

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

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO on the
relation of State Engineer,
and UNITED STATES OF AMERICA,

Plaintiffs,

-v-

MOLYCORP., et al.,

Defendants.

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Robert J. Marsh
CLERK-ALBUQUERQUE

72cv09780-JEC

RED RIVER ADJUDICATION

FINAL JUDGMENT AND DECREE
ON NON-FEDERAL WATER RIGHTS

THIS MATTER comes before the Court on its own motion for entry of a Final Judgment and Decree on Non-Federal Water Rights in the Red River Stream System ("Decree"). This Decree is entered in accordance with NMSA 1978, § 72-4-19 (1907), and is a final judgment in accordance with Fed.R.Civ.P. 54(b). The Court, having considered the pleadings and orders filed and entered previously and being fully advised in the premises, FINDS:

1. The Court has jurisdiction of the subject matter and the parties herein.
2. This cause of action is a general adjudication of all rights to divert or impound and beneficially use the public surface or underground waters whose source is within the Red River Stream System, including West Latir Creek, its tributaries, and the underground waters of the Sunshine Valley.
3. Water rights for certain domestic, irrigation and livestock uses in *de minimis* amounts as described in the Court's December 1, 1988 Order (Docket No. 1200) are excluded from this adjudication.

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4. The water rights of the United States of America were adjudicated under the Final Judgment and Decree on the United States' Water Rights (No. 1940), filed June 11, 1992, pursuant to Fed.R.Civ.P. 54(b). This Final Judgment and Decree was amended to include the water right for Fawn Lakes by this Court's Order on October 23, 2000 (No. 2826).

5. Certain non-federal proprietary water rights were adjudicated previously by the Partial Final Decree filed May 23, 1980 (No. 1019).

6. Throughout the course of this adjudication, water rights claimants were provided with adequate legal notice of all proceedings to adjudicate their water rights claims and all *inter se* proceedings.

7. Throughout this adjudication, and pursuant to the Order on *Inter Se* Proceedings filed April 6, 2000 (No. 2774) and subsequent orders entered to control the course of the final *inter se* proceedings and the production of this Decree, all parties received notice and had the opportunity to object to others' water rights in the stream system and to review the Addendum to this Decree. No objections were filed during the final *inter se* proceedings.

8. For the convenience of the parties, the Addendum and Additions to Indices attached to this Decree summarize the water rights adjudicated and decreed herein and in the 1980 Partial Final Decree. Copies of the Addendum and Additions may be obtained from the Court or the State Engineer. The substantive elements of the water rights are those adjudicated by the subfile orders and documentation, and subsequent orders of the Court, unless clearly noted otherwise in the Addendum.

9. The water rights adjudicated herein may in the future be subject to general *inter se* proceedings involving all adjudicated water rights of the Rio Grande Stream System and its tributaries.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

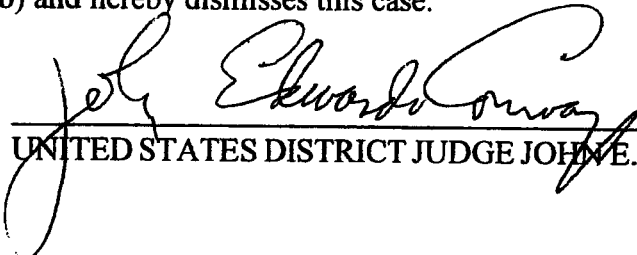
1. All non-federal water rights within the Red River Stream System and West Latir Creek and its tributaries, and the Sunshine Valley underground waters, with the exception of *de minimis* rights, are adjudicated with finality as to all of the parties in this action, as set forth in previously filed orders.

2. This Decree incorporates all non-federal proprietary water rights adjudicated in the Partial Final Decree filed May 23, 1980 (No. 1019) and incorporates all subsequent subfile amendments and additions approved by the Court.


3. The parties whose water rights are adjudicated herein, their successors, assigns, and lessees, are permanently enjoined from any diversion, impoundment or use of the public waters of the Red River Stream System, including West Latir Creek and the Sunshine Valley underground waters, except as adjudicated herein.

4. The attached Addendum and Addition are incorporated by reference as though fully set forth herein. In the event there is a discrepancy between a water right description set forth in the Addendum and the specific subfile order or document relating to that right, the specific subfile order or document is controlling, unless expressly stated otherwise in the Addendum.

5. There is no just reason for delay, and the Court hereby expressly directs entry of this Decree pursuant to Fed.R.Civ.P. 54(b) and hereby dismisses this case.


UNITED STATES DISTRICT JUDGE JOHN E. CONWAY

Recommended for approval:


SPECIAL MASTER VICKIE L. GABIN