

2023 JUN 22 AM 10:47

STATE OF NEW MEXICO
SAN JUAN COUNTY
ELEVENTH JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO,
ex rel. STATE ENGINEER,

Plaintiff,

vs.

THE UNITED STATES OF AMERICA, *et al.*,

Defendants,

vs.

THE JICARILLA APACHE TRIBE and
THE NAVAJO NATION,

Defendant-Interveners.

CV-75-184

Hon. James J. Wechsler
Judge Pro Tempore

SAN JUAN RIVER STREAM
SYSTEM ADJUDICATION

LA PLATA RIVER SECTION

HEIDI L. HAMBLIN

Court Case No. AF-01-120

Subfile No: SJLP-003-0049

ORDER ON STATE'S MOTION TO CORRECT COURT RECORD

The Court having considered the Plaintiff, State of New Mexico, *ex rel.* State Engineer's ("State") Motion to Correct Court Record filed May 17, 2023, in the above captioned and numbered cause of action, and the Court, being fully advised in the premises, FINDS:

1. The State makes this Motion under the authority of the Court's Order on the State's Rule 1-060(B) Procedure Motion, entered February 28, 2023.¹
2. Because of the distinctive facts related to the above-captioned case, the State filed a single motion to address the errors in this specific subfile.
3. On July 16, 2007, a Consent Order was entered in the above-captioned case. [hereinafter First Consent Order].

¹ *Order on State of New Mexico's Motion for Approval of an Expedited Rule 1-060(B) NMRA Procedure for Globally Correcting Mistakes that are Shared by Multiple Consent Orders in the La Plata Adjudication.*

4. The First Consent Order stated that the Priority of the water right, the Rate of Flow, and the Amount of Water were “Reserved for future determination in section-wide proceeding.”
See First Consent Order, Heading A, at 2-3.
5. Prior to entry of the First Consent Order, on July 10, 2007, the Court entered the Order Approving Proposed Section-Wide Subproceeding #1, Denying Gary Horner and Bloomfield Irrigation District’s Proposed Section-Wide Issues, and Requesting Additional Briefing on Notice. [hereinafter July Section-Wide Order]. This Order directed “that irrigation water rights within the La Plata Section should be described and adjudicated by the ‘amount of water’ and/or the ‘rate of flow’.” July Section-Wide Order, at 2.
6. On October 22, 2007, the Court entered the Order Regarding Proposed Section-Wide Subproceedings in the La Plata Section. [hereinafter October Section-Wide Order]. This Order directed that “all adjudicated water rights must specify the amount of water associated with the water right.” This Order also directed that the Priority element should be adjudicated “on a subfile-by-subfile basis.” October Section-Wide Order, at 1-2.
7. On June 29, 2009, the State filed the Motion to Vacate Consent Order and for Entry of Amended Consent Order. [hereinafter Motion to Vacate]. In presenting the facts, this Motion mentioned the First Consent Order and correctly stated it was entered on July 16, 2007. See Motion to Vacate, ¶ 1, at 1.
8. On August 17, 2009, an Order to Vacate Consent Order was entered, expressly vacating “the Consent Order filed on December 17, 2007.” [hereinafter Incorrect Order].
9. No Consent Order was entered in the above-captioned case on December 17, 2007.
10. Also, on August 17, 2009, an Implied Consent Order was entered in the above-captioned case. [hereinafter Second Consent Order].

11. Due to clerical errors, the State in submitting the proposed Incorrect Order specified that a non-existent Consent Order be vacated.

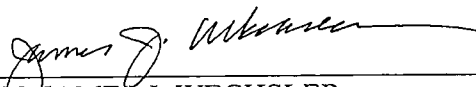
12. In order to clarify the sequence of events in the Court record, the State requests the Court amend the Order to Vacate Consent Order, specifying that the Consent Order entered July 16, 2007, should be vacated.

13. Correcting the Court record will facilitate reconciliation of the La Plata and will more accurately reflect the distribution of water within the La Plata.

14. The original Defendants who signed the Consent Orders, and, where applicable, their current successors in interest, have been provided with an opportunity to respond to the Motion.

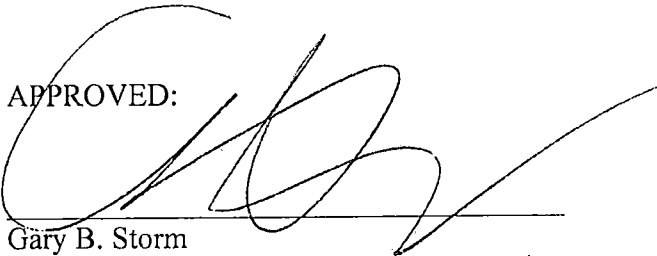
THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED that:

The State's request that the August 17, 2009, Order to Vacate Consent Order is hereby amended to state that the date of the Order being vacated is July 16, 2007.



HON JAMES J. WECHSLER
Judge Pro Tempore

APPROVED:



Gary B. Storm
Special Assistant Attorney General
New Mexico Office of the State Engineer
Post Office Box 25102
Santa Fe, New Mexico 87504
(505) 827-6150
Attorney for Plaintiff State of New Mexico
ex rel. State Engineer