

INDICES AND GENERAL ORDERS

For

Addendum To Partial Final Judgment and Decree On Non-Pueblo, Non-Federal Proprietary Rights

**UNITED STATES DISTRICT COURT
UNITED STATES, et al v. ABOUSLEMAN, et al
JEMEZ RIVER ADJUDICATION
CIV. NO. 83-1041 JC**

Book 2

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Interim Order Adopting Offers of Judgment and Consent Orders

Amended Order Adjudicating Irrigation Water Requirements

Order (Adopts Special Master's Report on Establishing Priority Dates)

Special Master's Report on Establishing Priority Dates

Order Establishing Net Evaporative Loss Zones

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Consent Order (Nacimiento Community Ditch Association)

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Order Adopting Ditch Agreement (Ditch Agreement for Cañon Community Ditch Association attached)

Order Adopting Ditch Agreement (Ditch Agreement for Jemez Spring Community Ditch attached)

Ditch Agreement (San Ysidro Ditch)

Order (Adopts San Ysidro Ditch Agreement)

Ditch Agreement (Ponderosa Community Ditch)

Order (Adopts Ponderosa Community Ditch Agreement)

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Book 2

Explanatory Notes

Owner Index

The Owner Index is organized alphabetically and is limited to the ownership information available to the Court. Below each owner name is the list of subfiles with which the owner is associated, and the page number of the Addendum where subfile information is found. Example;

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The Subfile Index contains the same information as the Owner Index but is organized by subfile number. Note, subfile organization in this index is strictly alphanumeric, i.e., the first character of the subfile number is compared with the first character of other subfiles, the second with the second, and so on to organize the numbers. Example;

- 0003.0001.000
- 0003.0010.000
- 0003.001A.000
- 0011.0002.000
- 0035.0001.000
- 003N.0002.000
- 012T.0004.000

Page numbers in the index refer to the Addendum. Example;

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RG Number Index

This index is organized by RG number, a file number assigned to groundwater by the New Mexico Office of the State Engineer. Page numbers refer to the Addendum. RG numbers in the Addendum are generally located in the Point of Diversion Box.

Subfile Document Index

This index does not refer the user to the Addendum, rather it refers the user to the Court record. It is organized by subfile number. For each subfile, it lists the relevant Offers of Judgment, Special Master's Reports and Orders, along with their respective docket numbers and filing dates.

List of General Orders

These Orders, while not subfile specific, affect elements of individual subfiles. They are organized by docket number. General Orders which substantively affect individual subfile rights are included at the end of this booklet (see Table of Contents).

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0022.0015.004	Amended Offer of Judgment	2919	11/17/1992
0022.0016.000	Offer of Judgment	2920	11/17/1992
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025T.0000.009	Order	3525	12/03/1998
	Stipulation	3668	03/10/1998
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025T.0000.010	Order	3525	12/03/1998
	Stipulation	3668	03/10/1998
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0029.0000.030	Offer of Judgment	2931	11/17/1992
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0029.0010.025	Offer of Judgment	2932	11/17/1992
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0029.0014.000	Offer of Judgment	2862	11/17/1992
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0032.0002.000	Offer of Judgment	2853	11/17/1992
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0032.005A.000	Offer of Judgment	2858	11/17/1992
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LIST OF GENERAL ORDERS

List of General Orders

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1599	Order (Excluding Water Rights Established After April 1, 1987)	03/18/1987
1691	Order Amending The Pretrial Order (Exemption of Minimal Water Rights)	06/22/1987
2182	Stipulation (Revises water duty for San Ysidro area)	12/14/1989
2240	Agreement (Between Pueblos and NCDA)	06/14/1990
3554	Special Master's Report on Establishing Priority Dates	05/27/1997
3558	Order Adjudicating Irrigation Water Requirements	06/03/1997
3559	Order Establishing Net Evaporative Loss Zones	06/03/1997
3560	Interim Order Adopting Offers of Judgment & Consent Orders	06/03/1997
3568	Order (Adopts protocol regarding priority dates)	06/26/1997
3609	Amended Order Adjudicating Irrigation Water Requirements	10/21/1997
3688	Order (Corrects legal desc for irrigated & no right tracts)	03/25/1998
3689	Order Correcting Clerical Mistakes: State Plane Coordinates	03/25/1998
3690	Order Correcting Clerical Mistakes: State Engineer File Nos.	03/25/1998
3691	Order (Corrects legal desc for wells springs & impoundments)	03/25/1998
3759	Order (Corrects Docket No. 3691)	08/18/1998

<u>Docket No.</u>	<u>Document Title</u>	<u>Filing Date</u>
3768	Order (Corrects ditch names & diversion informaton)	10/14/1998
3885	Ditch Agreement for Ponderosa Community Ditch Association	01/10/2000
3919	Nacimiento Consent Order and Ditch Agreement	05/04/2000
3921	Ditch Agreement for San Ysidro Ditch Association	05/15/2000
3923	Ditch Agreement for Cañon Community Ditch Association	05/22/2000
3924	Ditch Agreement for Jemez Springs Community Ditch Association	05/22/2000
3929	Order Adopting Ponderosa Community Ditch Agreement	06/19/2000
3930	Order Adopting San Ysidro Ditch Agreement	06/19/2000
3939	Order (Corrects Clerical Error in the Consent Order for Nacimiento Community Ditch)	08/16/2000

IN THE UNITED STATES DISTRICT COURT 97 JUN -3 PM 3:09

DISTRICT OF NEW MEXICO

*Robert M. M...
CLERK - LAS CRUCES*

THE UNITED STATES OF AMERICA,)
On its own behalf and on behalf of the)
Pueblos of JEMEZ, SANTA ANA, AND ZIA;)
the Pueblos as Intervenors, on their own)
behalf; and THE STATE OF NEW MEXICO,)
ex rel. State Engineer,)
)
) Plaintiffs,)
)
v.)
)
TOM ABOUSELMAN, et al.,)
)
) Defendants.)

No. CV 83-1041 SC

JEMEZ RIVER
ADJUDICATION

INTERIM ORDER ADOPTING OFFERS OF JUDGMENT AND CONSENT ORDERS ³⁵⁴³

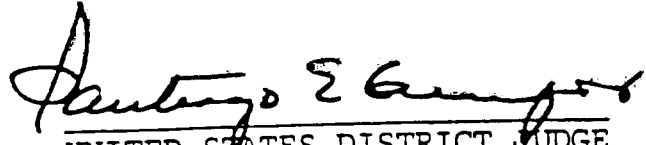
THIS MATTER is before the Court on New Mexico's Motion for Interim Order Approving and Adopting Water Rights Descriptions for Purposes of Enforcement and Priority Administration, filed January 15, 1997. There being no opposition to the Motion, and the Court being otherwise fully advised in the premises, the Court finds the Motion should be, and hereby is, GRANTED.

IT IS HEREBY ORDERED that:

1. Each offer of judgment or consent order which has been signed and accepted by a defendant and filed in this adjudication is approved and adopted by the Court for the purposes of priority administration of water rights and enforcement proceedings within the Jemez River stream system.

2. This Interim Order shall apply to all offers of judgment or consent orders signed by defendants and filed in this case after the date of this Order.

3. Any diversion, impoundment or use of waters of the Jemez River stream system by any defendant except in accordance with the water rights as described in filed offers of judgment or consent orders is prohibited.


UNITED STATES DISTRICT JUDGE

Approved: Vickie L. Gabin
SPECIAL MASTER

Date: May 22, 1997

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

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

97 OCT 21 PM 2:47

Robert M. Marshall
CLERK - LAS CRUCES

UNITED STATES OF AMERICA, on its)
own behalf and on behalf of the)
PUEBLOS OF JEMEZ, SANTA ANA and)
ZIA, and the STATE OF NEW MEXICO,)
ex rel., S.E., REYNOLDS, and the)
PUEBLOS OF JEMEZ, SANTA ANA and)
ZIA as Intervenors,)

Plaintiffs,)

No. CIV 83-1041 SC

v.)

TOM ABOUSLEMAN, et al.,)

Defendants.)

AMENDED ORDER ADJUDICATING IRRIGATION ³⁶⁷
WATER REQUIREMENTS

THIS MATTER having come before the Court on the Pueblo of Jemez's Motion to Amend the Order Adjudicating Irrigation Water Requirements, there being no opposition to the Motion, and the Court being otherwise fully advised in the premises, the Court finds the Motion should be, and hereby is, GRANTED.

IT IS HEREBY ORDERED that:

1. Irrigation water requirements for one calendar year are defined as follows:

a. **Consumptive Irrigation Requirement (CIR)**, which is the quantity of water, exclusive of effective precipitation, that is consumptively used by plants or is evaporated from the soil surface. CIR is the measure of the depletion or beneficial consumptive use right.

b. **Farm Delivery Requirement (FDR)**, which is the quantity of water, exclusive of effective precipitation, that is delivered to the farm headgate or is diverted from a source of water which originates on the farm itself (such as a well or spring); and

c. **Project Delivery Requirements (PDR) or Off-Farm Diversion Requirement**, which is the quantity of water, exclusive of precipitation, diverted from an off-farm source to satisfy the FDR. The PDR consists of the FDR plus any off-farm conveyance losses between the source of supply and the farm headgate.

2. Irrigation water requirements in the Jemez River Basin are based on the growing season, effective precipitation, cropping pattern and other factors for the following geographic areas:

a. **Lower Jemez** - the area between the north boundary of the Jemez Pueblo Grant and the confluence of the Jemez River with the Rio Grande, including the ditches of Nestro R. Padilla Irrigation System, San Ysidro, Jemez Pueblo ditches which include the Pueblo Ditch, Pecos Pueblo ditch, West Main Ditch, West Upper ditch and ditches of the Pueblos of Zia and Santa Ana.

b. **Upper Jemez** - the area between the north boundary of the Jemez Pueblo Grant and the La Cueva Ditch area, including the following ditches: Cañon Community, the Pueblo and West Main Ditch from the north boundary of the Jemez Pueblo grant to the Jemez Diversion Dam, Ponderosa Community, Upper West, Upper East, East Lateral, West Lateral, West Side, Jemez Springs, South Upper West and Jemez Rio, A/K/A, Hummingbird;

c. **La Cueva** - the La Cueva ditch area including the La Cueva, George E. Fenton, and Fenton ditches; and

d. **Nacimiento** - the Nacimiento Community Ditch area, including the Domingo Vigil, Nerio Montoya, Francisco Chavez # 6, Gabriel Montoya # 7, Nacimiento, Ballejos # 4, Copper City, and Madriena Atencio # 2.

3. The irrigation water requirements for each area are:

	<u>CIR</u>	<u>FDR</u>	<u>PDR</u>
a. Lower Jemez	1.73	3.46	4.94
b. Upper Jemez	1.41	2.82	4.03
c. La Cueva	0.83	1.66	2.37
d. Nacimiento	1.14	2.28	3.26

4. Irrigation water requirements in the Jemez River Basin are adjudicated as follows:

a. **Lower Jemez**

i. For all water rights involving surface water delivered from a ditch, the amount of water shall not exceed 4.94 acre-feet per acre per year diverted by the ditch from the surface source or 3.46 acre-feet per acre per year delivered at the farm headgate, or a beneficial consumptive use of 1.73 acre-feet per acre per year, whichever amount is less.

ii. For all water rights diverting both surface and underground water from both a ditch and an irrigation well or wells, the amount of water shall not exceed 4.94 acre-feet per acre per year diverted by the ditch from the surface source of water, or 3.46 acre-feet per acre per year from combined sources delivered at the farm headgate or diverted from a well or wells, or a beneficial consumptive use of 1.73 acre-feet per acre per year, whichever amount is less.

b. Upper Jemez

i. For all water rights involving surface water delivered from a ditch, the amount of water shall not exceed 4.03 acre-feet per acre per year diverted by the ditch from the surface source of water, or 2.82 acre-feet per acre per year delivered at the farm headgate, or a beneficial consumptive use of 1.41 acre-feet per acre per year, whichever amount is less.

ii. For all water rights diverting both surface and underground water from both a ditch and an irrigation well or wells, the amount of water shall not exceed 4.03 acre-feet per acre per year diverted by the ditch from the surface source of water, or 2.82 acre-feet per acre per year from combined sources delivered at the farm headgate or diverted from a well or wells, or a beneficial consumptive use of 1.41 acre-feet per acre per year, whichever is less.

c. La Cueva

i. For all water rights involving surface water delivered from a ditch, the amount of water shall not exceed 2.37 acre-feet per acre per year diverted by the ditch from the surface source of water, or 1.66 acre-feet per acre per year delivered at the farm headgate, or a beneficial consumptive use of 0.83 acre-feet per acre per year, whichever amount is less.

ii. For all water rights diverting both surface and underground water from both a ditch and an irrigation well or wells, the amount of water shall not exceed 2.37 acre-feet per acre per year diverted by the ditch from the surface source of water, or 1.66 acre-feet per acre per year from combined sources delivered at the farm headgate or diverted from a well or wells, or a beneficial consumptive use of 0.83 acre-feet per acre per year, whichever is less.

d. Nacimiento

i. For all water rights involving surface water delivered from a ditch, the

amount of water shall not exceed 3.26 acre-feet per acre per year diverted by the ditch from the surface source of water, or 2.28 acre-feet per acre per year delivered at the farm headgate, or a beneficial consumptive use of 1.14 acre-feet per acre per year, whichever amount is less.

ii. For all water rights diverting both surface and underground water from both a ditch and an irrigation well or wells, the amount of water shall not exceed 3.26 acre-feet per acre per year diverted by the ditch from the surface source of water,¹ or 2.28 acre-feet per acre per year from combined sources delivered at the farm headgate or diverted from a well or wells,² or a beneficial consumptive use of 1.14 acre-feet per acre per year, whichever is less.

5. Any diversion, impoundment or use of waters of the Jemez River stream system by any defendant except in accordance with the irrigation water requirements as described in this Order is prohibited.


UNITED STATES DISTRICT JUDGE

Approved: Vickie L. Gysin
SPECIAL MASTER

¹The Nacimiento Community Ditch Association takes water from two basins, the Nacimiento Creek drainage basin, which is within the Rio Puerco drainage basin, and the Jemez River drainage basin. An agreement between the Pueblos of Jemez, Zia and Santa Ana and the Nacimiento Community Ditch Association regarding the use of the Jemez River basin waters within the Rio Puerco drainage basin was filed in this case on June 14, 1990. (Docket No. 2240).

² Such supplemental irrigation wells which may exist and which may be used as points of diversion for this irrigation right were not catalogued or adjudicated in this adjudication.

COPY

IN THE UNITED STATES DISTRICT COURT **FILED**
FOR THE DISTRICT OF NEW MEXICO UNITED STATES DISTRICT COURT
Las Cruces New Mexico

UNITED STATES OF AMERICA, on its
own behalf and on behalf of the
PUEBLOS OF JEMEZ, SANTA ANA, and ZIA,

JUN 26 1997

R. [Signature]
CLERK

and

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

Plaintiffs,

CIV 83-1041-SC
RIO JEMEZ ADJUDICATION

and

THE PUEBLOS OF JEMEZ, SANTA ANA, and ZIA,

Plaintiffs-in-Intervention,

v.

TOM ABOUSELMAN, et al.,

Defendants.

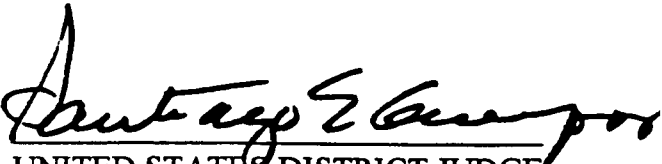
ORDER

THIS MATTER is before the Court on the State of New Mexico *ex rel.* New Mexico State Engineer's ("State") motion for action on the Special Master's May 27, 1997 Report ("Report") (Docket No. 3554). The Report recommends that the Court grant the State's motion (3544) which establishes the protocol for completing certain priority dates in offers of judgment previously filed with the Court. No objections to the Special Master's Report were filed. The State's motion for action is filed pursuant to Fed. R. Civ. Proc. 53(e)(2) and requests the Court to adopt the Report in full. The motion is unopposed. Having considered the State's motions and the Report, having made a *de novo* review of the record as appropriate, and being otherwise fully advised in the premises, the

3568

Court FINDS and CONCLUDES that the State's motion for action should be granted and the Special Master's Report regarding the State's motion for an Order establishing the protocol for completing certain priority dates should be adopted in full.

IT IS THEREFORE ORDERED that the State's motion for action on the Special Master's May 27, 1997 Report is hereby GRANTED and the recommendations set forth in the Report are hereby ADOPTED in full.


UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

97 MAR 27 PM 3:46

CLERK-LAS CRUCES

THE UNITED STATES OF AMERICA,
On its own behalf and on behalf of the
Pueblos of JEMEZ, SANTA ANA, AND ZIA;
the Pueblos as Intervenor, on their own
behalf; and THE STATE OF NEW MEXICO,
ex rel. State Engineer,

Plaintiffs,

v.

TOM ABOUSELMAN, et al.,

Defendants.

No. CV 83-1041 SC

JEMEZ RIVER
ADJUDICATION

SPECIAL MASTER'S REPORT
ON ESTABLISHING PRIORITY DATES

This Report addresses the State of New Mexico's Motion for Order Establishing Priority Dates and recommends that the Court grant the Motion

THIS MATTER is before the Special Master on New Mexico's Motion for Order Establishing Priority Dates, filed January 15, 1997 (# 3544). The Motion was served on all defendant water rights claimants in the Jemez River Stream System; a Preliminary Response to New Mexico's Motion was filed by the Jemez River Basin Water Users' Coalition (Coalition), February 18, 1997 (# 3545). Larry C. White, Esq., attorney for the Coalition, does not represent individual water users. The State's Reply was filed March 21, 1997 (# 3550).

I. Priority Date Descriptions

The State requests the Court to enter an order which would establish the protocol for completing certain priority dates

already agreed to by the defendant and the State in filed offers of judgment. Some offers include a description of the water rights priority by year only, some by month and year, and some by month, day and year. The State's suggested protocol would result in the following changes to water rights priorities as described in filed offers of judgment:

1. where the priority is described by month and year, the last date of the stated month would be added ("August, 1910" would become "August 31, 1910");

2. where the priority is described by year, the last date of the stated year would be added ("1910" would become "December 31, 1910"); and

3. where the priority is described as being "prior to" a stated date, the priority would become the date immediately preceding the stated date ("prior to September 7, 1910" would become "September 6, 1910").

As grounds therefor, the State references the Court's August 8, 1996 Administrative Memorandum which sets out general standards for preparing partial final decrees (# 3475). Paragraph 4, at page 4, requires that priority dates "include all information available, that is, month/day/year, including four digits for the year (1874, rather than '74)." The State asserts that having complete priority dates would assist in the general administration of water rights by the State Engineer Office as well as administration of priorities.

II. Re-Opening Proceedings

The Coalition does not oppose the State's proposed change

described above in (3), but argues that because the proceedings with respect to determinations of non-Pueblo water rights have been finalized in large part for almost eight years, the other changes requested by the State "may undermine these prior proceedings and give rise to another interse phase...." Response at 2.

The Coalition understands that the State's requested protocol, while maintaining relative priorities of surface water rights, would change the priority ranking of 576 of the 693 non-ditch irrigated rights (presumably domestic and stock wells, stock ponds, and springs). Response at 4. See, Coalition's Exhibit B, letter from Judy K. Stoft to Larry White. Because previous inter se objections were based on a proposed partial final decree prepared in 1989 (but not entered by the Court), and because there exists the potential that State's protocol could make a difference in the administration of rights, the Coalition believes that due process would require the filing of another proposed partial final decree with the changed priority dates and a second round of inter se proceedings. The Coalition sets out an array of potential problems and questions which could arise in the context of a second proceeding. Response at 5-6.

III. Rationale for Priority Dates

The Coalition argues that the State's proposed method for completing priority dates is arbitrary and without rational foundation, and as one example points out the unlikelihood that surface water rights would have been initiated in the middle of winter. Response at 6-7. The State replies that a desire for

consistency and fairness, rather than logic, underlies its proposal. Reply at 7.

IV. Discussion and Recommendation

The Coalition's central objection, which I understand is the prospect of its member water users being subjected to another inter se proceeding, is a valid one. In this case, however, there will be no need for another inter se proceeding (at least one which deals with priorities). In 1989, each claimant had the opportunity to review the State's proposed partial final decree and object to every element of the rights of other water users, including priorities. For the current motion proceeding, the State served its Motion on these same individuals, or their successors in interest. Such service alerted them to potential adjustments in their rights. Significantly, no individual water rights claimant has objected to the Motion; and the Coalition has failed to show how its membership as a whole will be harmed by the State's proposal.

One aspect of the State's position deserves comment here. Throughout its Reply, the State minimizes the effect of completing priority date descriptions by describing the process as one which will resolve "ambiguities" in the partial final decree. I find that this characterization, in some instances, understates the fact that priority date changes may cause differences in the way priorities are ranked and administered. In fact, there exists a number of uncertainties regarding both potential consequences of this Motion, and future administrative procedures. For example, as

the State points out, Ms. Stoft's conclusions regarding changes in priority date ranking is based on one type of mathematical ordering. Reply at 5. The State could choose a different method of ranking priorities in the future, and potentially affect a different set of water rights claimants.

Another uncertainty stems from not knowing how the State would administer priorities under various factual circumstances. Assume, as Ms. Stoft suggests, that a change in rank order of priorities would not result in any priority being shifted from one year into a different year. In that case, water users whose priorities change by operation of the State's proposal would not be adversely affected by a future administrative decision to call priorities against water users grouped by one-year or five-year increments. On the other hand, certain water users would be adversely affected if priorities were administered on month-by-month basis.

Yet another open question is whether non-ditch irrigation rights - domestic wells, stock wells, and stock ponds - would be included in priority administration.

Notwithstanding the above discussion, I find that the State's proposal is acceptable and recommend that the Court grant its Motion. That there exist uncertainties surrounding the future of water rights administration is insufficient reason to deny the State's Motion.

Respectfully submitted,

Dated: *May 22, 1997*

Vickie L. Gabrin .

SPECIAL MASTER

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

97 JUN -3 PM 3:09

Robert M. March
CLERK - LAS CRUCES

THE UNITED STATES OF AMERICA,)
On its own behalf and on behalf of the)
Pueblos of JEMEZ, SANTA ANA, AND ZIA;)
the Pueblos as Intervenors, on their own)
behalf; and THE STATE OF NEW MEXICO,)
ex rel. State Engineer,)
)
Plaintiffs,)
)
v.)
)
TOM ABOUSELMAN, et al.,)
)
Defendants.)

No. CV 83-1041 SC
JEMEZ RIVER
ADJUDICATION

ORDER ESTABLISHING NET EVAPORATIVE LOSS ZONES

THIS MATTER is before the Court on New Mexico's Motion for Order Establishing Net Evaporative Loss Zones for Water Right Impoundments filed January 15, 1997. There being no opposition to the Motion, and the Court being otherwise fully advised in the premises, the Court finds the Motion should be, and hereby is, GRANTED.

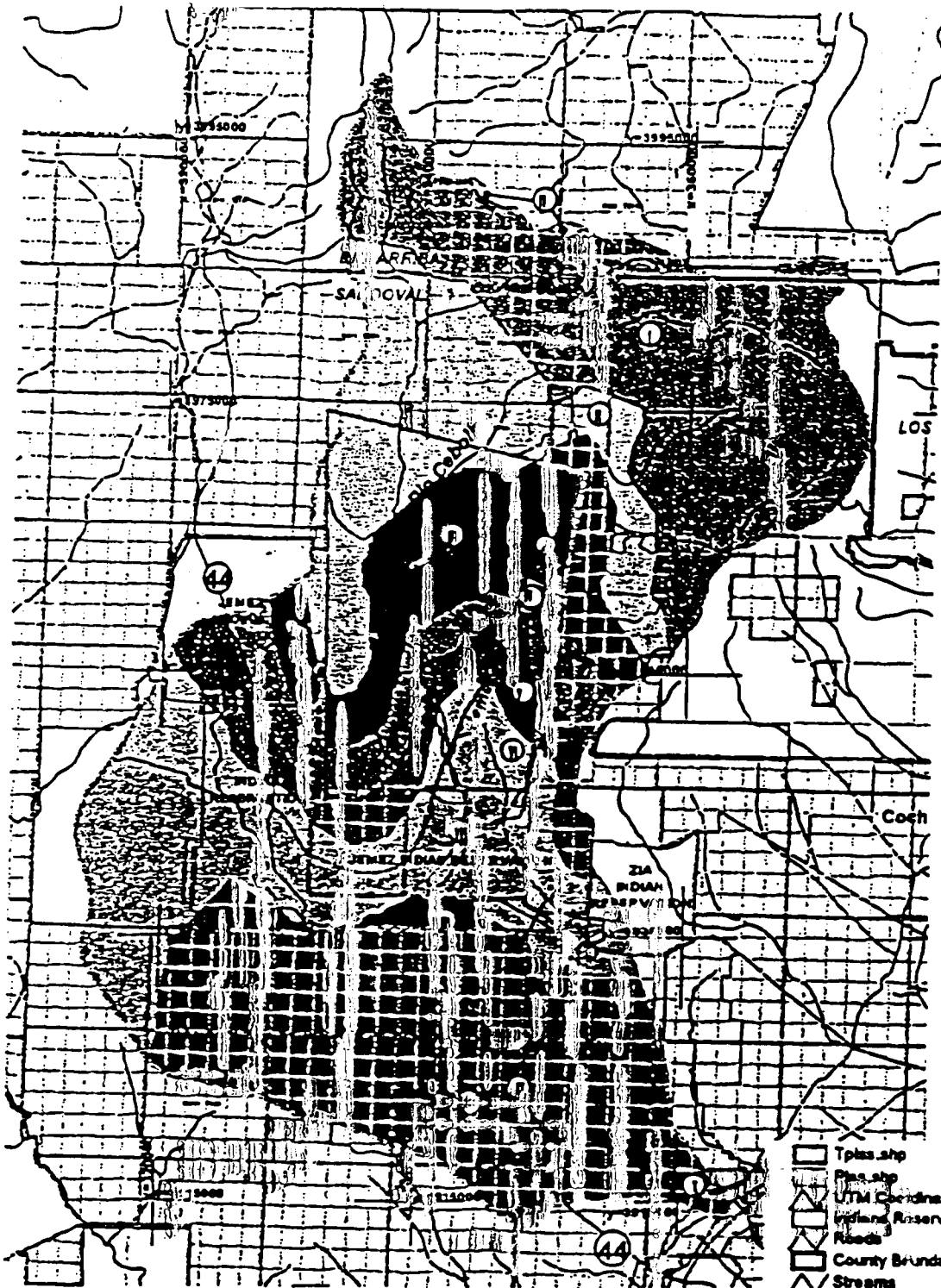
IT IS HEREBY ORDERED that for water rights administration and priority administration, net evaporative losses pertaining to water rights impoundments shall be calculated by reference to the map entitled "Net Small Lake Evaporation Zones in the Jemez Watershed," attached to the State's Motion as Exhibit A and appended hereto.

Anthony E. Karpis
UNITED STATES DISTRICT JUDGE

Approved: *Vickie L. Gubin*
SPECIAL MASTER

Date: *May 22, 1997*

Net Small Lake Evaporation Zones in the Jemez Watershed



Notes:

Zones of net evaporation data based on
Soil Conservation Service maps entitled
"Normal Annual Precipitation -New Mexico, April 1972"
and "Normal Annual Lake Evaporation -New Mexico, April 1972".
Data was combined using Arc Info Grid
software.



Map data compiled by the
New Mexico State Engineer Office,
January 15, 1987,
by Margaret Porter,
Hydrology Section,
Coordinate Base UTM Zone 13
Datum NAD 27



- Topog. shp
- Place shp
- UTM Coordinate ticks in Meters
- Indian Reservation
- Roads
- County Boundaries
- Streams
- Reservoir
- drainage boundary
- Equal Zones of Net Lake Evaporation in Inches**
- 55-59
- 50-54
- 45-49
- 40-44
- 35-39
- 30-34
- 25-29
- 20-24
- 15-19
- 10-14

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA, for
itself and for the PUEBLOS
of JEMEZ, SANTA ANA and ZIA;
the STATE OF NEW MEXICO, ex rel.
S.E. Reynolds; and the Pueblos,
for themselves as Intervenors,

PROPOSED EXHIBIT
NOT FILED
87 JUN 22 AM 10:05

Exhibit
to Special Master's
Report
Sanchez CLERK
SANTA FE

Plaintiffs,

vs.

Civil No 83-1041 C
(Jemez River)

TOM ABOUSLEMAN, et al

Defendants.

ENTERED ON DOCKET
6-22-87

ORDER

AMENDING THE PRETRIAL ORDER

The plaintiffs, by motion, asked the Court to amend its pretrial order in certain respects. The Special Master has held a hearing upon the motion and reported his findings and recommendations to the Court, which are accepted and adopted.

IT IS ORDERED, that the "Pretrial Order", filed July 24, 1985, is amended to add a new paragraph, numbered, (8) with the existing paragraph numbered (8) renumbered (9).

The new paragraph (8) is as follows:

" 8. Exemption of Minimal Water Rights.

The orderly administration of this case during adjudication and afterward in enforcement of the Court's decree, and the ability of the Court to afford complete relief to the parties, within the purposes of Fed. R. Civ. P. 19, will be enhanced, by exempting certain minimal water rights, and

omitting as parties to this action , the owners of such minimal water rights

The owners of minimal water rights, need not be joined as parties to this adjudication, and they shall be exempt from any priority calls of other parties in the administration of the decrees entered hereafter in this cause.

Minimal water rights are defined as:

(a) Domestic well uses, with purposes limited to indoor household uses, drinking water or sanitary uses, which have a closed conduit system for conveying the water from the well to the place of use and returning the effluent underground;

(b) The use of groundwater for irrigation of not more than 1300 square-feet of land;

(c) The use of groundwater for livestock watering by means of a metal storage tank of a volume not exceeding one-quarter acre foot, (0.25AF), or

(d) Any combination of these uses. "

Dated: June 22, 1987 .

Antonio E. Campes
UNITED STATES DISTRICT JUDGE

Approved:

[Signature]
Special Master

[Signature]
Attorney for the project

[Signature]

A. U. S. A.

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

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

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Allyson J. Fish
CLEP... CLERK

UNITED STATES OF AMERICA, on)
its own behalf and on behalf)
of the PUEBLOS OF JEMEZ, SANTA)
ANA and ZIA, the Pueblos as)
Intervenors, in their own behalf,)
and THE STATE OF NEW MEXICO, ex rel.)
State Engineer,)
)
Plaintiffs,)
)
v.)
)
TOM ABOUSLEMAN, et al.,)
)
Defendants.)
_____)

No. Civ. 83-1041 JC
Subfile No.
001T.001B.000

CONSENT ORDER

This case concerns the adjudication of water rights for the Nacimiento Community Ditch Association, Subfile No. 0001T.001B.000. For reasons of efficient case management and conservation of judicial and attorney resources, this action is both a subfile and a limited inter se proceeding.

The parties are: Plaintiffs, State of New Mexico ("State") and the United States of America ("United States"); Plaintiffs-in-Intervention, Pueblos of Zia, Jemez and Santa Ana ("Pueblos"); and Defendant Nacimiento Community Ditch Association ("NCDA"). The primary issues in this subfile have been the amount of water that NCDA can divert from the

3919

Jemez River Basin and export to the Rio Puerco Basin and the operation of NCDA's San Gregorio Reservoir.

This matter comes before the Court after a two day settlement conference before Magistrate Leslie Smith on January 10 and 11, 2000. At the conclusion of that conference, the parties reached an Agreement in Principle. This Consent Order incorporates all of the concepts of the Agreement in Principle.

The parties submitted a Joint Motion in Support of the Consent Order. After reviewing the Joint Motion, the proposed Order, and for good cause shown, the Court finds that the Joint Motion should be granted

Pursuant to Federal Rule of Civil Procedure 54(b), IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

This Court has jurisdiction over the parties and this matter and venue is proper in the District of New Mexico.

A. The defendant **NACIMIENTO COMMUNITY DITCH ASSOCIATION** has a right to divert and impound the public waters of the Jemez River stream system as described below:

- 1. Purpose: Irrigation**
- a. State Engineer File No.: 0580**
- b. Priority: December 31, 1882^{1/}**

^{1/}

The Court reserves jurisdiction over this matter for the limited purpose of allowing the defendant to present evidence in support of an earlier priority for NCDA should any Jemez

c. **Sources of water:** (1) Clear Creek, a tributary of the Rio de las Vacas and (2) Rio de las Vacas, a tributary of the Rio Guadalupe, which is a tributary of the Jemez River (Clear Creek and the Rio de las Vacas are the sources for the transbasin diversion).

d. **Points of diversion:** State Engineer File No. 0580.^{2/} A ditch that diverts surface water from Clear Creek in the SW1/4 NW1/4 SW1/4 of projected Section 21, T. 21 N., R. 1E., and located by the New Mexico Plane Coordinate System, Central Zone, X=323,700 feet and Y=1,831,710 feet and a ditch that diverts surface water from the Rio de las Vacas in the SE1/4 NE1/4 NE1/4 of projected Section 22, T. 21 N., R. 1E., and located by the New Mexico Plane Coordinate System, Central Zone, X=333,085 feet and Y=1,834,090 feet.

e. **Amount of water:**^{3/} As described more fully in paragraphs 5 and 6 of section B herein, the Jemez Basin diversion amount from Clear Creek shall not exceed a six-year rolling

River stream system water right claim be asserted after October 1, 1998, wherein a priority date of December 31, 1882, or earlier, is asserted before a court having jurisdiction to adjudicate or otherwise decide such a claim. Acceptance by the Pueblos or the United States of the NCDA's conditional priority date stated herein does not constitute a waiver of any right that the Pueblos or the United States may have to participate in any future proceeding regarding any potential amendments to the NCDA's priority date.

^{2/}

All ditches listed on page 4 of this Consent Order divert from Nacimiento Creek, which is tributary to the Rio Puerco, originating in the NE1/4 NW1/4 SE1/4 of projected Section 31, T. 21N., R. 1W. and located by the New Mexico Plane Coordinate System, Central Zone, X= 284,300 feet and Y= 1,821,500 feet as projected into the San Pedro Park Wilderness. Nacimiento Creek is a source of water for the ditches listed in this offer.

^{3/}

An agreement between the Pueblos of Jemez, Zia and Santa Ana and the Nacimiento Community Ditch Association, regarding the use of the Jemez River drainage basin waters in the Rio Puerco drainage basin, was filed in this case on June 14, 1990 (# 2240). That agreement is superseded by this Consent Order.

average of 1335 acre-feet per annum, with a maximum diversion of 2332.92 acre-feet per annum.

The point of measurement of the diversion amount from Clear Creek is at the point on the Nacimiento ditch, indicated on the attached map, near where this ditch crosses the Clear Creek (Jemez River)/Nacimiento Creek (Rio Puerco) drainage divide, and where the presently-existing BIA parshall flume gage is located. Water delivered to the point of measurement from the Rio de las Vacas, or as delivery from storage in San Gregorio Reservoir, is counted as part of the diversion amount, as described more fully in paragraphs 5 and 6 of section B herein. This amount is for the irrigation of 715.62 acres (which are identified on the attached addendum) with an annual project delivery requirement of 3.26 acre-feet per acre⁴, provided that the rate of diversion from Clear Creek shall not exceed an average of 14.0 cubic feet per second in any given month as measured at the point of measurement set forth above.

f. **Ditches.** The ditches within the Nacimiento Community Ditch system that are entitled to divert water delivered into Nacimiento Creek are listed below:

<u>Ditch</u>	<u>Acreage</u>
<i>Nacimiento</i>	<i>247.19</i>
<i>Domingo Vigil</i>	<i>46.61</i>
<i>Nerio Montoya</i>	<i>14.68</i>
<i>Francisco Chavez No. 6</i>	<i>195.58</i>
<i>Gabriel Montoya No. 7</i>	<i>47.97</i>
<i>Ballejos No. 1</i>	<i>9.86</i>
<i>Copper City No. 1</i>	<i>130.72</i>
<i>Madalena Atencio No. 2</i>	<u><i>23.01</i></u>
TOTAL:	<i>715.62</i>

⁴ Diversion limitations are governed by the Amended Order Adjudicating Irrigation Water Requirements filed on October 21, 1997 (# 3609).

2. ✓ **Purpose:** Conservation storage for irrigation use.

a. **State Engineer File No.:** 0580

b. **Priority:** October 10, 1947.

c. **Source of water:** Clear Creek, a tributary of the Rio de las Vacas, which is a tributary of the Rio Guadalupe, which is a tributary of the Jemez River.

d. **Point of Diversion:** State Engineer File No. 0580. The point of diversion from Clear Creek is the location of the San Gregorio Reservoir, which is located in the E1/2 NE1/4 of projected Section 20, and W1/2 NW1/4 of projected Section 21, T. 21N., R. 1E., NMPM, with the outlet works located at a point in the SW1/4 NW1/4 of projected Section 20, T. 21N., R. 1E., NMPM, as projected whence the Nacimiento Peak Triangulation Station bears S. 32.02'04" W., 2114.1 feet distance, within the San Pedro Park Wilderness area of the Santa Fe National Forest, as shown on Hydrographic Survey map sheet 1-T, Nacimiento Peak.

e. **Location of storage:** State Engineer File No. 0580. San Gregorio Reservoir located in the E1/2 NE1/4 of projected Section 20, and W1/2 NW1/4 of projected Section 21, T. 21N., R. 1E., NMPM, with the outlet works located at a point in the SW1/4 NW1/4 of projected Section 20, T. 21N., R. 1E., NMPM, as projected whence the Nacimiento Peak Triangulation Station bears S. 32.02'04" W., 2114.1 feet distance, within the San Pedro Park Wilderness area of the Santa Fe National Forest, as shown on Hydrographic Survey map sheet 1-T, Nacimiento Peak.

f. **Amount of water:**

STORAGE

NCDA has the right to maintain a conservation storage pool within San Gregorio

Reservoir for irrigation purposes not to exceed the impoundment of 154 acre-feet, in addition to the right of the New Mexico Department of Game and Fish to maintain a minimum pool of 100 acre-feet in the reservoir, less accumulated silt, for fish and wildlife purposes, within San Gregorio Reservoir for irrigation purposes and described further as follows:

Spillway crest elevation: 9,408.0 feet

Maximum reservoir surface area: 35 acres

Annual net evaporation[§] at spillway crest: 35.35 acre-feet

DELIVERY AND DIVERSION

Maximum delivery[¶] amount from storage is 308 acre-feet per annum as measured at the reservoir outlet works and as defined in paragraph B.3 herein, for use by the owners of water rights associated with the Nacimiento Community Ditch Association on the acreage set forth on page 4 of this Consent Order and more fully identified on the attached addendum. The mayordomo of the Association, or a person similarly authorized by the commission of the Association, will determine the ditch or ditches entitled to receive water at the time of delivery.[‡] The Association may divert water for storage within the limitations for storage and delivery from storage set forth herein, provided, however, that water passing

§

The net evaporation is the consumptive use from storage which is defined as the net evaporation rate, expressed in feet, from man-made reservoirs multiplied by the surface area acreage.

¶ "Delivery" is defined as release of water from storage.

‡ If no such determination is made at the time of delivery, all ditches shall be entitled to receive water in an amount proportional to the acreage served under them.

through the spillway when the reservoir is at full capacity shall be considered as Clear Creek stream flows and not as water diverted, stored, or delivered from storage.

IRRIGATION WATER REQUIREMENTS

Consumptive Irrigation Requirement (CIR), Farm Delivery Requirement (FDR), and Project Delivery Requirement (FDR) are defined in the court's amended order adjudicating irrigation water requirements (# 3609), which sets forth the requirements as follows:

CIR: 1.14 acre-feet per irrigated acre

FDR: 2.28 acre-feet per irrigated acre delivered at the farm headgate.

PDR: 3.26 acre-feet per irrigated acre as measured at the point of diversion for each ditch.

B. NCDA's Obligation to Build a Diversion Structure and Headgate and Definition of Jemez Basin water right.

1. No later than two years from March 15, 2000, NCDA shall construct and commence the continuing operation of a diversion structure with a headgate or similar type device ("headgate") at its point of diversion in the Jemez Basin in accordance with this Consent Order.

a. The diversion structure shall be designed and constructed to turn water from Clear Creek into the Nacimiento Ditch and be easily able to apportion the flow in Clear Creek between Clear Creek in the Jemez Basin and Nacimiento Ditch, which leads from Clear Creek to Nacimiento Creek in the Puerco Basin. See attached map. The headgate portion of the diversion structure shall be capable of being easily closed and opened. The diversion structure and headgate may be designed by a state or federal agency, or private entity, so long as it meets the above criteria.

NCDA shall present the proposed design of the diversion structure to all other parties for their review by providing their counsel with a copy of the proposed design. The parties have thirty (30) days from their receipt of the proposed design to provide comments on whether the proposed design meets the above criteria to NCDA's counsel. NCDA and the other parties shall attempt to negotiate a resolution of any dispute over the design of the diversion structure and headgate within thirty (30) days of their receipt of any comments on the design of the diversion structure or headgate, or such longer period as agreed to by the parties. If any design dispute cannot be resolved, any party has an additional thirty (30) days to file a Motion with the Court, the grounds for the Motion being limited to any failure of NCDA's proposed design to meet the above criteria. The provision of any design by or through any governmental entity and the provision of comments on the design by any party shall not obligate any party to fund any portion of the cost of the diversion structure and headgate or in any way release NCDA from its obligations under this Consent Order. If the cost of constructing the diversion structure and headgate exceeds \$10,000, NCDA is not excused from the requirement of constructing the diversion structure and headgate as required in this paragraph. The additional costs and NCDA's timely efforts to obtain monies for the construction of the diversion structure and the headgate may be considered by this Court in any request for an extension of time to complete the project under paragraph 1.b of this section.

b. The NCDA may request that the Court grant one, 120-day extension of the March 15, 2002, deadline to complete construction of the diversion structure and headgate, only upon a showing of good cause, due diligence and good faith in securing the necessary permit(s) and constructing the diversion structure and headgate on Clear Creek. Due diligence and good faith

factors which the Court will consider are: 1) the timeliness with which NCDA filed the necessary permit applications with the U.S. Forest Service or other relevant governmental entity (hereinafter "agency"); 2) the timeliness of NCDA's efforts to respond to any inquiries from any such agency during the permitting process; 3) the timeliness with which NCDA secured a design and bids from prospective contractor(s) for the construction of the diversion structure and headgate; 4) the time NCDA used in reviewing bids from prospective contractor(s) and selecting a contractor(s) to complete the construction of the diversion structure and headgate; 5) any delays caused by NCDA members not supplying required labor to assist in construction of the diversion structure and headgate; 6) the number and types of sources of funding that NCDA sought for construction of the diversion structure and headgate; 7) the time elapsed between the parties' approval of the agreement in principle (February 15, 2000) and NCDA's application to sources of funding for construction of the diversion structure and headgate; 8) the timeliness of NCDA's efforts to respond to any inquiries from the potential funding source for construction of the diversion structure and headgate; and 9) the total cost of the diversion structure and headgate.

c. If the diversion structure and headgate are not built and fully operable on March 15, 2002, or at such later date allowed by the Court under paragraph B.1.b. ("the deadline"), NCDA shall be penalized at the deadline in the amount of thirty percent of 1335 acre-feet (i.e., 400.5 acre-feet). The penalty shall be assessed by adding 400.5 acre-feet to the NCDA's annual measured diversion amount from the Jemez Basin for that year, and is referred to hereafter as the "penalty amount." If the diversion structure and headgate are not completed by the third or succeeding calendar years after March 15, 2000, the same penalty amount shall continue to accrue each year

when the diversion structure and headgate are not completed, i.e., 400.5 acre-feet shall be added for each successive year when the diversion structure and headgate are not completed to NCDA's annual measured diversion from the Jemez Basin, pursuant to paragraph five of this section.

2. NCDA's maximum diversion flow rate in the Nacimiento Ditch at the BIA gage in the Jemez Basin shall be no more than a monthly average of 14.0 cfs in any given month, as determined by the BIA or its designee.

3. NCDA may release from San Gregorio Reservoir no more than 308 acre-feet per annum (the equivalent of two releases of 154 acre-feet). San Gregorio releases do not add to NCDA's water right in the Jemez Basin expressed in paragraph five of this section. When NCDA's maximum release of 308 acre-feet is reached, NCDA shall close the outlet works. The BIA is authorized to install a gage on San Gregorio Reservoir near the outlet pipe to monitor NCDA's releases from San Gregorio Reservoir. NCDA shall notify the BIA or any entity that BIA designates at least two business days before NCDA intends to release water from San Gregorio Reservoir for the first time each irrigation season. NCDA shall notify the BIA or any entity that the BIA designates within one day of NCDA concluding its release of water from San Gregorio at the end of each irrigation season or when NCDA has reached the maximum annual release of 308 acre-feet before the end of each irrigation season, whichever occurs first. The BIA or its designee shall transmit monthly totals of the San Gregorio Reservoir releases to all other parties to this Consent Order that have requested such information. The BIA or its designee and NCDA shall transmit the information required by this paragraph in a reasonable manner mutually agreeable to the parties.

4. NCDA may utilize the Cuba/Vacas Ditch to provide water from the Rio de las Vacas watershed to its point of diversion on Clear Creek.

5. NCDA's Jemez Basin water right shall be no more than 1335 acre-feet per annum, as computed on a six calendar year rolling average of NCDA's annual Jemez Basin diversion amount. There are two components to NCDA's annual Jemez Basin diversion amount. The first component shall be the amount of water diverted by NCDA from the Jemez Basin per annum, as measured by the BIA, or its designee, at the point of the existing BIA gage, on Nacimiento Ditch, just above NCDA's Jemez River Basin to Rio Puerco Basin drop structure ("measured diversion amount"). See attached map. The measured diversion amount includes water from any source or combination of sources reaching the gaging point, including but not limited to the maximum of 308 acre-feet of water released from San Gregorio Reservoir and water diverted from the Rio de las Vacas. NCDA may divert from the Jemez Basin no more than 2332.9 acre-feet per annum, as measured at the BIA gage, so long as that amount does not violate the 1335 acre-feet six year rolling average. The BIA or its designee shall transmit monthly totals of the measured diversion amount of Jemez Basin water to all other parties to this Consent Order that have requested such information. The method of the transmissions and to whom they are directed shall be determined in a reasonable manner mutually acceptable to the BIA and the requesting party(s). The second part of NCDA's annual Jemez Basin diversion amount shall include any penalty amount of water NCDA may accrue under paragraph B.1.a. of this Consent Order per annum. The combination of the measured diversion amount at the BIA gage and the penalty amount shall constitute NCDA's annual Jemez Basin diversion amount. NCDA may not relitigate the amount of its Jemez Basin water right, if and

when its water rights in the Puerco Basin are adjudicated at some later date. NCDA's water right shall only be used for the agricultural purposes of its membership.

6. The determination of the six calendar year rolling average of NCDA's annual Jemez Basin diversion amount commences with calendar year 2000 and is computed as follows. The six year rolling average of 1335 acre-feet totals 8010 acre-feet over six years from either measured diversion amounts or penalty amounts. With 2332.92 acre-feet as a maximum annual measured diversion amount, NCDA may take any combination of penalty amounts and measured diversion amounts per annum to yield its annual Jemez Basin diversion amount. The aggregate of the annual Jemez Basin diversion amount for the instant calendar year and the five preceding calendar years may not exceed 8010 acre-feet. For example in calendar year 2007, the six years aggregated would be 2002 through 2007. Prior to entering the sixth calendar year under this Consent Order, i.e., until the start of calendar year 2005, the six calendar year rolling average or 8010 acre-feet cap on NCDA's annual Jemez Basin diversion amount shall be in effect. For example, if NCDA had annual measured diversions of 2000 acre-feet per year for the first four calendar years covered by this Order (calendar years 2000 through 2003), and no penalty amounts in any of those four calendar years, NCDA could divert 10 acre-feet over the next two calendar years.

7. At any time in the calendar year when NCDA breaches either the six year rolling average of 1335 acre-feet per annum, or NCDA's maximum diversion in the Jemez Basin of 2332.9 acre-feet in any one calendar year, NCDA shall immediately stop releasing any water from San Gregorio Reservoir or diverting any water from Clear Creek.

8. No later than thirty (30) days after the conclusion of each calendar year (October

31 of the next calendar year), the BIA shall serve on each party to this Consent Order an Annual Report of the total amounts of water measured under paragraph B.2 (monthly average diversion rates in cfs), paragraph B.3 (San Gregorio Reservoir releases) and paragraph B.5 (Jemez Basin measured diversion amounts), and any penalty amounts accrued to NCDA under paragraphs B.1.c. Any party to this Consent Order has ninety (90) days from the date of service of the BIA's Annual Report to file with this Court and serve on all other parties to this Consent Order any Objection to the BIA's Annual Report. Any Response to the Objection must be filed within fourteen (14) calendar days of service of the Objection. Any Reply must be filed within fourteen (14) calendar days of service of the Response. Any party filing an Objection is strongly encouraged to try and resolve the substance of the Objection informally before and after filing an Objection. If any party does not object to any provision of an Annual Report within the ninety (90) day period for a given year, a rebuttable presumption is created that such provision of the Annual Report is valid and accurate. In rebutting such a presumption, the burden of proof is on the party challenging the Annual Report provisions to show that a given provision of an Annual Report is not valid or accurate. The Annual Report and any Motion objecting to the Annual Report shall be served on the parties to this Consent Order at the following addresses:

- | | | |
|-------------------------|--|--|
| a. United States: | Regional Rights Protection Officer
U.S. Bureau of Indian Affairs
P.O. Box 26567
Albuquerque, NM 87125-6567 | Assistant Section Chief
U.S. Department of Justice
999 18 th Street, Ste. 945
Denver, CO 80202 |
| b. State of New Mexico: | District Supervisor, District No. 1
Office of the State Engineer
121 Tijeras NE, Suite 2000
Albuquerque, NM 87102 | |

- C. NCDA: Gilbert Dominguez, President
Nacimiento Community Ditch Association
P.O. Box 1026
Cuba, NM 87013
- D. Pueblo of Zia: Governor's Office
Attn: Peter Pino
135 Capital Square Dr.
Zia Pueblo, NM 87053-6013
- David C. Mielke, Esq.
Ussery & Parrish, P.A.
P.O. Box 487
Albuquerque, NM 87103-0487
- E. Pueblo of Jemez: Governor's Office
P.O. Box 100
Jemez Pueblo, NM 87204
- David Yepa
Roth, Van Amberg, Rogers, Ortiz,
Fairbanks & Yepa, LLP
317 Commercial, NE Suite 102
Albuquerque, NM 87102
- F. Pueblo of Santa Ana: Governor's Office
2 Dove Road
Bernalillo, NM 87004
- Tribal Administrator
2 Dove Road
Bernalillo NM 87004
- Lester K. Taylor
Nordhaus Law Firm
500 Marquette Street NW
Suite 1050
Albuquerque, NM 87102

Any party may change who is to receive notice under this paragraph by serving a letter upon all other parties listed in this paragraph that describes the change of address for that party.

9. The provisions of paragraph 8 and 10 of this section shall apply to the State or to an appointed water master to the extent that either entity conducts some or all of the measurements described in paragraph 8 of this section. Also, any appointed water master shall be given notice in all instances in this Consent Order in which the BIA is required to give or receive notice.

10. Under this Consent Order, the BIA or its designee is authorized to operate several gages to measure NCDA's Jemez Basin diversion amounts. NCDA shall not interfere with the agents, servants, employees, and attorneys of the BIA or its designee or any other lawfully authorized entity in making routine and reasonable installation of necessary equipment to make the measurements authorized by this Consent Order, inspection and maintenance of such equipment, data transfers from such equipment, and all other necessary and prudent inspections of NCDA's diversion structures on Clear Creek and the Rio de las Vacas and conveyance systems in the Jemez Basin.

11. Any and all trespass charges of the United States in this case from the date of the complaint until the date of this Order against NCDA are hereby dismissed.

C. GENERAL PROVISIONS

1. This Consent Order shall be binding on all of the parties, their officers, agents, servants, employees, members, and attorneys, their successors and assigns.

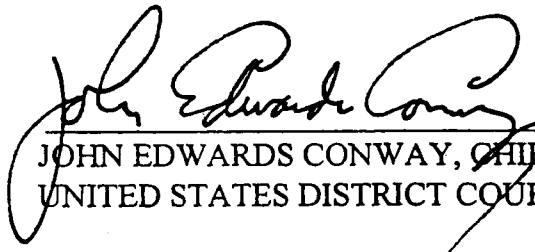
2. NCDA shall not raise as a defense under provisions of this Consent Order the failure of its officers, agents, servants, employees, members, and attorneys to take actions necessary to comply with any relevant provision of this Consent Order.

3. Compliance with this Consent Order shall in no way affect or limit the obligation of NCDA to comply with all current and future federal, state and local laws, regulations, ordinances, and permit conditions, and any order of any court.

4. This Consent Order does not release, waive, limit, or impair in any manner the claims, rights, remedies or defenses of the United States or the State or the Pueblos against any person or entity that is not a party to this Consent Order.

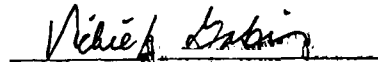
5. Each party shall bear its own costs and attorney's fees in this action.
6. The parties intend that the provisions of this Consent Order shall be severable. If any provision is found unenforceable, the remaining clauses shall remain in full force and effect.
7. The Court shall retain jurisdiction after entry of this Consent Order to modify or enforce its terms or to take any action necessary or appropriate for its construction or execution.
8. Any modification of this Consent Order must be in writing, signed by all of the parties, and approved by this Court before it becomes effective.
9. The undersigned representatives of the parties each certifies that he is fully authorized to enter into the terms and conditions of this Consent Order, to execute it and bind the party each person represents to this document.
10. This Consent Order may be approved by the Parties in counterpart.

Dated: May 3, 2000



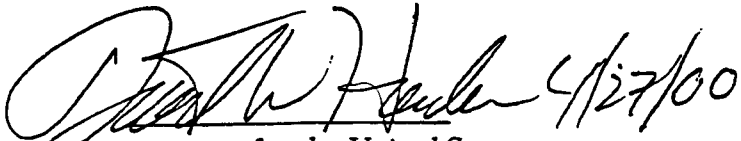
JOHN EDWARDS CONWAY, CHIEF JUDGE
UNITED STATES DISTRICT COURT

Recommend for Entry:



Vickie I. Gabin
Special Master

APPROVED AS SUBMITTED:


Attorney for the United States

Governor, Pueblo of Jemez


Governor, Pueblo of Zia

Governor, Pueblo of Santa Ana

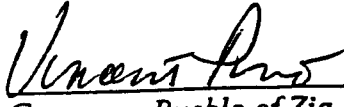
State of New Mexico

*President, Nacimiento Community
Ditch Association*

APPROVED AS SUBMITTED:




Attorney for the United States



Governor, Pueblo of Zia

State of New Mexico

Governor, Pueblo of Jemez



Governor, Pueblo of Santa Ana

*President, Nacimiento Community
Ditch Association*

**Addendum to the Offer of Judgment for Subfile 001T.001B.000
Nacimie to Community Ditch Association**

This addendum provides a listing of the individual rights served by the ditches of the Nacimiento Community Ditch Association.

Nacimiento Ditch

<u>Map</u>	<u>Tract</u>	<u>Subfile</u>	<u>Acreage</u>	<u>Adjudicated Owner</u>
2N	1	002N.0001.000	12.450	SISTO SANDOVAL
2N	2	002N.0002.000	16.340	CA. SIMIRO & IGNACITA DOMINGUEZ
2N	11	002N.0011.000	4.450	PROCOPIO RAMIREZ
3N	4	003N.0004.000	0.200	MANUEL CRESPIAN
3N	4A	003N.004A.000	5.120	LOIS M. BROWN
3N	5	003N.0005.000	11.750	DANIEL H. MONTOYA
3N	5B	003N.005B.000	6.100	ALBINO CASAUS
3N	6	003N.0006.000	15.160	ALFREDO MONTOYA
3N	7	003N.0007.000	18.980	ANTONIO DOMINGUEZ (EST.)
3N	7A	003N.007A.000	0.000	SANDRA & LEANDRO CANDELARIA
3N	8	003N.0008.000	4.300	GILBERT DOMINGUEZ
3N	9	003N.0009.000	6.960	GEORGE JARAMILLO
3N	10	003N.0010.000	11.240	SISTO SANDOVAL
3N	10A	003N.010A.000	3.860	SOPHIE & AMADEO G. SALAZ
3N	11	003N.0011.000	0.710	PROCOPIO RAMIREZ
3N	12	003N.0012.000	42.100	MAX & ROSELITA A. CARABAJAL
3N	12A	003N.012A.000	10.080	HERMAN CASAUS
3N	13	003N.0013.000	13.870	CLOVIS MARTINEZ
3N	14	003N.0014.000	15.100	BENITO CASAUS
3N	14A	003N.014A.000	4.080	RAFAELITA CARABAJAL
3N	15	003N.0015.000	23.410	SISTO SANDOVAL
3N	16	003N.0016.000	9.100	SOPHIE & AMADEO G. SALAZ
5N	14	005N.0014.000	0.650	MANUEL CRESPIAN
5N	14A	005N.014A.000	0.200	LOIS M. BROWN
5N	15	005N.0015.000	10.300	ALFREDO MONTOYA
5N	16	005N.0016.000	0.680	ANTONIO DOMINGUEZ (EST.)
Total:			247.19	

Domingo Vigil Ditch

<u>Map</u>	<u>Tract</u>	<u>Subfile</u>	<u>Acreage</u>	<u>Adjudicated Owner</u>
1N	1	001N.0001.000	10.220	CELEDONIO ARAGON
1N	2	001N.0002.000	9.840	ERISTEO ARAGON
1N	3	001N.0003.000	13.680	RAMON & IRENE SANDOVAL
1N	4	001N.0004.000	<u>12.870</u>	CRISOSTOMO VIGIL
Total:			46.61	

Nerio Montoya Ditch

<u>Map</u>	<u>Tract</u>	<u>Subfile</u>	<u>Acreage</u>	<u>Adjudicated Owner</u>
2N	16	002N.0016.000	5.280	HAZEL MONTOYA HERRERA JOSEPHA SANDOVAL MONTOYA
2N	17	002N.0017.000	1.850	NESTOR C. CHAVEZ
2N	18	002N.0018.000	<u>7.550</u>	CLOROVEO LUCERO
Total:			14.68	

Francisco Chavez Ditch #6

<u>Map</u>	<u>Tract</u>	<u>Subfile</u>	<u>Acreage</u>	<u>Adjudicated Owner</u>
2N	3	002N.0003.000	12.000	MAX R. LUCERO
2N	4	002N.0004.000	28.180	ROSEANNE LEMKE
2N	4A	002N.004A.000	5.000	ABEL SALAZ
2N	5	002N.0005.000	4.900	CLOROVEO LUCERO
2N	5A	002N.005A.000	1.120	ALICIA V. LUCERO
2N	5B	002N.005B.000	1.450	FERNANDO PADILLA
2N	6	002N.0006.000	33.270	ROBERTO A. MARTINEZ
2N	6A	002N.006A.000	9.600	BRUNO HERRERA
2N	7	002N.0007.000	15.700	HAZEL MONTOYA HERRERA JOSEPHA SANDOVAL MONTOYA
2N	8	002N.0008.000	4.250	NESTOR C. CHAVEZ
2N	9	002N.0009.000	6.080	CLOROVEO LUCERO
2N	10	002N.0010.000	24.030	COOK BROTHERS & COMPANY
2N	10A	002N.010A.000	0.000	VILLAGE OF CUBA
2N	12	002N.0012.000	36.450	MAX R. LUCERO
2N	12A	002N.012A.000	0.000	SOPHIE SALAZ

<u>Map</u>	<u>Tract</u>	<u>Subfile</u>	<u>Acreage</u>	<u>Adjudicated Owner</u>
2N	12B	002N.012B.000	0.440	CASIMIRO & IGNACITA DOMINGUEZ
2N	13	002N.0013.000	1.740	LOUIS M. & MARGARET C. MONTOYA
2N	14	002N.0014.000	2.100	EUGENE VIGIL
2N	14A	002N.014A.000	3.910	SOTERO CASAUS
2N	15	002N.0015.000	<u>5.360</u>	APARCIO C. HERRERA
Total:			195.58	

Gabriel Montoya Ditch #7

<u>Map</u>	<u>Tract</u>	<u>Subfile</u>	<u>Acreage</u>	<u>Adjudicated Owner</u>
2N	19	002N.0019.000	46.380	ADAM MONTOYA ELI MONTOYA GABRIEL MONTOYA
2N	20	002N.0020.000	<u>1.590</u>	MANUEL CRESPIN
Total:			47.97	

Ballejos Ditch #1

<u>Map</u>	<u>Tract</u>	<u>Subfile</u>	<u>Acreage</u>	<u>Adjudicated Owner</u>
5N	11	005N.0011.000	0.520	EPPIE ATENCIO
5N	11A	005N.011A.000	0.270	JERRY ATENCIO
5N	11B	005N.011B.000	8.220	DANIEL H. MONTOYA
5N	11C	005N.011C.000	<u>0.850</u>	CARLOS ATENCIO
Total:			9.86	

Copper City Ditch No. 1

<u>Map</u>	<u>Tract</u>	<u>Subfile</u>	<u>Acreage</u>	<u>Adjudicated Owner</u>
4N	1	004N.0001.000	2.980	JOSE & CECILIA ORTIZ
4N	2	004N.0002.000	0.720	GILBERT P. & ANNA H. JARAMILLO
4N	3	004N.0003.000	1.500	EPPIE ATENCIO
5N	1	005N.0001.000	4.080	JOSE & CECILIA ORTIZ
5N	1A	005N.001A.000	1.680	THERESA G. VELARDE

<u>Map</u>	<u>Tract</u>	<u>Subfile</u>	<u>Acreage</u>	<u>Adjudicated Owner</u>
5N	2	005N.0002.000	11.340	GILBERT P. & ANNA H. JARAMILLO
5N	3	005N.0003.000	2.600	EPPIE ATENCIO
5N	4	005N.0004.000	1.870	ANNA H. JARAMILLO
5N	4A	005N.004A.000	6.780	ALVIN V. STEED
5N	4B	005N.004B.000	3.040	EMMA MARIE SIGMON
5N	5	005N.0005.000	11.890	ELODIA VALDEZ
5N	5A	005N.005A.000	4.300	KATIE H. RIVERA
5N	5B	005N.005B.000	0.850	REYES GURULE (EST.)
5N	6	005N.0006.000	3.670	LARRY GURULE
5N	7	005N.0007.000	7.320	EULALIO DE HERRERA
5N	8	005N.0008.000	1.750	FELIMON DE HERRERA
5N	8A	005N.008A.000	2.100	ELDEN DE HERRERA
5N	8B	005N.008B.000	1.200	EULALIO DE HERRERA
5N	8C	005N.008C.000	3.600	JACOBO DE HERRERA JR.
5N	8D	005N.008D.000	1.300	WILLIAM DE HERRERA
5N	9	005N.0009.000	0.250	RONALD J. CARSON
5N	9A	005N.009A.000	5.150	EMMETT H. & ROSEMARY CART
5N	10	005N.0010.000	10.320	LEO JACQUEZ
5N	10A	005N.010A.000	3.550	CRISTOBAL GURULE
5N	10B	005N.010B.000	0.800	DEBRA GURULE
5N	10C	005N.010C.000	0.370	FAYE GURULE FLOYD FLORENCIO & ERCIE M VALDEZ
6N	1	006N.0001.000	14.310	PROCOPIO RAMIREZ
6N	1A	006N.001A.000	12.380	FEDERICO RAMIREZ
6N	1B	006N.001B.000	<u>9.020</u>	DELFIN SANCHEZ
Total:			130.72	

Madrlena Atencio Ditch #2

<u>Map</u>	<u>Tract</u>	<u>Subfile</u>	<u>Acreage</u>	<u>Adjudicated Owner</u>
3N	1	003N.0001.000	1.900	RICHARD & AMELIA ATENCIO
3N	1A	003N.001A.000	1.520	PAT & CRISTINE GALLEGOS
3N	1B	003N.001B.000	1.150	TONY ATENCIO
3N	1C	003N.001C.000	1.500	CARLOS ATENCIO
3N	1D	003N.001D.000	1.000	JOSE & CECILIA ORTIZ
3N	2	003N.0002.000	4.400	JESSE S. MONTOYA
3N	3	003N.0003.000	7.550	MANUEL CRESPIN

<u>Map</u>	<u>Tract</u>	<u>Subfile</u>	<u>Acreage</u>	<u>Adjudicated Owner</u>
5N	12	005N.0012.000	1.640	FELIX ATENCIO JR.
5N	12A	005N.012A.000	0.940	TOMMY ATENCIO
5N	12B	005N.012B.000	0.810	JOSE & CECILIA ORTIZ
5N	13	005N.0013.000	<u>0.600</u>	MANUEL CRESPIAN
Total:			23.01	

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

FILED
AUG 16 2016

00 AUG 16 PM 3:41

UNITED STATES OF AMERICA, on)
 its own behalf and on behalf)
 of the PUEBLOS OF JEMEZ, SANTA)
 ANA and ZIA, the Pueblos as)
 Intervenors, in their own behalf,)
 and THE STATE OF NEW MEXICO, ex rel.)
 State Engineer,)
)
 Plaintiffs,)
)
 v.)
 TOM ABOUSLEMAN, et al.,)
)
 Defendants.)
)

[Handwritten signature]
CLERK

No. Civ. 83-1041 JC
Subfile No.
001T.001B.000

ORDER

THIS MATTER is before the Court on the Joint Motion to Amend the Consent Order due to clerical error. Having considered the motion, I FIND that it is well taken and should be and shall be GRANTED.

IT IS HEREBY ORDERED THAT:

1. On page 11, numbered paragraph 5, line 10, "2332.9 acre-feet per annum" is modified to read "2332.92 acre-feet per annum".
2. On page 12, numbered paragraph 7, line 2, "2332.9 acre-feet per annum" is modified to read "2332.92 acre-feet per annum".

[Handwritten signature]

 JOHN EDWARDS CONWAY
 UNITED STATES DISTRICT COURT

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the "JOINT MOTION TO AMEND CONSENT ORDER" with an attached ORDER were served on all *inter se* counsel, as indicated below, by first-class mail, postage pre-paid, this 7th day of August, 2000.


David Benavides

Sp. Master Vickie L. Gabin
c/o USDC-DCNM
333 Lomas Blvd. NW, Ste A608
Albuquerque, NM 87102

Darcy S. Bushnell, Esq.
Adjudication Judicial Clerk
USDC-DCNM
333 Lomas Blvd NW, Ste A608
Albuquerque, NM 87102

Judy K. Stoff
HYDRO LOGIC
P.O. Box 30781
Albuquerque, NM 87190-0781

David R. Yepa, Esq.
317 Commercial NE, Suite 102
Albuquerque, NM 87102

David W. Harder, Esq.
Susan Schneider, Esq.
U.S. Dept. of Justice
Suite 945, North Tower
999 18th St.
Denver, CO 80202

David C. Mielke, Esq.
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Albuquerque, NM 87103-0487

Jessica Aberly, Esq.
Lester K. Taylor, Esq.
Nordhaus Law Firm
500 Marquette, NW #1050
Albuquerque, NM 87102

D.L. Sanders, Esq.
Leticia Sheridan, Esq.
N.M. State Engineer Office
P.O. Box 25102
Santa Fe, NM 87504-5102

FILED

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

May 22, 2000 13:03

R. J. ...
CLERK

**US District Court
District of New Mexico
Digital File Stamp**

Case:	83cv01041
Title:	USA For Jemez, Santa et al. v. Abousleman et al.
Document Type:	Order
Document Number:	3923
Description:	ORDER by Special Master Vickie L. Gabin adopting Canon Ditch Agreement. Default from order to show cause. (3899)
Total Pages:	2
Exhibits/Attachment:	0
Court Signature:	93 f6 eb 03 12 71 54 6b 69 e6 91 3c 86 eb 90 96 2d a2 0e b9 48 71 ab 38 c5 56 c7 f5 5e cd 45 cb 96 6c 6d 29 ee b2 cb db db 3f a3 8c 1f d2 29 57 33 c0 fe 1e 6c 4a ff fc a0 75 1e f5 a8 fc a7 a5

This document constitutes an official stamp of the Court and, if attached to the document identified above, serves as an endorsed copy of the pleading. It may be used in lieu of the Court's mechanical file stamp for the named document only, and misuse will be treated the same as misuse of the Court's official mechanical file stamp. The Court's digital signature is a verifiable mathematical computation unique to the filed document and the Court's private encryption key. This signature assures that any change can be detected.

2923

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

UNITED STATES OF AMERICA, on)	
its own behalf and on behalf of)	
the PUEBLOS of JEMEZ, SANTA)	
ANA and ZIA;)	
)	
and)	
)	
STATE OF NEW MEXICO ex rel.)	
State Engineer,)	
)	
Plaintiffs,)	
)	
PUEBLOS OF JEMEZ, SANTA ANA)	
and ZIA,)	
)	
Plaintiffs-in-intervention,	)	83cv01041-JC
)	
v.	)	JEMEZ RIVER SYSTEM
	)	Cañon Community Ditch
TOM ABOUSLEMAN, et al.,	)	Association
)	
Defendants.)	

ORDER ADOPTING DITCH AGREEMENT

THIS MATTER comes before the Court upon its Order to Show Cause issued to Cañon Community Ditch Association filed March 8, 2000 (Docket No. 3899). The Court, having considered the record in this cause and otherwise being fully advised in the matter FINDS:

1. The Court has jurisdiction of the defendant and the subject matter herein.
2. The defendant was properly served in this matter with an Order to Show Cause why the Ditch Agreement for Cañon Community Ditch Association attached hereto, should not be entered as an Order of the Court.
3. The defendant has neither signed and filed the Ditch Agreement nor filed a response

showing cause why the Ditch Agreement should not be entered as an Order of the Court.

4. Therefore, pursuant to the Court's Order to Show Cause, the attached Ditch Agreement should be adopted by the Court for the purpose of administration of the water rights associated with the Cañon Community Ditch.

IT IS THEREFORE ORDERED that the Ditch Agreement for Cañon Community Ditch Association, which is attached hereto is hereby adopted by the Court for administration purposes.

/electronic signature/
CHIEF UNITED STATES DISTRICT JUDGE

Approved:

/electronic signature/
Special Master Vickie L. Gabin

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

UNITED STATES OF AMERICA, on)	
its own behalf and on behalf of)	
the PUEBLOS of JEMEZ, SANTA)	
ANA and ZIA,)	
)	
and)	
)	
STATE OF NEW MEXICO ex rel)	
State Engineer,)	
)	
Plaintiffs,)	
)	
PUEBLOS OF JEMEZ, SANTA ANA)	
and ZIA,)	
)	
Plaintiffs-in-intervention,	)	No. CIV 83-1041 JC
)	
v.	)	RIO JEMEZ STREAM SYSTEM
)	
TOM ABOUSLEMAN, et al.,)	
)	
Defendants.)	

DITCH AGREEMENT

The Co-plaintiffs, UNITED STATES OF AMERICA and STATE OF NEW MEXICO, and the defendant, CAÑON COMMUNITY DITCH, agree that the defendant is a community ditch association duly organized under the laws of the State of New Mexico and that it has the right to divert public waters from the Rio Jemez Stream System for storage and delivery to the headgates or turnouts of the acreages which have been adjudicated irrigation water rights, which are more specifically identified hereafter.

Name of Ditch: CAÑON COMMUNITY DITCH
 State Engineer File No.: 03094
 Priority: 1798-12-31
 Point of Diversion: Cañon Community Ditch diverts from the Rio Guadalupe, a tributary of the

Jemez River, within the NE¼ NE¼ SW¼, Section 17, T.17N., R.2E., N.M.P.M., as projected within the Cañon de San Diego Grant. The point of diversion is located by the state plane coordinate system, central zone X= 350,640 Y= 1,711,485.

CAÑON COMMUNITY DITCH

<u>Map</u>	<u>Tract</u>	<u>Subfile</u>	<u>Acreage</u>	<u>Adjudicated Owner</u>
11	7	0011.0007.000	1.300	VELMA M. CHAVEZ
11	7A	0011.007A.000	0.180	HELEN & TERRY W. CAPPS
11	8	0011.0008.000	0.780	MARGARET CHAVEZ
11	8A	0011.008A.000	0.710	REINA & JOE VELASQUEZ
11	9	0011.0009.000	1.290	EUGENE CHAVEZ
11	10	0011.0010.000	4.710	RICARDO CHAVEZ
11	10A	0011.010A.000	0.800	DOLORES CHAVEZ MOORE
13	1	0013.0001.000	4.580	MANUEL & RAMONA MONTOYA
13	1A	0013.001A.000	0.270	RICARDO CHAVEZ
13	2	0013.0002.000	8.230	ANTONIO & JOSEPHINE LUCERO
13	3	0013.0003.000	0.870	LULA HEATH
13	4	0013.0004.000	1.880	KENNETH WINTERMUTE
13	5	0013.0005.000	2.050	PHYLLIS J. & DALE E. BOBB
13	6	0013.0006.000	1.520	TOMMY GOODMAN
13	7	0013.0007.000	6.450	EPIFANIO GARCIA NEYDA MAESTAS
13	8	0013.0008.000	4.120	ELISEO JARAMILLO
13	9	0013.0009.000	11.020	ALFRED R. BARBER
13	10	0013.0010.000	3.700	JOSE A. JARAMILLO PEDRO E. JARAMILLO
13	11	0013.0011.000	1.150	JAMES E. & GLENDA TREHERN
13	12	0013.0012.000	5.000	GUADALUPE & THERESA TRUJILLO
13	13	0013.0013.000	1.160	RAYMUNDO & AURORA MARTINEZ
13	13A	0013.013A.000	1.160	SENAIDA G. & ANTONIO MONTOYA
13	14	0013.0014.000	1.520	JUANITA GARCIA
13	14A	0013.014A.000	1.520	LUCINDA JARAMILLO PEDRO E. JARAMILLO
13	15	0013.0015.000	9.500	LUCIA GARCIA
16	1	0016.0001.000	4.580	LUCIA GARCIA
16	1A	0016.001A.000	2.170	LUCIA GARCIA
16	2	0016.0002.000	5.390	EPIFANIO GARCIA

<u>Map</u>	<u>Tract</u>	<u>Subfile</u>	<u>Acreage</u>	<u>Adjudicated Owner</u>
16	3	0016.0003.000	1.960	RAYMUNDO & AURORA MARTINEZ
16	4	0016.0004.000	2.250	MARIANO B. & PABLITA LUCERO
16	5	0016.0005.000	7.550	FRANK & ESTHER MARTINEZ
16	6	0016.0006.000	0.910	JOE D. ROMERO
16	7	0016.0007.000	0.660	HENRY S. & EMMA M. SALAZAR
16	8	0016.0008.000	1.000	GLORIA GARCIA
16	9	0016.0009.000	1.000	HERMAN P. & FITA D. HERRERA
16	10	0016.0010.000	1.000	RUDY K. SANDOVAL SIXTO R. SANDOVAL
16	10A	0016.010A.000	1.020	JOE D. ROMERO
16	10B	0016.010B.000	1.000	CIPRIANO BACA
16	11	0016.0011.000	2.510	MANUEL G. & DELCIDA MONTROYA
16	12	0016.0012.000	4.050	JUANITA GARCIA
16	13	0016.0013.000	10.700	ESQUIPULA & CARMELITA GARCIA
16	14	0016.0014.000	0.830	SEFERINA & BONIFACIO GONZALES
16	15	0016.0015.000	1.290	ESQUIPULA & CARMELITA GARCIA
16	16	0016.0016.000	1.460	JOSE A. & LUCIANITA GARCIA
16	17	0016.0017.000	3.990	ESQUIPULA & CARMELITA GARCIA
16	18	0016.0018.000	0.430	SALVADOR & TOMASITA R. MARTINEZ
16	19	0016.0019.000	5.800	GLADYS JARAMILLO
16	19A	0016.019A.000	2.650	REGINA MONTROYA
16	20	0016.0020.000	0.530	BEN GARCIA JR. BEN GARCIA SR.
16	20A	0016.020A.000	0.500	ARLENE R. GARCIA
16	21	0016.0021.000	6.080	RICHARD NARANJO
16	21A	0016.021A.000	2.360	GILBERT NARANJO
16	22	0016.0022.000	9.670	WALTER C. & JENNELL R. STEPHENSON
16	23	0016.0023.000	1.480	THOMAS H. & JANE Z. SKINNER
16	24	0016.0024.000	0.440	DONALD R. WOOD
16	25	0016.0025.000	0.390	DONALD R. WOOD
16	26	0016.0026.000	2.570	JACKIE L. MCNABB

<u>Map</u>	<u>Tract</u>	<u>Subfile</u>	<u>Acreage</u>	<u>Adjudicated Owner</u>
16	27	0016.0027.000	1.620	MARIANO B. & PABLITA LUCERO
18	1	0018.0001.000	7.610	MARIANO B. & PABLITA LUCERO
18	2	0018.0002.000	10.810	WILLIAM R. & CHARLENE FLETCHER
18	3	0018.0003.000	<u>17.750</u>	ANTONIO & JOSEPHINE LUCERO
Total:			201.480	

Amount of Water: Not to exceed the amounts set forth below from the Rio Jemez Stream System.

IRRIGATION WATER REQUIREMENTS

The consumptive irrigation requirement (CIR) for each acre irrigated from this ditch is 1.41 acre-feet per irrigated acre per year.

The farm delivery requirement (FDR), which is also referred to as duty, for acreage irrigated from this ditch is 2.82 acre-feet per irrigated acre per year delivered at the farm headgate.

The project delivery requirement (PDR), which is also referred to as off-farm conveyance efficiency, for each acre irrigated from this ditch is 4.03 acre-feet per irrigated acre per year; for a total annual maximum diversion of 811.96 acre-feet per year.

The water rights adjudicated to any individual defendant listed in this agreement are as adjudicated in his or her subfile and nothing in this ditch agreement alters or amends or is intended to alter or amend a defendant's water rights.

This agreement defines the maximum amount of the right of the forenamed defendant ditch association to divert water for the benefit of its members based on the rights adjudicated to its members as set forth above. The amount that the ditch association may divert may change as the adjudicated water rights are altered or amended by other orders of this Court or as permitted by the New Mexico State Engineer. The forenamed defendant ditch association agrees that the

court may enter an order enjoining defendant Cañon Community Ditch Association's diversion or use of the waters of the Rio Jemez Stream System except in accordance with this agreement, other orders of this Court or as permitted by the New Mexico State Engineer.

ACCEPTED BY THE CAÑON COMMUNITY DITCH ASSOCIATION

Herman P. Herrera, President
697 Highway 485
Jemez Pueblo, NM 87024

DATED: _____, 1999

Printed Name of Secretary/Treasurer

Signature of Secretary/Treasurer

DATED: _____, 1999

DL Sanders, Esq./Leticia Sheridan, Esq.
Special Assistant Attorney General
State of New Mexico
State Engineer Office
P.O. Box 25102
Santa Fe, NM 87504-5102

DATED: _____, 1999

David W. Harder, Esq./Lynn A. Johnson, Esq.
U.S. Department of Justice
United States of America
999 18th Street, Suite 945
Denver, CO 80202

DATED: _____, 1999

DISTRIBUTION LIST

State of New Mexico ex rel. State Engineer v. Abousleman, 83 CV 1041 JC
Jemez River Adjudication - Cañon Community Ditch Association
May 24, 2000

Vickie L. Gabin, Special Master
United States District Court
P.O. Box 2384
Santa Fe, NM 87504-2384

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Adjudication Staff Attorney
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Judy K. Stoft
HYDRO LOGIC
P.O. Box 30781
Albuquerque, NM 87190-0781

Herman P. Herrera, President
Cañon Ditch
697 Highway 485
Jemez Pueblo, NM 87024

D.L. Sanders, Esq.
Leticia Sheridan, Esq.
Office of the State Engineer
P.O. Box 25102
Santa Fe, NM 87504-5102

David W. Harder, Esq.
Lynn A. Johnson, Esq.
U.S. Dept of Justice
Suite 945, North Tower
999 Eighteenth Street
Denver, CO 80202

FILED

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

May 2, 2000 13:06



CLERK

**US District Court
District of New Mexico
Digital File Stamp**

Case:	83cv01041
Title:	USA For Jemez, Santa et al. v. Abousleman et al.
Document Type:	Order
Document Number:	3924
Description:	ORDER by Special Master Vickie L. Gabin adopting ditch agreement for Jemez Springs Community Ditch Association. Default on order to show cause (3900)
Total Pages:	2
Exhibits/Attachment:	0
Court Signature:	5c 81 b2 83 a6 72 44 fe 31 2a 55 0f c9 ed 3a 5a f8 fa 94 93 79 fd d2 de ff d1 60 a9 57 2c f9 58 7d a2 04 14 c9 fe 7a 83 94 ed e1 2f 9c b5 ac 78 68 9d c1 13 fb 5f fd b5 9d 5a 85 34 f6 9c e2 53

This document constitutes an official stamp of the Court and, if attached to the document identified above, serves as an endorsed copy of the pleading. It may be used in lieu of the Court's mechanical file stamp for the named document only, and misuse will be treated the same as misuse of the Court's official mechanical file stamp. The Court's digital signature is a verifiable mathematical computation unique to the filed document and the Court's private encryption key. This signature assures that any change can be detected.

3924

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

UNITED STATES OF AMERICA, on)	
its own behalf and on behalf of)	
the PUEBLOS of JEMEZ, SANTA)	
ANA and ZIA,)	
)	
and)	
)	
STATE OF NEW MEXICO ex rel.)	
State Engineer,)	
)	
Plaintiffs,)	
)	
PUEBLOS OF JEMEZ, SANTA ANA)	
and ZIA,)	
)	
Plaintiffs-in-intervention,	)	83cv01041-JC
)	
v.	)	JEMEZ RIVER SYSTEM
	)	Jemez Springs
TOM ABOUSLEMAN, et al.,	)	Community Ditch Association
)	
Defendants.)	

ORDER ADOPTING DITCH AGREEMENT

THIS MATTER comes before the Court upon its Order to Show Cause issued to Jemez Springs Community Ditch Association filed March 8, 2000 (Docket No. 3900). The Court, having considered the record in this cause and otherwise being fully advised in the matter FINDS:

1. The Court has jurisdiction of the defendant and the subject matter herein.
2. The defendant was properly served in this matter with an Order to Show Cause why the Ditch Agreement for Jemez Springs Community Ditch Association, attached hereto, should not be entered as an Order of the Court.
3. The defendant has neither signed and filed the Ditch Agreement nor filed a response

showing cause why the Ditch Agreement should not be entered as an Order of the Court.

4. Therefore, pursuant to the Court's Order to Show Cause, the attached Ditch Agreement should be adopted by the Court for the purpose of administration of the water rights associated with the Jemez Springs Community Ditch.

IT IS THEREFORE ORDERED that the Ditch Agreement for Jemez Springs Community Ditch Association, which is attached hereto, is hereby adopted by the Court for administration purposes.

/electronic signature/
CHIEF UNITED STATES DISTRICT JUDGE

Approved:

/electronic signature/
Special Master Vickie L. Gabin

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

UNITED STATES OF AMERICA, on)	
its own behalf and on behalf of)	
the PUEBLOS of JEMEZ, SANTA)	
ANA and ZIA,)	
)	
and)	
)	
STATE OF NEW MEXICO ex rel.)	
State Engineer,)	
)	
Plaintiffs,)	
)	
PUEBLOS OF JEMEZ, SANTA ANA)	
and ZIA,)	
)	
Plaintiffs-in-intervention,	)	No. CIV 83-1041 JC
)	
v.	)	RIO JEMEZ STREAM SYSTEM
)	
TOM ABOUSLEMAN, et al.,)	
)	
Defendants.)	

DITCH AGREEMENT

The Co-plaintiffs, UNITED STATES OF AMERICA and STATE OF NEW MEXICO, and the defendant, JEMEZ SPRINGS COMMUNITY DITCH, agree that the defendant is a community ditch association duly organized under the laws of the State of New Mexico and that it has the right to divert public waters from the Rio Jemez Stream System for storage and delivery to the headgates or turnouts of the acreages which have been adjudicated irrigation water rights, which are more specifically identified hereafter.

Name of Ditch: JEMEZ SPRINGS COMMUNITY DITCH
State Engineer File No.: None.
Priority: 1865-12-31

Point of Diversion: Jemez Springs Community Ditch diverts from the Jemez River within the SW¼ SE¼ NE¼, Section 23, T.18N., R.2E, N.M.P.M., as projected within the Cañon de San Diego Grant. The point of diversion is located by the state plane coordinate system, central zone X= 369,780, Y= 1,737,640.

JEMEZ SPRINGS COMMUNITY DITCH

<u>Map</u>	<u>Tract</u>	<u>Subfile</u>	<u>Acreage</u>	<u>Adjudicated Owner</u>
5	5	0005.0005.000	0.850	JEMEZ BODHI MANDALA
5	6	0005.0006.000	0.930	VILLAGE OF JEMEZ SPRINGS
5	7	0005.0007.000	0.510	JAMES E. & GLENDA TREHERN
5	9	0005.0009.000	0.920	BARBARA ABOUSLEMAN FRED ABOUSLEMAN TOM ABOUSLEMAN JOSEPHINE A. SHEPARD SARAH NASSOUR LILLIAN SOTEL
5	9A	0005.009A.000	0.350	WILLIAM E. & LEIGH GUSE
5	9B	0005.009B.000	0.300	ROGER SWEET LINDA VOZAR
5	19	0005.0019.000	2.410	EMMETT H. CART KATHERINE E. CART
5	19A	0005.019A.000	0.380	CARMEN T. & PEGGY LEWIS
5	21	0005.0021.000	0.000	SERVANTS OF THE PARACLETE
5	22	0005.0022.000	0.000	ARCHDIOCESE OF SANTA FE, ROMAN CATHOLIC CHURCH
6	1	0006.0001.000	0.140	ANN R. RUSTEBAKKE
6	1A	0006.001A.000	1.800	EMMETT H. CART KATHERINE E. CART
6	2	0006.0002.000	4.400	FRANK A. ROWE (EST.)
6	3	0006.0003.000	0.350	MARCELLO & IOLI GIOMI
6	4	0006.0004.000	0.340	MARIA M. ZANDSTRA
6	5	0006.0005.000	0.480	PERCILLA GARCIA
6	6	0006.0006.000	0.270	LOUIS GARCIA
6	7	0006.0007.000	0.320	JOSEPHINE MONTOYA
6	8	0006.0008.000	0.290	CHARLIE G. MONTOYA
6	9	0006.0009.000	0.210	ELISEO SANDOVAL
6	10	0006.0010.000	0.110	ELIZABETH DICKEY
6	11	0006.0011.000	3.100	DOROTHY ACOSTA P.L. LEYBA
6	11A	0006.011A.000	1.000	JEMEZ VALLEY CREDIT UNION
6	11B	0006.011B.000	1.350	TERRELL H. & JENNIFER A. JOHNSON

<u>Map</u>	<u>Tract</u>	<u>Subfile</u>	<u>Acreeage</u>	<u>Adjudicated Owner</u>
6	12	0006.0012.000	0.900	MAX FRANK & DOLORES L. DURACHTA
6	12A	0006.012A.000	0.250	EPIFANIO & DARLENE ABEYTA
6	12B	0006.012B.000	0.420	CLIFFORD W. & LILLIAN B. CURTIS
6	12C	0006.012C.000	0.420	JACK & LOU STEINMASEL
6	13	0006.0013.000	1.860	TERRY C. & ALBERT E. ARMENTA
6	14	0006.0014.000	4.560	LARRY R. LIPPENCOTT
6	14A	0006.014A.000	3.940	MARSHALL G. & HELEN SMITH
6	14B	0006.014B.000	0.450	ROBERT C. & TWILA CART
6	15	0006.0015.000	0.880	WILLIAM & ANNA UTZAT
6	16	0006.0016.000	0.550	DAVID PRITCHARD RUTH PRITCHARD WALLACE PRITCHARD
6	17	0006.0017.000	0.190	MARY V. RUSSELL
6	18	0006.0018.000	0.140	CHARLES & SUSAN G. PATE
6	19	0006.0019.000	0.230	WALTER GAYLE BACON
6	20	0006.0020.000	0.520	ERNEST M. & CRUCITA T. LOVATO
6	21	0006.0021.000	5.250	BARBARA ABOUSLEMAN FRED ABOUSLEMAN TOM ABOUSLEMAN JOSEPHINE A. SHEPARD SARAH NASSOUR LILLIAN SOTEL
6	23	0006.0023.000	3.060	HAROLD BRACKEEN
6	25	0006.0025.000	0.700	WINIFRED A. RAHBERGER
6	26	0006.0026.000	<u>0.760</u>	JON C. & GLENDA G. CLARKE
Total:			45.89	

Amount of Water: Not to exceed the amounts set forth below from the Rio Jemez Stream System.

IRRIGATION WATER REQUIREMENTS

The consumptive irrigation requirement (CIR) for each acre irrigated from this ditch is 1.41 acre-feet per irrigated acre per year.

The farm delivery requirement (FDR), which is also referred to as duty, for acreage irrigated from this ditch is 2.82 acre-feet per irrigated acre per year delivered at the farm headgate.

The project delivery requirement (PDR), which is also referred to as off-farm conveyance efficiency, for each acre irrigated from this ditch is 4.03 acre-feet per irrigated acre per year; for a total annual maximum diversion of 184.94 acre-feet per year.

The water rights adjudicated to any individual defendant listed in this agreement are as adjudicated in his or her subfile and nothing in this ditch agreement alters or amends or is intended to alter or amend a defendant's water rights.

This agreement defines the maximum amount of the right of the forenamed defendant ditch association to divert water for the benefit of its members based on the rights adjudicated to its members as set forth above. The amount that the ditch association may divert may change as the adjudicated water rights are altered or amended by other orders of this Court or as permitted by the New Mexico State Engineer. The forenamed defendant ditch association agrees that the court may enter an order enjoining defendant Jemez Springs Community Ditch Association's diversion or use of the waters of the Rio Jemez Stream System except in accordance with this agreement, other orders of this Court or as permitted by the New Mexico State Engineer.

ACCEPTED BY THE JEMEZ SPRINGS COMMUNITY DITCH ASSOCIATION

Emmett Cart, President
P.O. Box 3
Jemez Springs, NM 87025-0003

DATED: _____, 1999

Printed Name of Secretary/Treasurer

Signature of Secretary/Treasurer

DATED: _____, 1999

DATED: _____, 1999

DL Sanders, Esq./Leticia Sheridan, Esq.
Special Assistant Attorneys General
State of New Mexico
State Engineer Office
P.O. Box 25102
Santa Fe, NM 87504-5102

DATED: _____, 1999

David W. Harder, Esq./Lynn A. Johnson, Esq.
U.S. Department of Justice
United States of America
999 18th Street, Suite 945
Denver, CO 80202

DISTRIBUTION LIST

State of New Mexico ex rel. State Engineer v. Abousleman, 83 CV 1041 JC
Jemez River Adjudication - Jemez Springs Community Ditch Association
May 24, 2000

Vickie L. Gabin, Special Master
United States District Court
P.O. Box 2384
Santa Fe, NM 87504-2384

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Albuquerque, NM 87102-2272

Judy K. Stoft
HYDRO LOGIC
P.O. Box 30781
Albuquerque, NM 87190-0781

Emmitt Cart, President
Jemez Springs Ditches
P.O. Box 3
Jemez Springs, NM 87025-0003

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Santa Fe, NM 87504-5102

David W. Harder, Esq.
Lynn A. Johnson, Esq.
U.S. Dept of Justice
Suite 945, North Tower
999 Eighteenth Street
Denver, CO 80202

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

COPIED
11/11/83
11:11
11/11/83
11:11

UNITED STATES OF AMERICA, on)
its own behalf and on behalf of)
the PUEBLOS of JEMEZ, SANTA)
ANA and ZIA,)
)
and)
)
STATE OF NEW MEXICO ex rel.)
State Engineer,)
)
Plaintiffs,)
)
PUEBLOS OF JEMEZ, SANTA ANA)
and ZIA,)
)
Plaintiffs-in-intervention,)
)
v.)
)
TOM ABOUSLEMAN, et al.,)
)
Defendants.)

No. CIV 83-1041 JC
RIO JEMEZ STREAM SYSTEM

DITCH AGREEMENT

The Co-plaintiffs, UNITED STATES OF AMERICA and STATE OF NEW MEXICO,
and the defendant, SAN YSIDRO DITCH, agree that the defendant is a community ditch
association duly organized under the laws of the State of New Mexico and that it has the right to
divert public waters from the Rio Jemez Stream System for storage and delivery to the headgates
or turnouts of the acreages which have been adjudicated irrigation water rights, which are more
specifically identified hereafter.

2011

SAN YSIDRO DITCH and NESTOR R. PADILLA IRRIGATION SYSTEM LATERAL

Point of Diversion: San Ysidro Ditch diverts from the Jemez River, within the NW¼ NW¼ NE¼, Section 29, T.16N., R.2E., N.M.P.M., within the Jemez Indian Reservation. The point of diversion is located by the state plane coordinate system, central zone X= 351,295 Y= 1,672,050.

SAN YSIDRO DITCH

State Engineer File No.: 0646

Priority: 1786-12-31

<u>Map</u>	<u>Tract</u>	<u>Subfile</u>	<u>Acres</u>	<u>Adjudicated Owner</u>
29	9	0029.0009.000	99.930	MAX LEE KIEHNE CODA C. ROBERSON
29	11	0029.0011.000	1.590	FLORENCIO G. SANDOVAL
29	12	0029.0012.000	0.000	RAMON & LORRAINE GONZALES
29	13	0029.0013.000	2.750	PHILLIP G. & JEAN M. RAMSEY
29	14	0029.0014.000	3.160	N.M. DISTRICT COUNCIL ASSEMBLIES OF GOD, INC.
29	15	0029.0015.000	9.340	MACARIO MAESTAS
29	16	0029.0016.000	5.680	ROBERT N. MARTINEZ
29	17	0029.0017.000	0.450	MARTIN & ANN CLARK
29	18	0029.0018.000	37.420	DAVID E. & VIRGINIA LUCERO
29	19	0029.0019.000	16.500	DOUGLAS REID
29	19A	0029.019A.000	1.550	MOST HOLY ORDER OF THE MYSTIC ROSE OF ST. DOMINIC
29	20	0029.0020.000	16.600	CLEMENTE RIVERA SR.
29	21	0029.0021.000	20.330	EPIFANIO & LENORE G. MONTROYA
29	22	0029.0022.000	3.580	BENITO MAESTAS
29	23	0029.0023.000	0.210	EPIFANIO & LENORE G. MONTROYA
29	24	0029.0024.000	24.420	SIMON & BENITA GARCIA
29	25	0029.0025.000	10.560	DAVID E. & VIRGINIA LUCERO
29	26	0029.0026.000	0.060	BENEDICTO & ELENA LOPEZ
29	27	0029.0027.000	0.120	JOSE RAFAEL & LUCINDA S. VALVERDE
29	28	0029.0028.000	0.000	BENIGNO JARAMILLO
29	29	0029.0029.000	4.850	PHILIP C. DE BACA NEVAREZ C. DE BACA
29	30	0029.0030.000	18.220	RICHARD & PRECILIANA CHRISTILAW
29	31	0029.0031.000	14.230	ESTRELLA GARCIA
29	32	0029.0032.000	0.060	FIDEL & ISABEL PEREA

<u>Map</u>	<u>Tract</u>	<u>Subfile</u>	<u>Acreege</u>	<u>Adjudicated Owner</u>
29	33	0029.0033.000	15.330	ALICE GARCIA
29	34	0029.0034.000	11.490	RICHARD & PRECILIANA CHRISTILAW
29	35	0029.0035.000	0.210	FERMIN MARQUEZ
29	35A	0029.035A.000	5.260	JERRY MARQUEZ
29	35B	0029.035B.000	5.260	FERMIN MARQUEZ
29	36	0029.0036.000	6.320	FERNANDO MONTANO (EST.)
29	36A	0029.036A.000	5.600	SEVERO MONTANO
29	37	0029.0037.000	16.750	SALLY G. MIERA
29	38	0029.0038.000	3.200	CANDELARIO LUNA
31	1	0031.0001.000	17.350	FRANCES E. POWELL HUENERGARDT
31	1A	0031.001A.000	9.450	CANDELARIO LUNA
31	1B	0031.001B.000	8.420	SALLY G. MIERA
31	1C	0031.001C.000	8.450	RICHARD & PRECILIANA CHRISTILAW
31	1D	0031.001D.000	2.050	JOSE DOMINGO & DARLENE VASQUEZ
31	1E	0031.001E.000	1.500	CHARLIE & M. ELOISA LOPEZ
31	1F	0031.001F.000	0.230	FRANCES E. POWELL HUENERGARDT
31	2	0031.0002.000	0.000	EDWIN J. TUCKER
31	3	0031.0003.000	0.000	FRANCES E. POWELL HUENERGARDT
31	4	0031.0004.000	14.700	RAYMOND TRUJILLO
31	5	0031.0005.000	22.130	MICHAEL & MARGIE GARCIA
31	6	0031.0006.000	30.090	MANUELITA M. GARCIA
31	7	0031.0007.000	2.620	MARCELLA BROWNSON
31	8	0031.0008.000	4.250	BERNABE TRUJILLO JR.
31	9	0031.0009.000	4.190	HENRY C. & PATRICIA M. PEREA
31	10	0031.0010.000	10.130	HENRY C. & PATRICIA M. PEREA
31	12	0031.0012.000	0.000	MARCELLA BROWNSON
31	13	0031.0013.000	0.460	VILLAGE OF SAN YSIDRO
32	2	0032.0002.000	3.370	JOHN R. & BETTY GWIN LANSDOWNE
32	3A	0032.003A.000	0.650	FERNANDO MONTANO (EST.)
32	3B	0032.003B.000	1.680	SEVERO MONTANO
32	4	0032.0004.000	4.200	SALLY G. MIERA
32	5	0032.0005.000	0.160	CANDELARIO LUNA
32	5A	0032.005A.000	0.450	VILLAGE OF SAN YSIDRO
32	5B	0032.005B.000	<u>0.280</u>	FRANCES E. POWELL HUENERGARDT
Total:			507.84	

NESTOR R. PADILLA IRRIGATION SYSTEM LATERAL

State Engineer File No.: 2652

Priority: 1948-08-12

<u>Map</u>	<u>Tract</u>	<u>Subfile</u>	<u>Acreage</u>	<u>Adjudicated Owner</u>
31	11	0031.0011.000	0.970	Robert & Viola Garcia
31	16	0031.0016.000	0.500	Abenicio Maestas
31	17	0031.0017.000	0.310	Libby Maestas Griffin
31	18	0031.0018.000	5.91	Pueblo of Zia
31	19	0031.0019.000	<u>3.52</u>	Nettie Mae Clement

Total: 11.21

Amount of Water: Not to exceed the amounts set forth below from the Rio Jemez Stream System.

IRRIGATION WATER REQUIREMENTS

The consumptive irrigation requirement (CIR) for each acre irrigated from this ditch is 1.73 acre-feet per irrigated acre per year.

The farm delivery requirement (FDR), which is also referred to as duty, for acreage irrigated from this ditch is 3.46 acre-feet per irrigated acre per year delivered at the farm headgate.

The project delivery requirement (PDR), which is also referred to as off-farm conveyance efficiency, for each acre irrigated from this ditch is 4.94 acre-feet per year irrigated acre; for a total annual maximum diversion of 2,564.11 acre-feet per year.

The water rights adjudicated to any individual defendant listed in this agreement are as adjudicated in his or her subfile and nothing in this ditch agreement alters or amends or is intended to alter or amend a defendant's water rights.

This agreement defines the maximum amount of the right of the forenamed defendant ditch association to divert water for the benefit of its members based on the rights adjudicated to its members as set forth above. The amount that the ditch association may divert may change as the adjudicated water rights are altered or amended by other orders of this Court or as permitted by the New Mexico State Engineer. The forenamed defendant ditch association agrees that the

court may enter an order enjoining defendant San Ysidro Ditch Association's diversion or use of the waters of the Rio Jemez Stream System except in accordance with this agreement, other orders of this Court or as permitted by the New Mexico State Engineer.

ACCEPTED BY THE SAN YSIDRO DITCH ASSOCIATION

Michael Garcia

Michael Garcia, President
P.O. Box 128
San Ysidro, NM 87053

DATED: May 15, 2000

Henry Perea

Printed Name of Secretary/Treasurer

Henry C. Perea
Signature of Secretary/Treasurer

DATED: May 15, 2000

Leticia Sheridan

DL Sanders, Esq./Leticia Sheridan, Esq.
Special Assistant Attorneys General
State of New Mexico
State Engineer Office
P.O. Box 25102
Santa Fe, NM 87504-5102

DATED: 5-15, 2000

Approved Via Facsimile

David W. Harder, Esq./Lynn A. Johnson, Esq.
U.S. Department of Justice
United States of America
999 18th Street, Suite 945
Denver, CO 80202

DATED: May 12, 2000

FILED

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

June 19, 2000 10:33



CLERK

**US District Court
District of New Mexico
Digital File Stamp**

Case:	83cv01041
Title:	USA For Jemez, Santa et al. v. Abousleman et al.
Document Type:	Order
Document Number:	3930
Description:	ORDER by Chief Judge John E. Conway adopting May 15, 2000 ditch agreement (3011) between US NM & San Isidro Ditch Assn.
Total Pages:	1
Exhibits/Attachment:	0
Court Signature:	1a 61 d4 42 32 e8 e6 55 26 a8 40 25 5b cf 34 73 5a a2 45 5e 77 28 3d 68 c0 44 36 67 31 f8 06 49 94 94 75 5b 28 47 d6 34 4e 58 c1 2a 57 a3 09 19 d6 0b c6 81 93 eb e7 c3 ec fb ad 34 d4 c5 e7 df

This document constitutes an official stamp of the Court and, if attached to the document identified above, serves as an endorsed copy of the pleading. It may be used in lieu of the Court's mechanical file stamp for the named document only, and misuse will be treated the same as misuse of the Court's official mechanical file stamp. The Court's digital signature is a verifiable mathematical computation unique to the filed document and the Court's private encryption key. This signature assures that any change can be detected.

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

UNITED STATES OF AMERICA, on its
own behalf and on behalf of the
PUEBLOS OF JEMEZ, SANTA ANA, and ZIA,

and

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

83cv01041 JC
RIO JEMEZ ADJUDICATION

and

THE PUEBLOS OF JEMEZ, SANTA ANA, and ZIA,
Plaintiffs-in-Intervention,

San Ysidro Ditch Association

v.

TOM ABOUSLEMAN, *et al.*,
Defendants.

ORDER

THIS MATTER is before the Court *sua sponte*. On May 15, 2000, the United States of America, the State of New Mexico and the San Ysidro Ditch Association filed a Ditch Agreement (3921) setting forth the Association's rights in the waters of the Rio Jemez stream system.

IT IS HEREBY ADOPTED by the Court.

/ electronic signature/

CELEF UNITED STATES DISTRICT JUDGE

Approved:

/ electronic signature/

SPECIAL MASTER VICKIE L GABIN

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

CO JUNE 10 1983

UNITED STATES OF AMERICA, on)
its own behalf and on behalf of)
the PUEBLOS of JEMEZ, SANTA)
ANA and ZIA,)

and)

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

Plaintiffs,)

PUEBLOS OF JEMEZ, SANTA ANA)
and ZIA,)

Plaintiffs-in-intervention,)

v.)

TOM ABOUSLEMAN, et al.,)

Defendants.)

No. CIV 83-1041 JC
JEMEZ RIVER SYSTEM

DITCH AGREEMENT

The Co-plaintiffs, UNITED STATES OF AMERICA and STATE OF NEW MEXICO, and the defendant, PONDEROSA COMMUNITY DITCH, agree that the defendant is a community ditch association duly organized under the laws of the State of New Mexico and that it has the right to divert public waters from the Rio Jemez Stream System for storage and delivery to the headgates or turnouts of the acreages which have been adjudicated irrigation water rights, which are more specifically identified hereafter.

Name of Ditch: PONDEROSA COMMUNITY DITCH
State Engineer File No.: 0973
Priority: 1768-12-31, 1815-12-31 and 1947-02-26 as indicated below.
Source of Water: Vallecitos Creek, a tributary of the Jemez River.
Point of Diversion: Ponderosa Community Ditch diverts from Vallecitos Creek, a tributary of the

Jemez River, within the NW¼ SW¼ SW¼, Section 20, T. 17N., R. 3E N.M.P.M.. as projected within the Ojo de San Jose Grant. The point of diversion is located by the state plane coordinate system, central zone X= 379,875, Y= 1.704.640.

PONDEROSA COMMUNITY DITCH

<u>Map</u>	<u>Tract</u>	<u>Subfile</u>	<u>Acreege</u>	<u>Priority</u>	<u>Adjudicated Owner</u>
15	1	0015.0001.000	2.750	1768-12-31	LEW JR. & MARY F. CALDWELL
15	2	0015.0002.000	0.000	1768-12-31	GILBERT F. GALLEGOS MICHAEL T. GALLEGOS
15	3	0015.0003.000	0.460	1768-12-31	LUCAS GALLEGOS (EST.)
15	4	0015.0004.000	0.200	1768-12-31	PEDRO TRUJILLO SR.
15	5	0015.0005.000	0.880	1768-12-31	LEW JR. & MARY F. CALDWELL
17	1	0017.0001.000	3.100	1768-12-31	LEW JR. & MARY F. CALDWELL
17	1A	0017.001A.000	0.520	1768-12-31	JIM D. & DIANA J. CLARK
17	2	0017.0002.000	2.370	1768-12-31	PEDRO TRUJILLO SR.
17	3	0017.0003.000	5.960	1768-12-31	REYNEL JR. & CORA M. TRUJILLO
17	4	0017.0004.000	0.720	1768-12-31	CARLOS SANDOVAL
17	5	0017.0005.000	1.940	1768-12-31	SIMON P. & RAMONA SANDOVAL
17	6	0017.0006.000	3.040	1768-12-31	LINDA R. RIVERA
17	7	0017.0007.000	0.530	1768-12-31	JAMES C. & JILL G. THOMSON
17	8	0017.0008.000	2.560	1768-12-31	SOTERO LUCERO (EST.)
17	9	0017.0009.000	3.880	1768-12-31	KENT E. & MARTHA L. LAUSER
17	10	0017.0010.000	3.130	1768-12-31	MARY ELLEN MESKIMEN
17	11	0017.0011.000	1.180	1768-12-31	BOYCE CLARK
17	12	0017.0012.000	0.080	1768-12-31	ROBERT R. LAMBERT
17	13	0017.0013.000	1.480	1768-12-31	JAMES & ANNA P. TRUJILLO
17	14	0017.0014.000	1.710	1768-12-31	ROBERT & BOBBY SUE MESKIMEN
17	15	0017.0015.000	1.900	1768-12-31	FRANK GARCIA
17	16	0017.0016.000	4.720	1768-12-31	ROBERT & JOVITA HOOLIHAN
17	16A	0017.016A.000	0.770	1768-12-31	RUDOLFO J. & SOPHIA MARTINEZ
17	17	0017.0017.000	3.530	1768-12-31	MONTE C. ROWDEN JR.
17	18	0017.0018.000	3.960	1815-12-31	TELESFOR GONZALES
17	18B	0017.018B.000	0.000	1815-12-31	WILLIAM M. & MARY LOUISE WORTHEN
17	19	0017.0019.000	1.170	1815-12-31	LEW JR. & MARY F. CALDWELL
19	1	0019.0001.000	0.040	1815-12-31	ARNOLD & LILA GARCIA
19	1A	0019.001A.000	2.180	1815-12-31	TELESFOR GONZALES
19	2	0019.0002.000	2.080	1815-12-31	TELESFOR GONZALES
19	2A	0019.002A.000	1.400	1815-12-31	CRISTOBAL GONZALES
19	3	0019.0003.000	4.100	1815-12-31	FRANK GARCIA
19	4	0019.0004.000	3.310	1815-12-31	SUE ELLEN & SCOTT NILES
19	5	0019.0005.000	4.420	1815-12-31	ROBERT & BOBBY SUE MESKIMEN
19	6	0019.0006.000	6.530	1815-12-31	FRANK & AURORA GONZALES
19	7	0019.0007.000	2.260	1815-12-31	JUSTO & LUCY A. LOPEZ

<u>Map</u>	<u>Tract</u>	<u>Subfile</u>	<u>Average</u>	<u>Priority</u>	<u>Adjudicated Owner</u>
19	8	0019.0008.000	0.750	1815-12-31	KENNETH F. MCDONALD
19	9	0019.0009.000	3.140	1815-12-31	MOISES S. & MARY ROMERO
19	10	0019.0010.000	0.520	1815-12-31	MOISES H. ROMERO
19	11	0019.0011.000	0.540	1815-12-31	DOROTHY DOW
19	12	0019.0012.000	1.810	1815-12-31	RONNIE F. & VIRGINIA A. HERRERA
19	13	0019.0013.000	7.820	1815-12-31	JOSE RAFAEL ARMENTA
19	14	0019.0014.000	0.720	1815-12-31	LUCINDA G. GONZALES
19	14A	0019.014A.000	2.150	1815-12-31	JOSEPH D. & SANDRA L. JOHNSON
19	15	0019.0015.000	0.780	1815-12-31	JOSEPH C. FERNANDEZ
19	16	0019.0016.000	0.750	1815-12-31	DANIEL PEREZ
19	17	0019.0017.000	0.810	1815-12-31	GREGORIO G. PEREZ
19	18	0019.0018.000	0.850	1815-12-31	DAVID A. CROW
19	19	0019.0019.000	1.200	1815-12-31	DOLORES & EDWARD AGUILAR
19	20	0019.0020.000	1.070	1815-12-31	ARNOLD & LILA GARCIA
19	21	0019.0021.000	1.550	1815-12-31	MARY JANE GONZALES SCOFIELD
19	22	0019.0022.000	1.650	1815-12-31	RICHARD T. & IRMA G. SALAZAR
19	23	0019.0023.000	1.370	1815-12-31	JUAN & DELUVINA GARCIA
19	24	0019.0024.000	1.520	1815-12-31	TINO & TINA GARCIA
19	25	0019.0025.000	0.890	1815-12-31	ANDREW SCHUPPERT
19	26	0019.0026.000	2.240	1815-12-31	THELDON & AVERVE PARRETT
19	26A	0019.026A.000	0.250	1815-12-31	MICHAEL & GLORIA MARTINEZ
19	27	0019.0027.000	4.420	1815-12-31	CANDIDO & AURORA TRUJILLO
19	27A	0019.027A.000	0.120	1815-12-31	ADELAIDO MARTINEZ
19	28	0019.0028.000	1.180	1815-12-31	RAMON T. & ETTA JEAN TRUJILLO
19	28A	0019.028A.000	0.370	1815-12-31	PONDEROSA COMMUNITY DEVELOPMENT CENTER
19	29	0019.0029.000	6.130	1815-12-31	CANDIDO & AURORA TRUJILLO
19	30	0019.0030.000	0.210	1815-12-31	BOB VANLANDINGHAM
19	31	0019.0031.000	0.080	1815-12-31	THOMAS SHINE
19	32	0019.0032.000	0.600	1815-12-31	MERRIAM TUFTS
19	33	0019.0033.000	1.050	1815-12-31	JOSE S. & LUCY MEJIA
19	34	0019.0034.000	1.360	1815-12-31	LUPITA S. TRUJILLO
19	35	0019.0035.000	0.780	1815-12-31	FRITZ VALDEZ
19	36	0019.0036.000	1.940	1815-12-31	ANTHONY J. & BERNICE R. SEDILLO
19	37	0019.0037.000	1.130	1815-12-31	RICHARD R. RAMSEY
19	37A	0019.037A.000	0.260	1815-12-31	ANTHONY DURAN
19	38	0019.0038.000	2.020	1815-12-31	PETER A. LUPSHA
19	39	0019.0039.000	0.620	1815-12-31	RAYMOND T. & LORRAINE JOHNSON
19	39A	0019.039A.000	0.520	1815-12-31	LOUIS & FRANCES TRUJILLO
19	40	0019.0040.000	1.940	1815-12-31	ROBERT & BOBBY SUE MESKIMEN
19	40A	0019.040A.000	1.710	1815-12-31	JAMES F. WISEMAN
19	41	0019.0041.000	0.820	1815-12-31	RALPH JR. & JUDY M. ASBURY

Map	Tract	Subfile	Acreage	Priority	Adjudicated Owner
19	41A	0019.041A.000	0.530	1815-12-31	JAMES & ANNA P. TRUJILLO
19	42	0019.0042.000	1.000	1815-12-31	LEROY TRUJILLO
19	42A	0019.042A.000	11.650	1815-12-31	LEROY TRUJILLO
19	43	0019.0043.000	2.750	1815-12-31	ROBERT & LAURA TRUJILLO
19	44	0019.0044.000	1.650	1815-12-31	PRIANO & EVA TRUJILLO
19	45	0019.0045.000	1.920	1815-12-31	JACOBO GONZALES
19	46	0019.0046.000	6.240	1815-12-31	JOSE M. & ADELINA GARCIA
19	47	0019.0047.000	0.400	1815-12-31	CHARLES J. MULLER
19	47A	0019.047A.000	0.000	1815-12-31	LORENZO RAMIREZ
19	48	0019.0048.000	9.390	1815-12-31	JOSE TRUJILLO SR.
19	49	0019.0049.000	8.080	1815-12-31	FRANCISCO J. VALVERDE
19	49A	0019.049A.000	2.600	1815-12-31	NEIL NIEBES
19	50	0019.0050.000	0.550	1815-12-31	REYNEL TRUJILLO SR.
19	50A	0019.050A.000	0.770	1815-12-31	JAMES & FRANCES JOHNSON
19	50B	0019.050B.000	6.220	1815-12-31	MANUEL E. & NANCY J. TRUJILLO
20	1A	0020.001A.000	2.160	1815-12-31	TELESFOR GONZALES
20	4A	0020.004A.000	0.520	1815-12-31	SUE ELLEN & SCOTT NILES
22	1	0022.0001.000	1.000	1815-12-31	TOM & MARY F. LOPEZ
22	2	0022.0002.000	4.030	1815-12-31	JOSE M. & ADELINA GARCIA
22	3	0022.0003.000	9.620	1815-12-31	NEIL NIEBES
22	3A	0022.003A.000	25.980	1815-12-31	FRANCISCO J. VALVERDE
22	4	0022.0004.000	10.380	1815-12-31	ROBERT & SOPHIE ARCHIBEQUE
22	5	0022.0005.000	0.000	1815-12-31	LUCAS GALLEGOS (EST.)
22	6	0022.0006.000	0.000	1815-12-31	REYNEL JR. & CORA M. TRUJILLO
22	7	0022.0007.000	10.850	1815-12-31	RICHARD A. & LINDA F. SALAZAR
22	8	0022.0008.000	4.360	1815-12-31	RICHARD T. & IRMA G. SALAZAR
22	9	0022.0009.000	0.000	1815-12-31	FRANCISCO J. VALVERDE
22	10	0022.0010.000	1.240	1815-12-31	JUAN C.T. OLGUIN
22	13	0022.0013.000	0.850	1815-12-31	PLEMON D. & BEVERLY R. JOHNSON
22	13A	0022.013A.000	0.850	1815-12-31	ROBERT & ALISIA CHRISTENSEN
22	13B	0022.013B.000	2.380	1815-12-31	MARY AGUILAR LEE
22	14	0022.0014.000	2.580	1815-12-31	HENRY K. & MARY STREET
22	14A	0022.014A.000	0.450	1815-12-31	HARRY GORDON
22	15	0022.0015.000	12.350	1815-12-31	JUAN C.T. OLGUIN
22	16	0022.0016.000	9.540	1815-12-31	JAMES E. & GLENDA TREHERN
22	17	0022.0017.000	2.240	1815-12-31	ELUL & ROSE VANLANDINGHAM SAM & RITA VANLANDINGHAM
22	18	0022.0018.000	2.850	1815-12-31	HENRY K. & MARY STREET
22	19	0022.0019.000	3.110	1815-12-31	DONALD & HENRIETTA JARAMILLO
Total:			299.59		

Amount of Water: Not to exceed the amounts set forth below from the Jemez River System.

STORAGE

The Association has the right to divert sufficient amounts of water to maintain the storage reservoirs for irrigation purposes in the amounts and locations listed below:

Subfile No. 0015.001A.000

- a) **Purpose:** Storage for Irrigation Purposes
- b) **Priority:** February 26, 1947
- c) **Point of Diversion:** Vallecitos Creek, a tributary of the Jemez River.
- d) **Location of Storage and Use:** Lower Vallecitos Community Storage Works is located in the W $\frac{1}{2}$ W $\frac{1}{2}$ SW $\frac{1}{4}$ Sec. 20, T.17N., R.3E., N.M.P.M., as projected into the Ojo de San Jose Grant, whence the Angle Point No. 2 of Private Claim No. 37 bears N. 19° 03' E., 721 feet distant, as shown on Hydrographic Survey Map Sheet No. 15, Tract 1A.
- e) **Amount of Water:** Storage not to exceed 58 acre-feet in reservoir with a surface area of 6 acres within Lower Vallecitos Community Storage Works for irrigation purposes as set out in State Engineer Office File 0973.

Subfile No. 0017.018A.00

- a) **Purpose:** Storage for Irrigation Purposes
- b) **Priority:** December 31, 1815
- c) **Source of Water:** Vallecitos Creek, a tributary of the Jemez River.
- d) **Point of Diversion:** Ponderosa Community Ditch, NW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 20, T.17N, R.3E, projected within the Ojo De San Jose Grant, located by New Mexico State Plane Coordinate System, Central Zone, X=379, 875 Y=1, 704, 640.
- e) **Location of Storage:** Storage Reservoir is located in the W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 30, T.17N, R.3E, N.M.P.M, as projected within the Ojo De San Jose Grant, as shown on Hydrographic Survey Map Sheet No. 17, Tract 18A.
Amount of Water: Storage not to exceed 15 acre-feet in reservoir with a surface area of 150 acres for irrigation purposes as set out in State Engineer Office file 0973.

CONSUMPTIVE USE FROM STORAGE

The consumptive use of water from storage in reservoirs shall be 16.00 acre feet per year for subfile 0015.001A.000² and 5.07 acre feet per year for subfile 0017.018A.00³.

IRRIGATION WATER REQUIREMENTS

The consumptive irrigation requirement (CIR) for each acre irrigated from this ditch is 1.41 acre-feet per irrigated acre per year.

The farm delivery requirement (FDR), which is also referred to as duty, for acreage irrigated from this ditch is 2.82 acre-feet per irrigated acre per year delivered at the farm headgate.

The project delivery requirement (PDR), which is also referred to as off-farm conveyance efficiency, for each acre irrigated from this ditch is 4.03 acre-feet per irrigated acre per year; for a total annual maximum diversion of 1,207.35 acre-feet per year based on the rights adjudicated in the subfiles as set forth above; plus 16.00 acre feet per year for subfile 0015.001A.000 and 5.07 acre feet per year for subfile 0017.018A.00 to replace the amount lost annually to evaporation.

The water rights adjudicated to any individual defendant listed in this agreement are as adjudicated in his or her subfile and nothing in this ditch agreement alters or amends or is intended to alter or amend a defendant's water rights.

This agreement defines the maximum amount of the right of the forenamed defendant ditch association to divert water for the benefit of its members based on the rights adjudicated to its members as set forth above. The amount that the ditch association may divert may change as

¹The consumptive use from storage equals the net evaporation from the reservoir. The net evaporation (NE) is calculated by multiplying the net evaporation rate (NER) from man-made reservoirs, expressed in feet, by the surface area acreage (SAA). This figure yields the annual consumptive use due to evaporation.

²The net evaporation rate for this reservoir is 32" per year, based on the Court's June 3, 1997 order (No. 3559) adopting the *Small Lake Net Evaporation Zones in the Jemez Watershed* and the map thereof. Therefore, the net evaporation equals:
 $32" \text{ (NER in inches)} + 12" = 2.667' \text{ (NER in feet)} \times 6 \text{ acres (SAA)} = 16.00 \text{ acre feet (NE)} = \text{consumptive use from storage.}$

³The net evaporation rate for this reservoir is 32" per year, based on the Court's June 3, 1997 order (No. 3559) adopting the *Small Lake Net Evaporation Zones in the Jemez Watershed* and the map thereof. Therefore, the net evaporation equals:
 $32" \text{ (NER in inches)} + 12" = 2.667' \text{ (NER in feet)} \times 1.9 \text{ acres (SAA)} = 5.07 \text{ acre feet (NE)} = \text{consumptive use from storage.}$

the adjudicated water rights are altered or amended by other orders of this Court or as permitted by the New Mexico State Engineer. The forenamed defendant ditch association agrees that the court may enter an order enjoining defendant Ponderosa Community Ditch Association's diversion or use of the waters of the Rio Jemez Stream System except in accordance with this agreement, other orders of this Court or as permitted by the New Mexico State Engineer.

ACCEPTED BY THE PONDEROSA COMMUNITY DITCH ASSOCIATION

Mary F. Caldwell
Mary F. Caldwell
President of the Commission
P.O. Box 108
Ponderosa, NM 87044

DATED: 12-16-99, 1999

Ruby Hoolihan
Ruby Hoolihan, Commissioner

DATED: 12-16-99, 1999

Leroy Trujillo
Leroy Trujillo, Commissioner

DATED: _____, 1999

Leticia Sheridan
DL Sanders, Esq./Leticia Sheridan, Esq.
Special Assistant Attorneys General
State of New Mexico
State Engineer Office
P.O. Box 25102
Santa Fe, NM 87504-5102

DATED: 12-28, 1999

Telephonically Accepted
David W. Harder, Esq./Lynn A. Johnson, Esq.
U.S. Department of Justice
United States of America
999 18th Street, Suite 945
Denver, CO 80202

DATED: Nov 23, 1999

FILED

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

June 19, 2000 10:31


CLERK

**US District Court
District of New Mexico
Digital File Stamp**

Case:	83cv01041
Title:	USA For Jemez, Santa et al. v. Abouseman et al.
Document Type:	Order
Document Number:	3929
Description:	ORDER by Chief Judge John E. Conway adopting January 10, 2000 ditch agreement (3885) between US, NM & Ponderosa Community Ditch Assn.
Total Pages:	1
Exhibits/Attachment:	0
Court Signature:	6d cd b3 c4 9f f4 e4 22 a3 f9 c8 19 2b 97 ce 92 46 84 f8 1f a6 94 a9 f0 9b 70 64 96 bb a0 f6 38 23 56 76 b6 d7 c5 6b 62 be 44 ea bc 53 6f 42 c4 6b 66 f1 8b ec 65 66 38 71 2f be e3 0a 99 81 8d

This document constitutes an official stamp of the Court and, if attached to the document identified above, serves as an endorsed copy of the pleading. It may be used in lieu of the Court's mechanical file stamp for the named document only, and misuse will be treated the same as misuse of the Court's official mechanical file stamp. The Court's digital signature is a verifiable mathematical computation unique to the filed document and the Court's private encryption key. This signature assures that any change can be detected.

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

UNITED STATES OF AMERICA, on its
own behalf and on behalf of the
PUEBLOS OF JEMEZ, SANTA ANA, and ZIA,

and

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

83cv01041 JC
RIO JEMEZ ADJUDICATION

and

THE PUEBLOS OF JEMEZ, SANTA ANA, and ZIA,
Plaintiffs-in-Intervention,

Ponderosa Community Ditch Association

v.

TOM ABOUSLEMAN, *et al.*,
Defendants.

ORDER

THIS MATTER is before the Court *sua sponte*. On January 10, 2000, the United States of America, the State of New Mexico and the Ponderosa Community Ditch Association filed a Ditch Agreement (3885) setting forth the Association's rights in the waters of the Rio Jemez stream system.

IT IS HEREBY ADOPTED by the Court.

/ electronic signature/

CHIEF UNITED STATES DISTRICT JUDGE

Approved:

/ electronic signature/
SPECIAL MASTER VICKIE L GABIN