

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

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UNITED STATES, for Itself and as Trustee for the Zuni Indian Tribe, Navajo Nation and Ramah Band of Navajos)	
)	
and)	
)	
STATE OF NEW MEXICO, <i>ex rel.</i> STATE ENGINEER,)	
)	
Plaintiffs,)	01 CV00072-BB-ACE
)	
and)	Zuni River Basin
)	Adjudication
)	
ZUNI INDIAN TRIBE, NAVAJO NATION,)	
)	
Plaintiffs-in-Intervention)	
)	
v.)	
)	
STATE OF NEW MEXICO COMMISSIONER of PUBLIC LANDS)	
)	
and)	
)	
A & R PRODUCTION, et al.,)	
)	
Defendants.)	

**JOINDER IN MEMORANDUM IN SUPPORT OF CONDITIONAL
DISCLAIMER OF INTEREST AND MOTION TO DISMISS BY TRI-STATE
GENERATION AND TRANSMISSION ASSOCIATION, INC.**

Defendant Quivira Mining Company ("Quivira") hereby joins in and adopts the Memorandum of Tri-State Generation and Transmission Association, Inc. ("Tri-State") supporting Tri-State's Conditional Disclaimer of Interest and Motion to Dismiss ("Tri-State's Conditional Disclaimer").

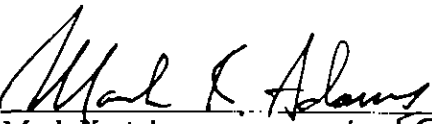
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As Tri-State points out in its Memorandum, the form of Disclaimer of Interest proposed the United States (the "Proposed U.S. Disclaimer") could destroy the priority of an *existing* water right purchased by Quivira. Tri-State or any other party after it signed and filed the Proposed U.S. Disclaimer. Tri-State's Conditional Disclaimer, on the other hand, would protect the priority of an *existing* water right purchased after the signing and filing of the Conditional Disclaimer while at the same time making it clear that a *new* water right created after the filing could not have a priority date preceding the filing. The United States does not object to Tri-State's Conditional Disclaimer.

Moreover, Tri-State's Conditional Disclaimer conditions the disclaimer upon the entry of an order dismissing the disclaiming party from this adjudication. This condition is consistent with the Court's July 15, 2002 Order, which clearly differentiates disclaimer by a party and dismissal by the Court: "[o]nce such parties have identified themselves by filing a *disclaimer*, the United States shall take necessary steps to effect *dismissal*, if appropriate." Emphasis added. Absent dismissal, a disclaiming party would continue to be a party and as a result, would remain obligated to monitor this adjudication, comply with orders and respond to pleadings.

Respectfully submitted,

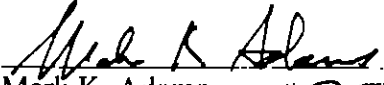

RODEY, DICKASON, SLOAN, AKIN & ROBB, P.A.

By:  _____
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 9, 2003, I mailed copies of the foregoing Joinder in Memorandum in Support of Conditional Disclaimer of Interest and Motion to Dismiss by Tri-State Generation and Transmission Association, Inc. to all persons on the attached mailing list.


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