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

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-Intervenors.)

CV-75-184
HON. JAMES J. WECHSLER
Presiding Judge
SAN JUAN RIVER
ADJUDICATION
LA PLATA
UNKNOWN CLAIMANTS

STATUS REPORT ON PUBLISHING NOTICE OF PENDENCY OF SUIT TO ALL UNKNOWN CLAIMANTS IN THE LA PLATA SECTION AND DISPOSITION OF RESULTING SIX (6) NOTICES OF CLAIMS

The State of New Mexico provides this status report on the publishing of notice of pendency of suit to all Unknown Claimants in the La Plata section, and the disposition of the resulting six (6) notices of claims. There are no pending claims as a result of publication.

Introduction

In February 2018, the State published notice in three newspapers, establishing a sixty (60) day deadline for the filing of any claims by unknown claimant in the La Plata section. See March 22, 2018 *State of New Mexico's Notice of Filing Affidavit of Publication of Notice of Pendency in the Aztec Local News (TALON)*; March 22, 2018 *State of New Mexico's Notice of Filing Affidavit of Publication of Notice of Pendency in the Farmington Daily Times*; March 22, 2018 *State of New Mexico's Notice of Filing Affidavit of Publication of Notice of Pendency in the Albuquerque Journal*. Six (6) Notices of Claims ("NOCs") were subsequently filed with the Court.

All six (6) of these NOCs asserted rights to divert and use ground water.

Only one (1) of the NOCs expressly asserted a possible claim to an unadjudicated surface water right. However, the State investigated this claim and determined that although it does state a claim for groundwater rights in the La Plata Section, it is not a claim to divert and use the surface waters of the La Plata River.

More specifically, with regard to surface water right claims, the six (6) NOCs fall into the following three categories:

A. NOC States No Surface Water Right Claim:

1. The April 12, 2018 NOC filed with the Court by Anna I. Brandt and Nicholas W. Brandt expressly states they do not use surface water from the La Plata River.
2. The March 9, 2018 NOC mailed to the State (but not filed with the Court) by Jennifer Martinez and Donald Martinez expressly states they do not use surface water from the La Plata River.

B. NOC States Surface Water Right Claim That Has Already Been Adjudicated:

3. The April 12, 2018 NOC filed with the Court by Maudie I. Leppert and Philip A. Leppert states a claim for surface water from the La Plata River, diverted off the Cunningham Ditch. That surface water right claim was already adjudicated under subfile AF-01-244 (SJLP-005-0046). *See* June 4, 2010 *Consent Order*. In consultation with the State, the Claimants asserted they filed the NOC to protect their ground water claim.
4. The April 17, 2018 NOC filed with the Court by Roy G. Fuller and Wanda L. Fuller states a claim for a surface water right under the Cunningham Ditch. That surface water right claim was already adjudicated under subfile AF-01-247 (SJLP-005-0049). *See* June 25, 2014 *Consent Order*. In consultation with the State, the Claimants asserted they filed the NOC to protect their ground water claim.
5. The April 13, 2018 NOC filed with the Court by Samantha Leppert and Brandon Leppert states a claim for surface water off the La Plata River, diverted off the Greenhorn Ditch. That surface water right claim was already adjudicated under subfile AF-01-161 (SJLP-004-0015). *See* August 22,

2008 *Consent Order*. In consultation with the State, the Claimants asserted they filed the NOC to protect their ground water claim.

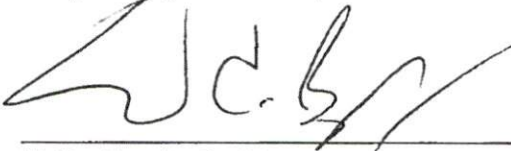
C. NOC States Possible Surface Water Right Claim Determined to be Outside La Plata Section:

6. The April 18, 2018 NOC filed with the Court by Charles David Beers and Diana Lynn Ohlson states a claim for water from the La Plata River, but does not identify a point of diversion from a ditch. The State investigated this claim, and determined that the property in question is located in an area served exclusively by ditches delivering water from the Animas River. There is no physical capacity to divert La Plata surface water. Further, the State consulted with the Claimants, and learned their claim is for water from springs on the property, the water from which is used to irrigate discrete parcels of garden throughout the property. It is not a claim to divert and use surface waters of the La Plata River.

Conclusion

All unknown claimants of the right to divert surface water from the La Plata River or groundwater within the La Plata section for beneficial use have been served with published notice of the pendency of the suit. Six (6) notices of claims were timely filed. Although all six stated claims for groundwater, none made a claim to divert and use surface water of the La Plata River.

Respectfully submitted,

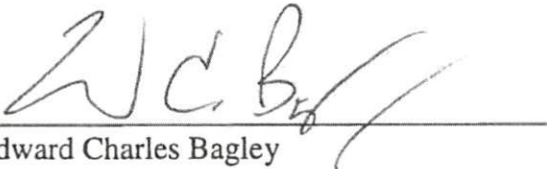


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CERTIFICATE OF SERVICE

I certify that on December 18, 2018, I caused a copy of the foregoing to be served by e-mail to all Counsel on the Electronic Service List for D-1116-CV-7500184 by emailing the filing to sanjuanwater-grp@nmcourts.gov, and upon the following by first class mail:


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