

**Monthly Stream System Issue and Expedited *Inter Se* Report
November 15, 2007**

**Lower Rio Grande Basin Adjudication
State of New Mexico ex rel. Office of the State Engineer
vs.
Elephant Butte Irrigation District, et al., No. CV - 96 - 888
Third Judicial District**

Case Management Orders currently in effect:

1. Case Management Order Authorizing Notice by a Monthly Report, filed Mar. 19, 2007.
2. Fourth Amended Order Regarding Stream Adjudication Procedures, Revised Oct. 16, 2007.

Pending Status Conferences:

December 19, 2007, 1:30 pm, Doña Ana County Courthouse, Las Cruces, NM

Agenda:

- A. The Office of the State Engineer will:
 1. Report the status of sub-files entered.
 2. Report regarding the joinder of water claimants.
 3. Report on issues discussed at the Joint Meeting of the Water and Natural Resources Committee and the Courts and Correction Committee and subsequent activity.
- B. The Court will:
 1. Report on budget matters and actions being considered as a result of the Joint Legislative Meeting of the Courts and Correction Committee and the Water and Natural Resources Committee.
 2. Consider the OSE's Request to enlarge the time for completing the service of Offers of Judgment pursuant to the the Fourth Amended Order (Revised Oct. 16, 2007):

Paragraph G.

"Schedule for Completion of Service of Offers of Judgment. One

fourth of claimants who file A Form A, Answer who have not yet been served offers of judgment shall be served by June 30, 2008; another one fourth shall be served by Sept. 30, 2008, another one fourth shall be served by Dec. 31, 2008 and the remaining claimants shall be served by Mar. 31, 2009.”

- C. The Court will hear Lion’s Gate Water, Limited Liability Company’s Motion and Notice to Intervene.

Lion’s Gate Water: (Documents were Posted on the September 15, 2007 Monthly Report)

1. Lion’s Gate Water, a Limited Liability Company’s Motion and Notice to Intervene.
2. Lion’s Gate Water’s Supplemental Motion and Notice to Intervene.
3. Lion’s Gate Water’s Memorandum Brief in Support of the Supplemental Motion.
4. State of New Mexico’s Response to Lion’s Gate Water’s Motion and Notice to Intervene.
5. Lion’s Gate Water’s Reply to State of New Mexico’s Response to Lion’s Gate Water’s Motion and Notice to Intervene.

Status Conferences for 2008:

Wednesday, February 13, 2008 at 1:30 pm
Wednesday, May 21, 2008 at 1:30 pm
Wednesday, September 24, 2008 at 1:30 pm
Thursday, December 10, 2008 at 1:30 pm

Pending Matters:

Administrative Appeal of New Mexico State Engineer Decision:

Moongate Water Company, Inc. vs. John R. D’Antonio, Jr., P.E. New Mexico State Engineer, CV - 2004 - 614, filed May 19, 2004.

On October 27, 1980, Moongate Water Company filed Applications with the State Engineer for Permits to Appropriate the Underground Waters of the Lower Rio Grande Underground Water Basin. Inter alia,

The State Engineer determined:

Moongate Water Company failed to meet its burden to establish that it can place

the water that is has applied for beneficial use within a reasonable period of time and to establish that granting the subject Applications would not impair existing water rights.

Moongate Water Company, Inc. appealed, and the City of Las Cruces intervened.

Moongate Water Company, Inc. and the Office of the State Engineer has requested that the Court stay any decision pending negotiation for settlement.

Matters of Interest:

- A. Court Rules require all Claimant Parties including those not represented by attorneys you keep the Court informed of any changes of address or ownership once you have been joined as a party to the adjudication.
- B. Pursuant to the Fourth Amended Order Regarding Stream Adjudication Procedures, Revised March 19, 2007, (Newly revised October 16, 2007) the Office of the State Engineer has commenced joinder of all who claim the right to use waters of the Lower Rio Grande who have not yet been joined. Approximately three fourths of water right claimants who had not been previously joined before the filing of the Fourth Amended Order are now parties.
- C. Inaccuracies in the Court's data base have been discovered. and the Court is continuing working to correct them.
- D. The Joe M. Stell Water Ombudsman Program being developed by the Utton Transboundary Resources Center is continuing to develop the Program. The Utton Center invites suggestions to improve the program.

Claimants may contact the Ombudsman program for information and assistance in responding to the summons and general adjudication complaint at 1-877-277-8740

- E. Paragraph H of the Fourth Amended Order provides:

Limitation for Legal Entities to Participate Without Counsel.

All legal entities such as trusts, partnerships, and corporations who otherwise could not represent themselves without an attorney, may answer, file pleadings and other papers without an attorney.

However, in any hearing where relief or action of the Court is requested, such entities shall not be permitted to participate without an attorney.
