

**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**

**COMMENTS OF DEFENDANTS RICHARD DAVIS  
MALLERY *ET AL.* TO PROPOSED SCHEDULING ORDER**

In accordance with the Special Master’s instructions during the November 9, 2005 status conference, Defendant Richard Davis Mallery, Western New Mexico Water Preservation Association (“WNMWPA”), presents the following comments on the proposed Scheduling Order for Sections 9 and 11 of the Zuni Basin.

**COMMENTS**

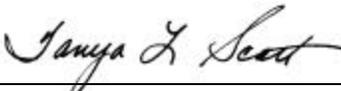
The prevailing comment received from the membership of the WNMWPA regarding the recent service of Consent Orders in sections 4 and 8 of the Zuni Basin has been that there was no deadline stated for the submission of requests for consultation when the water user did not agree with the specifics of the Consent Order. Recipients of the Consent Orders are expressing confusion as to whether the deadline for submitting an Answer is also the deadline for requesting consultation.

The proposed Scheduling Order for sections 9 and 11 suffers from this same infirmity. There is no specified deadline for returning a request for consultation. WNMWPA believes that a specific deadline for the return of a request for consultation will alleviate the confusion that has accompanied the recent service of the Consent Orders for sections 4 and 8.

The WNMWPA thanks the Special Master for the opportunity to comment on the proposed Order.

Respectfully submitted,

LAW & RESOURCE PLANNING ASSOCIATES,  
*A Professional Corporation*

By:  \_\_\_\_\_

Charles T. DuMars  
Tanya L. Scott  
Attorneys at Law  
Albuquerque Plaza, 201 3<sup>rd</sup> Street NW, Ste. 1750  
Albuquerque, NM 87102  
(505) 346-0998 / FAX: (505) 346-0997

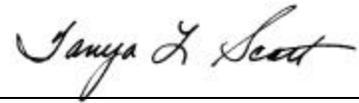
### **CERTIFICATE OF MAILING**

In accordance with the instructions of the Special Master, the foregoing Comments are being served this 21st day of November, 2005, on the Special Master and the following parties. These Comments are also being filed of record, but not served upon any other party.

Special Master Vicki Gabin  
Attorney at Law  
Post Office Box 2384  
Santa Fe, NM 87504-2384

Edward C. Bagley  
Office of the State Engineer  
Litigation and Adjudication Program  
P.O. Box 25102  
Santa Fe, NM 87504  
(505) 827-6150

Bradley S. Bridgewater  
U.S. Department of Justice  
999 18<sup>th</sup> Street, Suite 945 North  
Denver, CO 80202  
(303) 312-7318

A handwritten signature in cursive script that reads "Tanya L. Scott".

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Tanya L. Scott