

Water Adjudication Court and Jurisdiction

Under New Mexico law, once a suit has been filed for the determination of a right to use the waters of a stream system, " all questions necessary for the adjudication of all water rights must be heard and determined in the court in which the suit is brought." *Ulibarri v. Hagan*, 1982–NMSC–101, ¶ 5, 98 N.M. 676, 652 P.2d 226. This is because, by statute, "[t]he court in which any suit involving the adjudication of water rights may be properly brought shall have exclusive jurisdiction to hear and determine all questions necessary for the adjudication of all water rights within the stream system involved[.]" NMSA 1978, § 72–4–17 (1965). Although NMSA 1978, Section 72–1–3 (1961) provides that such declarations filed with the State Engineer "shall be recorded" and shall constitute "prima facie evidence of the truth of their contents," we have held that the State Engineer need not file the declarations when evidence in the State Engineer's possession contradicts the documents to be filed. See *Eldorado Utilities Inc. v. State ex rel. D'Antonio*, 2005–NMCA–041, ¶¶ 9–13, 137 N.M. 268, 110 P.3d 76. Because the district court would have to assess the State Engineer's evidence regarding Petitioners' water rights and compare that evidence against Petitioners' declarations in order to determine whether the State Engineer was required to accept Petitioners' declarations for filing, we proposed to hold that Section 72–4–17 prohibited the district court from engaging in such an inquiry. The examination of such evidence may necessarily involve some interpretation, as well as a determination of whether Petitioners' water rights are vested, and the purpose of Section 72–4–17 is to have the resolution of all such matters done in a single adjudication.

N. M. S. A. 1978, § 72-4-17

In any suit for the determination of a right to use the waters of any stream system, all those whose claim to the use of such waters are of record and all other claimants, so far as they can be ascertained, with reasonable diligence, shall be made parties. When any such suit has been filed the court shall, by its order duly entered, direct the state engineer to make or furnish a complete hydrographic survey of such stream system as hereinbefore provided in this article, in order to obtain all data necessary to the determination of the rights involved.

All waters subject to Adjudication:

EBID v. Regent of NMSU,
115 NM 229, 849 P.2d 372 (1993)

Under New Mexico's adjudication statute, "any suit for the determination of a right to use the waters of any stream system" requires joinder of all claimants to the water source who may be ascertained through reasonable diligence. Section 72–4–17. This statute has been held to be all-embracing because it requires adjudication of all surface and groundwater hydrologically connected to the stream system. *State ex rel. Reynolds v. Sharp*, 66 N.M. 192, 344 P.2d 943 (1959). In order to determine the geographical scope of the stream system and the amount of water available, the district court directs, by its order, the state engineer to conduct a hydrographic survey. Section 72–4–17.