

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

UNITED STATES OF AMERICA,)
ET AL.,)
)
 PLAINTIFFS,)
)
)
v.)
)
STATE OF NEW MEXICO)
COMMISSIONER OF PUBLIC)
LANDS, ET AL.,)
)
 DEFENDANTS.)
_____)

CIV NO. 01- 00072 BDB/WDS
ZUNI RIVER BASIN ADJUDICATION

**RAMAH LAND AND IRRIGATION COMPANY’S
POSITION REGARDING OWNERSHIP OF WATER RIGHTS**

COMES NOW, the Ramah Land and Irrigation Company (“Ramah”), by and through its attorneys Law and Resource Planning Associates, P.C., in accordance with the Special Master’s Order of October 6, 2006 [Doc. 843] and hereby states its position regarding the ownership of water rights that are impounded by Ramah Dam and distributed through the canals and ditches owned and maintained by Ramah.

According to the records of the New Mexico Regulation Commission, Ramah was first incorporated on August 13, 1894 in New Mexico. Upon information and belief, the stated purpose of the corporation was for the acquiring, holding, and selling lands and real property, including water rights, and for the building, maintenance, and operation of the Ramah Dam.¹

More recent Bylaws of the Corporation indicate that the business of the company “shall be the acquiring, selling, possessing, holding and owning lands and real estate, building of

¹ Copies of the original incorporation documents have been requested from the New Mexico Regulation Commission. Because the documents are so old, they are in the archives and take additional time to retrieve.

reservoirs for the storage of water, constructing of irrigation canals and ditches, and operating the same.” *Bylaws, Rules and Regulations of the Ramah Land and Irrigation Company*, Art. I.

On December 12, 1903, Ramah filed of record with the Probate Clerk and Recorder of McKinley County, Territory of New Mexico, a Notice of Appropriation of Water. The recitals of the document state in part that Ramah is a corporation organized and incorporated under the laws of the Territory of New Mexico for the “purposes of irrigation, and is authorized by law to appropriate water for said purpose.” The Notice further recites that Ramah has constructed a reservoir or dam at Ramah, New Mexico, which dam is supplied with water from the water shed of the Zuni Mountains and that the water is “hereby appropriated for the supply of the Ramah Dam.” Finally, the Notice states as follows:

The said Ramah Land and Irrigation Company has the prior right and claim to the water running into their said dam or reservoir, and does by this statement and notice appropriate said water for the purposes of irrigation under the Laws of the Territory of New Mexico in such cases made and provided.

On June 7, 1920, a Declaration of Owner of Water Wright [sic] was filed with the New Mexico State Engineer’s office stating in part as follows:

The shareholders of the Ramah Land and Irrigation Co. own one thousand three hundred ninety-seven (1397) shares of water right valued at ten dollars per share, to irrigate the above described land, which is sufficient in ordinary years to irrigate same to times during the irrigation season.²

* * *

The water was conducted from this point on said land and by means of ditches 5 feet wide, 2 feet deep and 6 miles long. By means of headgates and other works the Ramah Land and Irrigation Co., continuously maintained and operated said system and then and hereafter continuously appropriate the water so diverted to beneficial and use the same to flow and otherwise be conducted to and upon the aforesaid land of this declarant. [sic]

² The document further describes the water right as being used to irrigate twelve hundred (1200) acres or more.

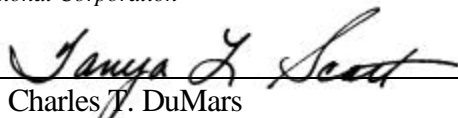
Ramah also has since its inception, acted as an acequia in constructing, maintaining, and operating the delivery system from the dam. Water is delivered in accordance with ownership of shares in the company and in its related acequia association. In the late 1970's or early 1980's a separate water association was incorporated for the delivery of the water. The two associations have had identical memberships and identical officers who govern both entities. Transfer of an ownership interest in the corporation has been accomplished by the transfer of shares both in the irrigation company and in the associated acequia association. Water rights are not transferred independently of shares in the corporation.³

Based upon the corporate structure of Ramah, the history of how it has managed its affairs, the Notice of Appropriation filed by the Corporation, and the Declaration filed by its shareholders with the New Mexico State Engineer, Ramah asserts that the water rights represented by the beneficial uses to which its individual shareholders have applied the water, belong to the Ramah Land and Irrigation Company and/or its associated acequia association. Ramah is the owner and operator of the Ramah Dam and the owner and operator of the diversion canals and ditches. Any Consent Orders generated by the Plaintiffs in this action for water rights associated with the dam and diversion works should properly be directed to Ramah as the owner of those rights.

Respectfully submitted,

LAW & RESOURCE PLANNING ASSOCIATES,
A Professional Corporation

By: _____



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³ The corporate status of the acequia association appears to have expired. However, it is clear that Ramah has historically operated the delivery system of canals and ditches since its inception.

CERTIFICATE OF MAILING

In accordance with the instructions of the Special Master, the foregoing Position Statement is being served this 23rd day of October 2006 on the Special Master and the following parties. This document is also being filed of record, but not served upon any other party.

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