

SJ-17  
Navajo Settlement

# Briones Law Firm

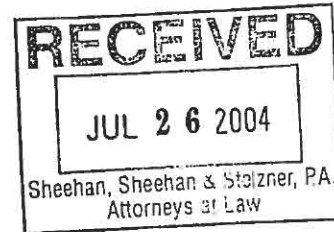
## A Professional Association

Felix Briones, Jr.

Kyle M. Finch

B. Paul Briones

July 21, 2004



Clerk of the District Court  
103 South Oliver Drive  
Aztec, New Mexico 87410

In re: State of New Mexico on the  
Relation of the State Engineer  
vs. United States of America, et al.  
Cause No. CV-75-184

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Enclosed for filing are the following:

1. San Juan Agricultural Water Users Association's Second Motion For Leave To Submit Interrogatories And Requests For Production To Plaintiff with Exhibits "1," "2," and "3" attached thereto;
2. San Juan Agricultural Water Users Association's Motion To Restrain Plaintiff From Approving And Executing The Proposed Settlement Agreement;
- 3 Certificate Of Service.

Please return endorsed copies to our office in the enclosed return envelope.

Very truly yours,

BRIONES LAW FIRM, P.A.

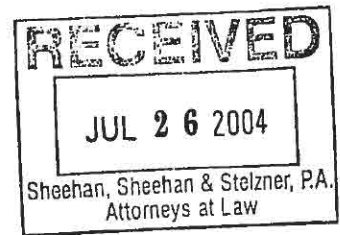
Betty Stanton  
Legal Assistant to Felix Briones, Jr.

bks

Enclosures

- xc: Mike Sullivan
- xc: Jim Rogers
- xc: List attached to original Certificate Of Service

ELEVENTH JUDICIAL DISTRICT COURT  
COUNTY OF SAN JUAN  
STATE OF NEW MEXICO



STATE OF NEW MEXICO on the  
Relation of the State Engineer,

Plaintiff,

vs.

UNITED STATES OF AMERICA, et al.,

Defendants,

and

JICARILLA APACHE NATION AND  
NAVAJO NATION,

Defendant-Intervenors.

No. CV-75-184-1

**CERTIFICATE OF SERVICE**

I hereby certify that true and correct copies of San Juan Agricultural Water Users Association's Second Motion For Leave To Submit Interrogatories And Requests For Production To Plaintiff with Exhibits "1," "2," and "3" attached thereto, and San Juan Agricultural Water Users Association's Motion To Restrain Plaintiff From Approving And Executing The Proposed Settlement Agreement were mailed by United States mail, with proper postage affixed thereto, to the individuals and/or firms shown on the attached list on July 21, 2004.

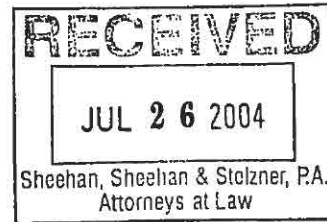
In the interests of economy, we have not included with the copies served on the parties a list of the persons and/or firms served.

BRIONES LAW FIRM, P.A.  
407 North Auburn Avenue  
Farmington, New Mexico 87401  
(505) 325-0258

A handwritten signature in cursive script, appearing to read "Felix Briones, Jr.", written over a horizontal line.

FELIX BRIONES, JR.  
Attorney for SAN JUAN AGRICULTURAL  
WATER USERS ASSOCIATION  
Attorney Number 379

ELEVENTH JUDICIAL DISTRICT COURT  
COUNTY OF SAN JUAN  
STATE OF NEW MEXICO



STATE OF NEW MEXICO on the  
Relation of the State Engineer,

Plaintiff,

vs.

UNITED STATES OF AMERICA, et al.,

Defendants,

and

JICARILLA APACHE NATION AND  
NAVAJO NATION,

Defendant-Intervenors.

No. CV-75-184

**SAN JUAN AGRICULTURAL WATER USERS ASSOCIATION'S  
SECOND MOTION FOR LEAVE TO SUBMIT INTERROGATORIES  
AND REQUESTS FOR PRODUCTION TO PLAINTIFF**

Comes now the San Juan Agricultural Water Users Association and through its attorney, Felix Briones, Jr., moves the Court for leave to submit discovery Interrogatories and Requests For Production to the State of New Mexico through the State Engineer's Office, and in support of the Motion, states:

1. The Interrogatories and Requests For Production which Movant requests permission to submit to Plaintiff are attached hereto as Exhibit "1" and Exhibit "2" and incorporated herein by reference.
2. This Motion is addressed to the discretion of the Court and seeks leave of Court because of the earlier rulings by the Court that discovery would only occur with leave of Court, although Rules 1-033 and 1-034 of the New Mexico Rules of Civil Procedure provide that normally this discovery may

occur without leave of Court.

3. An earlier attempt by Movant to submit discovery to Plaintiff was denied when Plaintiff objected on the grounds that Movant did not have standing since it is not a water right owner or claimant.
4. Movant was recently granted a water right which has been recorded in the records of San Juan County, New Mexico. A copy of the Special Warranty Deed is attached hereto as Exhibit "3" and incorporated herein by reference.
5. Movant shows the Court that the Interrogatories and Requests For Production it seeks to serve upon Plaintiff are aimed at understanding what the practicable irrigable acres for the Navajo Nation amount to so that Movant may compare the conclusions which it reaches from analysis of the data to be supplied in answer to the discovery with the water rights that are scheduled to be granted to the Navajo Nation under the proposed revised Settlement Agreement.
6. The proposed Settlement Agreement between Plaintiff and the Navajo Nation provides that the parties to the San Juan River adjudication would be able to submit objections to the Court regarding the Partial Final Decree through an expedited *inter se* process after a Motion for entry of the Decree is submitted to the Court.
7. The proposed Settlement Agreement is a significant document, the acceptance of which affects or could affect every water claimant, some perhaps in an adverse way. Such a significant occurrence needs the deliberative input and critique of water claimants affected prior to its adoption. Movant is concerned that the proposed Settlement Agreement

will grant more water to the Navajo Nation than it should receive pursuant to the application of the practicable irrigable acres concept. If so, the water claimants will be able to advance an argument to the State of New Mexico or the Congressional Delegation from New Mexico that the proposed Settlement Agreement should be modified prior to its adoption. Additionally, Movant is in need of the information sought herein in order to be prepared to participate in the *inter se* process.

8. The approval by Plaintiff of the Settlement Agreement should be postponed and restrained by this Court until such time as the information sought through this discovery is made available and Movant given a reasonable time within which to analyze the data.

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Farmington, New Mexico 87401  
(505) 325-0258



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FELIX BRIONES, JR.  
Attorney for SAN JUAN AGRICULTURAL  
WATER USERS ASSOCIATION  
Attorney Number 379

I HEREBY CERTIFY that a true and correct copy of the foregoing pleading was mailed to opposing counsel of record on the 21<sup>st</sup> day of July, 2004..



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FELIX BRIONES, JR.

ELEVENTH JUDICIAL DISTRICT COURT  
COUNTY OF SAN JUAN  
STATE OF NEW MEXICO

STATE OF NEW MEXICO on the	)	
Relation of the State Engineer,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. CV-75-184
	)	
UNITED STATES OF AMERICA, et al.,	)	
	)	
Defendants,	)	
	)	
and	)	
	)	
JICARILLA APACHE NATION AND	)	
NAVAJO NATION,	)	
	)	
Defendant-Intervenors.	)	
	)	
	)	

**DEFENDANT SAN JUAN AGRICULTURAL WATER USERS ASSOCIATION'S  
SECOND SET OF INTERROGATORIES TO PLAINTIFF**

**TO: State of New Mexico on the relation  
of the State Engineer  
c/o Its Attorney  
Perry C. Abernathy, Esq.  
Post Office Box 25102  
Santa Fe, New Mexico 87504-5102**

Defendant, San Juan Agricultural Water Users Association, by and through its attorney, Felix Briones, Jr., Briones Law Firm, P.A., and pursuant to SCRA 1-033 of the New Mexico Rules of Civil Procedure, hereby requests the Plaintiff, State of New Mexico, to answer the following Interrogatories in full, in writing and under oath, in the spaces

provided below, consistent with the definitions and instructions set out below, within thirty (30) days of the date of service hereof.

### INTRODUCTION

1. In answering these Interrogatories, you are required to furnish all information that is available to you, your agents, or anyone acting on your behalf or that is contained in records or documents in your or their possession, custody or control.

2. If after making reasonable efforts to secure the required information you cannot answer any Interrogatory in full, answer to the extent possible and set forth in detail the efforts you have made to secure the required information.

3. These Interrogatories are deemed to be continuing to the date of trial. To the extent that your answers to these Interrogatories become outdated or inaccurate, or you acquire new or additional information with regard to any of the Interrogatories, it is specifically requested that you update your Answers.

4. Definitions:

a. "You" or "your" means the State of New Mexico, its agents, or anyone acting by or on behalf of said Plaintiff.

b. "Person" means a firm, partnership, corporation, proprietorship, association governmental body, natural person or any organization or entity.

c. "Document" means any tangible thing, recorded or reproduced in any manner, any visual or auditory data including, but not limited to, evaluations, analyses, reports, reviews, working papers, books, charts, telegrams, pamphlets, pictures, audio or

video tapes, computer tapes, printouts or cards, microfilms, microfiches, canofilm, CD Rom diskette, and any other papers on which words have been written, printed, typed or otherwise affixed, and shall mean a copy of every document where such copy is not an identical copy of an original.

d. "Communication" means all writings, oral communications, and written memoranda or recordings of oral communications.

e. "Identify", "identification", or "describe", when referring to documents, includes the following information:

f. A description of the document by its title, date, originator(s) and recipient(s), and all persons who wrote, signed, initialed, dictated, or otherwise participated in drafting or creating the same;

i. A brief description of the general subject matter of the document;

ii. The identity or address of its custodian. If any document was but no longer is in your possession or subject to your control, state what disposition was made of it, when so made, why, and the identity of the current custodian of the document;

iii. If you claim any document is protected from discovery by any privilege, state the privilege claimed and identify each such document by its title, date, originator(s) and recipient(s) and the identity and address of its custodian. In lieu of identification of a document, a copy of the document may be attached to your Answers to these Interrogatories provided that with regard to each such produced document, the Interrogatory to which it is responsive is indicated and the original is available for



inspection.

g. "Identify", "identification", or "describe", when used in reference to a natural person, means to state his or her full name, present or last known address and present or last known employment or business affiliation.

h. "Identify", "identification", or "described", when used in reference to a firm, partnership, corporation, or other organization, means to state in full its name and present or last known address.

i. "State in detail the complete and specific factual basis." when referring to a claim or tatement, means to describe in detail all facts and conduct known to you or believed by you to be true upon which the claim or statement is based, the approximate dates of the actions or conduct giving rise to your claim, the place where such actions occurred, the names of all persons present at the time such actions or conduct occurred, an identification of all communications upon which this claim is based, and identification of all documents which support this claim.

j. "OSE" means Office of State Engineer,

k. "ISC" means Interstate Streams Commission.

### INTERROGATORIES

INTERROGATORY NO. 1: State full name, address and telephone number of the person answering these Interrogatories.

ANSWER:

INTERROGATORY NO. 2: What permits are on file with the Office of the State Engineer for the Hogback-Cudei Irrigation Project and the Fruitland-Cambridge Irrigation Project?

ANSWER:

INTERROGATORY NO. 3: What is the total number of acres currently being irrigated within each the Hogback-Cudei Irrigation Project and the Fruitland Cambridge Irrigation?

ANSWER:

INTERROGATORY NO. 4: What is the maximum number of historical irrigated acres ever irrigated in any given year within each the Hogback-Cudei Irrigation Project and the Fruitland Cambridge Irrigation?

ANSWER:

INTERROGATORY NO. 5: What is the maximum depletion of water including incidental depletions within each the Hogback-Cudei Irrigation Project and the Fruitland Cambridge Irrigation Projects?

ANSWER:

INTERROGATORY NO. 6: Has the OSE/ISC received or developed any information on any lands within the Navajo Nation within New Mexico that in the future could be practicably irrigated? If your answer is yes, please answer the following interrogatories for each separate project:

- a. What is the total number of acres anticipated to be irrigated of any potential irrigation project(s)?
- b. What is the anticipated total depletion, including incidental depletions, of any proposed irrigation project(s)?
- c. What is the soils analysis of the proposed lands to be developed for irrigation?
- d. What crops will be developed?
- e. What will be the cost of construction of all improvements to render any irrigation project(s) complete, in operating condition?
- f. What will be the source of supply for any project and will there be storage required for the project(s)?

g. What will be the operation and maintenance costs of any proposed irrigations project(s)?

h. Is all the land where irrigation is being proposed within lands that have been reserved by the United States for the Navajo Nation?

ANSWER:

INTERROGATORY NO. 7: Has the State developed a risk assessment to any party on any aspect of the claim and pending litigation or any probability analysis of litigation outcome? If the answer to the above question is in the affirmative, please answer the following interrogatories:

- a. What are the parties for which the State has developed a risk assessment?
- b. What are the elements of any risk assessment?
- c. What are the results of any probability analysis of litigation outcome?

ANSWER:

INTERROGATORY NO. 8: What is the value of the various elements of any potential water claim for the Navajo Nation?

ANSWER:

INTERROGATORY NO. 9: What will be the estimated cost to the State if settlement is successful?

ANSWER:

INTERROGATORY NO. 10: What will be the estimated cost to the State if settlement does not occur and any PIA claim must be litigated?

ANSWER:

BRIONES LAW FIRM, P.A.  
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Farmington, New Mexico 87401  
(505) 325-0258

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FELIX BRIONES, Jr.  
Attorney for SAN JUAN AGRICULTURAL  
WATER USERS ASSOCIATION  
Attorney Number 379

ELEVENTH JUDICIAL DISTRICT COURT  
 COUNTY OF SAN JUAN  
 STATE OF NEW MEXICO

STATE OF NEW MEXICO on the )  
 Relation of the State Engineer, )  
 )  
 Plaintiff, )  
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 vs. )  
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 UNITED STATES OF AMERICA, et al., )  
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 Defendants, )  
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 and )  
 )  
 JICARILLA APACHE NATION AND )  
 NAVAJO NATION, )  
 )  
 Defendant-Intervenors. )  
 )  
 )

No. CV-75-184

**DEFENDANT SAN JUAN AGRICULTURAL WATER USERS ASSOCIATION'S  
 SECOND REQUEST FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF**

**TO: State of New Mexico on the relation  
 of the State Engineer  
 c/o Its Attorney  
 Perry C. Abernathy, Esq.  
 Post Office Box 25102  
 Santa Fe, New Mexico 87504-5102**

Pursuant to Rule 1-034 of the Rules of Civil Procedure, San Juan Agricultural Water Users Association by and through its attorney, Felix Briones, Jr., of Briones Law Firm, P.A., hereby requests that Plaintiff, State of New Mexico, produce the documents designated hereinafter and serve written response to this Request For Production Of Documents within

thirty (30) days after service hereof, consistent with the definitions set out below.

### **DEFINITIONS**

For the purpose of this Request For Production Of Documents, the hereinafter described term(s) shall have the meaning and significance as follows:

The word "document" as used herein shall mean any tangible thing, recording or reproduction in any form, any visual or auditory data which is in your possession, control or custody, including without limiting the generality of the foregoing, any correspondence, memoranda, transcripts, photographs, stenographic or hand-written notes, studies, evaluation, analyses, reports, reviews, working papers, books, charts, telegrams, pamphlets, pictures, visual or audio tapes, voice recordings, computer records, data compilations and/or information stored on electronic media, including computer tapes, printouts or cards, microfilm, microfiche, any paper on which words have been written, printed, typed, or otherwise affixed, and shall mean a copy where the original is not in your possession, control or custody, and shall mean every copy of every document where such copy is not an identical copy of an original.

"PIA" shall mean Practicable Irrigable Acres.

### **DOCUMENTS AND TANGIBLE EVIDENCE REQUESTED**

PRODUCTION REQUEST NO. 1: Please produce the following documents:

Map that depicts lands of the Navajo Nation within the San Juan Basin within New Mexico that could be considered "reserved" lands or lands that have been approved by Congress for inclusion within the reservation.

RESPONSE:



PRODUCTION REQUEST NO. 2: Please produce each of the following: permits, licenses, and maps on file with the Office of the State Engineer associated with the Fruitland-Cambridge and the Hogback– Cudei Irrigation Projects.

RESPONSE:

PRODUCTION REQUEST NO. 3: Please produce any and all documents and maps relating to existing water usage and depletion within the Hogback-Cudei Irrigation Project and Fruitland Irrigation Project.

RESPONSE:

PRODUCTION REQUEST NO. 4: Any and all documents and maps relating to potential irrigation claims for undeveloped acreage within existing irrigation projects, or for other lands outside of the existing irrigation projects.

RESPONSE:

PRODUCTION REQUEST NO. 5: Any maps and documents relating to status of land ownership for all potential PIA claims.

RESPONSE:

PRODUCTION REQUEST NO. 6: Any and all documents relating to estimated costs to the state if successful completion of the settlement occurs.

RESPONSE:

PRODUCTION REQUEST NO. 7: Any and all documents relating to estimated costs of litigating potential PIA claims if the settlement is not possible.

RESPONSE:

PRODUCTION REQUEST NO. 8: Any and all documents relating to risk assessment of any PIA claim.

RESPONSE:

PRODUCTION REQUEST NO. 9: Any and all documents relating to estimated costs of litigating potential PIA claims if the settlement is not possible.

RESPONSE:

BRIONES LAW FIRM, P.A.  
407 North Auburn Avenue  
Farmington, New Mexico 87401  
(505) 325-0258

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FELIX BRIONES, Jr.  
Attorney for SAN JUAN AGRICULTURAL  
WATER USERS ASSOCIATION  
Attorney Number 379

# SPECIAL WARRANTY DEED

Carroll E. Crawford and Bonnie J. Crawford, Trustees under  
Carroll E. Crawford and Bonnie J. Crawford Revocable Trust  
dated May 10, 2001 for consideration paid, grant  
 to San Juan Agriculture Water User Association  
Michael B. Sullivan, Chairman  
 whose address is P.O. Box 1704, Bloomfield, NM 87413

the following described water right ~~interest~~ in San Juan County, New Mexico:

### WATER RIGHTS ONLY (No land conveyed)

WATER RIGHTS ONLY appurtenant to the following tract of land lying in the Southeast Quarter of the Northwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$ ) of Section Twenty Five (25) in Township Twenty Nine (29) North and Range Twelve (12) West, N.M.P.M., San Juan County, New Mexico, described as follows:

Beginning at a point N 00° 40' 34" E, 575.62 feet from the Southwest corner of said SE $\frac{1}{4}$ NW $\frac{1}{4}$  of Section 25, T29N $\frac{1}{2}$  R12W, N.M.P.M.

Thence N 00° 40' 34" E ----- 272.79 feet  
 Thence East ----- 30.00 feet  
 Thence S 00° 40' 34" W ----- 272.79 feet  
 Thence West ----- 30.00 feet

To the point of beginning and containing 0.188 acre @ 3.02 acre-foot per acre or 0.568 acre-feet of water right.

Grantor also grants the grantee the right to use said water right on grantors land if grantee so desires.

with special warranty covenants.

Witness OUR hands and seal this 28<sup>th</sup> day of June, 2004  
Carroll E. Crawford (Seal) Bonnie J. Crawford (Seal)  
 Carroll E. Crawford, Trustee Bonnie J. Crawford, Trustee  
 (Seal) (Seal)

### ACKNOWLEDGEMENT FOR NATURAL PERSONS

STATE OF NEW MEXICO )  
 ) ss.  
 COUNTY OF SAN JUAN )

This instrument was acknowledged before me on June 28, 2004

Carroll E. Crawford and Bonnie J. Crawford  
Cynthia K Bell NOTARY PUBLIC  
 My commission expires March 9 2002

### ACKNOWLEDGEMENT FOR CORPORATION

STATE OF NEW MEXICO )  
 ) ss.  
 COUNTY OF \_\_\_\_\_ )

This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_\_\_

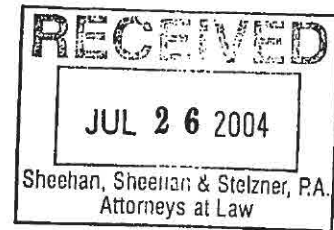
by \_\_\_\_\_ of \_\_\_\_\_  
 (NAME OF OFFICER) (CORPORATION ACKNOWLEDGEMENT)

OFFICE RECORDER'S USE ONLY  
**EXHIBIT** 1131

200411389 06/28/2004 03:34P  
 1of1 B1390 P630 R 9.00 D 0.00  
 San Juan County, NM Clerk FRAN HANHARDT

behalf of \_\_\_\_\_  
 SAN JUAN COUNTY  
 COUNTY CLERK  
 STATE OF NEW MEXICO

ELEVENTH JUDICIAL DISTRICT COURT  
COUNTY OF SAN JUAN  
STATE OF NEW MEXICO



STATE OF NEW MEXICO on the  
Relation of the State Engineer,

Plaintiff,

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Defendants,

and

JICARILLA APACHE NATION AND  
NAVAJO NATION,

Defendant-Intervenors.

No. CV-75-184

**SAN JUAN AGRICULTURAL WATER USERS ASSOCIATION'S  
MOTION TO RESTRAIN PLAINTIFF FROM  
APPROVING AND EXECUTING THE PROPOSED SETTLEMENT AGREEMENT**

Comes now the San Juan Agricultural Water Users Association and through its attorney, Felix Briones, Jr., moves the Court to enter its Order restraining Plaintiff from approving and executing the proposed Settlement Agreement to enable Movant to receive information it seeks by the discovery which it proposes to submit to Plaintiff, and a reasonable time thereafter with which to analyze the data produced.

Movant refers the Court to its Second Motion For Leave To Submit Interrogatories And Requests For Production To Plaintiff filed herein.

Movant believes that unless Plaintiff is so restrained, that the approval process will proceed, as contemplated by the proposed Settlement Agreement, and be executed by the parties in August 2004.

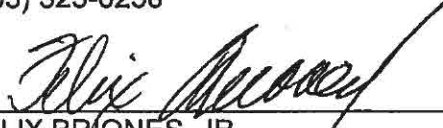
Movant believes that its interests and those of its irrigator members in the available water

have not been adequately defended by the State of New Mexico or the Interstate Streams Commission. Therefore, it is necessary for Movant to make an analysis of the Settlement Agreement by comparing what the Navajo Nation's rights under the proposed Settlement Agreement are with what it is entitled to receive under a practicable irrigable acres analysis.

It would be unfair to cause this matter to wait until the expedited *inter se* process. Movant may be able to show the Plaintiff and other parties and persons that the proposed Settlement Agreement is not a fair settlement. Thus, irreparable harm to Movant and others will result if the proposed Settlement Agreement is approved and signed by Plaintiff prior to the opportunity for Movant to make this analysis. The Restraining Order should issue without the Movant posting bond.

This matter is addressed to the discretion of the Court.

BRIONES LAW FIRM, P.A.  
407 North Auburn Avenue  
Farmington, New Mexico 87401  
(505) 325-0258

  
\_\_\_\_\_  
FELIX BRIONES, JR.  
Attorney for SAN JUAN AGRICULTURAL  
WATER USERS ASSOCIATION  
Attorney Number 379

I HEREBY CERTIFY that a true and correct copy of the foregoing pleading was mailed to opposing counsel of record on the 24<sup>th</sup> day of July, 2004..

  
\_\_\_\_\_  
FELIX BRIONES, JR.