

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

JAN 06 2004

UNITED STATES OF AMERICA, for Itself)
and as Trustee for the Zuni Indian Tribe,)
Navajo Nation and Ramah Band of Navajos)

and)

STATE OF NEW MEXICO, *ex rel.* STATE)
ENGINEER,)

Plaintiffs,)

and)

ZUNI INDIAN TRIBE,)
NAVAJO NATION,)

Plaintiffs in Intervention)

v.)

STATE OF NEW MEXICO COMMISSIONER)
of PUBLIC LANDS)

and)

A & R PRODUCTIONS, *et al.*,)

Defendants.)

Robert M. March
CLERK

01CV00072 BDB/WWD(ACE)

ZUNI RIVER STREAM
SYSTEM ADJUDICATION

ORDER OF DISMISSAL

THIS MATTER is before the court on the Conditional Disclaimer of Interest and Motion to Dismiss by Defendant Tri-State Generation and Transmission Association, Inc., and Tri-State Generation and Transmission Association, Inc. (successor in interest by merger to Plains Electric Generation and Transmission Cooperative, Inc., improperly named in the Complaint and

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Amended Complaint as Plains Electric C&T Coop. Inc.) having, effective upon the entry of this Order, disclaimed any and all interest in the use of the surface and groundwater within the geographic boundaries of the Zuni River Basin, as that Basin is described in the Court's May 21, 2003 Order On Special Master's Report re Geographic Scope of Adjudication, as follows:

The adjudication boundaries lie within the surface water drainage basin as depicted on the map dated December 2002 attached to the January 6, 2003 United States' Identification of Zuni River Stream System Boundary (No. 156) and as described in the January 14, 2003 Supplemental Identification of Zuni River Stream System Boundary (No. 158). Special Master's Report at pp. 10-11. The groundwater diversions which lie within the surface boundaries shall be included in the adjudication. The groundwater considered shall be limited to that which lies within the surface boundaries, as though their lines were drawn vertically through the earth. The surface boundaries shall not overlap those of any other adjudication,

and the Court having been sufficiently advised in the premises:

IT IS THEREFORE ORDERED:


That because Tri-State Generation and Transmission Association, Inc., effective upon the entry of this Order, has disclaimed any and all interest in the use of the surface and groundwater within the geographic boundaries of the Zuni River Basin, as that Basin is described in the Court's May 21, 2003 Order On Special Master's Report re Geographic Scope of Adjudication, as follows:

The adjudication boundaries lie within the surface water drainage basin as depicted on the map dated December 2002 attached to the January 6, 2003 United States' Identification of Zuni River Stream System Boundary (No. 156) and as described in the January 14, 2003 Supplemental Identification of Zuni River Stream System Boundary (No. 158). Special Master's Report at pp. 10-11. The groundwater diversions which lie within the surface boundaries shall be included in the adjudication. The groundwater considered shall be limited to that which lies within the surface boundaries, as though their lines were drawn vertically through the earth. The surface boundaries shall not overlap those of any other adjudication,

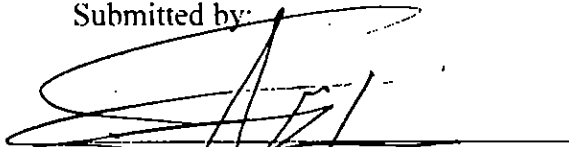
and Tri-State Generation and Transmission Association, Inc. does not use or presently claim a right to use the surface or groundwater within such area. Tri-State Generation and Transmission

Association, Inc. should be, and hereby is, dismissed from this action.

This Conditional Disclaimer does not prejudice the right of Tri-State Generation and Transmission Association, Inc. and/or any successor-in-interest to acquire hereafter existing surface and groundwater rights within the geographic boundaries of the Zuni River Basin or to petition the State Engineer for a change in place and/or purpose of use and/or point(s) of diversion of such rights, to petition the State Engineer in the future for a permit for a new appropriation of water in the Zuni River Basin to beneficially use surface and/or groundwater or to petition the State Engineer with similar petitions nor does it preclude the State Engineer from granting Tri-State Generation and Transmission Association, Inc. and/or any successor-in-interest such petitions and a right to beneficially use the surface and/or groundwater in the Zuni River Basin. The priority date of any water right permit for a new appropriation of water hereafter granted to Tri-State Generation and Transmission Association, Inc. and/or any successor-in-interest to beneficially use the surface and/or groundwater in the Zuni River Basin under the laws of the State of New Mexico cannot be earlier than the date of the Conditional Disclaimer and Motion to Dismiss filed herein by Tri-State Generation and Transmission Association, Inc.


BRUCE D. BLACK
UNITED STATES DISTRICT JUDGE

Submitted by:

A large, stylized handwritten signature in black ink, appearing to read 'Sunny J. Nixon', is written over a horizontal line.

Sunny J. Nixon
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