

ELEVENTH JUDICIAL DISTRICT COURT  
STATE OF NEW MEXICO  
COUNTY OF SAN JUAN

DISTRICT COURT  
SAN JUAN COUNTY NM  
FILED

JB

2023 FEB 28 PM 4: 01

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-Intervener.

D-1116-CV-75-184

Honorable James J. Wechsler  
Judge Pro Tempore

SAN JUAN RIVER BASIN  
ADJUDICATION

La Plata River Section

**ORDER ON  
STATE OF NEW MEXICO'S MOTION FOR APPROVAL OF AN EXPEDITED RULE  
1-060(A) NMRA PROCEDURE FOR GLOBALLY CORRECTING CLERICAL  
MISTAKES THAT ARE SHARED BY MULTIPLE CONSENT ORDERS IN THE LA  
PLATA ADJUDICATION**

THIS MATTER having been reviewed by the Court on the Motion for Approval of an Expedited Rule 1-060(A) NMRA Procedure for Globally Correcting Clerical Mistakes that are Shared by Multiple Consent Orders in the La Plata Adjudication, filed by the State of New Mexico ex rel. State Engineer [State]; and the Court, being fully advised in the premises, FINDS:

1. The Court's Database Manager has identified clerical mistakes in Consent Orders that were entered by this Court adjudicating the water rights in the La Plata.
2. In the course of adjudicating La Plata water rights, the State has identified certain clerical mistakes in filed Consent Orders.

3. Though numerous filed Consent Orders in the La Plata contain clerical mistakes, there are comparatively few categories of clerical mistakes among all the Consent Orders. The various categories of clerical mistakes may include, but are not necessarily limited to:

- a) Mislabeling of heading titles.
- b) Missing or divergent boiler plate language.
- c) Missing well data.
- d) Handwritten emendations included by Defendant that differ from standard Subfile Order language.
- e) Sump pumps that are not adjudicated with appropriate water right elements.
- f) A water bank that is not adjudicated with appropriate water right elements.
- g) Acreages described as hundredths of an acre rather than tenths of an acre, leading to errors, such as amount of water which is dependent upon the amount of acreage.

4. The correction of any of the above-listed errors will not affect the substantive rights of the Defendants, nor will they impair or have any effect on other Defendants or the State's administrative responsibilities. The corrections resolve errors and omissions of a purely clerical nature.

5. Rule 1-060(A) is the most appropriate mechanism for affecting the necessary changes in Consent Orders that have been entered by the Court.

6. In accord with the purposes of Rule 1-060(A), the correction of the above-listed errors will conform the affected Consent Orders to the Court's intent when the Consent Orders were entered.

7. In the interest of promoting judicial efficiency, conserving the resources of the State, and shortening the time needed for completion of the adjudication of the La Plata, the State should employ expedited procedures for globally correcting clerical mistakes that are shared by multiple consent orders in La Plata Consent Orders.

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

The State shall implement the following expedited procedures for globally resolving ambiguities and achieving consistency among multiple Consent Orders in the La Plata

Adjudication:

- (a) The State and the Court shall confer regarding the date, time, and place for a hearing on the Global Motion to correct a particular clerical mistake.
- (b) The Court shall issue a Notice of Hearing setting a hearing date, time, and place on the Global Motion. This Notice of Hearing will not be sent to the Defendants.
- (c) The State shall file a copy of the Global Motion for each subfile listed in that Motion's caption and shall serve on each original Defendant and, if applicable, on each current owner of record:
  - a copy of this Order on double sided paper as an Exhibit to the Global Motion;
  - the Global Motion; and
  - a cover letter and Notice Form, as an Exhibit to the Global Motion, informing the Defendants of the date and time of the hearing, which the Defendants can use to notify the State and the Court of any response to the proposed change and their intent to appear at the hearing. The State shall file with the Court all of the Notice Forms that are returned by Defendants.

(d) The Global Motion and proposed Global Order shall contain a table [Appendix] specifying the Owner whose name appears in the Consent Order at issue, their address, the subfile number, the paragraph to be corrected within each Consent Order, the court number, the date the original Consent Order was filed, and any other information that the particular situation requires. The font of the table may be reduced to 11 or 10 points to minimize the number of pages of the Global Motion and Global Order.

(e) The State, if the Court believes it to be necessary, will publish the Global Motion, the proposed Global Order, Order on the Motion for expedited procedure, the Notice of Hearing, and the Form Notice on the Office of the State Engineer website on a page devoted to the La Plata adjudication. The State will provide further notice as the Court directs.

(f) In order to provide notice to all affected parties in accordance with due process requirements, the State shall use due diligence to determine the current owners of the water rights described in the Consent Orders that are the subject of each Global Motion. Such due diligence shall consist of:

- Obtaining available ownership information that has been updated by the Defendant and filed in the records of the Office of the State Engineer in accordance with NMSA 1978, § 72-1-2.1 (1996), and the Consent Order signed by the original Defendant, and
- Obtaining available ownership information from the San Juan County Assessor.

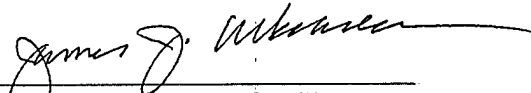
(g) Following the hearing, the Court shall enter a single Global Order correcting all the affected Consent Orders.

(h) The State shall serve the Global Order on each Defendant and on each identified current owner of record whose Consent Order is to be corrected and file a copy of the Global Order for each subfile listed in its caption.

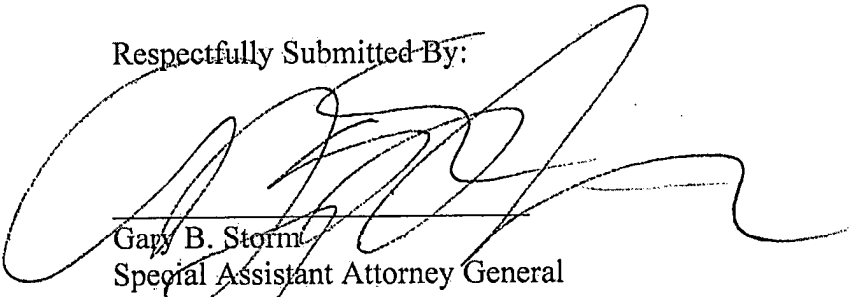
(i) The Global Order shall expressly correct the original Consent Order.

IT IS SO ORDERED.

Date: February 28, 2023

  
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JAMES J. WECHSLER  
JUDGE PRO TEMPORE

Respectfully Submitted By:

  
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