

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
{tc \l1 "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 May 27, 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) **Surface Water Irrigation Rights**: The following numbers represent the current status of surface water irrigation rights in the La Plata Section of the San Juan River Stream Adjudication . The State has adjudicated 198 Subfiles in the La Plata Section (“Subfiles”). The State has received an additional 61 signed Consent Orders which have either been submitted to the Court for entry or will be submitted to the Court promptly. Thus, the State has received 259 signed Consent Orders. 81 Subfiles currently require a field check before further action can be taken by the State or the claimant. There are 94 Subfiles for which the State has not received a response from the claimants. If the claimants do respond, many of these subfiles will require a

field check. The State will file Motions for Entry of Consent Orders for those subfiles who fail to respond within the allotted timeframe. 11 Subfiles are in the process of being referred to mediation. There are 14 Subfiles for which the claimant is required to submit further documentation before the State can proceed. There are 55 Subfiles for which the State must take further action before the claimant can proceed. In most of these cases the action to be taken by the State is the review of field reports and accompanying recommendations as a result of recent field checks and the determination as to whether additional surface water irrigation rights will be recognized and the preparation of revised Consent Orders where appropriate. The State has been unable to locate 5 claimants and may be forced to serve these claimants by publication if service is otherwise impossible. 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 the nature of the adjudication and why the State is seeking to have the Consent Orders entered.

(2) **Permitted and Pre-Basin Wells:** The State has identified approximately 244 permitted wells in the La Plata Section. The State is actively working to incorporate this information into the State's database in order to generate corresponding Consent Orders and the State anticipates that offers will be mailed to claimants in this category this summer. In addition, the State estimates that there may be as many as 275 pre-basin groundwater claims in the La Plata Section. The State will host Field Offices for claimants in the La Plata Section on May 27 and May 28, 2009 to gather information primarily on these pre-basin wells. Many claimants have contacted the State inquiring about the Field Office and the State has instructed them how to proceed if they are unable to attend one of the Field Offices.

(3) **Domestic and Stock Watering Rights from Surface Water:** In those cases in which claimants have claimed domestic and/or stock watering rights from surface water, the State has had the claimants complete an informational form in order to assist the State in quantifying these rights. The State has initiated field work and evaluation of these rights in conjunction with the field work already being conducted for surface water irrigation rights. The State intends to adjudicate the domestic and stock watering rights in the same Consent Orders as those for groundwater rights.

(4) **Claims of the United States:** The State presented Consent Orders addressing the Federal non-Indian claims in the La Plata Section on February 25, 2009, and the United States signed and returned all Consent Orders to the State on March 19, 2009. These Consent Orders will be filed with the Court shortly. The Bureau of Land Management is currently reviewing one Subfile which the State presented to the United States on May 5, 2009.

(5) **Municipal and Industrial Claims:** The State is not aware of any municipal claims in the La Plata Section. The State is aware of only 1 industrial claim by the San Juan Coal Company which requires adjudicating. The State is working with counsel for the San Juan Coal Company in order to complete this claim.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on _____, 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