

**STATE OF NEW MEXICO
OFFICE OF THE STATE ENGINEER**

IN THE MATTER OF THE INTERIM)
CLOSURE OF A PORTION OF THE GALLUP)
UNDERGROUND WATER BASIN)
TO NEW APPROPRIATIONS FILED)
UNDER NMSA 1978 SECTIONS 72-12-3) **Order No. 197**
AND 72-5-1 AND ADDITIONAL LIMITATIONS)
FOR NEW APPROPRIATIONS FILED UNDER)
NMSA 1978 SECTIONS 72-12-1.1, 1.2 IN THE)
UPPER RIO NUTRIA, UPPER RIO PESCADO,)
NUTRIA SPRINGS, AND PESCADO)
SPRINGS CRITICAL PROTECTION AREA)

ORDER

WHEREAS, pursuant to NMSA 1978, § 72-2-1, the State Engineer has general supervision of waters of the state and of the measurement, appropriation, distribution thereof and such other duties as required; and

WHEREAS, pursuant to NMSA 1978, § 72-2-8, the State Engineer may issue orders necessary to implement his decisions and to aid him in the accomplishment of his duties; and

WHEREAS, the State Engineer declared and defined the boundaries of the Gallup Underground Water Basin on March 5, 1980 and March 14, 1994; and

WHEREAS, the Zuni River Basin, also referred to as the Zuni River Surface Water Drainage Boundary, is a geographic area covering approximately 1,930 square miles of land in Cibola and McKinley counties in the western and central part of New Mexico, within the Gallup Underground Water Basin, as depicted on Attachment A; and

WHEREAS, the Zuni Tribe relies on natural springs located within and around the Zuni Reservation and the Zuni River Basin, and both the State Engineer and the Zuni Tribe have an interest in protecting said natural springs as well as the natural flow from Rio Nutria and Rio Pescado into the Zuni River; and

WHEREAS, certain areas of the Zuni River Basin within the Gallup Underground Water Basin are designated critical habitat for endangered species which need consistent flows within the Rio Pescado and Rio Nutria, including the last remaining population of the federally listed endangered Zuni bluehead sucker; and

WHEREAS, the OSE Hydrology Bureau has agreed to maintain and consult a hydrologic model to be developed by the Zuni Tribe, Navajo Nation, and the United States, which shall assess the

impacts of groundwater diversions and surface water depletions from the Zuni River Basin, including the area subject to this Order; and

WHEREAS, the OSE Hydrology Bureau has determined that the potential impacts of additional groundwater diversions and surface water depletions on water levels within the Zuni River Basin require further assessment to better understand the degree of hydrologic connectivity between the aquifer formations and surface waters; and

WHEREAS, the State Engineer finds that limitations on groundwater diversions and surface water depletions as set forth below are appropriate to protect the Zuni River Basin pending the completion of further hydrologic analysis.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The portion of the Gallup Underground Water Basin identified as the Zuni River Basin on Attachment A is closed to new appropriations of groundwater or surface water under NMSA 1978, §§ 72-12-3 and 72-5-1, with the exception of those appropriations for new livestock and domestic wells described below.
2. Applications for new appropriations submitted for filing under NMSA 1978, §§ 72-12-3 or 72-5-1 after the date of this Order in the Zuni River Basin shall be rejected.
3. Applications for appropriations for new livestock and domestic wells within the Zuni River Basin shall be processed pursuant to relevant statute and regulation. All permits for new livestock and domestic wells which divert, pump, or otherwise draw water from within the Zuni River Basin shall require installation of meters that conform to the standards set forth by the State Engineer and shall require meter readings to be submitted to the OSE.
4. Applications to change the place of use or point of diversion from existing points of diversion and places of use outside of the Zuni River Basin to locations inside of the Zuni River Basin under NMSA 1978, §§ 72-12-7, 72-5-23, 72-5-24.1, 72-5-25 or 72-5-24 shall be rejected.
5. All permit applications for new surface water impoundments of any size, except for livestock impoundments captured from surface runoff of less than 10 acre-feet per year ("AFY") for livestock use from non-perennial streams as set forth in NMSA 1978, § 72-9-3 shall be rejected.
6. The closure area surrounding the Upper Rio Nutria, Upper Rio Pescado, Nutria Springs, and Pescado Springs includes portions of Sub Areas 2, 3, 4, 6, 7, and 8, as delineated in the Zuni River Basin Adjudication, and certain other critical areas extending beyond the Adjudication boundary within the Gallup Groundwater Basin, all of which shall be declared the Upper Rio Nutria, Upper Rio Pescado, Nutria Springs, and Pescado Springs Critical Protection Area (Attachment A).

7. Within the identified Upper Rio Nutria, Upper Rio Pescado, Nutria Springs, and Pescado Springs Critical Protection Area, the following limitations shall apply for appropriations requested under NMSA 1978, §§ 72-12-1.1 and 1.2:
 - a. Appropriations of water for any domestic use well permitted pursuant to NMSA 1978, § 72-12-1.1 shall be limited to diversions of 0.5 AFY;
 - b. Appropriations of water for livestock wells permitted under NMSA 1978, § 72-12-1.2 and 19.27.1.9 NMAC shall be limited to diversions of 0.5 AFY;
 - c. The State Engineer shall reject all applications for any new surface water impoundments of any size, except that livestock impoundments captured from surface runoff of less than 10 AFY for livestock use from non-perennial streams shall be allowed as set forth in NMSA 1978, § 72-9-3, so long as such impoundments are located at least 1,000 feet on either side from the banks of the Rio Nutria, Tampico Draw, Agua Remora, and Six Mile Draw;
 - d. All permits issued for new wells shall require installation of a meter that conforms with State Engineer standards, and shall require meter readings to be submitted to the State Engineer twice per year, by June 30 and December 31, respectively;
 - e. The restrictions described in Paragraph 7 of this Order may be extended or expanded through a subsequent Order should further monitoring of spring and stream flows provide justification for implementation of such additional limits.
8. The State Engineer shall not grant a permit for a change of place of use, purpose of use or point of diversion of an existing surface water or groundwater right within Sub Areas 1 through 10 of the Zuni River Basin Adjudication, if the results of the model currently being developed for administration of the Zuni River Basin indicate that such change will cause new or additional adverse impacts or drawdown to the Zuni Tribe's surface water or groundwater. Zero surface water depletions shall be allowed, and any reduction in surface flows shall be considered adverse impact. Wells within the Zuni River Basin are assumed to be critical. Critical wells are described in the Office of the State Engineer General Guidelines for the Assessment of Drawdown Estimates (Morrison guidelines, 2017). Drawdown in wells shall be limited to the aquifer thickness-based drawdown allowance in critical wells described by Morrison (2017) or in updated Guidelines adopted by the OSE, whichever are more restrictive. For the purposes of this subparagraph, until such time as the model currently being developed for the administration of the Zuni River Basin is finalized, the Hydrology Bureau shall use the Glover-Balmer equation to evaluate potential impacts to surface water and a Theis or other analytical analysis method commonly relied upon within New Mexico to evaluate potential impacts to drawdown in wells of other ownership.
9. The State Engineer shall not grant a permit for a new appropriation or for a proposed change of purpose of use or place of use of an existing surface water or groundwater right outside of the Zuni River Basin if the results of the model indicate that such new appropriation will cause new or additional adverse impacts or drawdown to the Zuni

Tribe's surface water or groundwater. Zero surface water depletions shall be allowed, and any reduction in surface flows shall be considered adverse impact. Wells within the Zuni River Basin are assumed to be critical so any application outside of the Zuni River Basin that results in drawdown in excess of the drawdown allowance in critical wells shall be denied. Until such time as the model currently being developed for the administration of the Zuni River Basin is finalized, the Hydrology Bureau shall use the Glover-Balmer equation, Theis, other analytical analysis method, or the best available methods commonly relied upon within New Mexico to evaluate potential impacts to surface water and wells within the Zuni River Basin due to applications outside the Zuni River Basin.

10. Once the model currently being developed for the administration of the Zuni River Basin is finalized, the Hydrology Bureau shall use the Glover-Balmer equation, Theis, other analytical analysis method, or the best available methods commonly relied upon within New Mexico to evaluate potential impacts to surface water and wells within the Zuni River Basin due to applications outside of the model boundary.

11. This Order does not apply to undeclared non-potable deep aquifers as described in NMSA 1978, §§ 72-12-25 through 72-12-28.

Witness my hand and official seal of my office, this 30th day of June, 2023



MIKE A. HAMMAN, P.E.
State Engineer



Reviewed:



Nathaniel Chakeres
General Counsel

Attachment A: Upper Rio Nutria, Upper Rio Pescado, Nutria Springs and Pescado Springs Critical Protection Area

