

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

STATUS REPORT

The State of New Mexico *ex rel.* State Engineer ("State") submits this Status Report pursuant to the Court's direction for the convenience of those attending the Status Conference on February 6, 2009. Counsel for the State will attend the Status Conference in person. The numbers indicated below are estimated as of the date of this report to the best of the State's knowledge given that the numbers are continually changing.

(1) **Group 1 Revised Consent Orders**: All Group 1 Revised Consent Orders, which include the elements originally reserved for later determination, have been mailed to the claimants. The State has followed up by telephone with every claimant in Group 1 who received a Revised Consent Order. As of today, the State has received 60 signed Revised Consent Order packets, which represents more than 75% of those mailed and an increase of more than 50 packets received since the last status conference. The State is continuing to follow-up with claimants individually by phone and mail in an effort to address any outstanding issues. The telephone conversations continue to be productive and help claimants understand why the State

is seeking to have the new Consent Orders entered. Of the remaining Group 1 subfiles, 17 need field checks.

(2) **Adjudication Groups 2 & 3:** In Adjudication Groups 2 & 3, the State has received 41 signed Consent Orders. 32 subfiles need field checks. There are 11 pending Amended Motions for Entry of Consent Order. 23 subfiles have not responded. The Utton Center has contacted all of the non-responders for whom the State could locate telephone numbers and the State has continued to follow-up with claimants. The remainder of the subfiles in Groups 2 and 3 are awaiting revised Consent Orders as a result of fieldwork that the State has already completed or are considering revised Consent Orders following fieldwork or need other action by the State or claimant.

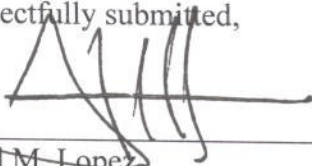
(3) **Adjudication Groups 4 & 5:** In Adjudication Groups 4 & 5, the State has received 56 signed Consent Orders. 46 subfiles need field checks. 108 subfiles have not responded by filing a rejection or Consent Order. The Utton Center has contacted all of the non-responders for whom the State could locate telephone numbers and the State has continued to follow-up with claimants. The State intends to file Motions for Entry of Consent Order in those subfiles where claimants continue to refuse to respond despite the State's efforts, which will result in a substantial increase in the Consent Orders entered in these groups. The remainder of the subfiles in Groups 2 and 3 are awaiting revised Consent Orders as a result of fieldwork that the State has already completed or are considering revised Consent Orders following fieldwork or need other action by the State or claimant.

(4) **Field Inspections:** The State continues to perform field inspections for those claimants who have objected to proposed Consent Orders.

(5) **Mediation**: Two subfiles were successfully completed in mediation on December 1, 2008 at 10:00 am. As a result of the mediation, both subfiles were signed and filed with the Court.

(6) **Domestic and Stock Watering Rights from Surface Water**: The State anticipates that it will begin to quantify and address these rights once a majority of the current outstanding Consent Orders have been filed with the Court.

Respectfully submitted,




Todd M. Lopez

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CERTIFICATE OF SERVICE

I certify that on February 2, 2009, a copy of the foregoing paper was filed with the Court and served by email on the Document Repositories and posted on the Office of the State Engineer's website (*go to* <http://www.ose.state.nm.us>, then click on Legal, then on OSE Legal, then on Active Cases, then on San Juan, then on La Plata Section).



Todd M. Lopez