

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-BB-LFG

RIO CHAMA STREAM SYSTEM
Rutherford & Plaza Blanca, Section 7

Subfile No. CHRU-004-0050A

CONSENT ORDER

The Court, having considered the agreement between the Plaintiff State of New Mexico, *ex rel.* State Engineer ("State") and Defendant:

UNSER, LLC

("Defendant") concerning the Defendant's right to use the public waters of the Rio Chama Stream System, as set forth below finds:

1. The Court has jurisdiction over the State of New Mexico *ex rel.* State Engineer, the Defendant and the subject matter of this suit.
2. The State and the Defendant are in agreement concerning the Defendant's right to divert and use the public waters of the Rio Chama Stream System, Rutherford & Plaza Blanca, Section 7, and by their signatures appearing below, the State and the Defendant have approved and accepted the elements of Defendant's water rights as set forth in paragraph 4 herein.

- 3. There is no just reason for delay for the entry of a final judgment as to elements of the claims of the Defendant adjudicated by this order.
- 4. The right of the Defendant to divert and use the public waters from the Rio Chama Stream, Rutheron & Plaza Blanca, Section 7, is set forth below:

A. IRRIGATED LANDS (Surface Water Only):

Office of the State Engineer Files No(s): 1549 & 1699 into 4888 and 4889

Priority: Reserved for future determination by court order entered November 19, 2002.

Source of Water: Surface water of the Rio Chama

Purpose of Use: IRRIGATION

Point of Diversion:

Pump #1:

Location: X= 389,215 feet Y= 2,062,671 feet
New Mexico State Plane Coordinate System, Central Zone, NAD 27

Pump #2:

Location: X= 379,870 feet Y= 2,062,633 feet
New Mexico State Plane Coordinate System, Central Zone, NAD 27

Location and Amount of Acreage:

Within the Tierra Amarilla Grant

Within projected Section 29, T29N, R3E, NMPM

26.9acres

Total 26.9 acres

Amount of Water: 23.67 acre-feet per annum consumptive use
40.35 acre-feet per annum diversion amount

- 5. The right of the Defendant to divert and use the surface water described above is based upon an approved permit to change point of diversion and place of use of surface water (OSE No. 1545 & 1699 into 4888 and 4889; approved September 26, 2003).

These rights remain subject to all administrative requirements of the Office of the State Engineer including, but not limited to, permit conditions for the completion of works and the application of water to beneficial use. This order has no effect upon the administrative authority of the State Engineer over the permitting and licensing process, nor does this Court assume any authority with respect to that process by the entry of this Order.

6. Defendant has no surface water irrigation rights in the Rio Chama Stream System, Rutherford & Plaza Blanca, Section 7, other than those set forth in this order and those other orders entered by this Court in this cause.
7. Defendant, his or her successors, representatives, heirs and assigns, should be enjoined from any use of the surface waters of the Rio Chama Stream System, Rutherford & Plaza Blanca, Section 7, except in strict accordance with the water rights described herein.
8. The water rights described herein are adjudicated subject to the right of any other water rights claimant with standing to object prior to the entry of a final decree.

IT IS THEREFORE ORDERED that the rights of the Defendant to divert and use the waters of the Rio Chama Stream System, Rutherford & Blanca, Section 7, are as set forth herein. The Defendant, his or her successors, representatives, heirs and assigns, are enjoined from any diversion or use of the public surface waters of the Rio Chama Stream System, Rutherford & Plaza Blanca, Section 7, except in strict accordance with the rights set forth herein or in other orders of the Court.

The Court enters this Consent Order as a final judgment as to the elements of the Defendant's water rights set forth herein, subject to the right of other claimants to file objections to individual

adjudication orders, and to the entry of the final decree in this proceeding.

Bruce D Black

UNITED STATES DISTRICT JUDGE

ACCEPTED: *[Signature]*
Unscr, LLC

ADDRESS: 2886 FM 920 Bridgeport, TX. 76426

DATE: December 7, 2011

Ed Newville
EDWARD G. NEWVILLE
Special Assistant Attorney General

December 16, 2011
Date

Approved:

Lorenzo F. Garcia
Lorenzo F. Garcia
United States Magistrate Judge