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

CV-75-184  
ROZIER E. SANCHEZ  
District Judge, *pro tempore*

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

SAN JUAN RIVER  
GENERAL STREAM  
ADJUDICATION

vs.

La Plata River Section

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

ALICE G. SEATON

THE JICARILLA APACHE TRIBE AND THE  
NAVAJO NATION,

Court Case No.: AF-01-519  
Subfile No.: SJLP-003-0012B

Defendant-Intervenors.

**MOTION FOR ENTRY OF CONSENT ORDER**

COMES NOW the Plaintiff, State of New Mexico *ex rel.* State Engineer ("State") pursuant to Sections V(E)(4) and VI(C) of the Scheduling Order Governing Adjudication of Irrigation Water Rights in the La Plata River Section ("Scheduling Order") and moves this Court to enter the attached proposed Consent Order against the Claimant Alice G. Seaton ("Claimant") for failure to file a rejection of the State's Consent Order. In support of its Motion for Entry of Consent Order, Plaintiff states as follows:

1. On January 14, 2009, Claimant Alice G. Seaton was served with a Service Package by certified mail, return receipt requested, restricted delivery as reflected by that Certificate of Service filed with the Court on June 18, 2009 and titled "6-18-09 Certificate of Service Packages by OSE" on the Court's website. See also Claimant's signature receipt attached hereto as Exhibit A.

2. The State mailed a Settlement Package to the Claimant on January 12, 2009, which contained the State's proposed Consent Order of Claimant's surface water rights in the La Plata River Section. The proposed Consent Order is attached hereto as Exhibit B.

3. The State filed proof of service of the Settlement Package for the Claimant with the Clerk of the Court on June 12, 2009.

4. Claimant failed to sign the proposed Consent Order and also failed to file a rejection of the State's proposed Consent Order as required by Section V(E) of the Scheduling Order.

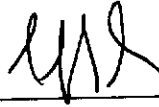
5. The time for filing a rejection has expired. See Affidavit of Counsel, attached hereto as Exhibit C.

6. As a result of Claimant's failure to properly respond to the proposed Consent Order, Claimants are presumed to have accepted the State's proposed Consent Order, which is consistent with the hydrographic survey. See Scheduling Order, Section V(E)(4).

7. According to Sections V(E)(4) and VI (C)(1) of the Scheduling Order, the Court may now enter the Consent Order.

**WHEREFORE**, Plaintiff State of New Mexico *ex rel.* State Engineer respectfully requests that the Court enter the attached proposed Consent Order against Claimant Alice G. Seaton submitted with this motion.

Respectfully submitted,

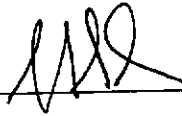


\_\_\_\_\_  
Julie Sakura  
Special Assistant Attorney General  
New Mexico Office of the State Engineer  
P.O. Box 2246  
Santa Fe, NM 87504-2246  
(505) 992-0811

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

CERTIFICATE OF SERVICE

I certify that on June 26, 2009, a copy of the foregoing paper was served by first class mail on the persons identified below.



\_\_\_\_\_  
Julie Sakura

Alice G. Seaton  
4300 Wilshire Drive  
Farmington, NM 87402

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
**ALICE G. SEATON**  
**4300 Wilshire Drive**  
**Farmington, NM 87402**  
**3-1213**

2. Article Number (Transfer from service label) **7006 3450 0001 4318 2309**

PS Form 3811, February 2004 Domestic Return Receipt 102505-02-M-150

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**RECIPIENT: COMPLETE THIS SECTION**

A. Signature: **X Alice G. Seaton**  Agent  Addressee

B. Received by (Printed Name): **Alice G. Seaton** C. Date of Delivery: **6/17/09**

D. Is delivery address different from item 1?  Yes  No  
 If YES, enter delivery address below:

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

87401 0006 17 700

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
**Kathy Cook**  
**1 Road 5780**  
**Farmington, NM 87401**  
**Sub file 0080049**

2. Article Number (Transfer from service label) **7007 3020 0001 2492 6726**

PS Form 3811, February 2004 Domestic Return Receipt 102505-02-M-150

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**RECIPIENT: COMPLETE THIS SECTION**

A. Signature: **X Kathy Cook**  Agent  Addressee

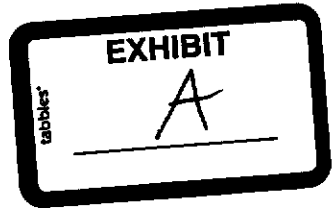
B. Received by (Printed Name): **Kathy Cook** C. Date of Delivery: **6/17/09**

D. Is delivery address different from item 1?  Yes  No  
 If YES, enter delivery address below:

3. Service Type  
 Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

87401 0006 17 700



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.

No. CV-75-184

Hon. ROZIER E. SANCHEZ  
District Judge *Pro Tempore*

SAN JUAN RIVER STREAM  
SYSTEM ADJUDICATION

La Plata River Section

ALICE G. SEATON

Court Case No.: AF-01-519

Subfile No.: SJLP-003-0012B

### CONSENT ORDER

The Court, having considered the agreement between Plaintiff, the State of New Mexico, *ex rel.* the State Engineer ("State") and the Defendant(s) named above (hereinafter referred to as "Defendant" for both single and plural Defendants) regarding Defendant's right to divert and use the waters of the San Juan River Stream System, as set forth below, FINDS:

1. The Court has jurisdiction over the State, the Defendant, and the subject matter of this suit.
2. The water right adjudicated pursuant to paragraph 5 of this Consent Order is part of a water right previously adjudicated in *Echo Ditch Company, et al. v. The McDermott Ditch Company, et al.*, San Juan County District Court, Cause No. 01690 (April 8, 1948). This Consent Order fully and exclusively adjudicates all the elements of the water right(s) described herein.
3. The State and Defendant are in agreement regarding the Court's findings and all elements of Defendant's right to divert and use the public waters of the San Juan River Stream System, as set forth in Paragraph 5 of this Consent Order. This Consent Order and the parties' respective signatures

EXHIBIT

B

tabbles

below evidence the entire agreement between the State and Defendant regarding the elements of the water rights adjudicated by this Consent Order.

4. Defendant represents that Defendant is the sole current owner of the water rights adjudicated herein, and that Defendant has no other claims to water rights in the La Plata Section except those adjudicated by this Consent Order and the following claims, which are expressly identified herein below and reserved for later adjudication by the Court:

**Claims Excluded From This Consent Order:**

a. Any claim(s) relating to “ the subsisting vested right to demand, divert, and receive and use such amount and amounts of waters, as are from time to time beneficially needed and required, for domestic and stock watering purposes,” as described in the *Echo Ditch* Decree.

b. List any other excluded claims:

NONE

5. There is no just reason for delay of final judgment as to the claims adjudicated by this Consent Order. Therefore, except as may be expressly excluded from this Consent Order and reserved for later determination, pursuant to Rule 1-054(B), NMRA (2004), this Consent Order constitutes a final judgment, as between the State and Defendant, of all claims for water rights of the Defendant in the La Plata River Section:

**A. IRRIGATED LANDS (Surface Water Only):**

**Priority:** September 30, 1881 (Priority No. 10 in the Echo Ditch Decree) for 0.0228 cfs  
December 31, 1889 (Priority No. 19 in the Echo Ditch Decree) for 0.0261 cfs

**Source of Water:** Surface water of the La Plata River, a tributary of the San Juan River.

**Purpose of Use:** IRRIGATION

**Point of Diversion:**     **Ditch:**             LA PLATA INDIAN DITCH

**Location:** X= 2,618,347 feet Y= 2,172,812 feet

New Mexico State Plane Coordinate System, West Zone, NAD 1983

**Location and Amount of Irrigated Acreage:**

Section 34, Township 32N, Range 13W, N.M.P.M.

Pt. SE¼

1.8 acres

Total 1.8 acres

As shown on the attached Subfile Map for Tract SJLP-003-0012B of the 2006 La Plata Hydrographic Survey.

**Rate of Flow:**

0.0228 cfs, Priority Date: September 30, 1881 (Priority No. 10 in the Echo Ditch Decree)

0.0261 cfs, Priority Date: December 31, 1889 (Priority No. 19 in the Echo Ditch Decree)

**Amount of Water:** Not to exceed 5.35 acre-feet per annum

**B. NO RIGHT (Surface Water Only):**

**Priority:** NONE

**Source of Water:** Surface water of the La Plata River, a tributary of the San Juan River.

**Purpose of Use:** NO RIGHT

**Point of Diversion:** Ditch: LA PLATA INDIAN DITCH

Location: X= 2,618,347 feet Y= 2,172,812 feet

New Mexico State Plane Coordinate System, West Zone, NAD 1983

**Location and Amount of Acreage**

Section 34, Township 32N, Range 13W, N.M.P.M.

Pt. SE¼ 3.5 acres

Total 3.5 acres

As shown on the attached Subfile Map for Tract SJLP-003-0012B of the 2006 La Plata Hydrographic Survey.

**Rate of Flow:**

NONE

**Amount of Water:** NONE

6. Defendant and Defendant's successors, representatives, heirs, and assigns should be enjoined from any use of the public waters of the San Juan River System except in strict accordance with this Consent Order and other orders of the Court in this cause.

7. The water right(s) described herein should be adjudicated, as between the State and Defendant, subject to the right of any other water right claimant with standing to object prior to entry of a final decree.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:**

A. All claim(s) of the Defendant to divert and use the public waters of the San Juan River Stream System, La Plata Section, is/are hereby adjudicated, as between the State and Defendant, as set forth herein, except as to those claim(s), and elements thereof, expressly excluded from this Consent Order or reserved for later determination in section-wide proceedings.

B. The Defendant and Defendant's successors, representatives, heirs, and assigns are hereby enjoined from diverting or using public waters of the San Juan River Stream System except in strict accordance with this Consent Order and other orders of the Court in this cause.

C. There is no just reason for delay of final judgment as to the claims adjudicated by this Consent Order. Except as may be expressly excluded from this Consent Order and reserved for later determination, pursuant to Rule 1-054(B), NMRA (2004), this Consent Order constitutes a final judgment, as between the State and Defendant, of all claims for water rights of the Defendant in the La Plata River Section.

D. In the event the Irrigated Tract(s) described herein is/are sold or the water right(s) otherwise transferred, in whole or in part, Defendant shall provide a copy of this Consent Order to the buyer and the buyer shall promptly complete and file a change of ownership form with the Office of the State Engineer in accordance with law.

**IT IS SO ORDERED.**

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ROZIER E. SANCHEZ  
District Judge, *Pro Tempore*



APPROVED AND ACCEPTED BY:

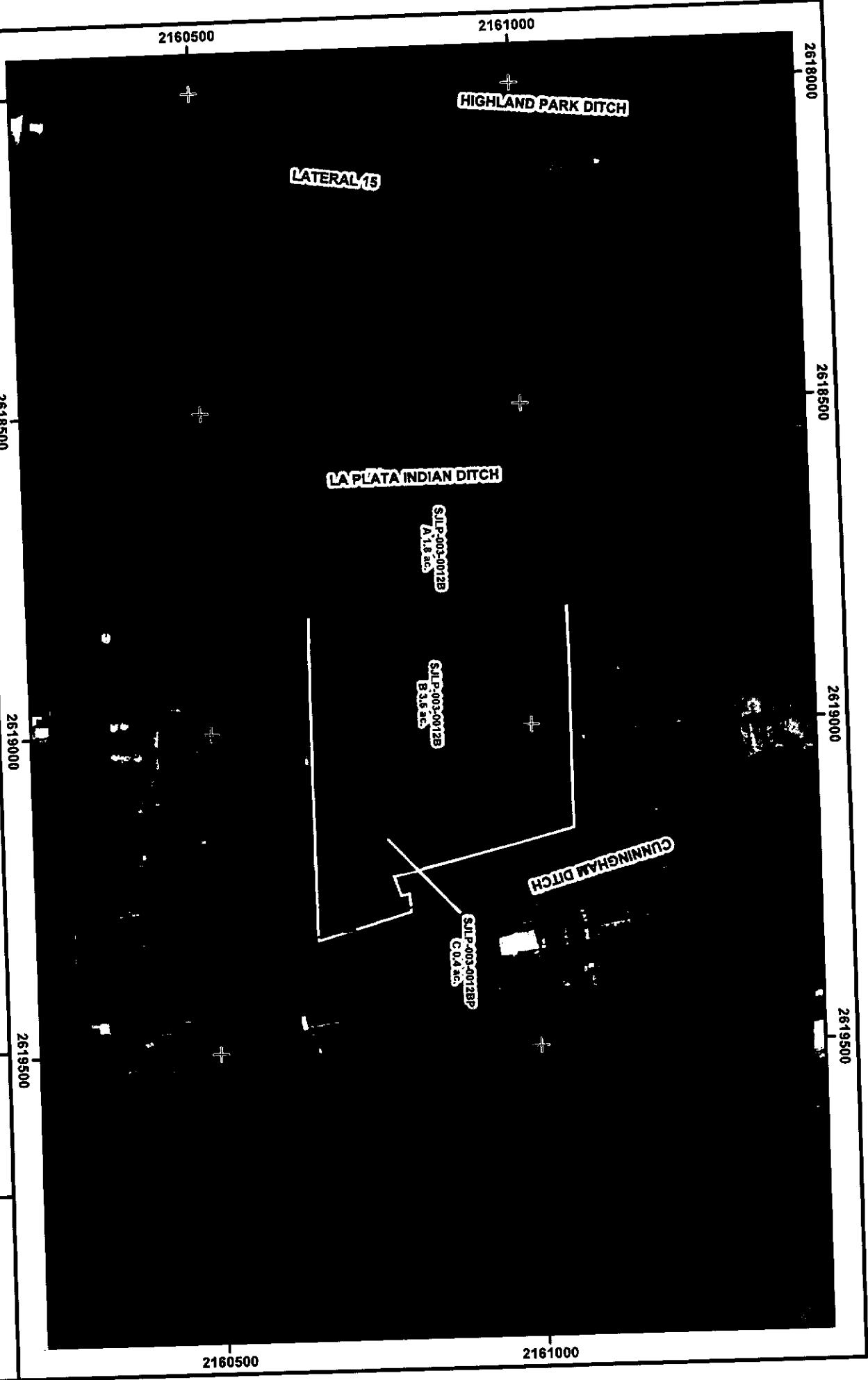
ACCEPTED: \_\_\_\_\_  
ALICE G. SEATON

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

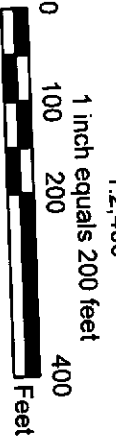
DATE: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Special Assistant Attorney General

Date: \_\_\_\_\_



- Point of Diversion
- Ditch
- Pond
- Land with Irrigation Right
- No Right



Grid Interval = 500'  
 NMSP West NAD83

1:2,400

**State of New Mexico**  
 Office of the State Engineer  
 John R. D'Antonio, Jr., P.E., State Engineer  
 San Juan River Stream System  
 Hydrographic Survey  
 La Plata River Section



Tract Number  
**SLP-003-0012B**  
 La Plata - Indian  
 Ditch  
 July 18, 2008

