

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

UNITED STATES OF AMERICA, for Itself )  
and as Trustee for the Zuni Indian Tribe, )  
Navajo Nation and Ramah Band of Navajos )

and )

STATE OF NEW MEXICO, *ex rel.* STATE )  
ENGINEER, )

Plaintiffs, )

and )

ZUNI INDIAN TRIBE, )  
NAVAJO NATION, )

Plaintiffs in Intervention )

v. )

STATE OF NEW MEXICO COMMISSIONER )  
of PUBLIC LANDS )

and )

A & R PRODUCTIONS, *et al.*, )

Defendants. )

**FILED**  
UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

FEB 23 2004

*Robert M. March*  
CLERK

01CV00072 BDB/WWD(ACE)

ZUNI RIVER STREAM  
SYSTEM ADJUDICATION

**ORDER OF DISMISSAL**

THIS MATTER is before the Court on the Conditional Disclaimer of Interest and Motion to Dismiss by defendant Rio Algom Mining LLC (successor by merger, name change, and change of form of organization to Quivira Mining Company), which, effective upon the entry of this Order, disclaimed any and all interest in the use of surface and groundwater within the geographic boundaries of the Zuni River Basin, as that Basin is described in the Court's May 21,

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2003 Order On Special Master's Report re Geographic Scope of Adjudication, as follows:

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 those of any other adjudication,

and the Court having been sufficiently advised in the premises:

IT IS THEREFORE ORDERED:


That because Rio Algom Mining LLC, effective upon the entry of this Order, disclaimed any and all interest in the use of surface and groundwater within the geographic boundaries of the Zuni River Basin, as that Basin is described in the Court's May 21, 2003 Order On Special Master's Report re Geographic Scope of Adjudication, as follows:

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 those of any other adjudication,

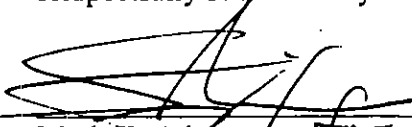
and Rio Algom Mining LLC does not use or presently claim a right to use surface or groundwater within such area, Rio Algom Mining LLC should be, and hereby is, dismissed from this action.

This Conditional Disclaimer does not prejudice the rights of Rio Algom Mining LLC and/or any successor-in-interest (collectively, "Rio Algom") hereafter: to acquire existing surface and/or groundwater rights within the geographic boundaries of the Zuni River Basin, to

apply to the State Engineer for a permit to change place and/or purpose of use and/or point(s) of diversion of such rights, to apply to the State Engineer for a permit for a new appropriation of surface and/or groundwater water in the Zuni River Basin, or to apply to the State Engineer for similar permits, nor does it preclude the State Engineer from granting Rio Algom such permits and/or rights to beneficially use surface and/or groundwater in the Zuni River Basin. The priority date of any permit for a new appropriation hereafter granted to Rio Algom to beneficially use the surface and/or groundwater in the Zuni River Basin under the laws of the State of New Mexico cannot be earlier than the date of this Order.

  
BRUCE D. BLACK  
UNITED STATES DISTRICT JUDGE

Respectfully submitted by:

  
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