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

UNITED STATES OF AMERICA, Plaintiff,

v.

01cv00072 BDB-ACE

STATE OF NEW MEXICO, ex rel
State Engineer, A & R Productions, et al.,
Defendants,

ZUNI RIVER ADJUDICATION

Order On Special Master's Report re Geographic Scope of Adjudication

THIS MATTER is a part of the general adjudication of all water rights in the Zuni River stream system. It comes before me on the May 9, 2003 United States' Motion for Action (Docket No. 199) regarding the March 13, 2003 Special Master's Report and Recommendations Regarding the Geographic Scope of the Adjudication (No. 183). Objections were filed regarding the language describing the area to be adjudicated. Having considered the Motion, the Report and the Objections, the pertinent parts of the record and the law and being otherwise fully advised in the premises:

I grant the United States' motion for action.

I adopt the Special Master's recommendations A - C as set forth and as modified below:

A. The adjudication boundaries lie within the surface water drainage basin as depicted on the map dated December 2002 attached to the January 6, 2003 United States' Identification of Zuni River Stream System Boundary (No. 156) and as described in the January 14, 2003 Supplemental Identification of Zuni River Stream System Boundary (No. 158). Special Master's Report at pp. 10-11. The groundwater diversions which lie within the surface boundaries shall be included in the adjudication. The groundwater considered shall be limited to that which lies within the surface boundaries, as though their lines were drawn vertically through the earth. The surface boundaries shall not overlap with those of any other adjudication. Conflicts which may arise between claimants in this and other

adjudications are beyond the scope of this case. July 15, 2002 Scheduling Order at

pp. 1-2.

Defendant, Mr. Petranto's April 30, 2003 objections (No. 197) to the Special Master's

recommendations re boundaries are untimely and, therefore, are not considered.

B. The State's request to include language regarding the exclusion at this time

of the Rio Puerco Basin from the adjudication, its administration and future costs is

DENIED.

C. The United States shall file and serve its amended complaint no later than

August 1, 2003. The caption shall reflect the realignment of United States of America for

itself and as Trustee for the Zuni Tribe and the Navajo Nation, and the State of New

Mexico, ex rel. State Engineer as Plaintiffs and the Navajo Nation and Zuni Indian Tribe

as Plaintiffs-in-Intervention, pursuant to my Orders of July 15, 2002 (No. 147) and

December 4, 2002 (No. 153). The caption shall also reflect the proper style as set forth in

the July 15th Order.

The March 1, 2001 Order (No. 3) staying this case is hereby lifted. The Special

Master shall direct and control all scheduling for litigation activity, including initial

disclosures and subsequent discovery, as governed by case management considerations.

Answers or any equivalents shall not be filed until scheduled by the Special Master.

/electronic signature/ BRUCE D. BLACK

UNITED STATES DISTRICT JUDGE

2