

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

JUN 24 2003



R. Sherman March
CLERK

UNITED STATES OF AMERICA,

Plaintiff,

v.

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

Defendants.

01cv0 0072 BB/WWD-ACE

ZUNI RIVER BASIN

**INTERIM PROCEDURAL ORDER REQUIRING ALL WATER RIGHTS CLAIMANTS
TO UPDATE THEIR WATER RIGHTS FILES WITH THE STATE ENGINEER**

This Order is entered by the Special Master pursuant to Fed.R.Civ.P. 16(b), as a preliminary procedural order for guiding the progress of the adjudication of the Zuni River Basin. This Order will ensure that the New Mexico Office of the State Engineer ("State Engineer") possesses current and accurate information with regard to all claimed water rights in the basin. The best and most accurate sources of water rights data are the water rights claimants themselves. Accordingly, an abstract of those rights will become available for the hydrographic survey and other adjudication activities, and thereby serve as a basis and a guide for conducting this adjudication in a fair and efficient manner. A comprehensive procedural and scheduling order will be issued and served to all water rights claimants in the near future.

It is hereby ordered that the following will govern the course of this phase of the adjudication. The water rights forms referenced below are attached to this Order and shall be served by the United States of America. Additional copies will be available at the field offices described below, and can be obtained from the State Engineer

A REQUIREMENT TO SUBMIT WATER RIGHTS FORMS

1. **No later than October 31, 2003**, all water rights claimants in the Zuni River stream system shall file with the State Engineer the documents necessary to either update their existing water rights files, or if no such files exist, to create such files to accurately reflect the current ownership, nature and extent of their claimed water right.

2. The documents shall be those used in the ordinary course of business by the Water Resource Allocation Program of the Office of the State Engineer (“WRAP”). WRAP documents include, but are not limited to, surface and groundwater declaration forms (forms wr-03 or wr-21), Change of Ownership of Water Right forms (form wr-02), and surface water permit application forms and groundwater permit application forms (several different permit application forms are used depending on the nature of the application).

3. **A declaration form** shall be completed by any water right claimant whose use of a surface water right was initiated prior to March 19, 1907, and continues through the present, or whose groundwater right was initiated prior to March 14, 1994 and continues through today, and that water right is not reflected by an existing WRAP file. As its title suggests, its purpose is to allow the claimant an opportunity to “declare” their water right. Copies of both a Declaration of Owner of Underground Water Right form (wr-03) and a Declaration of Ownership of Water Right of Surface Waters form (wr-21) are attached hereto as **Exhibits A and B**.

4. **A Change of Ownership of Water Right form** shall be completed by any claimant whose water right is reflected by an existing WRAP file, but where the owner identified by the file is not the current owner or claimant. A copy of a Change of Ownership of Water Right form (wr-02) is attached hereto as **Exhibit C**.

5. **A surface water permit application form** shall be completed by any water right

claimant who is diverting surface water, and whose use was initiated after March 19, 1907, but who has not previously obtained a permit from WRAP. A copy of an Application for Permit to Appropriately Use the Public Surface Waters of the State of New Mexico (wr-14) is attached hereto as **Exhibit D**. There are several other surface water permit application forms available for use depending on the nature of the application.

6. **A groundwater permit application form** shall be completed by any water right claimant who is diverting groundwater from a well, and whose well was constructed subsequent to March 14, 1994, but who has not previously obtained a well permit from WRAP. A copy of an Application for Permit to Use Underground Waters in Accordance With Section 72-12-1 New Mexico Statutes (wr-01) is attached hereto as **Exhibit E**. There are several other groundwater permit application forms available for use depending on the nature of the application.

7. All forms used by WRAP in the ordinary course of business may be found at the State Engineer's website at "seo.state.nm.us."

8. **A disclaimer form** shall also be available at the field offices described below. This is not a WRAP form, but rather is a form generated specifically for this adjudication. Its purpose is to allow those persons who do not claim water rights within the Zuni River stream system, but who have been named as defendants in this adjudication, to obtain their dismissal from it. A copy of the disclaimer form is attached hereto as **Exhibit G**.

9. Water rights claimants may also file any of the forms described above in person or by mail at the District 1 Office of WRAP located at 121 Tijeras, NE, Suite 2000, Albuquerque, New Mexico, 87102.

B. FIELD OFFICES

To explain how to fill out blank forms, and to receive completed documents for filing with

the State Engineer, WRAP shall hold six field offices within the boundaries of the Zuni River stream system between July 15, 2003 and October 15, 2003. Each of the field offices shall be open for two days, and each shall be located in a different sub-area of the basin so as to maximize their physical accessibility to local parties. The schedule for the first two field offices is attached hereto as **Exhibit F.**

C. FAILURE TO FILE

Any water rights claimant who fails to file with the State Engineer by October 31, 2003 the forms necessary to describe the claimant's right, as described above, may be subject to a) having his or her water rights determined solely by the Plaintiffs for purposes of the hydrographic survey, and b) an order to appear before the Court and show cause for failure to comply with this Order.

D. CONTINUING DUTY TO FILE CHANGE OF OWNERSHIP OF WATER RIGHTS FORMS AND CHANGES OF MAILING ADDRESS

Under New Mexico law, all water rights claimants are charged with the continuing duty to inform the State Engineer of changes in ownership of water rights. During this adjudication, changes in mailing address must also be recorded so that water rights claimants may be informed of the adjudication activities which may affect their rights. A copy of the **Change of Ownership of Water Right form (wr-02)** is attached hereto as **Exhibit C**, and should be used for changes of ownership. Changes in mailing address may be recorded by letter to the State Engineer at the address listed above in Paragraph A.9.

IT IS SO ORDERED.



SPECIAL MASTER VICKIE L. GABIN

THE EXHIBITS ATTACHED TO THIS
PLEADING ARE TOO VOLUMINOUS TO
SCAN. SAID EXHIBITS ARE ATTACHED
TO THE ORIGINAL PLEADING IN THE
CASE FILE WHICH IS LOCATED IN THE
RECORDS DEPARTMENT, U.S.
DISTRICT COURT CLERK'S OFFICE.