

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

DISTRICT COURT
SAN JUAN COUNTY NM
FILED
2011 OCT 17 PM 3:00
No. CV-75-184

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.

Hon. James J. Wechsler
Presiding Judge

SAN JUAN RIVER STREAM
SYSTEM ADJUDICATION

La Plata River Section

SAN JUAN COUNTY

Court Case No.: AF-01-476

Subfile No.: SJLP-009-0026

SAN JUAN COUNTY, NEW MEXICO'S MOTION FOR RELIEF FROM ORDER

COMES NOW San Juan County, New Mexico, and moves the Court for relief and correction of the Consent Order in the above referenced Court Case and Subfile pursuant to Rule 1-060(B)(1).

As grounds for this motion, Movant states:

1. San Juan County is a political subdivision of the State of New Mexico and is a defendant in the above-captioned matter.
2. San Juan County submitted a Consent Order in the above-captioned matter on September 27, 2011 which has been signed by the Court.
3. Paragraph 4 of the Consent Order states 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:”. However, subparagraph b, where “any other excluded claims” are to be listed, is blank.

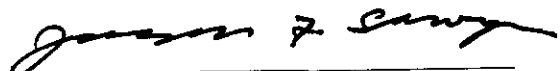
4. San Juan County has additional claims on the La Plata Section as evidenced by its letter to the State Engineer dated July 22, 2011, attached hereto as Exhibit 1.

5. San Juan County’s failure to state additional claims in Paragraph 4(b) was the result of inadvertence and excusable neglect. Counsel for San Juan County inadvertently neglected to fill in subparagraph b. The Consent Order appears to be a standardized form, and it does not appear that the State Engineer intended the form to foreclose other pending claims by San Juan County. San Juan County’s intent in filing the Consent Order was to adjudicate its claims in Subfile SJLP-0009-0026 only, not in every claim in the La Plata Section.

6. San Juan County requests that the Court correct the Consent Order by amending Paragraph 4(b) to interlineate the following: “b. list any other contested claims: *Any and all water rights appurtenant to roads, easements and other lands in the La Plata section that have been dedicated to San Juan County, New Mexico and which are held under its forty year plan pursuant to Section 72-1-9 NMSA 1978.*”

7. Counsel for the Office of the State Engineer was contacted for his position on this motion and stated that he is very involved in the Carlsbad Irrigation District inter se and it will be some time before he can give the matter proper reflection.

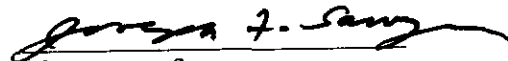
WHEREFORE, San Juan County prays for an Order correcting paragraph 4(b) of the Consent Order in the above-captioned cause number, or in the alternative, to set this matter for hearing.



JOSEPH F. SAWYER
Deputy County Attorney
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CERTIFICATE OF SERVICE ON OPPOSING PARTY

I hereby certify that on this 17th day of October, 2011 this motion was faxed by Joseph F. Sawyer to Gary Storm, Special Assistant Attorney General for the Office of the State Engineer. The transmission was reported as complete and without error. The time and date of the transmission was 2:41 (a.m.) (p.m.) on 10/17/11 (date).



Signature of attorney

10-17-2011
Date of Signature

Tony Atkinson
Chairman

Jim Henderson
Chairman Pro Tem

Scott Eckstein
Member

Margaret McDaniel
Member

GioJean Todacheene
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J. M. Durrett, Jr.
County Attorney

Douglas A. Echols
Deputy County Attorney

Joseph F. Sawyer
Deputy County Attorney

July 22, 2011

Gary Storm
Special Assistant Attorney General
Office of the State Engineer
P.O. Box 25102
Santa Fe, New Mexico 87504-5102

Re: CV-75-184; Subfile No.: SJLP-008-0117: Rancho Estates Subdivision; Mountain View Acres Subdivision; and Country Farms Subdivision

Dear Mr. Storm:

Enclosed please find the following evidence of San Juan County's water rights appurtenant to roads and alleyways dedicated to the County in the Rancho Estates Subdivision, Mountain View Acres Subdivision, and Country Farms Subdivision. As you know, San Juan County holds these rights pursuant to its 40 year plan.

1. Photocopy of SEO's San Juan River Stream System Hydrographic Survey, La Plata River Section, dated July 11, 2008, Tract No. SJLP-008-0117 - labeled with Rancho Estates, Mountain View Acres, and Country Farms subdivisions.
2. Photocopy of Sheet LP-15, San Juan River Stream System Hydrographic Survey, La Plata River Section 1982, showing area in which Rancho Estates, Mountain View Acres and Country Farm subdivisions lie (labeled with Rancho Estates and Mountain View Estates subdivisions by SEO).
3. Copy of Application for Change of Water Right for Rancho Estates subdivision, filed by Quincy Cornelius with SEO December 22, 1977.
4. Photocopy of plat of Rancho Estates Subdivision.
5. Photocopy of plat of Mountain View Acres Subdivision.

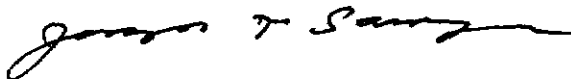
EXHIBIT 1

Letter to Gary Storm
July 21, 2011
Page 2

6. Photocopy of plat of Country Farms Subdivision.
7. Photocopy of page 113 from Judgment in Echo Ditch Company v. McDermott Ditch Company, No. 01690 ("Echo Ditch Decree"). Second entry shows T. F. Coyne as owner of irrigated acreage where Rancho Estates and Country Farms subdivisions now lie. Third entry shows W. L. Lee as owner of irrigated acreage where Mountain View Acres Subdivision now lies.
8. Warranty Deed and corrective quitclaim deeds from T. F. Coyne, a single man, to J.V. Hooker. Plat showing land conveyed.
9. Warranty Deed from J. V. Hooker and Lucy J. Hooker, husband and wife to Dayo Miller and Rosa Miller, husband and wife. Plat showing land conveyed.
10. Warranty Deed from Dayo Miller and Rosa Miller, husband and wife to V. L. Christensen and Irene C. Christensen, husband and wife. Plat showing land conveyed.
11. Warranty Deed from V. L. Christensen and Irene C. Christensen, husband and wife, to Ray Patterson and Neta Patterson, husband and wife. Plat showing land conveyed
12. Warranty Deed from Ray Patterson and Neta Patterson, husband and wife to Clare Patterson and Violet Patterson, husband and wife. Plat showing land conveyed with outlines (in light purple color) of Rancho Estates Subdivision. Country Farms subdivision is also displayed within the Rancho Estates Subdivision on the left side of NM 170 in red, labeled as Road 1738.
13. Plat showing Rancho Estates Subdivision displayed within boundaries of land conveyed by the above-referenced deeds.

Please inform me if you need any additional information.

Sincerely,



Joseph F. Sawyer
Deputy County Attorney, San Juan County

Enclosures