

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

FEB - 1 2002

R. M. ...
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UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

United States,)	
)	
Plaintiff,)	01cv00072BDB/WWD(ACE)
)	
)	
v.)	ZUNI RIVER BASIN
)	UNITED STATES' PROPOSED
A & R Productions, et al.,)	CASE MANAGEMENT PLAN
)	
Defendants.)	
)	

PROPOSED ADJUDICATION SCHEDULING ORDER

The United States' complaint in the above-referenced suit seeks a comprehensive general stream system adjudication of all claims to the right to the use of the waters of the Zuni River stream system in New Mexico, including the claims of the Zuni Pueblo Tribe, the Navajo Nation, including the Ramah Navajo Band, various Navajo Allotees in the stream system, the claims of the United States for the Cibola National Forest, the El Morro National Monument, the El Malpais National Monument, the El Malpais National Conservation Area and other federally owned

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lands in the stream system, as well as the claims of all other persons, whether known or unknown, to the right to the use of the waters of the stream system. Accordingly, the suit seeks the Court's application of appropriate laws of the State of New Mexico, including but not limited to NMSA 1978, §§ 72-4-13 to 72-4-20, as well as appropriate laws of the United States necessary for the adjudication of all rights to the use of surface water or groundwater within the stream system involved.

As used in this order, "stream system" refers to the surface waters of the Zuni River including all its tributaries within the State of New Mexico and all groundwater underlying or hydrologically connected to the surface water. The United States, the State of New Mexico, and the Zuni Tribe have agreed to make available appropriate technical personnel to identify the extent of hydrological connection between the surface and groundwater of the Zuni River basin. The United States, the State of New Mexico, and the Zuni Tribe have further agreed that this task is to begin within two (2) months after the entry of the adjudication scheduling order by the Court. New Mexico's involvement in such consultation and research is contingent upon the availability of resources to its Hydrology Bureau pursuant to the conclusion of its current hydrological work on either of the Pecos, Lower Rio Grande, Middle Rio Grande and San Juan

River basins. In any event, the State of New Mexico has agreed to make appropriate personnel available to review the conclusions reached by the United States and Zuni Tribe.

All claimants to groundwater in a geographic area identified as having a hydrologic connection with the surface water of the Zuni River basin and who are not now proper parties to this suit or any other pending general water rights adjudication will be identified and served by the United States in accordance with the Federal Rules of Civil Procedure.

CASE MANAGEMENT^{1/}

I. The Court will immediately suspend its order to stay all further proceedings, dated March 1, 2001, as to all named defendants for the limited purpose of allowing parties who disclaim any interest in a right to the use of the waters of the Zuni River stream system in New Mexico to move for dismissal from this suit on that basis and for the Court to consider and rule on motions to intervene.

II. A public meeting will be scheduled after the extent of

^{1/} Various suggestions to move this suit forward have been discussed. One suggestion involved going forward at this time with a subproceeding to adjudicate in the first instance the surface water claims of the Zuni Tribe and the Town of Ramah while, simultaneously, conducting a hydrographic survey of the basin. Further review indicates that this particular proposal is too costly to implement at this time.

the hydrologically connected groundwaters, and the corresponding extent of this adjudication has been determined. Attorneys for the United States and the State of New Mexico *ex rel.* State Engineer will attend and provide information on the nature, purpose, and scope of this adjudication.

III. The United States will fund and conduct a hydrographic survey of areas one and two as identified by the map of the Zuni River surface water basin submitted by the United States in connection with its proposal of May 31, 2001.^{2/} To assure that the hydrographic survey complies with the appropriate standards of the State of New Mexico, the New Mexico Office of the State Engineer agrees to provide the United States' survey team with appropriate personnel to assist in the conduct and completion of the survey consistent with the Office of the State Engineer Hydrographic Survey Bureau manual of policies and procedures.

The agreement of the State of New Mexico *ex rel.* State Engineer to fund personnel to assist in any segment of the Hydrographic survey shall be contingent upon the United states'

^{2/} A majority of non-government defendant/landowners in the Zuni River stream system in New Mexico are concentrated in five areas. The hydrographic survey of the stream system will commence and cover claims to surface water or groundwater in two of these areas of the basin, *i.e.*, Township 10N, R13W & 14W.

own funding and conducting of the hydrographic survey of the two areas. It shall additionally be subject to the availability of appropriated funds legally available for such purpose, and shall not be interpreted to require obligation or payment of funds in violation of [**relevant NM statutes**].

IV. Upon the completion of the hydrographic survey of areas one and two as identified by the map submitted by the United States on May 31, 2001, and upon the completion, excluding any appeals, of one or more of the four ongoing water right adjudications currently pending in the United States District Court for the District of New Mexico (*New Mexico v. Abbott, et al.*, CIV 68-7488 JC and CIV 70-8650 JC, Consolidated (Santa Cruz-Truchas); *New Mexico, et al. v. Aamodt, et al.*, 66cv06639 M-ACE (Pojoaque); *New Mexico v. Abeyta, et al.*, 69cv07896 JEC-ACE and 69 cv7939 JCE-ACE, Consolidated (Taos); *New Mexico v. Aragon, et al.*, 69cv07941 JEC-ACE (Chama)), and in no event later than seven years from the entry of this order, the Court will suspend its order to stay all further proceedings, dated March 1, 2001, for the limited purpose of allowing the State of New Mexico *ex rel.* Office of the State Engineer to move for an order of the Court to realign as plaintiff.

The United States will move to:

A. Dismiss with prejudice all those named as defendants in error;

B. Join as defendants all claimants not a party to the suit.

All named defendants within the two areas surveyed shall have the opportunity to file pretrial motions and, if appropriate, answers to the complaint(s).

V. Upon completion of the hydrographic survey of areas one and two as identified by the map submitted by the United States on May 31, 2001, offers of judgement will be provided to all claimants within the two areas after appropriate guidance is provided by the Court.

The United States and the State of New Mexico *ex rel.*, Office of State Engineer will bring before this Court for resolution the issue of responsibility for the future conduct of the remaining portion of the hydrographic survey and the allocation of its costs. At the conclusion of the survey or at appropriate intervals, offers of judgment will be offered to appropriate claimants.

CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of January , 2002, a true and correct copy of the foregoing was served by United States Postal Service first class, postage pre-paid mail to the following:

Charnas, Stephen, Esq.
Sutin, Thayer & Browne PC
P.O. Box 1945
6565 Americas Pkwy., N.E.
Albuquerque, NM 87103-1945

Drennan, Jocelyn Esq.
Rodey, Dickason, Sloan & Robb
P.O. Box 1888
Albuquerque, NM 87103

Ionta, Robert W., Esq.
McKim, Head & Ionta
P.O. Box 1059
Gallup, NM 87305

Shadle, Stephen P., Esq.
Westover, Shadle, Carter & Walsma, PLC
2260 S. Fourth Ave., #2000
Yuma, AZ 85364

Stripp, William G., Esq.
P.O. Box 159
Ramah, NM 87321

Carroll, Ernest L., Esq.
Losee, Carson, Haas & Carroll, P.A.
Box 1720
Artesia, NM 87103

Dahl, Jeffrey A., Esq.
Lamb, Metzgar, Lines & Dahl, PA
P.O. Box 987
Albuquerque, NM 87103

Gardner, David R., Esq.
P.O. Box 62
Bernalillo, NM 87004

Joca, Mary Ann, Esq.
U.S. Dept. of Agriculture
517 Gold Ave., S.W.
Rm. 4017
Albuquerque, NM 87102

Marx, Jane, Esq.
Williams, Janov & Cooney
2501 Rio Grande Blvd., N.W.
Albuquerque, NM 87104-3223

Pollack, Stanley M., Esq.
Navajo Nation Dept. of Justice
P.O. Box 2010
Window Rock, AZ 86515-2010

Smith, Mark A., Esq.
Rodey, Dickason, Sloan Akin & Robb
P.O. Box 1888
Albuquerque, NM 87103

Williams, Pamela, Esq.
Division of Indian Affairs
Office of the Solicitor
1849 C St., N.W., Rm 6456
Washington, DC 20240

Drullinger, Sandra S., Pro Se
818 E. Maple St.
Hoopston, IL 60942

Gugliotta, Kimberly J., Pro Se
158 W. William Casey St.
Corona, AZ 85641

Lebeck, David R., Pro Se
P.O. Drawer 38
Gallup, NM 87305

McBride, Gerlad F., Pro Se
2725 Aliso Dr., N.E.
Albuquerque, NM 87110

Bunch, Steven L., Esq.
N. M. Highway & Trans. Dept.
P.O. Box 1149
Santa Fe, NM 87504-1149

Cassutt, Kenneth J., Esq.
530-B Harkle Road
Santa Fe, NM 87505

Davidson, Tessa T., Esq.
Swaim, Schrandt & Davidson
4830 Juan Tabo, N.E., Suite F
Albuquerque, NM 87111

Frederick, R. Bruce, Esq.
Stephen G. Hughes, Esq.
N.M. State Land Office
P.O. Box 1148
Santa Fe, NM 87504-1148

Johnson, Lynn A., Esq.
USDOJ-ENRD
999 18TH St., Suite 945
Denver, Colorado 80202

Carroll, Ernest L., Esq.
Losee, Carson, Haas & Carroll
P.O. Box 1720
Artesia, NM 88211

Stillinger, Neil C., Esq.
P.O. Box 8378
Santa Fe, NM 87504

Nixon, Sunny J., Esq.
Rodey, Dickason, Sloan, Akin, & Robb, P.A.
P.O. Box 1357
Santa Fe NM 87504-1357

Sanchez, Dorothy C., Esq.
715 Tijeras N.W.
Albuquerque, NM 87102

Barnhouse, Randolph H., Esq
Rosebrough & Barnhouse
P.O. Box 1744
Gallup, NM 87305-174

Bushnell, Darcy S., Esq.
U.S. District Court
333 Lomas Blvd., N.W.
Albuquerque, NM 87102-2272

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

Boynton, Bruce, Esq.
P.O. Box 1239
Grants, NM 87020

Fahmy, Peter, Esq.
Office of Regional Solicitor
755 Parfet St., Suite 151
Lakewood, CO 80215

DePauli, Louis E., Pro Se
1610 Redrock Drive
Gallup, NM 87031

Lebeck, Albert O., Pro Se
P.O. Box 38
Gallup, NM 87305

McBride, Myrri W., Pro Se
2725 Aliso Drive, N.E.
Albuquerque, NM 87110

Beardsley, Ann Hambleton,
Pro Se
HC 61, Box 747
Ramah, NM 87321

Brodrick, Ted, Pro Se
P.O. Box 219
Ramah, NM 87321

Saunders, D.L., Esq.
Bagley, Ted, Esq.
Office of State Engineer
P.O. Box 25102
Sante Fe, NM 87504-5102

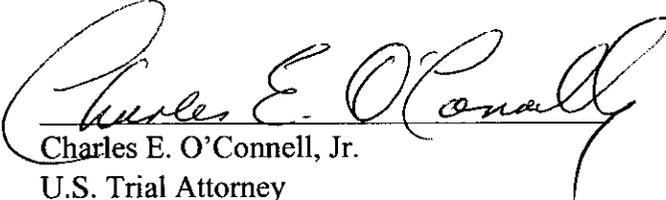
Shaw, Mark H., Esq.
3733 Eubank Blvd., N.E.
Albuquerque, NM 87111

Weldon, John B., Esq.
Lewis, M. Byron, Esq.
McGinnis, Mark A., Esq
2850 East Camelback Road, Suite 200
Phoenix, AZ 85016

Nelson, Stephen R., Esq.
P.O. Box 1276
Albuquerque, NM 87103-1276

Beall, Larry D., Esq.
6715 Academy Road, N.E.
Albuquerque, NM 87109

David Candelaria, Pro Se
12,000 Ice Caves Rd.
Grants, NM 87020


Charles E. O'Connell, Jr.
U.S. Trial Attorney