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2016 MAR 28 PM 4:33

STATE OF NEW MEXICO  
COUNTY OF DOÑA ANA  
THIRD JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO <i>ex rel.</i> OFFICE	)	No. CV-96-888
OF THE STATE ENGINEER,	)	Lower Rio Grande Adjudication
	)	James J. Wechsler
Plaintiff,	)	Presiding Judge
	)	
vs.	)	
	)	
ELEPHANT BUTTE IRRIGATION	)	
DISTRICT, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**MOTION TO DESIGNATE THE STATUS OF PRE-RIO GRANDE PROJECT SURFACE WATER RIGHTS AS A STREAM SYSTEM ISSUE**

NOW COMES the State of New Mexico and moves the Court to designate as a stream system issue the status of surface water rights developed before the Rio Grande Project whose owners later agreed to take delivery of their water through the Project. The State proposes that the issue be framed as follows:

**ISSUE: Pre-Rio Grande Project Surface Water Rights**

1. Where the owners of surface water rights developed before the Rio Grande Project agreed later to take delivery through the Project, do those pre-Project rights continue to exist today?
2. If the rights still exist, can they be exercised, by whom, and for what purposes?

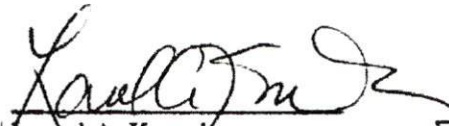
Under the Second Amended Case Management Order, filed August 16, 2010, stream system issues are those issues "the resolution of which will affect the water right(s) of all or a substantial number of claimants." Order, page 2. The Order provides that the Court may designate a stream system issue if it finds that:

- a. It is an issue that could affect the interests of all or a substantial number of parties, and;
- b. A resolution of the issue which did not bind all parties would create a risk of:
  - i) inconsistent or varying decisions with respect to various claimants; or
  - ii) a decision which would, as a practical matter, be dispositive of the interests of other claimants; or
  - iii) a decision that would, for other reasons, substantially impair or impede the ability of claimants of the State to protect their interest; and
- c. A timely decision binding on all parties to the adjudication will promote judicial efficiency and completion of the adjudication.

Order, page 6.

The question of the fate, or status, of these pre-Project surface water rights satisfies all the criteria for a stream system issue in this adjudication. Therefore the State respectfully requests that the Court post this motion in its monthly report and that, after a hearing on the motion, the Court designate the question as a stream system issue.

Respectfully Submitted,



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**Zimbra****lcrdjmm@nmcourts.gov****CIVIL**

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Mon, Mar 28, 2016 01:16 PM

2 attachments

**Subject :** CIVIL**To :** lcrdfax@nmcourts.gov

Re: State of New Mexico ex rel. Office of the State Engineer v. EBID, No. CV 96-888

Dear District Court Clerk,

Attached for filing in the above referenced case is:

1. MOTION TO DESIGNATE THE STATUS OF PRE-RIO GRANDE PROJECT SURFACE WATER RIGHTS AS A STREAM SYSTEM ISSUE

Please file this document and return the endorsed copy to me by email. If you have any questions please call me at (505) 827-7880. Thank you for your assistance.

## Sally Worthington

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