

STATE OF NEW MEXICO
THE ELEVENTH JUDICIAL DISTRICT COURT
SAN JUAN COUNTY

STATE OF NEW MEXICO, *ex rel.* STATE ENGINEER,

Plaintiff,

vs.

THE UNITED STATES OF AMERICA, *et al.*,

Defendants,

THE JICARILLA APACHE TRIBE AND THE
NAVAJO NATION,

Defendant-Intervenors.

CV-75-184
ROZIER E. SANCHEZ
District Judge, *pro tempore*

SAN JUAN RIVER
GENERAL STREAM
ADJUDICATION

LA PLATA RIVER
SECTION

NOTICE OF PROPOSED SECTION-WIDE SUBPROCEEDINGS

The State of New Mexico *ex rel.* State Engineer (“State”) submits this Notice pursuant to Section VIII (C)(2) of the Scheduling Order Governing Adjudication of Irrigation Water Rights in the La Plata Section (“Scheduling Order”). The parties who submitted Proposals for Section-Wide Issues (“Proposals”) are identified on Exhibit 1 hereto, along with a description of the proposals they made (if any). In addition, Exhibits 2 through 10 are copies of the nine Proposals submitted jointly by the Bloomfield Irrigation District (“BID”) and Gary Horner.¹

Based on the Proposals submitted by the parties, as well as the State’s proposed section-wide issues (presented below), the State requests the Court to establish three (3) Section-Wide Subproceedings. The issues presented for each proposed Subproceeding are intentionally broad and may be broken down into sub-issues or expanded within each respective Subproceeding. The

¹ Neither Mr. Horner nor BID has claimed water rights in the La Plata Section, and therefore, the Court should regard their Proposals as mere suggestions, as they have no known standing.

wording of the issue should not be construed as limiting the scope of a given Subproceeding other than by subject matter.

Proposed Subproceeding 1 (Amount and Rate of Flow)

Issue: *Should irrigation water rights be described and adjudicated by an “amount of water” element, or by a “rate of flow” element, or by both elements (amount of water and rate of flow)?*

The State proposes and supports this issue for adjudication in a Section-Wide Subproceeding. The Proposals submitted by the following parties should also be considered under Subproceeding 1:

Larry D. Baca	Tammy J. Baca	Jimmy L. Bentley	Linda Bentley
George Trosky	Norene N. Cook	Joan S. Earnshaw	Joseph B. Earnshaw
Nila L. Hamlin	Hamblin Farms, Inc.	Mark L. Howard	Bradley S. Laprade
Kelly J. Laprade	Deanna McQuitty	Tommie J. Thompson	BID/Horner

Proposed Subproceeding 2 (Priority Dates)

Issue: *How should water rights that were assigned multiple priority dates in the Echo Ditch Decree be described and adjudicated in the current case, and how should incomplete priority information in the Echo Ditch Decree (e.g., month and/or day of priority date is not specified in the Decree) be determined and adjudicated in the current case?*

The State proposes and supports this issue for adjudication in a Section-Wide Subproceeding. The Proposals submitted by the following parties should also be considered under Subproceeding 2:

Larry D. Baca	Tammy J. Baca	Norene N. Cook	BID/Horner
Joseph B. Earnshaw	Mark L. Howard	Bradley S. Laprade	Kelly J. Laprade
Deanna McQuitty	Tommie J. Thompson		

Proposed Subproceeding 3 (Surface Water Domestic and Stock Rights)

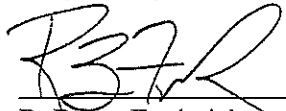
Issue: *How should the Court adjudicate the non-quantified right, if any, that is described in the Echo Ditch Decree as a “subsisting vested right to demand, divert, and receive and use such amount and amounts of waters, as are from time to time beneficially needed and required, for domestic and stock watering purposes”?*

The State proposes and supports this issue for adjudication in a Section-Wide Subproceeding. No other party submitted a Proposal relating to this issue.

Other Issues

Except as identified above, the State does not propose or support the adjudication of any other issues in a Section-Wide Subproceeding at this time. The remaining Proposals identified on Exhibit 1 and on Exhibits 3 through 10, to the extent they present any issue at all, are not appropriate for adjudication in Section-Wide Proceedings. The State, therefore, objects to the adjudication of these matters in any Section-Wide Subproceeding.

Respectfully submitted,

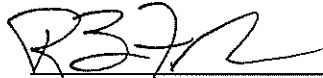


R. Bruce Frederick
Special Assistant Attorney General
New Mexico Office of the State Engineer
P.O. Box 25102
Santa Fe, NM 87504-5102
(505) 827-6150

Attorney for Plaintiff State of New Mexico
ex rel. State Engineer

CERTIFICATE OF SERVICE

I certify that on Jan. 23, 2007, a copy of the foregoing paper was served by email and first class mail, respectively, on the persons identified on the attached service list 1 and service list 2.



R. Bruce Frederick

Proposals for Section Wide Issues

<u>Name</u>	<u>Proposal</u>
SCOTT W. ANDRAE SJLP 0010019	"Included is a letter from the State board of engineers and professional surveyers. It suggests that you are not properly following procedure for determining the area of our water rights.
MATTHEW D. ANNON SJLP 0080067	No comments
LARRY D. BACA SJLP 0010020	1. Amount of Water 2. Rate of flow/volumn of water 3. Priority dates
TAMMY J BACA SJLP 0010020	1. Amount of Water 2. Rate of flow/volumn of water 3. Priority dates
JIMMY L. BENTLEY SJLP 0080002	Balanced per ac water use diversion and on farm.
LINDA BENTLY SJLP 0080002	Balanced per ac water use diversion and on farm.
BRITTANY BIRCHFIELD SJLP 0070011	Left Blank
BLOOMFIELD IRRIGATION DISTRICT SJLP OMC-001	Nine proposals-See paper files.
T.N. BRACKEEN SJLP 0020003	My issue is I want my water rights for my 12 acres.
CAROLE CHARLEY SJLP 0030039	Blank
NORENE N. COOK SJLP 0040004	Seniority dates, rate of flow, volumn of water

<u>Name</u>	<u>Proposal</u>
CHARLES D. CRAWFORD SJLP 0010029	Adjudication of irrigation water rights in the La Plata River Section tract SJLP 001-0029.
CHARLES D. CRAWFORD SJLP 0010031	Adjudication of irrigation water rights in the La Plata River Section tract SJLP 001-0029.
CHARLEY K. CRAWFORD SJLP 0010029	Adjudication of water rights in the LaPlata River Section tract SJLP 001-0029
CRAIG A. CUNNINGHAM SJLP 0040050	Secure irrigation water for crop production, garden and water for livestock.
JOAN S. EARNSHAW SJLP 0010010	The present unit of measure of water rights (cubic feet per second) be retained unchanged.
JOSEPH B. EARNSHAW SJLP 0010010	That the present unit of measure for water, cubic feet per second, be retained unchanged. That the present total amount of water to which we are entitled be retained unchanged. That the existing system ranking seniority of water rights be retained uncha
SAM ELDRIDGE SJLP 0070040	I own 6 acres which include 2 separate irrigation ditches, a 6 inch well and community water meter. I expect my legal water claims.
RALPH S. FOX SJLP 0010026	Water rights for my home and three and one quarter acres of land adjacent to my home site at the following address.
KRISTA FRIEND SJLP 0070015	Left Blank
SAM L. GILBERT SJLP OMC-001	Unknow at this time
CAROLIN GOZA SJLP 0010028	Blank

<u>Name</u>	<u>Proposal</u>
GREGORY H. HALL SJLP 0040025	A portion of water #24 is used
NILA L. HAMBLIN SJLP 0050002	CFS vs. acre feet
HAMBLIN FARMS, INC. SJLP 0050030	We have always measured and distribution system is set up to measure and deliver CFS. You keep talking acre feet. This would require much expense for you to change the system.
HAMBLIN FARMS, INC. SJLP 0030046	We have always measured and distribution system is set up to measure and deliver CFS. You keep talking acre feet. This would require much expense for you to change the system.
MARGIE HINOJOSA SJLP 0010033	I think we need to remeasure the land for correct rights.
GARY L. HORNER SJLP OMC-001	Nine proposals-See paper files.
MARK L. HOWARD SJLP 0010036	<ol style="list-style-type: none"> 1. The rate of flow to be kept the same as it is. 2. Priority dates to be kept the same. 3. Allocation of water (amount) to be kept at it's current levels.
CHARLENE JACKSON SJLP 0050005	Blank
CLYDE DAVID JACKSON SJLP 0050005	?
DONALD KLITZKE SJLP 0050064	I have and need my well. I have or claim no ditch rights.
KENNETH M. LAKE SJLP 0080054	No comment made

<u>Name</u>	<u>Proposal</u>
CALVIN LAMBRIGHT SJLP OMC-003	My claim to water from Cunningham Ditch #10 and #19 Irrigation, domestic, stock, other lawn trees shrubs landscape.
BRADLEY S. LAPRADE SJLP 0030037	<ol style="list-style-type: none"> 1. Priority dates to remain the same. 2. Rate of flow of current irrigation to be kept eh same. 3. The amount of water to be kept at current levels.
KELLY J. LAPRADE SJLP 0030037	<ol style="list-style-type: none"> 1. The amount of water to be kept at current levels. 2. Priority dates to remain the same. 3. Rate of flow of current irrigation to be kept the same.
GINGER K. LOCKEBY SJLP 0070052	I believe I am entitled to the well usage that we have on our property. It was in place when I purchased the property in 1995.
MARY L MCCARTY SJLP 0050054	For irrigation to develop in the future Domestic, stock, other: landscaping around future buildings
MARY L MCCARTY SJLP 0050059	For irrigation to develop in the future Domestic, stock, other: landscaping around future buildings
DEANNA MCQUITTY SJLP 0040002	<ol style="list-style-type: none"> 1. Would La Plata water adjudicated in cfs or acre feet? 2. Priority dates - Who gets water first?
HENRY L. MOSIMANN SJLP 0080026	I have water rights of the La Plata River off of the Jackson Ditch.
HENRY L. MOSIMANN SJLP 0080016	I have water rights of the La Plata River off of the Jackson Ditch.
HENRY L. MOSIMANN SJLP 0080023	I have water rights of the La Plata River off of the Jackson Ditch.
HENRY L. MOSIMANN SJLP 0080024	I have water rights of the La Plata River off of the Jackson Ditch.

<u>Name</u>	<u>Proposal</u>
JACKIE MYERS SJLP OMC-001	Wish to be informed of all issues concerning my water rights out of Helton.
JON MYERS SJLP OMC-001	I wish to be informed on any issues concerning my water rights on Helton
SUSAN M. NIPPER SJLP 0080103	Left Blank
ROSS A. NOVINGER SJLP 0080068	Blank
CATHLEEN D. PIPKINS SJLP 0080057	Blank
LESTER W. PIPKINS SJLP 0080057	Blank
LOLA D. POWERS SJLP OMC-001	Blank
SAMUEL J. POWERS SJLP OMC-001	Blank
CONNIE L. PRUITT SJLP 0030027	Unknown
HAROLD G. PRUITT SJLP 0030027	Unknown
LEJOHN B. REED SJLP 0090025	We need to continue using the water.
SHIRLEY E. ROY SJLP 0080050	No comment

<u>Name</u>	<u>Proposal</u>
CHARLES C. SALISBURY, JR. SJLP 0030029	No comment
RODNEY M. SEATON SJLP 0030012	Blank
LINDA SONA SJLP 0010034	All ditches and LaPlata River and wells
JESS SPROUT SJLP 0080076	Need water for 1.5 acres grass
SUZANNE TALLEY SJLP 0020010	I have nor information to fill out this section
THOMAS C. TALLEY SJLP 0020010	I have nor information to fill out this section.
VICTOR W. TALLMAN SJLP 0080045	Disabled vet who do not pay land taxes but are accessed ditch water use fee's should maintain water rights with better access then what I have.
P. DIANE TATE SJLP 0080033	Define what each person's water right is, to gain information needed to maintain a balance between water supply and demand.
REVIS TAYLOR SJLP 0050003	Blank
STEPHEN C. THOMAS SJLP 0080013	No comment
TOMMIE J. THOMPSON SJLP 0010012	<ol style="list-style-type: none"> 1. Allocation of water (amount) to be kept at its current levels. 2. Priority dates to be kept the same. 3. The rate of flow to be kept the same as it is.

<u>Name</u>	<u>Proposal</u>
GEORGE A. TROSKY SJLP 0030043	Water allotment be changed from CFS to acre feet.
LARRY O. VENTEICHER SJLP 0070053	"I want enough water for House and Livestocks needs"
CYNDI WALLER SJLP 0010013	Blank
LAURA WALTER SJLP 0060015	I want to keep my water rights

STATE OF NEW MEXICO
SAN JUAN COUNTY
ELEVENTH JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO , ex rel.)	
STATE ENGINEER,)	
Plaintiff,	)	NO: CV-75-184-1
v.	)	La Plata River Section
THE UNITED STATES OF AMERICA	)	San Juan River Stream System Adjudication
et al.)	
Defendants.)	

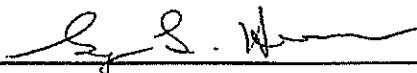
**PROPOSAL OF SECTION-WIDE ISSUE
LA PLATA RIVER SECTION**

In accordance with Paragraph VIII (D) of the Scheduling Order Governing the Adjudication of Irrigation Water Rights in the La Plata River Section, the following issue is proposed as a Section-Wide Issue to be litigated in a Section-Wide Proceeding involving all La Plata Party-Claimants:

Describe the proposed Section-Wide Issue in the space below in 20 words or less:

Need to respect the 1948 Decree and conform the judgments of the present action to the provisions of said 1948 Decree. (Priority dates, rates of flow, irrigated acres, amount of water allotted, ditch diversion rates, etc. – no CIR)

Respectfully submitted by:




GARY L. HORNER,
Attorney for Defendant, BLOOMFIELD IRRIGATION DISTRICT, and
In Propria Persona
Post Office Box 2497
Farmington, New Mexico 87499
(505) 326-2378

December 22, 2006
Date

Mail this form to: *Arianne Singer (San Juan Adjudication Attorney)*
Litigation and Adjudication Program
Office of the State Engineer
P.O. Box 25102
Santa Fe, New Mexico 87504-5102

Proposal of Section-Wide Issue
BID #1

0mc-001
OSE LEGAL SERVICES DIVISION
DATABASE UPDATED 1/16/06


**STATE OF NEW MEXICO
SAN JUAN COUNTY
ELEVENTH JUDICIAL DISTRICT COURT**

STATE OF NEW MEXICO , ex rel.)	
STATE ENGINEER,)	
Plaintiff,	)	NO: CV-75-184-1
v.	)	La Plata River Section
THE UNITED STATES OF AMERICA	)	San Juan River Stream System Adjudication
et al.)	
Defendants.)	

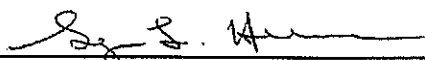
**PROPOSAL OF SECTION-WIDE ISSUE
LA PLATA RIVER SECTION**

In accordance with Paragraph VIII (D) of the Scheduling Order Governing the Adjudication of Irrigation Water Rights in the La Plata River Section, the following issue is proposed as a Section-Wide Issue to be litigated in a Section-Wide Proceeding involving all La Plata Party-Claimants:

Describe the proposed Section-Wide Issue in the space below in 20 words or less:

Need to take into consideration seepage, carriage water requirements, and water returned to the river from ditch spill gates (return flow), when determining ditch diversion rates.

Respectfully submitted by:


GARY L. HORNER,
Attorney for Defendant, BLOOMFIELD IRRIGATION DISTRICT, and
In Propria Persona
Post Office Box 2497
Farmington, New Mexico 87499
(505) 326-2378

December 22, 2006
Date

Mail this form to: *Arianne Singer (San Juan Adjudication Attorney)
Litigation and Adjudication Program
Office of the State Engineer
P.O. Box 25102
Santa Fe, New Mexico 87504-5102*

Proposal of Section-Wide Issue
BID #3

STATE OF NEW MEXICO
SAN JUAN COUNTY
ELEVENTH JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO , ex rel.)	
STATE ENGINEER,)	
Plaintiff,	)	NO: CV-75-184-1
v.	)	La Plata River Section
THE UNITED STATES OF AMERICA	)	San Juan River Stream System Adjudication
et al.)	
Defendants.)	

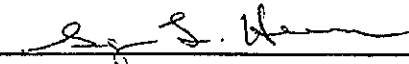
PROPOSAL OF SECTION-WIDE ISSUE
LA PLATA RIVER SECTION

In accordance with Paragraph VIII (D) of the Scheduling Order Governing the Adjudication of Irrigation Water Rights in the La Plata River Section, the following issue is proposed as a Section-Wide Issue to be litigated in a Section-Wide Proceeding involving all La Plata Party-Claimants:

Describe the proposed Section-Wide Issue in the space below in 20 words or less:

Problem with section-wide issue deadline before people know what issues are. Generally, timing, notice, participation, fairness and due process problems with Scheduling Order regarding section-wide issues.

Respectfully submitted by:



GARY L. HORNER,
Attorney for Defendant, BLOOMFIELD IRRIGATION DISTRICT, and
In Propria Persona
Post Office Box 2497
Farmington, New Mexico 87499
(505) 326-2378

December 22, 2006
Date

Mail this form to: *Arianne Singer (San Juan Adjudication Attorney)*
Litigation and Adjudication Program
Office of the State Engineer
P.O. Box 25102
Santa Fe, New Mexico 87504-5102

Proposal of Section-Wide Issue
BID #4

STATE OF NEW MEXICO
SAN JUAN COUNTY
ELEVENTH JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO , ex rel.)
STATE ENGINEER,)
Plaintiff,)
v.)
THE UNITED STATES OF AMERICA)
et al.)
Defendants.)

NO: CV-75-184-1
La Plata River Section
San Juan River Stream System Adjudication

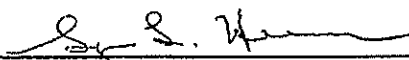
PROPOSAL OF SECTION-WIDE ISSUE
LA PLATA RIVER SECTION

In accordance with Paragraph VIII (D) of the Scheduling Order Governing the Adjudication of Irrigation Water Rights in the La Plata River Section, the following issue is proposed as a Section-Wide Issue to be litigated in a Section-Wide Proceeding involving all La Plata Party-Claimants:

Describe the proposed Section-Wide Issue in the space below in 20 words or less:

Need to not decrease irrigated acres where portions of previously irrigated acres are now (temporarily) occupied by oil and gas wells, pipelines, access, and related facilities.

Respectfully submitted by:



GARY L. HORNER,
Attorney for Defendant, BLOOMFIELD IRRIGATION DISTRICT, and
In Propria Persona
Post Office Box 2497
Farmington, New Mexico 87499
(505) 326-2378

December 22, 2006
Date

Mail this form to: *Arianne Singer (San Juan Adjudication Attorney)*
Litigation and Adjudication Program
Office of the State Engineer
P.O. Box 25102
Santa Fe, New Mexico 87504-5102

Proposal of Section-Wide Issue
BID #5

STATE OF NEW MEXICO
SAN JUAN COUNTY
ELEVENTH JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO , ex rel.)	
STATE ENGINEER,)	
Plaintiff,	)	NO: CV-75-184-1
v.	)	La Plata River Section
THE UNITED STATES OF AMERICA	)	San Juan River Stream System Adjudication
et al.)	
Defendants.)	


PROPOSAL OF SECTION-WIDE ISSUE
LA PLATA RIVER SECTION

In accordance with Paragraph VIII (D) of the Scheduling Order Governing the Adjudication of Irrigation Water Rights in the La Plata River Section, the following issue is proposed as a Section-Wide Issue to be litigated in a Section-Wide Proceeding involving all La Plata Party-Claimants:

Describe the proposed Section-Wide Issue in the space below in 20 words or less:

Need water rights for trees. (Wind breaks, erosion control, etc. are beneficial uses.)

Respectfully submitted by:



GARY L. HORNER,
Attorney for Defendant, BLOOMFIELD IRRIGATION DISTRICT, and
In Propria Persona
Post Office Box 2497
Farmington, New Mexico 87499
(505) 326-2378

December 22, 2006
Date

Mail this form to: *Arienne Singer (San Juan Adjudication Attorney)*
Litigation and Adjudication Program
Office of the State Engineer
P.O. Box 25102
Santa Fe, New Mexico 87504-5102

Proposal of Section-Wide Issue
BID #6

STATE OF NEW MEXICO
SAN JUAN COUNTY
ELEVENTH JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO , ex rel.)	
STATE ENGINEER,)	
Plaintiff,	)	NO: CV-75-184-1
v.	)	La Plata River Section
THE UNITED STATES OF AMERICA	)	San Juan River Stream System Adjudication
et al.)	
Defendants.)	

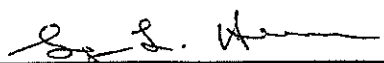
**PROPOSAL OF SECTION-WIDE ISSUE
LA PLATA RIVER SECTION**

In accordance with Paragraph VIII (D) of the Scheduling Order Governing the Adjudication of Irrigation Water Rights in the La Plata River Section, the following issue is proposed as a Section-Wide Issue to be litigated in a Section-Wide Proceeding involving all La Plata Party-Claimants:

Describe the proposed Section-Wide Issue in the space below in 20 words or less:

Water rights should not be decreased without notice to owner that he has one year to put water right to beneficial use. (See § 72-5-28 NMSA 1978)

Respectfully submitted by:



GARY L. HORNER,
Attorney for Defendant, BLOOMFIELD IRRIGATION DISTRICT, and
In Propria Persona
Post Office Box 2497
Farmington, New Mexico 87499
(505) 326-2378

December 22, 2006
Date

Mail this form to: *Arianne Singer (San Juan Adjudication Attorney)*
Litigation and Adjudication Program
Office of the State Engineer
P.O. Box 25102
Santa Fe, New Mexico 87504-5102

Proposal of Section-Wide Issue
BID #8

STATE OF NEW MEXICO
SAN JUAN COUNTY
ELEVENTH JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO , ex rel.)
STATE ENGINEER,)
Plaintiff,)
v.)
THE UNITED STATES OF AMERICA)
et al.)
Defendants.)

NO: CV-75-184-1
La Plata River Section
San Juan River Stream System Adjudication

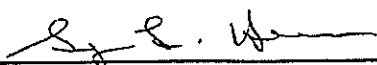
**PROPOSAL OF SECTION-WIDE ISSUE
LA PLATA RIVER SECTION**

In accordance with Paragraph VIII (D) of the Scheduling Order Governing the Adjudication of Irrigation Water Rights in the La Plata River Section, the following issue is proposed as a Section-Wide Issue to be litigated in a Section-Wide Proceeding involving all La Plata Party-Claimants:

Describe the proposed Section-Wide Issue in the space below in 20 words or less:

Need to determine water supply available within the La Plata stream system. (See § 72-4-13 NMSA 1978)

Respectfully submitted by:



GARY L. HORNER,
Attorney for Defendant, BLOOMFIELD IRRIGATION DISTRICT, and
In Propria Persona
Post Office Box 2497
Farmington, New Mexico 87499
(505) 326-2378

December 22, 2006
Date

Mail this form to: *Arianne Singer (San Juan Adjudication Attorney)*
Litigation and Adjudication Program
Office of the State Engineer
P.O. Box 25102
Santa Fe, New Mexico 87504-5102

Proposal of Section-Wide Issue
BID #9

Service List 1 -- La Plata Distribution List -- Email Only

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