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

**CV-75-184**  
**JAMES J. WECHSLER**  
**Presiding Judge**

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.*,

LAURIE ANDERSON

Defendants,

THE JICARILLA APACHE TRIBE AND THE  
NAVAJO NATION,

**Court Case No.: AF-01-582**  
**Subfile No.: SJLP-004-0023**

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 Claimant Laurie Anderson ("Claimant") for her failure to timely file a rejection of the State's Consent Order. In support of this request, the State asserts the following:

1. On October 14, 2009, the State mailed a Settlement Package by certified mail, restricted delivery and return receipt requested to Claimant, which the Claimant received on October 26, 2009. See Certified, Return Mailing Receipt attached hereto as Exhibit A.
2. The Settlement Package 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 Service Package for Claimant with the Clerk of the Court on November 20, 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 Sections V(E) of the Scheduling Order. See Affidavit of Counsel, attached hereto as Exhibit C.

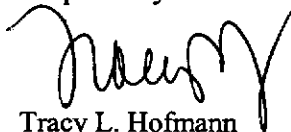
5. The time for filing a rejection has expired.

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

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

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

Respectfully submitted,

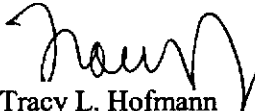


Tracy L. Hofmann  
Special Assistant Attorney General  
New Mexico Office of the State Engineer  
P.O. Box 25102  
Santa Fe, NM 87504-5102  
(505) 827-6150

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

CERTIFICATE OF SERVICE

I certify that on Oct 27, 2010, a copy of the foregoing paper was served by first class mail on the persons identified below.

  
Tracy L. Hofmann

Laurie Anderson  
P.O. Box 1274  
Farmington, NM 87499

**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:

Laurie Anderson  
 PO Box 9274  
 Farmington, MN 55499

SEL-004-0023

2. Article Number  
(Transfer from service label)

PS Form 3811, February 2004

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X *[Signature]*

- Agent
- Addressee

B. Received by (Printed Name)

LAURIE ANDERSON

C. Date of Delivery

10/26/09

D. Is delivery address different from item 1? If YES, enter delivery address below.

- Yes
- No



3. Service Type

- Certified Mail
- Registered
- Insured Mail
- Express Mail
- Return Receipt for Merchandise
- C.O.D.

4. Restricted Delivery? (Extra Fee)

- Yes

7008 3230 0000 2320 1744

Domestic Return Receipt

102585-02-00-1540



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

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

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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

LAURIE ANDERSON

Court Case No.: AF-01-582

Subfile No.: SJLP-004-0023



### 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

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:

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:**              GREENHORN DITCH

**Location:** X= 2,618,673 feet Y= 2,173,837 feet

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

**Location and Amount of Acreage**

Section 35, Township 32N, Range 13W, N.M.P.M.

Pt. SW¼	3.3 acres
Total	<hr/> 3.3 acres

As shown on the attached Subfile Map for Tract SJLP-004-0023 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:

Laurie Anderson

ADDRESS:

DATE:

Special Assistant Attorney General

Date:





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

Grid Interval = 1000'  
 NMSWP West NAD83

1:2,400

1 inch = 200 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  
**S.L.P.-004-0023**  
 Greenhorn Ditch  
 October 7, 2009



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

CV-75-184  
Hon. James J. Wechsler  
Presiding Judge

STATE OF NEW MEXICO, *ex rel.* STATE ENGINEER,  
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THE JICARILLA APACHE TRIBE AND THE  
NAVAJO NATION,  
Defendant-Intervenors.

AFFIDAVIT OF TRACY L. HOFMANN

State of New Mexico )  
  ) ss.  
County of Santa Fe    )

I, Tracy L. Hofmann, of lawful age and being duly sworn on oath, depose and state that:

1. I am a Special Assistant Attorney General, counsel for the Plaintiff, State of New Mexico *ex rel.* State Engineer in the above-captioned matter.
2. The Claimant listed below failed to file a Rejection in response to the State's proposed Consent Order:

LAURIE ANDERSON      SJLP-004-0023      AF-01-582

This concludes my sworn testimony.

TRACY L. HOFMANN

SUBSCRIBED AND SWORN to before me this 13 day of October 2010.

My Commission expires: 8/23/2014

NOTARY PUBLIC