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OFFICE OF THE
STATE ENGINEER
HEARINGS UNIT
SANTA FE, NM

BEFORE THE NEW MEXICO STATE ENGINEER

IN THE MATTER OF THE APPLICATION BY
THE HIDEOUT OF LINCOLN COUNTY FOR
PERMIT TO CHANGE LOCATION OF WELLS
AND/OR DRILL SUPPLEMENTARY WELLS
AND CHANGE PLACE AND/OR PURPOSE OF USE
OF SURFACE AND GROUNDWATER WITHIN
THE HONDO UNDERGROUND WATER BASIN,
NEW MEXICO

) **Hearing Nos.** 08-010; 08-013; 08-014
) 08-015; 08-064; 08-065; 08-066
) 08-078; & 08-079 CONSOLIDATED
) **OSE File Nos.** H-962; 01401; 01401-A &
) H-209 Comb-A; H-579 into H-3044;
) H-3044-S & H-3044-S-2, Amended;
) 01401 & H-206; H-1713-1; 01401 &
) H-206; H-579 into H-3044, H-3044-S
) & H-3044-S-2, Amended; H-962;
01401, 01401-A & H-209 Comb-A

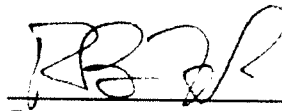
WITHDRAWAL OF PROTEST

In reliance on the August 12, 2009, letter attached hereto as Exhibit A, from the Water Rights Administrative Director, John Romero, PE, to Rio Bonito Reserve, Inc., Rio Bonito Preserve, Inc. hereby withdraws its protest to the applications referenced in the caption above.

Respectfully submitted,

New Mexico Environmental Law Center

By



Bruce Frederick

Jon Block

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Certificate of Service

I, Bruce Frederick, certify that on the ___ day of _____, 2009, I caused a copy of the foregoing document to be mailed by first class mail to the following persons:

| | |
|---|--|
| Daniel Rubin Office of the State Engineer P.O. Box 25102 Santa Fe, New Mexico 87504-5102 | James Brockman Stein & Brockman, P.A. P.O. Box 5250 Santa Fe, New Mexico 87502-5250 |
| J. James Sanchez P.O. Box 67 Lincoln, Nm 88338 | Randy Morris Laurie Welty 122 Box Canyon Trail Alto, NM 88312 |
| Kevin and Nancy Fleharty P.O. Box 1110 Ruidoso, NM 88355 | |

Bruce Frederick



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STATE OF NEW MEXICO
OFFICE OF THE STATE ENGINEER
Santa Fe

John R. D'Antonio Jr., P.E.
State Engineer

BATAAN MEMORIAL BUILDING, ROOM 102
SANTA FE, NEW MEXICO 87504-5102
(505) 827-6120
FAX: (505) 827-6682

August 12, 2009

Rio Bonito Preserve, Inc.
c/o Bruce Frederick, Esq.
The NM Law Environmental Center
1405 Luisa Street, Suite 5
Santa Fe, NM 87505

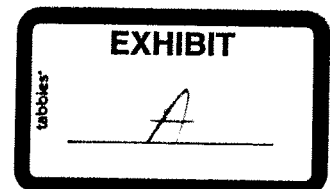
Dear Rio Bonito Preserve:

As Director of the Water Resource Allocation Program (WRAP) of the Office of the State Engineer (OSE), I wanted to update you on our efforts to study and better understand the Rio Bonito and the Hondo Basin as a whole, which we discussed during our meeting on May 22, 2009 in Santa Fe, NM. We have initiated these efforts in response to your request for further study of this hydrologic system, and as part of an effort to shift resolution of water rights administration issues from litigation to more conciliatory means.

The OSE's Hydrology Bureau is developing a new groundwater flow model that will better predict impacts to surface flows on the Bonito caused by groundwater diversions. Mr. Eric Keyes of the Hydrology Bureau has almost completed the calibration stage of this model; layering, extent, boundaries and targets have been delineated. We estimate that this model is probably two to three months from completion. It will incorporate the advantages of each of the four existing models.

Second, the Hydrology Bureau has reserved funding for the study of the Bonito that we anticipate will be used for review of the above model by consultants on contract with the OSE. Please let me know if you have any suggestions in this regard, or if you have any other suggestions for allocating these funds.

The completion of this model will lead to our next effort – the development and finalization of formal administrative guidelines for the Hondo Basin. The OSE is prioritizing the Hondo basin in this regard, and we anticipate commencing this task within the next 18 months or after first finalizing similar guidelines for the Lea, Curry, Portales, Espanola and Tularosa basins. We hope you will actively participate in the collaborative stakeholder process that will lead to the finalization of these guidelines.



WRAP has also accelerated its abstracting of all water rights in the Hondo Basin, and recently completed that task.

We trust that these efforts outlined above address your immediate concerns and as discussed during the May 22, 2009 meeting, warrant the withdrawal of your protest in the pending applications by the Hideout, Inc., *HU Nos. 08-010 et al*, and by the Villages of Capitan and Ruidoso, *HU No. 0-039*. In this regard, please contact our attorney, Daniel Rubin, at 827-6123 at your earliest convenience to discuss the above and to resolve your protests.

Sincerely,

A handwritten signature in black ink that reads "John T. Romero". The signature is written in a cursive style with a large initial "J" and "R".

John T. Romero, PE
WRAP Director

Cc: Daniel Rubin, OSE Attorney, ALU
Jim Sizemore, PE, Water Rights Director
Mike Johnson, PG, Chief, Hydrology Bureau
Jim Brockman