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DISTRICT COURT  
DONA ANA COUNTY, NM

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

STATE OF NEW MEXICO <i>ex rel.</i>	)
OFFICE OF THE NEW MEXICO	)
STATE ENGINEER,	)
	)
Plaintiff,	)
	)
vs.	)
	)
ELEPHANT BUTTE IRRIGATION DISTRICT,	)
<i>et al.</i> ,	)
	)
Defendants.	)

No.CV-96-888  
James J. Wechsler  
Presiding Judge

SS-97-104  
United States Interests

**MOTION FOR SUMMARY JUDGMENT AND REQUEST TO SET STREAM ISSUE TO ADJUDICATE PRE 1906 RIGHTS**

COMES NOW, Sammie Singh Sr., Sammie Singh Jr., Ed Provencio, Johnny Diaz, and John Flemming, a class of Pre-1906 claimants, by and through their attorney A. Blair Dunn, Esq., pursuant to 1-056 NMRA, hereby respectfully file this Motion for Summary Judgment following this Court's August 16, 2012 Order granting State's motion to dismiss the U.S. claims to ground water and denying the U.S. motion for summary Judgment in stream system issue 104 and in response to the question of stream system issue 104 "what is the source or sources of water for the United States Rio Grande Project?". The Pre-1906 claimants respectfully move that as a matter of undisputed facts and as a matter of law that the vested surface water rights of the Rio Grande existing prior to the United States claims arising in 1906 cannot be a source or sources of water for the United States Rio Grande Project and must be adjudicated as separate vested property rights in private landowners.

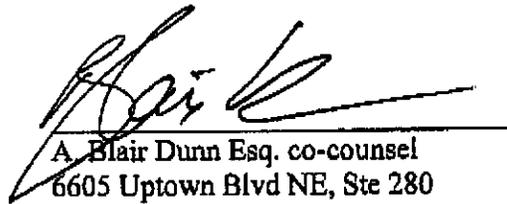
The reasons supporting this Motion for Summary Judgment (MSJ) are set forth in the

supporting filed *Memorandum in support of Summary Judgment*. The undisputed facts are set forth in the accompanying *Statement of Undisputed Facts that support the Pre 1906 Claimants Motion for Summary Judgment*. The facts and arguments contained in the Statement of Facts and Memorandum demonstrate that the Pre-1906 Claimants are entitled to Summary Judgment as a matter of law.

Further relief is respectfully requested that upon determination by this Court that any Pre-1906 water rights are separate and not a source of the United States Project water that such claims be designated for an *inter se* proceeding as Stream System Issue #106, such that the processes, proceduros, and criteria to determine those senior water rights may be briefed and decided by this Court.

Respectfully submitted this 22th day of August 2012.

A. Blair Dunn

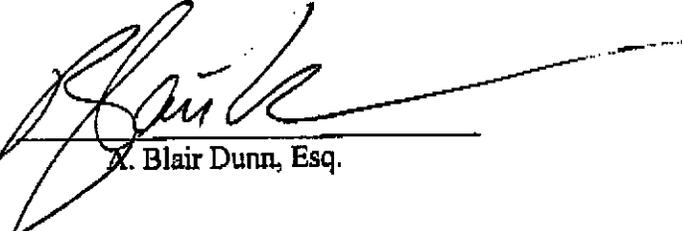


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**CERTIFICATE OF SERVICE**

I, A. Blair Dunn, HEREBY CERTIFY and duly swear that this the 22th day of August, 2012, that a true and correct copy of 1) *Pre-1906 Claimants Motion for Summary Judgment* 2) *Memorandum in Support of Motion for Summary Judgment* and 3) *Statement of Undisputed Facts* was served upon the parties to this cause of action by mailing or emailing the same to each party as attached



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