

DISTRICT COURT
SAN JUAN COUNTY NM
FILED

2025 JUL 29 AM 9:48

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

STATE OF NEW MEXICO,
ex rel. STATE ENGINEER,

Plaintiff,

vs.

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

Defendants,

vs.

THE JICARILLA APACHE TRIBE and
THE NAVAJO NATION,

Defendant-Intervenors.

D-1116-CV-75-184

Honorable James J. Wechsler
Judge Pro Tempore

SAN JUAN RIVER BASIN ADJUDICATION

La Plata River Section

| Court No. AF-01- | | | | | | | | | |
|------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| 39 | 43 | 122 | 135 | 138 | 233 | 239 | 313 | 315 | 317 |
| 318 | 320 | 321 | 322 | 323 | 324 | 325 | 326 | 327 | 328 |
| 329 | 330 | 331 | 332 | 333 | 334 | 335 | 336 | 521 | |
| | | | | | | | | | |

**GLOBAL MOTION TO CORRECT ERRONEOUS INFORMATION UNDER
“POINT OF DIVERSION” HEADINGS IN TWENTY-NINE CONSENT ORDERS
IN THE LA PLATA ADJUDICATION**

STATE OF NEW MEXICO, *ex rel.* State Engineer, [State] moves the Court for an Order under Rule 1-060(B) NMRA to correct the erroneous information included under “Point of Diversion” headings for various Consent Orders regarding the La Plata River Section of the San Juan River Basin that adjudicated water rights in the twenty-nine above-captioned cases, and says in support thereof:

1. This Motion was made under the authority of the Court's Order on the State's Rule 1-060(B) Procedure Motion, entered February 28, 2023.¹ [Exhibit A.]

2. This Court entered Consent Orders adjudicating the water rights in the La Plata Section of the San Juan River Basin for each of the 29 above-named cases. The relevant information regarding the Consent Orders for each of the 29 cases is included in the Appendix to this Motion. [Exhibit B]

3. Because of technical errors, some of the details included under the "Point of Diversion" headings in the Consent Orders for those 29 cases were incorrectly identified or missing.

4. The Appendix below describes the specific errors in the "Point of Diversion" descriptions associated with the above-captioned cases, and it provides the correct language that will resolve these errors. [Exhibit B]

5. All of the above-captioned cases should be corrected by an Order of the Court directly changing each erroneous detail under the "Point of Diversion" headings to conform with the adjudicated water rights.

6. Correcting the Consent Orders will facilitate reconciliation of the La Plata Adjudication and will more accurately reflect the distribution of water within the La Plata.

7. Even though the Consent Orders listed in the Appendix were adjudicated as many as eighteen years ago (from 2007 to 2015), this Motion has been made within a reasonable time because it addresses matters that came to light toward the end of an adjudication process which, of necessity, takes several years, and because it addresses matters, some of which were brought

¹ Order on State of New Mexico's Motion for Approval of an Expedited Rule 1-060(B) NMRA Procedure for Globally Correcting Mistakes that are Shared by Multiple Consent Orders in the La Plata Adjudication.

to the State's attention by the Court's Database Manager, which affect substantive aspects of the Defendants' water rights.

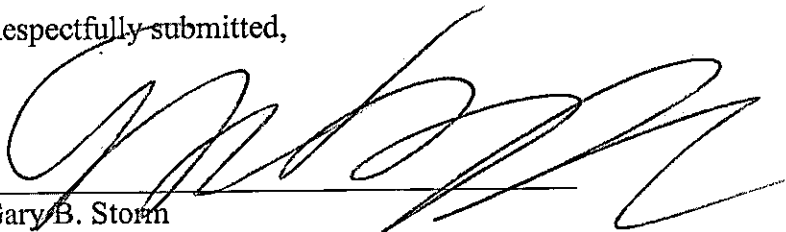
8. The original Defendants who signed the Consent Orders, and, where applicable, their current successors-in-interest, have been provided with an opportunity to respond to this Motion.

WHEREFORE, the State respectfully requests the Court grant its Motion and order that all the Consent Orders in the above-captioned cases be corrected so that:

1. The "Point of Diversion" descriptions in each subfile conforms with the adjudicated water rights, and

2. Such other relief as the Court deems appropriate.

Respectfully submitted,



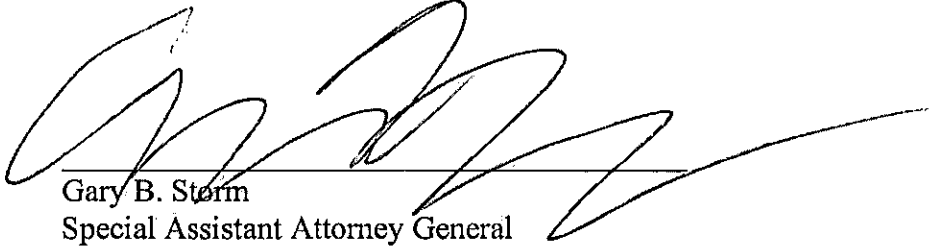
Gary B. Storm
Special Assistant Attorney General
Office of the State Engineer
P. O. Box 25102
Santa Fe, NM 87504-5102
505/827-6150
505/827-3887 (fax)

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

CERTIFICATE OF SERVICE

I certify that on July 29, 2025, an electronic version of this document was filed by
electronic mail to: sanjuanwater-grp@nmcourts.gov, and mailed through the United States

Postal Service: to the persons listed below on the attached Service List.



Gary B. Stern
Special Assistant Attorney General

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

DISTRICT COURT
SAN JUAN COUNTY NM
FILED

2023 FEB 28 PM 4: 01

JB

STATE OF NEW MEXICO,
ex rel. STATE ENGINEER,

Plaintiff,

vs.

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

vs.

THE JICARILLA APACHE TRIBE and
THE NAVAJO NATION,

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D-1116-CV-75-184

Honorable James J. Wechsler
Judge Pro Tempore

SAN JUAN RIVER BASIN
ADJUDICATION

La Plata River Section

**ORDER ON STATE OF NEW MEXICO'S MOTION FOR APPROVAL OF AN
EXPEDITED RULE 1-060(B) NMRA PROCEDURE FOR GLOBALLY CORRECTING
MISTAKES THAT ARE SHARED BY MULTIPLE CONSENT ORDERS IN THE LA
PLATA ADJUDICATION**

THIS MATTER having been reviewed by the Court on the Motion for Approval of an Expedited Rule 1-060(B) NMRA Procedure for Globally Correcting Mistakes that are Shared by Multiple Consent Orders in the La Plata Adjudication, filed by the State of New Mexico ex rel. State Engineer [State]; and the Court, being fully advised in the premises, FINDS:

1. The Court's Database Manager has undertaken a "Quality Control" review of all the Consent Orders that were entered by this Court adjudicating the water rights in the La Plata. This review has revealed mistakes in numerous filed Consent Orders.

2. In the course of adjudicating La Plata water rights, the State has identified certain mistakes in filed Consent Orders.

EXHIBIT A

3. This Motion concerns errors that are more appropriately addressed by Rule 1-060(B) because they may concern substantive aspects of a water right and are not necessarily merely clerical in nature.

4. Though numerous filed Consent Orders in the La Plata contain mistakes, there are comparatively few categories of such mistakes among all the Consent Orders. The various categories of these mistakes may include, but are not necessarily limited to:

- a) Discrepancies between maps and the Consent Orders to which they are attached.
- b) Incorrect Acreages for irrigated lands as well as no right lands.
- c) Missing and erroneous Amounts of Water.
- d) Incorrect ditch listed as Point of Diversion.
- e) Incorrect location for Point of Diversion of ditch.
- f) Ponds not included in Subfile Order.
- g) Incorrect or missing Priority Date.
- h) Incorrect or missing Rate of Flow.
- i) Incorrect aliquot part and location.

5. The correction of any of the above-listed errors may affect the substantive rights of the Defendants and may affect the State's administrative responsibilities.

6. Because the correction of these mistakes requires making a change in a Consent Order entered by the Court, Rule 1-060(B) is the most appropriate mechanism for affecting the necessary changes.

7. In the interest of promoting judicial efficiency, conserving the resources of the State, and shortening the time needed for completion of the adjudication of the La Plata, the State

should employ expedited procedures for globally correcting errors that are shared by multiple consent orders in La Plata Consent Orders.

THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED that:

The State shall implement the following expedited procedures for globally resolving ambiguities and achieving consistency among multiple Consent Orders in the La Plata Adjudication:

- (a) The State and the Court shall confer regarding the date, time, and place for a hearing on the Global Motion to resolve a particular category of Consent Order ambiguity or inconsistency.
- (b) The Court shall issue a Notice of Hearing setting a hearing date, time, and place on the Global Motion. This Notice of Hearing will not be sent to the Defendants.
- (c) The State shall file a copy of the Global Motion for each subfile listed in that Motion's caption and shall serve on each original Defendant and, if applicable, on each current owner of record:

- a copy of this Order on double sided paper as an Exhibit to the Global Motion;
- the Global Motion; and
- a cover letter and Notice Form, as an Exhibit to the Global Motion, informing the Defendants of the date and time of the hearing, which the Defendants can use to notify the State and the Court of any response to the proposed change and their intent to appear at the hearing. The State shall file with the Court all of the Notice Forms that are returned by Defendants.

- (d) The Global Motion and proposed Global Order shall contain a table [Appendix] specifying the Owner whose name appears in the Consent Order at issue, their address, the

subfile number, the paragraph to be corrected within each Consent Order, the court number, the date the original Consent Order was filed, and any other information that the particular situation requires. The font of the table may be reduced to 11 or 10 points to minimize the number of pages of the Global Motion and Global Order.

(e) The State, if the Court believes it to be necessary, will publish the Global Motion, the proposed Global Order, Order on the Motion for expedited procedure, the Notice of Hearing, and the Form Notice on the Office of the State Engineer website on a page devoted to the La Plata adjudication. The State will provide further notice as the Court directs.

(f) In order to provide notice to all affected parties in accordance with due process requirements, the State shall use due diligence to determine the current owners of the water rights described in the Consent Orders that are the subject of each Global Motion. Such due diligence shall consist of:

- Obtaining available ownership information that has been updated by the Defendant and filed in the records of the Office of the State Engineer in accordance with NMSA 1978, § 72-1-2.1 (1996), and the Consent Order signed by the original Defendant, and
- Obtaining available ownership information from the San Juan County Assessor.


(g) Following the hearing, the Court shall enter a single Global Order correcting all the affected Consent Orders.

(h) The State shall serve the Global Order on each Defendant and on each identified current owner of record whose Consent Order is to be corrected and file a copy of the Global Order for each subfile listed in its caption.

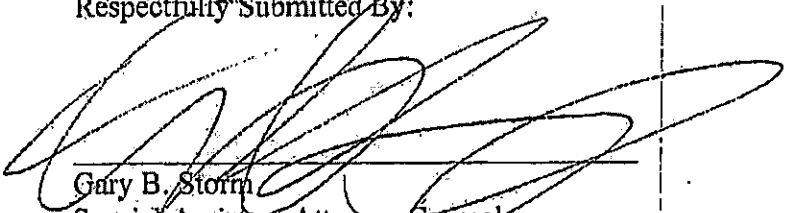
(i) The Global Order shall expressly correct the original Consent Order.

IT IS SO ORDERED.

Date: February 28, 2023


JAMES J. WECHSLER
JUDGE PRO TEMPORE

Respectfully Submitted By:


Gary B. Storm
Special Assistant Attorney General
Office of the State Engineer
P. O. Box 25102
Santa Fe, NM 87504-5102
505/827-6150
505/827-3887 (fax)

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

POINT OF DIVERSION

| Owner & Address | Subfile No. | Date Subfile Order Entered | Court No. | Headings with Error | Error | Change Needed |
|---|-------------|----------------------------|-----------|---------------------|---|--|
| Mary R. Enos Stephen K. Enos 1897 Highway 170 La Plata, NM 87418 | 001-0017 | Amended 10/22/2009 | AF-01-39 | B | Heading B states No Right Point of Diversion is on the Pickering Ditch. Map shows only Pioneer Ditch. | Change Heading B Point of Diversion from Pickering Ditch to Pioneer Ditch. |
| Elizabeth B. Smagacz Anthony P. Smagacz 31 County Road 1006 La Plata, NM 87418 | 001-0021 | Amended 1/30/2009 | AF-01-43 | B | Heading B states No Right Point of Diversion is on the Pickering Ditch. Map shows only Pioneer Ditch. | Change Heading B Point of Diversion from Pickering Ditch to Pioneer Ditch. |

EXHIBIT B

| | | | | | | |
|--|------------|-----------|-----------|---------|---|--|
| <p>Nickles Brothers Inc. c/o Charles & Lloyd Nickles 1412 Highway 170 La Plata, NM 87418</p> | 003-0051 | 9/20/2012 | AF-01-122 | A, B, C | <p>Heading A correctly states Point of Diversion is La Plata Indian Ditch, but incorrectly includes Murphy Arroyo Ditch as supplemental water.</p> <p>Heading B correctly states Point of Diversion is La Plata Indian Ditch, but incorrectly includes Murphy Arroyo Ditch as supplemental water.</p> <p>Heading C incorrectly describes 1.7 No Right acres with La Plata Indian Ditch as Point of Diversion.</p> <p>There is no Heading D.</p> <p>There is no Heading E.</p> | <p>Change Heading A Point of Diversion to La Plata Indian Ditch and remove references to Murphy Arroyo Ditch.</p> <p>Change Heading B Point of Diversion to La Plata Indian Ditch and remove references to Murphy Arroyo Ditch.</p> <p>Change Heading C Point of Diversion to supplemental water from the Murphy Arroyo Ditch."</p> <p>Add Heading D with Point of Diversion to supplemental water from the Murphy Arroyo Ditch.</p> <p>Add Heading E with La Plata Indian Ditch as Point of Diversion for 1.7 No Right acres.</p> |
| <p>Tyler Eugene Truby 4635 Frasers Owl Ave, Unit 102 North Las Vegas, NV 89084-4785</p> | 004-0035-B | 6/22/2015 | AF-01-521 | A, B | <p>Headings A and B Points of Diversion incorrectly state Greenhorn Ditch.</p> | <p>Change Headings A and B Points of Diversion from Greenhorn Ditch to Larkin-Reynolds Ditch.</p> |

| | | | | | | |
|--|----------|----------------------|-----------|------------|---|--|
| Gary W. Bees Marsha M. Bees 20955 West Lost Creek Drive Buckeye, AZ 85396 | 007-0033 | 12/29/2009 | AF-01-233 | A, B, C, D | Heading A incorrectly states 26.9 acres from Helton Ditch. Heading B incorrectly states 8.0 acres from Jackson Canal Ditch. Heading C incorrectly states 1.6 No Right acres from Helton Ditch. Heading D incorrectly states 0.1 No Right acres from Helton Ditch. | Change Heading A to 34.9 acres from Helton Ditch. Change Heading B to Helton Ditch for 1.6 No Right acres. Change Heading C to Jackson Canal Ditch for 0.1 No Right acres. Heading D is eliminated. |
| Jeremy A. Kuchera Rebecca A. Kuchera 20 County Road 1636 Farmington, NM 87401 | 007-0044 | 8/22/2008 | AF-01-315 | A, B | Headings A and B Points of Diversion incorrectly state Jackson Canal Ditch. | Change Headings A and B Points of Diversion from Jackson Canal Ditch to Helton Ditch. |
| Jeremy A. Kuchera Rebecca A. Kuchera 20 County Road 1636 Farmington, NM 87401 | 007-0045 | 8/22/2008 | AF-01-317 | A, B | Headings A and B Points of Diversion incorrectly state Jackson Canal Ditch. | Change Headings A and B Points of Diversion from Jackson Canal Ditch to Helton Ditch. |
| David Watson P.O. Box 2811 Farmington, NM 87401 | 007-0046 | Amended 3/30/2012 | AF-01-318 | A | Heading A Point of Diversion incorrectly states Jackson Canal Ditch. | Change Heading A Point of Diversion from Jackson Canal Ditch to Helton Ditch. |
| Lynett Griffith Joe M. Brice 28 Road 1636 Farmington, NM 87401 | 007-0047 | 5/25/2007 | AF-01-239 | A, B | Headings A and B Points of Diversion incorrectly state Jackson Canal Ditch. | Change Headings A and B Points of Diversion from Jackson Canal Ditch to Helton Ditch. |

| | | | | | | |
|--|----------|----------------------|-----------|------|---|---|
| Douglas D. Fessenden 30 County Road 1636 Farmington, NM 87401 | 007-0048 | 8/5/2009 | AF-01-313 | A, B | Headings A and B Points of Diversion incorrectly state Jackson Canal Ditch. | Change Headings A and B Points of Diversion from Jackson Canal Ditch to Helton Ditch. |
| Frank W. Andrews Renee Andrews 32 Road 1636 Farmington, NM 87401 | 007-0049 | 12/29/2009 | AF-01-320 | A, B | Headings A and B Points of Diversion incorrectly state Jackson Canal Ditch. | Change Headings A and B Points of Diversion from Jackson Canal Ditch to Helton Ditch. |
| Nickles Brothers Inc. c/o Charles & Lloyd Nickles 1412 Highway 170 La Plata, NM 87418 | 007-0050 | 6/4/2011 | AF-01-135 | A | Heading A Point of Diversion incorrectly states Jackson Canal Ditch. | Change Heading A Point of Diversion from Jackson Canal Ditch to Helton Ditch. |
| Caroline Hartsell Sidney L. Hartsell 27 Country Road 1636 Farmington, NM 87401 | 007-0051 | Amended 6/11/2019 | AF-01-321 | A, B | Headings A and B Points of Diversion incorrectly state Jackson Canal Ditch. | Change Headings A and B Points of Diversion from Jackson Canal Ditch to Helton Ditch. |
| Ginger K. Lockeby Johnny L. Lockeby 25 County Road 1636 Farmington, NM 87401 | 007-0052 | 10/16/2008 | AF-01-322 | A, B | Headings A and B Points of Diversion incorrectly state Jackson Canal Ditch. | Change Headings A and B Points of Diversion from Jackson Canal Ditch to Helton Ditch. |
| Teresa Perkins Glen Perkins P.O. Box 1091 Farmington, NM 87499 | 007-0053 | 10/16/2008 | AF-01-323 | A, B | Headings A and B Points of Diversion incorrectly state Jackson Canal Ditch. | Change Headings A and B Points of Diversion from Jackson Canal Ditch to Helton Ditch. |
| Rebecca L. Buckley 19 County Road 1636 Farmington, NM 87401 | 007-0054 | 10/16/2008 | AF-01-324 | A, B | Headings A and B Points of Diversion incorrectly state Jackson Canal Ditch. | Change Headings A and B Points of Diversion from Jackson Canal Ditch to Helton Ditch. |
| Shannon Gould 17 RD 1636 Farmington, NM 87401 | 007-0055 | 8/5/2009 | AF-01-325 | A | Heading A Point of Diversion incorrectly states Jackson Canal Ditch. | Change Heading A Point of Diversion from Jackson Canal Ditch to Helton Ditch. |

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|---|----------|----------------------|-----------|------|---|---|
| Lonnie Fuller 13 CR 1636-2004 Farmington, NM 87401 | 007-0056 | 8/5/2009 | AF-01-326 | A | Heading A Point of Diversion incorrectly states Jackson Canal Ditch. | Change Heading A Point of Diversion from Jackson Canal Ditch to Helton Ditch. |
| Desert Investments Inc. c/o David Allison 4510 Main Farmington, NM 87401 | 007-0057 | 5/27/2009 | AF-01-327 | A | Heading A Point of Diversion incorrectly states Jackson Canal Ditch. | Change Heading A Point of Diversion from Jackson Canal Ditch to Helton Ditch. |
| Debi Bell Ruth Van Boening P.O. Box 350077 Palm Coast, FL 32135 | 007-0058 | 1/25/2010 | AF-01-328 | A | Heading A Point of Diversion incorrectly states Jackson Canal Ditch. | Change Heading A Point of Diversion from Jackson Canal Ditch to Helton Ditch. |
| Barbara Earp Roland M. Earp 49 CR 1636 Farmington, NM 87401 | 007-0059 | Amended 6/17/2010 | AF-01-329 | A | Heading A Point of Diversion incorrectly states Jackson Canal Ditch. | Change Heading A Point of Diversion from Jackson Canal Ditch to Helton Ditch. |
| Christopher D. Opperman 45 CR 1636 Farmington, NM 87401 | 007-0060 | Amended 6/17/2010 | AF-01-330 | A | Heading A Point of Diversion incorrectly states Jackson Canal Ditch. | Change Heading A Point of Diversion from Jackson Canal Ditch to Helton Ditch. |
| Loretta Y. Haley Michael J. Haley 38 RD 1636 Farmington, NM 87401 | 007-0061 | 3/19/2009 | AF-01-138 | A | Heading A Point of Diversion incorrectly states Jackson Canal Ditch. | Change Heading A Point of Diversion from Jackson Canal Ditch to Helton Ditch. |
| Brook Klitzke Donald Klitzke, III 40 Road 1636 Farmington, NM 87401 | 007-0062 | 8/11/2009 | AF-01-331 | A | Heading A Point of Diversion incorrectly states Jackson Canal Ditch. | Change Heading A Point of Diversion from Jackson Canal Ditch to Helton Ditch. |
| Fred V. Archuleta Juanita S. Archuleta PO Box 211 La Plata, NM 87418 | 007-0063 | 10/16/2008 | AF-01-332 | A, B | Headings A and B Points of Diversion incorrectly state Jackson Canal Ditch. | Change Headings A and B Points of Diversion from Jackson Canal Ditch to Helton Ditch. |

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|--|----------|----------------------|-----------|------|---|---|
| Mary McCormack Jerry R. Stevens 5651U Highway 64 Farmington, NM 87401 | 007-0064 | Amended 12/7/2015 | AF-01-333 | A | Heading A Point of Diversion incorrectly states Jackson Canal Ditch. | Change Heading A Point of Diversion from Jackson Canal Ditch to Helton Ditch. |
| Chester H. Benally Elvonne J. Benally 50 Road 1636 Farmington, NM 87401 | 007-0065 | 4/30/2014 | AF-01-334 | A | Heading A Point of Diversion incorrectly states Jackson Canal Ditch. | Change Heading A Point of Diversion from Jackson Canal Ditch to Helton Ditch. |
| Cindy L. Stockton 54 Road 1636 Farmington, NM 87401 | 007-0066 | 6/15/2011 | AF-01-335 | A | Heading A Point of Diversion incorrectly states Jackson Canal Ditch. | Change Heading A Point of Diversion from Jackson Canal Ditch to Helton Ditch. |
| Kathy Waybourn Don Waybourn PO Box 326 La Plata, NM 87418 | 007-0067 | 10/16/2008 | AF-01-336 | A, B | Headings A and B Points of Diversion incorrectly state Jackson Canal Ditch. | Change Headings A and B Points of Diversion from Jackson Canal Ditch to Helton Ditch. |

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

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Defendant-Interveners.

D-1116-CV-75-184
Honorable James J. Wechsler
Judge Pro Tempore

SAN JUAN RIVER BASIN
ADJUDICATION

La Plata River Section

**CLAIMANT'S OBJECTION TO GLOBAL MOTION TO CORRECT ERRONEOUS
INFORMATION UNDER "POINT OF DIVERSION" HEADINGS IN TWENTY-NINE
CONSENT ORDERS IN THE LA PLATA ADJUDICATION**

If you object to the correction of your La Plata Consent Order in the manner described in the *Global Motion to Correct Erroneous Information Under "Point of Diversion" Headings in Twenty-Nine Consent Orders in the La Plata Adjudication* [Global Motion], you **MUST** (1) complete and return this form to the State within the time designated below **AND** (2) attend the hearing.

The STATE must RECEIVE this Objection by mail, fax, or hand delivery NO LATER THAN AUGUST 28, 2025, at: Office of the State Engineer, Legal Services Division, P.O. Box 25102, Santa Fe, New Mexico 87504-5102.

A hearing will be conducted on any objections filed, following notice to the parties.

If you object but fail to attend the hearing, the Court will enter an Order correcting your La Plata Consent Order in accordance with the *Global Motion*.

If you do not object, you do not need to attend the hearing or return this form, and the Court will enter an Order correcting your La Plata Consent Order in accordance with the *Global Motion*.

STATEMENT OF OBJECTION AND INTENT TO PARTICIPATE IN HEARING

Full Name of Party or Parties:

Mailing Address:

Telephone Number: _____

E-Mail: _____

If this Objection is filed by an attorney on behalf of the party, the attorney must enter an appearance as required by Rule 1-089 NMRA and attach it to this completed Objection.

I (We), _____, object to
correcting my (our) La Plata Consent Order in accordance with the *Global Motion*.

Describe as specifically as possible the nature of your objection. Use additional pages as necessary. Attach any supporting documents with explanations as to the relevance of these documents.

Signed: _____

Dated: _____

You must complete this Statement of Objection and submit the original by mail, fax, or in person to the State on or before **August 28, 2025**. The State will file your Objection and a Certificate of Service with the Court.

A hearing will be conducted on any objections filed, following notice to the parties.