

**Monthly Stream System Issue and Expedited *Inter Se* Report
November, December 2008 and January 2009 Consolidated Monthly Report**

**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**

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The Presiding Judge of the Adjudication was elected Chief Judge in November 2009.
Circumstances dictated that the Monthly Report be delayed while

Pending Status Conferences:

February 13, 2009 at 1:30 pm continued to:
Wednesday, February 18, 2009 at 1:30 pm.

Agenda:

**Report of the Office of the State Engineer regarding the status of the
adjudication.**

**The State's presentation to the Court of the status of settlement
negotiations regarding the CIR and the FDR of irrigation water users
for crops except pecans.**

**Any request for the Court to designate a stream system issue
regarding the CIR and FDR for crops except pecans.**

**The deadline for filing memoranda on these matters is February 9
2009.**

**The State's proposed schedule to mail Offers of Judgment to
Claimants.**

Thursday, March 26, 2009 at 1:30 pm

Wednesday, May 13, 2009 at 1:30 pm

Wednesday, August 26, 2009 at 1:30 pm

Wednesday, November 18, 2009 at 1:30 pm

Rulings of the Court:

The Court decides the following Motions as follows:

The Motion of James Scott Boyd, individually and as Administrator of the Estate of Dr. Nathan Ellington Boyd and specified landowners to Designate a Stream System Issue is granted. The attorney for the Movants shall prepare the Order, present it to other parties who file responses within five days and to the Court within ten days.

The Motion of Tomas J. Gonzalez's Motion to intervene in Adjudication of Pre-1906 Water Rights was granted. The attorney for the Movants shall prepare the Order, present it to other parties who file responses within five days and to the Court within ten days.

The State Engineer's Motion to Strike Movant's Motion for Hearing as the Paramount Global Stream Issue in the Adjudication of Pre 1906 Project-Delivery and Water Rights is denied. The attorney for the Movants shall prepare the Order, present it to other parties who file responses within five days and to the Court within ten days.

The Motion of James Scott Boyd, individually and as Administrator of the Estate of Dr. Nathan Ellington Boyd and specified landowners for the Court to Order the Office of the State Engineer to adjudicate pre-1906 Project-Delivery and Water Rights (Corrected) is denied. The Court determines that the State's proceeding with the Adjudication by geographic area rather than by priority is rational and will not impair the water rights of Claimants who may have acquired water rights before 1906. The attorney for the State shall prepare the Order, present it to other parties who file responses within five days and to the Court within ten days.

The Motion of sub-file Defendants, Tomas J. Gonzalez, Mariana A. Gonzalez, Don P. Gonzalez, Santiago Gonzalez, and Ramona Gonzalez Jimenez for Designation of Stream System Issue is denied. The Court determines that the State's proceeding with the Adjudication by geographic area rather than by priority is rational and will not impair the water rights of Claimants who may have acquired water rights before 1906. The attorney for the State shall prepare the Order, present it to other parties who file responses within five days and to the Court within ten days.

Case Management Orders currently in effect:

1. Case Management Order Authorizing Notice by a Monthly Report, filed March 19, 2007. There are some modifications to this Order that are currently being considered by the Court.

2. Fifth Amended Order Regarding Stream Adjudication Procedures, Filed August 15, 2008.

[Note: All previous Orders regarding Stream Adjudications Procedures are superseded by the Fifth Amended Order.]

Pending Matters:

1. Note: The OSE legal staff previously notified the Court that the OSE would be negotiating with irrigation water right owners that were not covered by the Settlement Agreement between the OSE and the Pecan Growers' Association to attempt settlement regarding the Consumptive Irrigation Requirement (CIR) and the Farm Delivery Requirement (FDR) of irrigation water users in the stream system. The OSE staff advised the Court that they will request the Court to designate this matter as a stream system issue.

State's Motion for Extension of Time to Request Approval of State's Consumptive Irrigation Water Requirements and Farm Delivery Requirements: The Court granted the State's Motion and extended the time for the State to submit this to the Court to not later than March 1, 2009.

2. On November 10, 2008, Elephant Butte Irrigation District filed Threshold Motion Number Three: Motion to Determine the Legal Status of Domestic Wells Including Priority, Transferability, and Beneficial Use Requirements, and Motion to Designate as Stream System Issue.

The Court sets the following Briefing Schedule:

Responses due Friday, February 13, 2009

Replies due March 9, 2009

Hearing on this motion set: Thursday, March 26, 2009 at 1:30 pm

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. The Joe M. Stell Water Ombudsman Program:
Claimants may contact the Ombudsman program at 1-877-277-8740 for information and assistance in responding to the summons and general adjudication complaint and to obtain general information regarding the LRG Adjudication.

- C. Special Master's Report Concerning Pending Sub-files:
For previous report of Special Master Steve Snyder, see March 2008 Monthly Report and October 2008 Monthly Report.
- D. Based on the Court's suggestions (which were set out in the October 15, 2008 Monthly Report) the Water and Natural Resources Committee of the Legislature held a meeting on October 8, 2008 in Santa Fe. The meeting was well attended and there was discussion regarding proposals for legislative modification of stream adjudication procedures.

This Court recommended to the Committee that stakeholder consultations be undertaken before Water Code reform was considered by the Committee. The Court informed the Committee regarding a service of The Institute of Public Law at the University of New Mexico. The Institute has recently organized a consortium that specializes in convening stakeholder dialogues about contentious issues of public policy. The Institute has stated that meaningful stakeholder consultations can be organized in a way that would permit the introduction of reform legislation before the next legislative session. Legislation may be introduced to fund this procedure.

Excepting this, the Court is unaware of any legislation regarding adjudication procedure that may be introduced in the Legislature that recently convened on January 20, 2009.