

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

CV-75-184

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

Plaintiff,

vs.

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

Defendants,

THE JICARILLA APACHE TRIBE AND THE  
NAVAJO NATION,

Defendants-Intervenors.

Hon. James J. Wechsler  
Presiding Judge

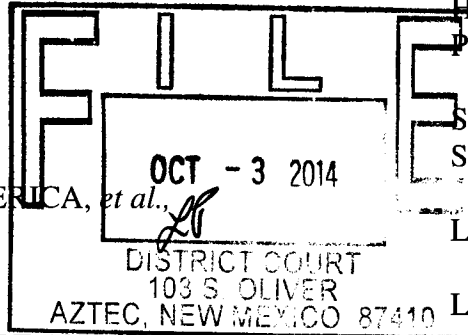
SAN JUAN RIVER STREAM  
SYSTEM ADJUDICATION

La Plata River Section

Laura Walter

Court Case No.: AF-01-584

Subfile No.: SJLP-006-0019B



**MOTION FOR ENTRY OF CONSENT ORDER**

Plaintiff, State of New Mexico, *ex rel.* State Engineer (“State”), as authorized by 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”), moves this Court to enter the attached proposed Consent Order against Claimant Laura Walter (“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 June 13, 2014, Claimant was served with a Service Package by certified mail, return receipt requested, restricted delivery as reflected in the Certificate of Service the State filed on June 20, 2014. See Certified Return Receipt attached hereto as Exhibit A.
2. The State mailed a Settlement Package containing the State’s proposed Consent Order of Claimant’s surface water rights in the La Plata River Section to the Claimant on June 13, 2014. The proposed Consent Order is attached hereto as Exhibit B.

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3. The State filed proof of service of the Settlement Package for Claimant with the Clerk of the Court on June 20, 2014.

4. Claimant failed to sign and return the proposed Consent Order or failed to file a rejection of the State's proposed Consent Order as required by Section V(E) of the Scheduling Order. See Affidavit of Counsel, attached hereto as Exhibit C.

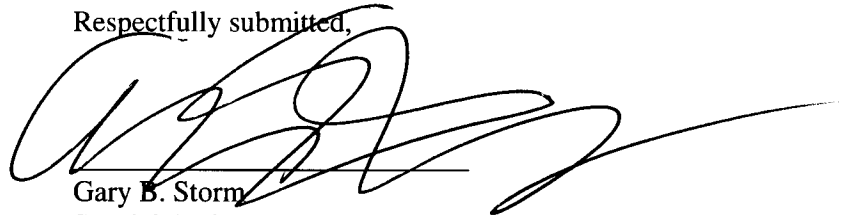
5. The time for filing a rejection has expired.

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 as provided by 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 adjudicating the water rights of Claimant Laura Walter submitted with this motion.

Respectfully submitted,

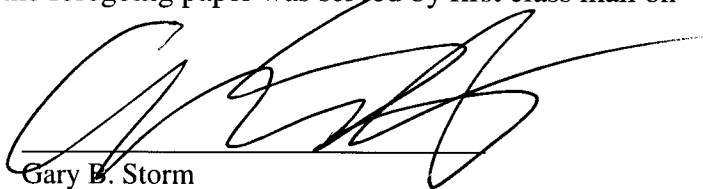


Gary B. Storm  
Special Assistant Attorney General  
New Mexico Office of the State Engineer  
P.O. Box 25102  
Santa Fe, New Mexico 87504-5102  
(505) 827-6150

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

CERTIFICATE OF SERVICE

I certify that on October 2, 2014, a copy of the foregoing paper was served by first class mail on the persons identified below.



Gary B. Storm

Laura Walter  
309 W. Maple  
Bloomfield, New Mexico 87413

**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:

Laura Walter  
309 W. Maple  
Bloomfield, NM 87413

2. Article Number  
(Transfer from service label)

7004 0750 0003 8818 3534

6-19B

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
*[Signature]*  
 Agent  
 Addressee

B. Received by (Printed Name) C. Date of Delivery  
*SHARON CRAWLEY* *1/14/04*

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

3. Service Type

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

4. Restricted Delivery? (Extra Fee)  Yes

EXHIBIT

tabbles

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SAN JUAN RIVER STREAM  
SYSTEM ADJUDICATION

La Plata River Section

LAURA WALTER

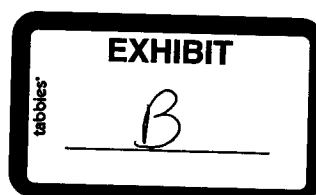
Court Case No.: AF-01-584

Subfile No.: SJLP-006-0019B

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

**Priority:** December 31, 1889 (Priority No. 19 in the Echo Ditch Decree) for 0.0283 cfs

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

**Purpose of Use:** IRRIGATION

**Point of Diversion:**      **Ditch:**                      CUNNINGHAM DITCH

**Location:** X= 2,619,980 feet Y= 2,166,458 feet

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

**Location and Amount of Irrigated Acreage:**

Section 22, Township 31N, Range 13W, N.M.P.M.

Pt. NW¼

1.6 acres

Total                      1.6 acres

As shown on the attached Subfile Map for Tract SJLP-006-0019B of the 2014 La Plata Hydrographic Survey.

**Rate of Flow:**

0.0283 cfs

**Amount of Water:** Not to exceed 4.80 acre-feet per annum

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

**Priority:** NONE

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

**Purpose of Use:** NO RIGHT

**Point of Diversion:**      **Ditch:**                      CUNNINGHAM DITCH

**Location:** X= 2,619,980 feet Y= 2,166,458 feet  
New Mexico State Plane Coordinate System, West Zone, NAD 1983

**Location and Amount of Acreage**

Section 22, Township 31N, Range 13W, N.M.P.M.

Pt. NW¼	0.5 acres
Total	0.5 acres

As shown on the attached Subfile Map for Tract SJLP-006-0019B of the 2014 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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Hon. James J. Wechsler  
Presiding Judge



APPROVED AND ACCEPTED BY:

ACCEPTED: \_\_\_\_\_  
LAURA WALTER

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

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

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

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

