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*Robert J. ...*  
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UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

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

**STATEMENT OF THE ISSUES AND NATURE OF THE SUIT**

The United States' complaint in the above-referenced suit seeks a comprehensive adjudication of the claims of all water users in the Zuni River basin in New Mexico, including those of the Zuni Pueblo Tribe, the Navajo Nation, the Ramah Navajo Band, various Navajo Allotees, as well as 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 lands in the Zuni River Basin in New Mexico. Accordingly, the

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United States' complaint seeks the Court's application of appropriate laws of the State of New Mexico as well as appropriate laws of the United States necessary to judicially quantify and prioritize the rights of all water users inter se in the Zuni River basin in New Mexico for the purpose of diverting, impounding, pumping or otherwise beneficially using the surface and groundwater of the basin.

#### **CASE MANAGEMENT<sup>1/</sup>**

- I. A public meeting will be scheduled for sometime during the month of **February, 2002**. Attorneys for the United States and the State Engineer will attend and provide information of the nature and purpose of the suit.
- II. The Court's Order to stay all further proceedings, dated March 1, 2001, will be partially suspended for the sole purpose of allowing the New Mexico State Engineer and the New Mexico State Commissioner of Public Lands to petition the Court to realign as plaintiff. The petition to realign as plaintiff will be filed on or before **March, 2002**;
- III. The New Mexico State Engineer concurs with the United States' proposal as set forth in its report to the Court, dated May 31, 2001. The United States will fund and conduct a hydrographic survey of two areas in the Zuni River basin.<sup>2/</sup> To assure that the

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<sup>1/</sup> 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.

<sup>2/</sup> A majority of non-government defendant/landowners in the Zuni River basin in New Mexico are concentrated in five areas.

hydrographic survey complies with the appropriate standards of the State of New Mexico, the New Mexico State Engineer agrees to provide the United States' survey team with appropriate personnel to assist in the conduct and completion of the survey. The hydrographic survey will commence before **April, 2002**.

The State Engineer, at the completion of the survey of the two areas, agrees to complete the survey of the basin if properly funded. Otherwise, the Plaintiffs will jointly fund the completion of the survey, subject to the availability of funds.

The United States' agreement to fund any segment of the hydrographic survey shall 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 the Anti-Deficiency Act, 31 U.S.C. §§ 1341, 1342 and 1511-1519.

- IV. Upon the completion of the hydrographic survey of the two areas, the Court will suspend its Order to stay all further proceedings, dated March 1, 2001, as to all named defendants within the two areas surveyed.<sup>3/</sup> The Plaintiffs will move to:
  - A. Dismiss all those named as defendants in error;
  - B. Join as defendants all claimants not a party to the suit.
- V. Defendants within the surveyed areas will be afforded an opportunity to file pretrial motions and, if appropriate, answers to the complaint
- VI. The State Engineer (with the assistance of the United States) will provide appropriate offers of judgment to claimants within the areas surveyed.

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<sup>3/</sup> The Court's Order to stay further proceedings will remain applicable to the remaining defendants.

## CERTIFICATE OF SERVICE

I hereby certify that on the 27<sup>th</sup> day of December, 2001, a true and correct copy of the

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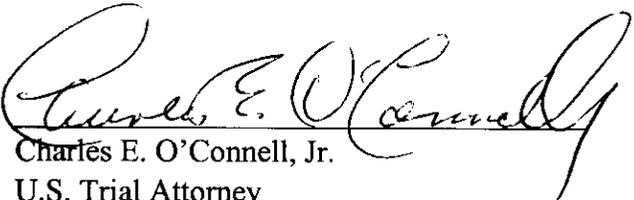
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