

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. James J. Wechsler  
Presiding Judge

SAN JUAN RIVER STREAM  
SYSTEM ADJUDICATION

La Plata River Section

DANIELLE R. NICHOLS

JACOB W. NICHOLS

Court Case No.: AF-01-576

Subfile No.: SJLP-005-0014T

DISTRICT COURT  
SAN JUAN COUNTY NM  
FILED  
2010 JAN 25 PM 4 34

### CONSENT ORDER

The Court, having considered Plaintiff's Motion for Consent Order filed on 11/30/2009 and submitted pursuant to Sections V(E)(4) and VI(C) of the Scheduling Order Governing Adjudication of Irrigation Water Rights in the La Plata Section, regarding the Defendant(s)' named above (hereinafter referred to as "Defendant" for both single and plural Defendants) 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 Defendant has failed to sign or reject the proposed Consent Order after the State mailed a Settlement Package containing the proposed Consent Order to the Defendant. The Defendant's

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acceptance of the Consent Order is implied due to the Defendant's failure to respond to the State's Proposed Consent Order. The Defendant is now therefore presumed to have accepted the Court's findings and to agree to 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.

4. The State has determined through the hydrographic survey 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:

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. 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:**              HIGHLAND PARK DITCH

**Location:** X= 2,618,534 feet Y= 2,171,600 feet

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

**Location and Amount of Acreage**

Section 15, Township 31N, Range 13W, N.M.P.M.

Pt. NW¼

0.4 acres

Total 0.4 acres

As shown on the attached Subfile Map for Tract SJLP-005-0014T 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.**

  
Hon. James J. Wechsler  
Presiding Judge

APPROVED AND ACCEPTED BY:

ACCEPTED: Consent Implied  
DANIELLE R. NICHOLS

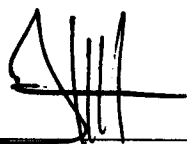
ACCEPTED: Consent Implied  
JACOB W. NICHOLS

ADDRESS: See State's Motion  
for Entry of Consent  
Order dated 11/30/2009

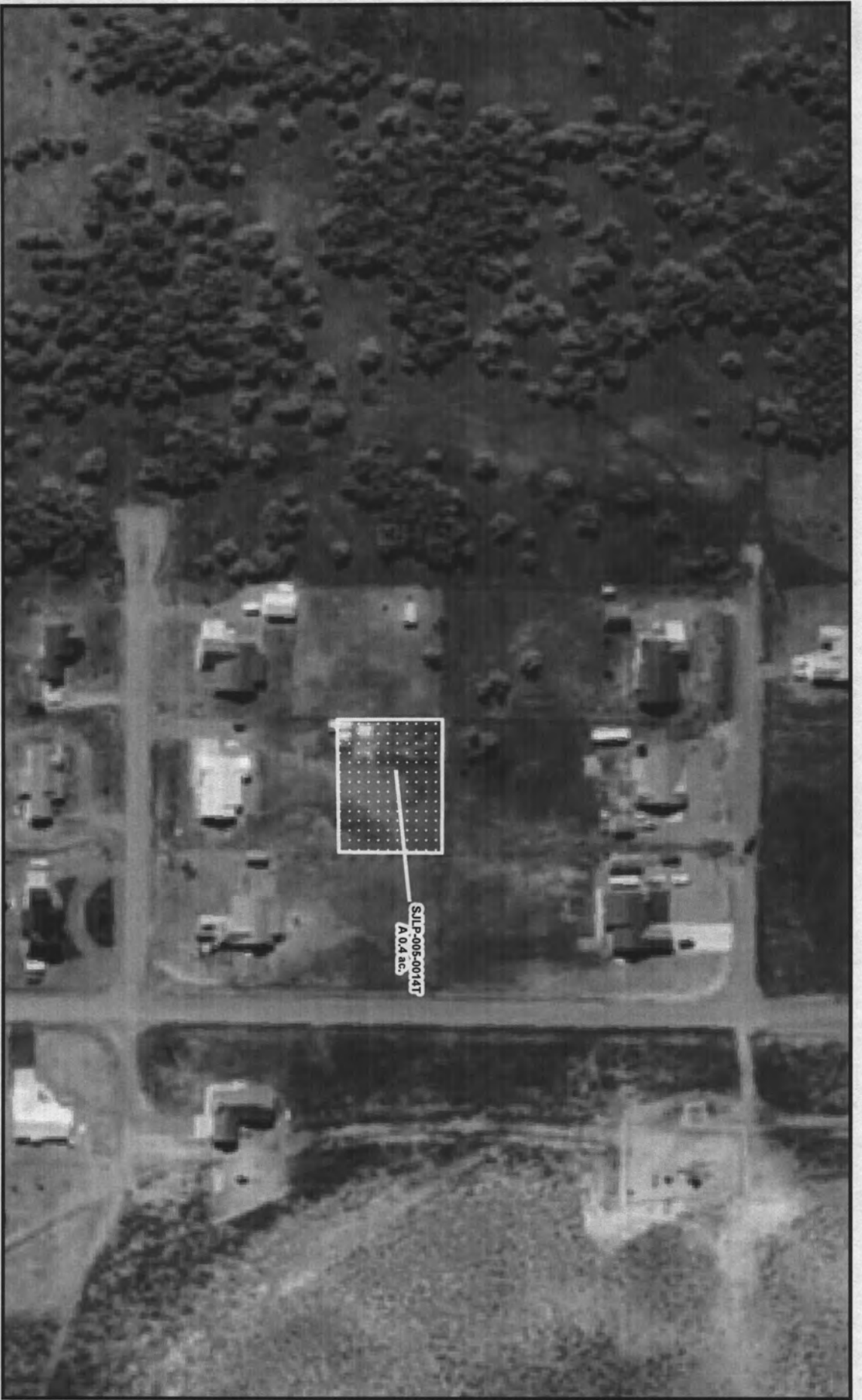
ADDRESS: See State's Motion  
for Entry of Consent  
Order dated 11/30/2009

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

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

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

Date: 1/8/2010



● Point of Diversion

→ Ditch

□ Land with Irrigation Right

□ No Right

□ Pond

Grid: NMSP West NAD83

1:1,800

1 inch = 150 feet



**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

**SJLP-005-0014T**

Highland Park Ditch

August 24, 2009