

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

STATE OF NEW MEXICO, *ex rel.*
State Engineer,

Plaintiff,

vs.

No. CIV 66cv6639

R. LEE AAMODT, et al.,

Defendants,

and

UNITED STATES OF AMERICA,
PUEBLO DE NAMBE, PUEBLO DE
POJOAQUE, PUEBLO DE SAN ILDEFONSO,
and PUEBLO DE TESUQUE,

Plaintiffs-in-Intervention.

NOTICE OF FILING 2004 REPORT OF POST MORATORIUM WELLS
WATER MASTER

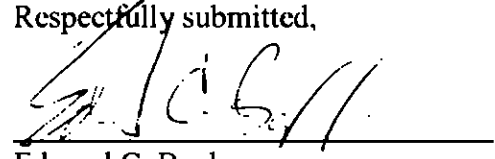
THE STATE OF NEW MEXICO *EX REL.* STATE ENGINEER, by and through its undersigned counsel of record, pursuant to the May 27, 1999 Joint Motion Requesting the Court to Approve Settlement Agreement Relating to Post-1982 Domestic Wells and to appoint Water Master (5514), the October 4, 1999 Order adopting the Settlement Agreement and referring matters relating to the appointment of a Water Master and adoption of Water Master rules and regulations to Magistrate Judge Leslie C. Smith (5549), and the August 1, 2001 Order adopting Proposed Final Water Master Rules and Regulations (5919), hereby files the attached 2004 Report of Post Moratorium Wells Water Master.

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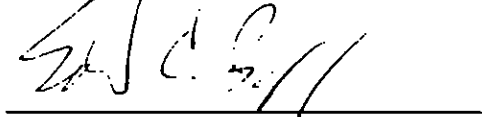
Respectfully submitted,

A handwritten signature in black ink, appearing to read 'E. C. Bagley', is written over a solid horizontal line.

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Certificate of Service

I certify that on this 27th day of April, 2004, a true and correct copy of the foregoing Notice of Filing 2004 Report of Post Moratorium Wells Water Master and the 2004 Report of Post Moratorium Wells Water Master were mailed by first class mail to the attached list of counsel of record:



A handwritten signature in black ink, appearing to read "S. J. C. [unclear]", is written above a solid horizontal line.

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2004 REPORT OF POST-MORATORIUM WELLS WATERMASTER

In accordance with the May 27 1999 Joint Motion Requesting the Court to Approve Settlement Agreement Relating to Post-1982 Domestic Wells and to appoint Water Master (5514), the October 4, 1999 Order adopting the Settlement Agreement and referring matters relating to the appointment of a Watermaster and adoption of Water Master rules and regulations to Magistrate Judge Leslie C. Smith (5549), and the August 1, 2001 Order adopting Proposed Final Watermaster Rules and Regulations (5919), submitted here is the 2004 Report of the Post Moratorium Wells Water Master.

Water Diversions

There are a total of 314 subfiles representing 314 Post-moratorium wells that have been entered into the settlement agreement. From these subfiles, individuals representing 291 wells responded to the request of installing a meter. The results reflect 220 wells are currently being monitored by the *WATERS* databasc. A tabulation of all metered wells and their diversion amounts as of this date are attached to this report. The tabulation reflects yearly usage for 2004. If a well reflects a meter reading for 2002 or 2003, the homeowner has not submitted a meter reading for 2004. Notices were mailed out in early January reminding participants that the quarterly meter readings due. Field checks were required for these 314 wells to verify meter installation, placement and readings as well as number of dwellings served by each well.

The Water Master report notes that 16 wells had over-diverted in 2004. These well owners have been notified and ask that if this is in error to please provide the

Watermaster with evidence supporting this error. These wells have been field checked and the results are as follows:

RG-39155-Irving Warhaftig: Meter reading taken on 11/8/04 by field check was 806550. Over-diversion use letter was sent 2/15/05.

RG-40064- Eugene Thaw: There is conflicting documentation as to who owns this well. Until we are able to determine the correct owner, we are unable correct this over-diversion.

RG-40345-Michael & Karin Holzscheiter: As of 7/1/04 the usage was 0.939 over-diversion letter was sent on 1/28/05.

RG-49118-Peter & Elinor Bickley: As of 12/31/04 the Usage was 0.815. This well serves three mobile homes and only one meter is installed. Owner was advised to install additional meters for each household in order for them to be in compliance.

RG-53477-1- Edwin and Cathy Frank: As of 1/6/05 usage was 0.776. Sent over-diversion letter on 3/7/05.

RG-53785-Melissa & Peter Navert: As of 1/21/05 usage was 1.859. Sent over-diversion letter on 1/28/05. Field check revealed meter located in wrong location. Additional meter required for guesthouse. New owner has not filed a change of Ownership.

RG-54478-David & Cindy Montoya: As of 1/4/05 usage was 0.959. Sent over-diversion letter on 1/28/05.

RG-54663-Robert C. Dick: As of 1/4/05 usage was 0.813. Sent over-diversion letter on 12/14/05.

RG-55294-Carl & Marylynn Thoma: As of 10/5/04 usage was 0.897. Sent over-diversion letter on 12/14/05.

RG-56960-Gilbert Hitchcock: As of 9/30/04 usage was 1.0. Owner also has .3 acre-feet of rights transferred to the well for irrigation purposes.

RG-58230-Dorothy M. Smoker. As of 1/5/05 usage was 0.938. Over diversion letter was sent on 12/14/04.

RG-60433-Tetsuji Yamada: As of 1/7/05 usage was 1.0. Sent over diversion letter on 9/14/04. Owner was advised to install additional meters for each household in order to be in compliance.

RG-63276-Jim & Selena Kavanaugh: As of 12/8/04 usage was 0.932. Sent over-diversion letter on 2/21/05. Owner was unaware of the over-diversion and will curtail his use.

RG-66367-Richard Brenner: As of 1/14/05 usage was 1.007. Sent over-diversion Letter on 1/28/05.

RG-67128-Douglas McDowell: As of 1/25/05 usage was 0.83. Sent over-diversion letter on 1/28/05.

RG-81560 (sf RG-41937)-Gayle Maxon Edgerton: As of 12/31/04 usage was 0.814. Sent over-diversion letter on 3/8/05.

There are 39 permittees who responded that their post-moratorium well was unequipped and no meter has been installed. The owners went on to say that there is no dwelling on the property and when they do develop the property they will equip the well and a meter would then be installed. These 39 wells were field checked to verify the wells were unequipped and not in use. Permittees of those wells found to be equipped and in use were instructed to install a meter or face a penalty of a fine up to \$250.00.

There remain 32 wells in which the permittees have not responded at all to the request for the installation of a meter. These owners have been issued a warning letter (sample submitted in previous report) reminding them that in accordance with the Settlement Agreement a meter must be installed within six months after becoming a party or within ninety days after connection to a Post 1982-Well, whichever is later. The letter also warned the permittee that failure to install the meter would result in civil penalty of a fine of up to \$250.00. Field checks of these wells have been performed or are in the process of being scheduled. Permittees have been given approximately 4-6 weeks, dependant upon their situation, to install a meter or face a penalty of a fine up to \$250.00. The water master will go forward with enforcement if arrangements have not been made to install meters.

Field Investigations

Because of the lack of resources within the Water Rights Division of the OSE the workload has increased. The State Engineer assigned Brian Gallegos as Watermaster to this basin in order to alleviate some of the workload. I would like to add Mr. Gallegos has been instrumental in the implementation of this Settlement Agreement.

Mr. Gallegos has completed 237 field checks in the year 2004. An additional 54 field checks are still pending. There are 16 subfiles in which Brian has had difficulty in locating the well and or the owner has not responded to any contact we have made or they are no longer the owner of the property.

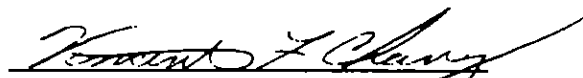
During Mr. Gallegos field inspections he has found that each field inspection last approximately a half-hour to an hour in length. Not only is he inspecting each well and meter installation he is also explaining the conditions of the Post 1982 Settlement Agreement as well as educating the well owners on the pending Settlement Agreement. A number of well owners were confusing the two Settlement Agreements and reluctant to install a meter. After Mr. Gallegos explanation the well owners have agreed to install their meters. Ownership discrepancies as well as general water right questions are also being addressed during the field checks. He has noticed that the well owners are very conscientious about conserving water. A majority of the well owners utilize water catchments and drip systems for outdoor irrigation as well as limiting amounts and types of vegetation and trees on their properties. The well owners have stated that they believe they are being penalized by being conservative and not using the permitted amount of 0.7 acre-foot and only being recognized for what they have used. Santa Fe County imposed

restrictions have also limited many permittees from using their permitted amount of 0.7 acre-foot per year.

Additional findings of the field investigations included meters that were installed in incorrect locations, outdoor hydrants located prior to meters, and wells serving multiple residences with only one meter in place. Repeat field checks will be performed on these wells to insure compliance with this Agreement. Field checks also revealed that many well owners are physically unable to climb down into their well pits to read meters for submittal to the Watermaster.

In the summer of 2004 threats were made to the Watermaster that if he was to ever to check some wells that they might be booby-trapped or that he may be shot. These threats were relayed to the New Mexico State Police. The field investigations were continued with no further incidents.

Respectfully submitted,


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Post-Moratorium Wells Water Master
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**THE EXHIBITS ATTACHED TO
THIS PLEADING ARE TOO
VOLUMINOUS TO SCAN. SAID
EXHIBITS ARE ATTACHED TO THE
ORIGINAL PLEADING IN THE CASE
FILE WHICH IS LOCATED IN THE
RECORDS DEPARTMENT, U.S.
DISTRICT COURT CLERK'S
OFFICE...**