

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

**State of New Mexico *ex rel.*
Office of the State Engineer,
Plaintiff,**

**No. D-307-CV-96-888
Lower Rio Grande Adjudication
James J. Wechsler
Judge Pro Tempore**

v.

**Stream System Issue No. 107
Pre-Project Interests
D-307-SS-9700107**

**Elephant Butte Irrigation District, *et al.*
Defendants**

SCHEDULING ORDER

This matter came before the Court on the joint proposed schedule of the State of New Mexico and the United States, and the Court having held a hearing on March 13, 2025, the Court issues the following Scheduling Order.

(1) As stated in the order designating this stream system proceeding (designation order), the issue to be addressed is whether surface rights developed before the Rio Grande Project and now served by the Project were extinguished by any means.

(2) As stated in the designation order, any current participant in Stream System Issue No. 104 on July 6, 2016, the date of the designation order, who did not file a notice with the Court not to participate in this proceeding by November 16, 2016, is deemed to be a participant in this proceeding. Any other claimant who did not file a notice of intent to participate by September 16, 2016 may file a motion with the Court to be allowed to participate in this proceeding no later than May 23, 2025. Any such motion shall include the name and address of the claimant; the case number and subfile number associated with the claimant's water rights claim(s); and the reason the claimant should be allowed to participate, including, if applicable, the reason the claimant did not previously file a notice of intent to participate. A form for this motion is attached to this order.

(3) No later than June 27, 2025, any claimant allowed participation by motion and any current participating party who has not previously done so shall file a statement of position regarding this stream system issue. Participating parties who have filed a statement of position may amend their statement by June 27, 2025.

(4) No later than August 29, 2025, the participating parties shall, without awaiting a discovery request, provide to the other participating parties:

(a) the name, and if known, the address and telephone number of each individual likely to have discoverable information that the disclosing party may use to support its claims and defenses, provided that custodians of records need not be disclosed at such time; and

(b) a copy, or a description by category and location, of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, provided, however, that no such documents, electronically stored information, or tangible things need be provided if they (i) were admitted as exhibits in the trial of Stream System Issue 104 or (ii) were provided in discovery prior to the trial of Stream System Issue 104. The State of New Mexico shall ensure that such documents are available to participating parties upon reasonable request.

(5) No later than October 14, 2025, the participating parties may file motions on threshold legal issues or Rule 1-012(B)(6) motions.

(6) No later than January 14, 2026, the participating parties shall confer and determine whether it will be necessary to call expert or fact witnesses to support their claims or defenses;

(7) If any participating party intends to call expert or fact witnesses, the party shall file a witness list with the Court that discloses the identity of such witnesses along with a summary of their anticipated areas of testimony by no later than January 29, 2026. For each expert witness identified, the party shall also disclose his or her area of expertise, address, and phone number.

(8) Any exhibits and expert reports prepared by retained experts for any participating party shall be disclosed to all participating parties no later than March 30, 2026. The exhibit lists shall be filed with the Court by March 30, 2026.

(9) All rebuttal witnesses, exhibits, and rebuttal reports for retained experts are to be disclosed to all participating parties no later than May 30, 2026. Rebuttal witness and exhibits lists shall be filed with the Court no later than May 30, 2026.

(10) General discovery shall commence on January 14, 2026 and shall be completed by July 16, 2026.


(11) Participating parties shall confer in an effort to settle contested issues no later than August 30, 2026.

(12) Any party wishing to file dispositive motions shall file them no later than September 15, 2026. Responses and replies shall be due according to the New Mexico Rules of Civil Procedure.

(13) If no dispositive motions are filed, the Court shall set a date for a final pretrial conference to address deadlines for submission of final witness and exhibits lists, the pretrial order, motions in limine, and any agreements regarding authenticity and admissibility of documents and to set a trial date.

(14) If dispositive motions are filed, the court shall not hold a final pretrial conference until it has ruled on all such motions.

IT IS SO ORDERED.



James J. Wechsler
Judge Pro Tempore

CERTIFICATE OF MAILING

I hereby certify that on the above file-stamped date, I have caused to be emailed and/or mailed by First Class US Mail, a true and correct copy of the foregoing instrument to counsel or parties of record located on the SS-97-104 and SS-97-107 service lists on the Lower Rio Grande Adjudication Website.

Robert Segura for

Javier Cuevas

Paralegal

**STATE OF NEW MEXICO
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Office of the State Engineer,
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Plaintiff,

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Stream System Issue No. 107
D-307-SS9700107

Elephant Butte Irrigation District, *et al.*
Defendants

Motion to Allow Participation

Your Name: _____, moves the Court to allow participation as a party in Stream System Issue No. 107.

Case Number: _____

Subfile Number: _____

I should be allowed to join this case because:

I did not file a notice of intent to participate because:

My address is

My telephone number is _____

Signature _____

Certificate of Service

I certify (or promise) that I sent the original of this paper, plus a copy and a stamped envelope with my address on it, to this court:

Third Judicial District Court
201 West Picacho Ave.
Las Cruces, NM 88005

Attn. Water Clerk

This ____ day of _____, 2025.

Signature: _____