

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

STATE OF NEW MEXICO, ex rel.  
State Engineer, A & R Productions,  
et al.,

Defendants.

FILED  
UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

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01cv00072 BDB-ACE

*Robert M. Marshall*  
ZUNI RIVER ADJUDICATION

YATES' COMMENTS ON PROPOSED SCHEDULING ORDERS

John A. Yates, by counsel, submits the following comments on the proposed scheduling orders submitted by the State of New Mexico and the United States.

The proposed scheduling orders do not recognize the potential issues respecting the scope of this action, in particular, whether it is a quiet title suit or a suit for the adjudication of water rights. One view, the likely prevailing view, is that it cannot be both.


The work items entailed in prosecuting this action, if it is a quiet title suit, are vastly different than the work items entailed if it is a water rights adjudication. Any scheduling set by the Court should recognize the presence of this jurisdictional (or jurisdictional-like) issue, and provide for its resolution in the early stages of the proceedings. Judicial economy would likely be best served by treating this as a threshold issue.

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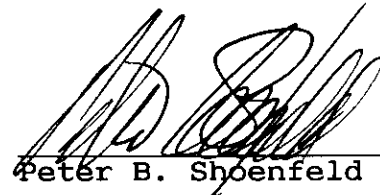
CERTIFICATE OF SERVICE

I certify that on this December 27, 2001, I served a copy of the foregoing instrument upon the following by first class mail:

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