

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

FILED
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UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF NEW MEXICO, ex rel.
STATE ENGINEER, et al.,

CIV No. 01-0072-BB/WWD-ACE
ZUNI RIVER BASIN

Defendants.

NOTICE OF FILING JOINT LETTER AND PROPOSED ORDER

THE UNITED STATES AND THE STATE OF NEW MEXICO, by and through
their counsels of record, hereby file their joint May 23, 2003 letter to the Special Master.

Respectfully submitted,



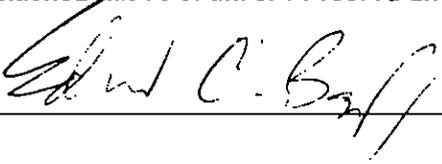
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203.

Certificate of Service

I certify that on this 10th day of June, 2003, a true and correct copy of the foregoing May 23, 2003 letter to the Special Master was mailed by first class mail to the attached list of counsel of record and pro se parties:



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May 23, 2003

HAND DELIVERED

Special Master Vickie L. Gabin
U.S. District Court
100 South Federal Place
Santa Fe, NM 87504

Re: United States v. A & R Productions, et al., 01cv00072BDB/WWD(ACE)

Dear Special Master Gabin:

This responds to your letter of April 17, 2003, requesting the views of the United States and the State of New Mexico concerning suggested adjustments to the current approach for the conduct of the hydrographic survey of the Zuni River basin. To briefly recap, technical personnel sectioned the basin into ten (10) subareas, for the purpose of conducting the survey "subarea by subarea" as federal funding becomes available. Your April 17th letter suggests that adjudicating claimants by "purpose of water use" rather than "subarea by subarea" may prove more productive in the long run. Based on your suggestion, the State and the United States agree that it may be more efficient if there were to be included with the amended complaint an order from this court directing all claimants/defendants to file the appropriate paperwork with the State Engineer to either update existing water right files or create new ones to reflect current circumstances of ownership and water use. However, as your letter suggests, the information provided must thereafter be field verified which, for the reasons stated below, will nevertheless require a "subarea by subarea" approach.

The Zuni River drainage basin in New Mexico encompasses approximately 1,930 square miles. Subarea boundaries are delineated along township and range lines and reflect groupings of development areas, rural subdivisions, and tribal and allotted Indian lands. Federal funding to conduct and complete the hydrographic survey of the basin is to be provided in increments. Accordingly, depending upon funding, the survey will be conducted over one or more subareas each year, which hopefully, will ensure completion

of one or more subareas before the availability of federal funding for the following year. As a practical matter, identification of areas requiring new aerial photography can be planned and budgeted more effectively using the subarea approach. Also, commencing the survey with relatively manageable subareas (i.e., Subareas 4 and 8), will facilitate the development of an effective protocol to reconcile uncertainties and other problems that most assuredly will arise during the conduct of the field verification function of the survey.

There is, however, an aspect of the hydrographic survey that lends itself to the approach of assessing water right claims in the basin by "use" category. As noted above, we contemplate that as part of the survey, this court would order all water right claimants in the basin to file the appropriate paperwork with the State Engineer to either update existing water right files or create new ones to reflect current circumstances of ownership and water use. After the State Engineer has received the claimant's paperwork, and updated or created water right files accordingly, the staff of Natural Resources Consulting Engineers (NRCE) could abstract that information to be used as one of the bases for the hydrographic survey.

To accomplish this task, the State can offer two things. First, the Water Rights Division is willing to establish field offices in the basin to make appropriate water right forms available to claimants and assist in the completion of information requested thereon. We propose the field offices be established this Summer, the first of which would be established for claimants in Subareas 4 and 8, the two subareas that will be surveyed first.

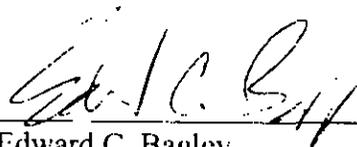
Second, the State's updated WATERS database will be available immediately and will facilitate NRCE's ability to abstract water right files for the conduct of the hydrographic survey thus obviating the need to manually review the paper water right files.

We believe that, with the adoption of the suggested "use" approach, we will be in a position to obtain a global understanding of the water rights, including numbers, types and location of use which would then be available to the Court and all parties to the adjudication.

Of course, if you have questions, please do not hesitate to contact the undersigned.

Sincerely,

Telephonically Approved
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