

FILED

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

2019 SEP -6 PM 2: 15

DISTRICT COURT
DOÑA ANA COUNTY, NM

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

Plaintiff,

v.

ELEPHANT BUTTE IRRIGATION
DISTRICT, *et al.*,

Defendants.

No. D-307-CV-96-888
Lower Rio Grande Adjudication
James J. Wechsler, Presiding Judge

Stream System Issue SS-97-104
United States Interest

Stream System Issue SS-97-107
Pre-Project Interests

JOINT STATUS REPORT

COME NOW the Joint Reporting Parties including the State of New Mexico, the United States, the Elephant Butte Irrigation District (“EBID”), New Mexico State University (“NMSU”), the City of Las Cruces, the Camino Real Regional Utility Authority (“CRRUA”), the Public Service Company of New Mexico (“PNM”), the New Mexico Pecan Growers (“NMPG”), the Southern Rio Grande Diversified Crop Farmers’ Association (“Diverse Growers”), the City of El Paso, and El Paso County Water Improvement District No. 1 (*Amicus*) and hereby submit to the Court this Joint Status Report regarding the status of discussions in Stream System Issue 104 (United States Interest) and Stream System Issue 107 (Pre-Project Interests).

1. This Joint Status Report is being filed to provide the Court an update on the status of the parties’ negotiations, and matters affecting those negotiations, pursuant to the Court’s Order entered on June 28, 2019. The Court’s Order continued the stay and instructed the parties to

provide “milestones for completing negotiations,” and, if appropriate, propose new scheduling orders for SS-97-107 and SS-07-104. *Id.* at ¶¶ 2 and 3.

2. The efforts to develop a common understanding of aquifer characteristics and interactions between surface water and groundwater reported in the last status report have progressed, and a model on surface and groundwater interactions has been produced. This model is being evaluated by hydrologic and technical personnel.

3. The previous status report also reported that the refinement of technical work and modeling would allow the New Mexico parties to meaningfully engage with EBID, the United States and the Texas parties to discuss the technical issues. This engagement is on-going, with technical staff and experts meeting most recently in August.

4. The milestones for completing negotiations include additional discussions to further evaluate various approaches to technical and modeling analyses and address pertinent legal issues. The New Mexico parties anticipate they will need at least an additional six months for the complex technical work to continue and determine if they can reach consensus on a modeling approach to be used in support of these negotiations.

5. To facilitate the above-described efforts, the Joint Reporting Parties agree that proposing new scheduling orders for SS-97-107 and SS-07-104 at this time is not appropriate. The parties respectfully request that they be allowed to continue their negotiations for an additional six months without reinitiation of the stream system issue litigation.

6. The Joint Reporting Parties propose to again report to the Court regarding the status of the parties’ discussions in both SSI-104 and SSI-107 on or before March 6, 2020.

Respectfully Submitted,



R. Lee Leininger
Thomas K. Snodgrass
United States Department of Justice
Environment and Natural Resources Division
999 18th Street, Suite 370
Denver, CO 80202
Ph: 303-844-1364
Ph: 303-844-7233
Counsel for the United States

APPROVED BY:

Electronically Approved on September 6, 2019

Tessa T. Davidson
Davidson Law Firm, LLC
P.O. Box 2240
Corrales, NM 87048
Ph: 505-792-3636
Counsel for New Mexico Pecan Growers

Electronically Approved on September 6, 2019

Samantha R. Barncastle
Barncastle Law Firm
P.O. Box 1556
Las Cruces, NM 88004
Ph: 575-636-2377
Counsel for Defendant EBID

Electronically Approved on September 6, 2019

Richard A. Allen
Special Assistant Attorney General
P.O. Box 25102
Santa Fe, NM 87504
Ph: 505-827-6150 / 827-3854
Counsel for the State of New Mexico

Electronically Approved on September 6, 2019

Jay F. Stein
James C. Brockmann
Stein & Brockmann, P.A. P.O. Box 2067
Santa Fe, NM 87504-2067
Ph: 505-983-3880
Counsel for City of Las Cruces

Electronically Approved on September 6, 2019

A. J. Olsen
Hennighausen & Olsen, L.L.P.
P.O. Box 1415
Roswell, NM 88202-1415
Ph: 575-624-2463
*Counsel for Southern Rio Grande Diversified
Crop Farmers Association*

Electronically Approved on September 6, 2019

John W. Utton
Utton & Kery, P.A. P.O. Box 2386
Santa Fe, NM 87504
Ph: 505-699-1445
*Counsel for New Mexico State University, Public Service Co. of New Mexico, Camino Real
Regional Utility Authority*

Electronically Approved on September 6, 2019

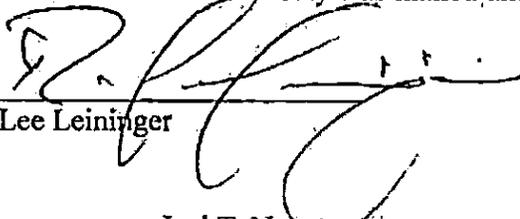
Rebecca Dempsey
Cuddy & McCarthy LLP P.O. Box 4160
Santa Fe, NM 87502
Ph: 505-660-4227
Counsel for City of El Paso

Electronically Approved on September 6, 2019

Maria O'Brien
Sarah Stevenson
Modrall, Sperling, Roehl, Harris & Sisk, P.A.
P.O. Box 2168
Albuquerque, NM, 87103
Ph: 505-848-1803
*Counsel for El Paso County Water Improvement
District Number 1 (Amicus)*

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of September 2019, a true and correct copy of the foregoing Joint Status Report and Request for Continuation of Stay was mailed and/or e-mailed to the following parties:


R. Lee Leininger

A. J. Olsen
Hennighausen & Olsen, L.L.P.
P.O. Box 1415
Roswell, NM 88202-1415
Ph: 575-624-2463
aholsen@h2olawyers.com
*Counsel for Southern Rio Grande Diversified
Crop Farmers Association*

Rebecca Dempsey
Cuddy & McCarthy LLP P.O. Box 4160
Santa Fe, NM 87502
Ph: 505-660-4227
rdempsey@cuddymccarthy.com
Counsel for City of El Paso

Douglas G. Caroom
Bickerstaff Heath Delgado Acosta LLP 3711
S. MoPac Expressway
Building One, Suite 300
Austin, TX 78746
512-472-8021
dcaroom@bickerstaff.com

Tanya Scott
Charles Dumars
Law & Resource Planning Associates, P.C.
201 T hird St. W, Ste. 1750
Albuquerque, NM 87102-3368
505-346-0998
tanscott@comcast.net
ctd@lrpa-usa.com
Verde Entities

Joel T. Newton
Joel T. Newton, P.A.
1020 S. Main Street
Las Cruces, NM 88005
575-525-8202
jnewton@zianet.com
Stahmanns Inc.

Tessa Davidson
Davidson Law Firm, LLC
P.O. Box 2240
Corrales, NM 87048
505-792-3636
ttd@tessadavidson.com
New Mexico Pecan
Growers Association
Fletcher Farms, Inc.
Tom Salopek Farms Ltd.
Salopek 4-MP, LLC
Thomas R. Salopek and
Peggy C. Salopek David
Salopek Farms, Ltd. Co.
Triple A Farms, LLC,
Tyson Achen

Christopher B. Rich
Shelly Randel
U.S. Department of the Interior Federal Bld
g., Room 6201
125 South State Street Salt
Lake City, UT 84138
chris.rich@sol.doi.gov
shelly.randel@sol.doi.gov

Wayne and Rebecca Miller
86 Haasville Rd
Anthony, NM 88021
575-882-9 874
wmillerfarms@hotmail.com
Miller Farms Custom Pecan Services

Samantha R. Barncastle
Barncastle Law Firm, LLC
P.O. Box 1 556
Las Cruces, NM 88004
575-636-2377
samantha@h2o-legal.com
Elephant Butte Irrigation District

Jay Stein
James C. Brockmann Stein &
Brockman, P.A.
P.O. Box 2067
Santa Fe, NM 87504-2067
505-983-3880
jfstein@newmexicowaterlaw.com
jcbrockmann@newmexicowaterlaw.com
City of Las Cruces

Maria O' Brien and Sarah M. Stevenson
Modrall, Sperling, Roehl, Harris & Sisk,
P.A.
P.O. Box 2168
Albuquerque, NM 87103-2168
505-848-1800
mobrien@modrall.com
sarah.stevenson@modrall.com
mozelle@modrall.com
El Paso County Water Improvement District
No. 1

John W. Utton
Utton & Kery, P.A.
P.O. Box 2386
Santa Fe, NM 87504
505-699-1 445
john@uttonkery.com
New Mexico State University

Mark F. Sheridan
Adam Rankin
Holland & Hart LLP
P.O. Box 2208
Santa Fe, NM 87504-2208
505-988-4421
msheridan@hollandhart.com
agrarkin@hollandhart.com
El Paso Natural Gas Co.

Robert S. Simon 1415
Park Ave. SW
Albuquerque, NM 87104
(505) 246-8 136
rsimon7@aol.com
Lions Gate
Estate of Nathan Boyd
Pre-1906 Claimants

Richard A. Allen
Sonny R. Swazo
Lorraine Urioste
State of New Mexico
Office of the State Engineer
Post Office Box 25102
Santa Fe, New Mexico 87504-5102
Rick.Allen@state.nm.us
sonny.swazo@state.nm.us
lorraine.urioste2@state.nm.us
State of New Mexico

Clyde A. Pine, Jr.
Mounce, Green, Myeres, et al
PO Drawer 1977
El Paso TX 79950-1977
915-541-1548
pine@mgmsg.com
Jack F. & Jean M. Darbyshire Trust

JaneFleming
JohnFleming
aardvark1947@sbcglobal.net

A. Blair Dunn
Western Agriculture
Resource and
Business Advocates, LLP
abdunn@ablairdun.n-esg.com

Martina H. Singh
P.O. Box 1131
La Mesa, NM 88044

Michael R. Caldarella, Sr.
3025 W. O' Hara Rd.
Anthony, NM 88021

Robert J. Noziska
Sueann G. Kenney-Noziska
12305 Montes Road
La Mesa, NM 88044

Roberto B. Carrasco
P.O. Box 1
Chamberino, NM 88027

Armando V. Carrasco
P.O. Box 11
Chamberino, NM 88027

Gerald A. Want
2510 W. O' Hara Road
Anthony, NM 88021

George J. Want, Jr.
1445 Los Pinos Way Anthony,
NM 88021- 85 0 9
Dale J. Hopkins
Box 247
Organ, NM 88052

Manuelita B. Rosales
14440 Hwy. 478 - S. Main St.
Mesilla Park, NM 88047

MSPM Associates, LP (MSPM)
2815 La fayette Road
Newport Beach, CA 92663
(949) 675-5800

Edward Page
4695 Page Farm Circle
Anthony, NM 88021

Ignacio L. Bustamante
2300 W. Union Ave.
Las Cruces, NM 88005