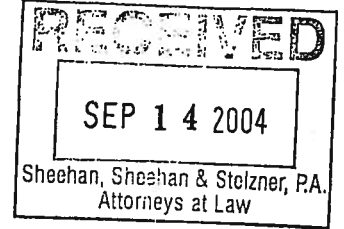


FILED
DISTRICT COURT
SAN JUAN COUNTY
NM

2004 SEP 13 A 9:18

ELEVENTH JUDICIAL DISTRICT
COUNTY OF SAN JUAN
STATE OF NEW MEXICO



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

v.

No. CV 75-184

UNITED STATES OF AMERICA, et al.,
Defendants.

SAN JUAN RIVER
ADJUDICATION SUIT

GARY HORNER'S OBJECTION TO PROPOSED ORDERS

COMES NOW Gary L. Horner, *in propria persona* (hereinafter referred to in the first person), in response to the Court's directive to all parties, made by "OPEN LETTER TO COURT FILE," dated and filed August 30, 2004, to file objections to the Court's proposed Orders with respect to the August 20, 2004 hearing in the present matter.

As and for good cause for said Objection, I state:

1. On August 20, 2004, a hearing was held in the present matter to consider, among other things, certain motions with respect to the proposed Navajo Water Rights Settlement. Specifically, one such motion was my MOTION TO ENJOIN THE EXECUTION OF THE NAVAJO WATER RIGHTS SETTLEMENT, filed in the present matter on June 23, 2004.

2. At said August 20, 2004 hearing, the Court announced its decision that said Motion was premature and that the issues presented therein would be

Objections to
Proposed Orders

preserved for the *inter se* phase of the present adjudication suit. The Court further repeatedly stressed that the issues presented by such Motion were significant; that they were appropriate for an immediate appeal; and that the Court would certify the subject decision and order for interlocutory appeal.

3. Pursuant to the subject August 30, 2004 Open Letter to Court File, the Court attached two signed Orders with instructions that Counsel had until Monday, September 14, 2004 (actually, Monday is September 13, 2004). Further, the Court instructed that said two signed Orders be filed (entered) on September 14, 2004.

4. However, neither of the subject Orders included the requisite language necessary to certify such Orders for interlocutory appeal.

5. Therefore, I object to the form of such Orders, in that they both lack the requisite language to certify them for interlocutory appeal.

6. Section 39-3-4 A. NMSA 1978 (1998 Repl.) [Interlocutory order appeals from district court] provides

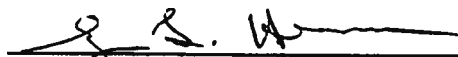
“In any civil action or special statutory proceeding in the district court, when the district judge makes an interlocutory order or decision which does not practically dispose of the merits of the action and he believes the order or decision involves a controlling question of law as to which there is a substantial ground for difference of opinion and that an immediate appeal from the order or decision may materially advance the ultimate termination of the litigation, he shall so state in writing in the order or decision.”

7. Therefore, both of the subject Orders should be modified to contain the following language:

“The present Order does not practically dispose of the merits of the

action and the Court believes this Order involves a controlling question of law as to which there is a substantial ground for difference of opinion and that an immediate appeal from this Order may materially advance the ultimate termination of the litigation.”

Respectfully submitted,


GARY L. HORNER, Esq., *In Propria Persona*
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September 13, 2004

Date

CERTIFICATE OF MAILING

I HEREBY CERTIFY that a true copy of the foregoing was mailed or delivered to the individuals this 13th day of September, 2004:

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Objections to
Proposed Orders

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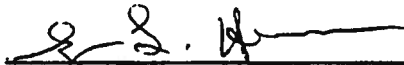
Objections to
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