

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

STATE OF NEW MEXICO, *ex rel.* THE  
STATE ENGINEER,

Plaintiff,

vs.

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

Defendants,

vs.

THE JICARILLA APACHE TRIBE and the  
NAVAJO NATION,

Defendant-Intervenors.

DISTRICT COURT  
SAN JUAN COUNTY NM  
FILED

No. CV-75-184

2009 OCT 19 PM 1 49  
Hon. ROZIER E. SANCHEZ  
District Judge *Pro Tempore*

SAN JUAN RIVER STREAM  
SYSTEM ADJUDICATION

La Plata River Section

Court Case No.: AF-01-115

Subfile No.: SJLP-003-0044

**STIPULATED MOTION TO VACATE CONSENT ORDER**

COMES NOW the Plaintiff, State of New Mexico *ex rel.* State Engineer ("State") and pursuant to Rule 1-60(B)(6) NMRA hereby moves the Court to vacate the Consent Order filed on August 30, 2007, in the above-captioned and numbered cause of action, for the reasons set forth below:

1. On August 30, 2007, the Court filed a Consent Order signed by claimant(s)

SANDRA P. SHIELDS  
ROBERT C. SHIELDS, JR.

regarding the surface water rights appurtenant to claimant(s)' property.

2. Pursuant to Paragraph 5 of that signed Consent Order, three (3) elements of the water rights were reserved for future determination: 1) amount of water, 2) rate of flow and 3) priority date.

3. Consistent with Section VIII of the Scheduling Order Governing Adjudication of Irrigation Water Rights in the La Plata River Section, the reserved elements were to be determined in Section-Wide Subproceedings. See State's Notice of Proposed Section-Wide Subproceedings

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(January 23, 2007); Order Approving Proposed Section-Wide Subproceeding #1 (July 10, 2007)(“July 10, 2007 Order”); and Order Regarding Proposed Section-Wide Subproceedings in the La Plata Section (Oct. 22, 2007)(“October 22, 2007 Order”).

4. The Court subsequently ordered “irrigation water rights within the La Plata Section should be described and adjudicated by the ‘amount of water’ and/or ‘rate of flow.’” See July 10, 2007 Order.

5. The Court also subsequently recognized the State’s withdrawal of the priority date element as a proposed Section-Wide Issue and directed the State to adjudicate that element on a subfile-by-subfile basis. See October 22, 2007 Order.

6. The State is now prepared to include the three elements in each claimant’s Consent Order for consideration.

7. In order to have only one Consent Order filed with the Court that adjudicates all elements of the claimant(s) surface water irrigation rights, both Plaintiff and claimant(s) agree to vacate the original Consent Order.

8. In addition, claimant(s) have signed a revised Consent Order, which the State has filed contemporaneously with the instant motion.

WHEREFORE, the parties respectfully request that the Court enter an order vacating the Consent Order filed on August 30, 2007, in the above captioned and numbered cause of action.

Respectfully submitted,



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Todd M. Lopez  
Special Assistant Attorney General  
New Mexico Office of the State Engineer  
P.O. Box 2246  
Santa Fe, NM 87504-2246  
(505) 992-0811

Attorney for Plaintiff State of New Mexico  
*ex rel.* State Engineer

Sandra P. Shields  
SANDRA P. SHIELDS

Robert C. Shields, Jr.  
ROBERT C. SHIELDS, JR.

ADDRESS:  
P.O. Box 506  
La Plata NM 87418  
26A H-574

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P.O. Box 506  
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26A H-574

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that on the 14 day of July, 2009, a true and correct copy of the foregoing was mailed by first class mail, postage prepaid to the following:

SANDRA P. SHIELDS  
ROBERT C. SHIELDS, JR.  
P.O. BOX 506  
LA PLATA, NM 87418--7418

TML  
\_\_\_\_\_  
Todd M. Lopez