miller's disclosure falls within the requirements of C.R.C. P. 26(a)(2). He is disclosed here for completeness.

20. Any witness identified or endorsed by any other party including C.R.C.P. 26(a)(2) and 30(b)(6) witnesses, additional witnesses endorsed within such time as may be allowed by the court, and rebuttal and impeachment witnesses as necessary.

B. DOCUMENTS: The following is "a listing, together with a copy of, or a description by category and location" of all documents, data compilations, and tangible things in the Tribe's possession, custody, or control "that are relevant to disputed facts alleged with particularity in the pleadings." Colo. R. Civ. P. 26(a)(1)(B).

1. The Tribe may have discoverable information located at the offices of the Department of Natural Resources Administration including files titled:

- First Fill
- Construction Info
- Facilities Info
- PCC
- POC
- Archeological Information

- OM&R Meeting Packets (2010, 2011)

2. The Tribe may have discoverable information located in the offices of the Director of the Department of Natural Resources, including files titled:

- (a) Basin Creek:
 - Drop Structure
 - Measurement Structure
 - Right-of-Way
- (b) Southwest Water Con. District
 - Protocol
 - Jt. SWWCD/ALP Association meeting information
- (c) Animas La-Plata Project (A-LP)
 - Transfer Inspection Report
 - Fish Escapement
 - Ridges Basin Dam 36” pipeline
 - Intergovernmental Agreement (IGA)
 - 10-WC-40-370 OM&R contract – BOR/ALP Association
 - Water Right Administration – Release Procedure
 - Hermosa Water Shed Act – 2012
 - Mitigation Area
- (d) State of Colorado
 - General Administrative Guidelines for Reservoirs
 - Water Delivery Contract

3. The Tribe may have discoverable information located at the offices of the Water Resources Building including files titled:

- ALP -Water Resource Division files: 1973-1992
- ALP -Water Resource Division files: 1993-
- ALP – Water Use, recreation, Water supply contract, Miscellaneous
- ALP – Court Cases, Retained Jurisdiction, Operational Modeling, Protocol
- ALP - Association Mtg. Packets w/CRL notes
- ALP – Definite Plan Report, FSEIS
- ALP – Mitigation Area

4. The Tribe may have additional discoverable information currently in file boxes located at the offices of the Department of Natural Resources including files titled:

- (a) Chairman (CHM)
 - 21014
 - 21015
 - 21018
 - 21020
 - 21022
 - 21029
 - 21030

- (b) Legal Dept. (Leg)
 - 25021
 - 25024
 - 25029
 - 25034
 - 25037
 - 25038
 - 25040
 - 25042
 - 25057
 - 25077
 - 25118
 - 25023

- (c) Animas La-Plata Project (A-LP)
 - 25000
 - 25001
 - 25002
 - 25003
 - 25004
 - 25005

- (d) Wildlife (WRM)
 - 25019

- (e) Construction & Proj. Mgmt. (CPM)
 - 24079

- (f) Contracts & Grants (CAG)
 - 22002

- (g) Lands (LAD)
 - 25003
 - 25008

5. Any documents identified or endorsed by any other party, documents that are produced or come to the Tribe's attention as a result of discovery, rebuttal, cross examination, demonstrative exhibits, and other documents or exhibits endorsed by any other party within such time as may be allowed by the court.

The above documents, to the extent relevant and not privileged or protected from disclosure, are available for inspection and copying upon arrangement with the undersigned attorney.

To date, specific documents that are subject to the claim of privilege or non-disclosure have not been identified. As documents or materials are reviewed that are subject to a claim of privilege or non-disclosure, they will be identified with particularity and a privilege log will be prepared as provided by C.R.C.P. 26(b)(5).

C. DAMAGES: N.A.

D. INSURANCE AGREEMENT: N.A.

E. SUPPLEMENTATION OF RESPONSES: Colo. R. Civ. P. 26(e).

These Disclosures are based upon the Tribe's present understanding of the claims and defenses asserted and issues raised by the pleadings with particularity. As these claims, defenses, and issues are more fully developed during the progress of this case, additional persons with knowledge or additional relevant documents may become known. The Tribe recognizes and acknowledges its duty to supplement in a timely manner these responses as the discovery of relevant information requires under C.R.C.P. 26(e).

Respectfully submitted, this 7th day of May, 2014.

McELROY, MEYER, WALKER & CONDON, P.C.

/s/ Scott B. McElroy

By: _____
Scott B. McElroy, Atty. No. 13964
M. Catherine Condon, Atty. No. 20763
***Attorneys for Opposer Southern Ute Indian
Tribe***

CERTIFICATE OF SERVICE

I certify that on May 7, 2014, I electronically filed with ICCES a true and correct copy of the foregoing *Opposer Southern Ute Indian Tribe's CRCP 26(a)(1) Disclosures*, which was to be electronically served by ICCES on the parties listed on its service list, as set out below:

Animas La Plata Omr Association	Carolyn F Burr, James Merle Noble	Welborn Sullivan Meck & Tooley, P.C.
Colorado Water Conservation Board	Shanti Rosset O'donovan	CO Attorney General
Division 7 Engineer	Division 7 Water Engineer	State of Colorado DWR Division 7
Division 7 Engineer	Scott Steinbrecher	CO Attorney General
La Plata Conservancy District New Mexico	Sarah Ann Klahn, Mitra Marie Pemberton, Adam Charles Davenport	White & Jankowski, LLP
San Juan Water Commission	Sarah Ann Klahn, Mitra Marie Pemberton, Adam Charles Davenport	White & Jankowski, LLP
Southwestern Water Conservation District	Peggy E Montano	Trout, Raley, Montano, Witwer & Freeman, PC
State Engineer	Colorado Division Of Water Resources	State of Colorado - Division of Water Resources
State Engineer	Scott Steinbrecher	CO Attorney General
United States Dept Of Justice	Andrew Joseph Guarino	U.S. Department of Justice ENRD
Ute Mountain Ute Tribe	Celene Nicole Hawkins	General Counsel Ute Mountain Ute Tribe

/s/ Daryl Ann Vitale
