

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS**

KICKAPOO TRIBE OF INDIANS OF THE )  
KICKAPOO RESERVATION IN KANSAS, )

Plaintiff, )

vs. )

Case No. 06-CV-2248-CM-TJJ

NEMAHA BROWN WATERSHED JOINT )  
DISTRICT NO. 7, et al., )

Defendants.

**ORDER CONTINUING STAY OF PROCEEDINGS**

This matter is before the Court on the Motion of the Kickapoo Tribe in Kansas, the United States Department of the Interior, and the State of Kansas Department of Agriculture to Extend Stay of Litigation (ECF No. 316). In their joint motion, the parties request another 180-day extension. Because the parties have established that an extension of the current stay is appropriate, the Court concludes that the motion should be granted.

The Court has noted that the purpose of staying this case was to allow the parties to prepare to negotiate and to negotiate a resolution of Plaintiff's remaining claims.<sup>1</sup> To that end, the Court encouraged the parties to begin and attempt to conclude a negotiated settlement before the stay was set to expire on May 14, 2014, and again on November 10, 2014. The Court also advised the parties how they should be prepared to support a further request for stay if they were to seek one. The instant motion constitutes just such a request, and the parties have shown good cause for an extension of the stay. In the past 180 days, counsel for the parties have

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<sup>1</sup> See Order Staying Proceedings (ECF No. 312 at 1-2) (continuing stay entered and extended in orders dated December 2, 2011 (ECF No. 153), June 15, 2012 (ECF No. 197), July 23, 2013 (ECF No. 288), and February 25, 2014 (ECF No. 305)). Plaintiffs' Count One claim for water rights is the only claim that remains pending.

communicated more than five dozen times by telephone and email, and technical representatives of the parties spoke on three occasions. Plaintiff and the State of Kansas have circulated updated drafts of settlement documents which address the reserved water right and its administration, and the parties have exchanged a draft relating to the ultimate State administration of the federally reserved water right. Moreover, the parties have committed to a regular schedule of conference calls to continue negotiating specific terms and conditions of the settlement agreement, and they expect to circulate a complete draft of the proposed settlement document within 90 days of November 10, 2014 (the current expiration of the stay). These combined activities indicate that the parties have made progress in the last 180 days.

The parties propose to submit status reports to the Court in 90 days and again in 180 days, should the Court grant their motion. Although they are committed to continued discussions and negotiations, the parties candidly advise the Court that the technical nature of their discussions prevents them from being able to commit to a definite or imminent final settlement agreement. Recognizing that the case is aging as it is stayed without Court involvement, the parties suggest that the Court schedule in-person status conferences to coincide with their status reports. The Court concurs that status conferences would be appropriate.

**IT IS THEREFORE ORDERED** that the Motion of the Kickapoo Tribe in Kansas, the United States Department of the Interior, and the State of Kansas Department of Agriculture to Extend Stay of Litigation (ECF No. 316) is hereby **GRANTED**. The previously entered stay of these proceedings is extended to **May 11, 2015**, at which time the stay shall automatically be lifted and the Court will proceed with setting a pretrial scheduling conference to determine future deadlines and dates in the action pursuant to Fed. R. Civ. P. 16.

**IT IS FURTHER ORDERED** that the parties shall submit a status report to the Court on **February 11, 2015** and on **May 4, 2015**.

**IT IS FURTHER ORDERED** that Status Conferences will be held before Magistrate Judge Teresa J. James on **February 18, 2015, at 1:30 PM**, and on **May 11, 2015, at 10:00 AM**.

These Status Conferences will be held in the chambers of Judge James, Room 208.

**IT IS SO ORDERED.**

Dated in Kansas City, Kansas on this 12th day of November, 2014.

s/ Teresa J. James  
Teresa J. James  
United States Magistrate Judge