

Water rights file number(s) (e.g. OSE File No., Court Subfile No.):

SD 008976 ; SD 008943 ; SD 00894 14B

Well number(s) (e.g. RG-, DS-, PM-):

RG 25905 ; RG 90589

Physical address or lot description of location of well:

20A Camino Los Gardunos ; Santa Fe, NM 87506

STATE THE SPECIFIC LEGAL AND FACTUAL BASIS FOR YOUR OBJECTION:

1. The Settlement Agreement summary and Order to Show Cause have been mailed to claimants, by the State Engineer, utilizing first class mail rather than certified mail. This is contrary to Rule 4 of the Federal Rules of Civil Procedure. Thus, aside from the filing of these objections, the State Engineer has no proof that all claimants received the copy of the Order to Show Cause. If a default judgment is entered against any claimant who does not respond, then there is a potential for further litigation that will call into question the status of all sub file orders including this party's own number.

The Settlement Agreement, in Section 3.19, states that any well owner who fails to respond to the Order To Show Cause is a "settlement party". It further describes a "settlement party" as a party who agrees with the Settlement. The failure to use certified mail means that it will be very difficult to ascertain the number of parties who actually agree with the Settlement and those who simply failed to receive the Order To Show Cause and thus did not respond.

2. As non-Pueblo water right holders, we have lacked the opportunity to participate in the essential integral parts of the proposed settlement agreement and insufficient opportunity to study the impacts and seek counsel. The settlement negotiations which began in 2010 excluded individual non-Pueblo water-right holder parties from participation and settlement information was not provided to all parties. Representation of parties at the negotiations was limited to Pueblos, and various governmental entities. The non-Pueblo water-right owner parties were not permitted to have a representative committee present at the negotiations. Further, a gag order prevented all access to information by non-Pueblo water-right owner Parties. This exclusion unfairly prejudiced the non-Pueblo water-right owner Parties who, by the terms of the Order to Show Cause are now being required to understand all of the implications to their water rights and to make formal objections within a perilously short time frame or be deemed a Settlement Party and forfeit all or a portion of their lawful water rights.

3. The proposed Regional Water System, as outlined in the Settlement Agreement in Article Section 602(9), is based upon a design completed in 2008 and which was paid for by the Pueblos. A detailed design with clear implementation and location details has not been provided to the Defendant. Defendant is therefore unable to determine if it is feasible to install the water system to service the Defendant's property.

Additionally, since the design is not fully completed and firm costs established, there is the potential that the construction costs for the system may exceed the early estimates. If this is the case, then the excess costs may be covered through an increase in taxes that will affect the Defendant negatively. See New Mexico Constitution, Article IX, Section 10, which relates to the manner in which County debts are handled.

4. The funds needed to connect to the system have not been fully explained and allocated. Therefore, the Defendant is unable to determine what the costs of connection will be and whether Defendant is financially able to afford such connection.

5. The Defendant objects to the entry of the Partial Final Decree until all easements for the Regional Water System have been identified and acquired. Only at this point will the feasibility and expense be quantifiable for all parties.

6. While the proposed Partial Decree allows the Pueblos a right of enforcement for their water rights, there is no reciprocal right for a private non-Indian owner to enforce their rights. Thus, the Partial Decree is lopsided and unfair with regard to enforcement options.

7. An Environmental Impact Statement has not been filed. This is required by the Settlement Act in Section 616. Until such State is filed, Defendant objects to entry of the Partial Final Decree.

8. There appears to be an inherent conflict of interest in the terms of the Settlement Agreement relating to the role of the New Mexico State Engineer. Section 5.2.1.1 of the Settlement Agreement provides the State Engineer with the right to restrict Pueblo water rights. Section 5.2.1.2 of the Settlement Agreement provides that a Water Master has the same authority over non-Indian water rights. However, the State Engineer is also designated as the Water Master in Section 5.2 of the Settlement Agreement. Furthermore, the rules governing the Water Master and the State Engineer in the context of the Settlement Agreement have not yet been adopted. Furthermore, the Joint Powers Agreement, Water Rules for the District Water Master and Water Master Rules for the NPT Water Master have not been presented or approved as required by the Settlement

Agreement. Defendant objects to the entry of the Partial Final Decree based upon the fact that Defendant has insufficient information regarding the organization and administration of the Regional Water System upon which to base an opinion and position.

9. The Defendant objects to the transfer of the Defendant's domestic well rights to the County Water Utility (CWU) upon entry of the Partial Final Decree. Due to the lack of certainty concerning rules, easements, required agreements and funding, the water system installation may be delayed for an indefinite period of time. There is no provision for compensation to the Defendant for transfer of water rights without certainty concerning the timeline and costs associated with the Defendant's ability to connection to said system.

10. The Defendant contends that the Settlement Agreement denies the Defendant the protections afforded domestic well owners under New Mexico law. Section 72-12-1.1 of the NMAC protects the owners of domestic wells by declaring that a minimum amount of water used for household purposes should be immune from a priority call. Defendant therefore objects and states that Defendant is being denied the protections embodied in the State water Code.

11. Defendant objects to the entry of the Partial Final Decree based on the assertion that the State Engineer is without legal jurisdiction to unilaterally and arbitrarily close aquifers to further development by the Domestic Well Statute. Any unappropriated groundwater is owned by the citizens of the State of New Mexico. Thus any decision to close or declare aquifers fully appropriated so as to not allow further use of said water lies outside the jurisdiction of Office of the New Mexico State Engineer.

12. Section 2.3.1 of the Cost Sharing and System Integration Agreement (referenced in Section 602 of the Aamodt Litigation Settlement Act) states that “The United States shall obtain easements and rights of way across non-Pueblo land for so long as required for construction, use, operation, maintenance, repair and replacement of the “Regional Water System”. Section 2.3.1 also states that the “County shall acquire such rights of way for any subsequent CWU infrastructure construction across non-Pueblo land to deliver water to CWU customers”.

Section 2.3.2 states that “The United States shall obtain easements and rights of way across Pueblo land as required for construction, use, operation, maintenance, repair and replacement of the Regional Water System”. Section 2.3.2 goes on to say that “In consideration for the funding of the Aamodt Settlement Pueblos’ Fund described in Section 617(c)(1)(B) of the Act, each Pueblo agrees to consent to the United States’ grants of easements and rights of way for the System, at no cost”.

However, unlike Section 2.3.2, Section 2.3.1 does not address any consideration for easements and rights of way for non-Pueblo land owners.

13. The Operating Agreement required by Section 612(a) of the Aamodt Litigation Settlement Act is not due until 180 days after the later “(1) the date of the completion of environmental compliance and permitting; or (2) the date of issuance of a final project design for the Regional Water System under Section 611(b)”. The operating agreement is an important document needed for a decision by well owners.

14. Section 614(d) of the Aamodt Litigation Settlement Act states that “In accordance with section 9.6.4 of the Settlement Agreement, the County may use unused capacity and water rights of the County Water Utility to supply water within the County

outside of the Pojoaque Basin (1) on approval by the State and the Authority, and (2) subject to the issuance of a permit by the New Mexico State Engineer”. However, Section 9.6.4 of the Settlement Agreement actually discusses the transfer of Top of the World Farm water rights to the Regional Water System and states that “The County may temporarily use these water rights for other purposes until they are needed for the purposes described in this paragraph”. Section 614(d) of the Act conflicts with Section 9.6.4 of the Settlement Agreement.

STATE HOW YOUR WATER RIGHTS WILL BE INJURED OR HARMED IN A LEGALLY COGNIZABLE WAY BY THE SETTLEMENT AGREEMENT AND ENTRY OF THE PROPOSED DECREE AND INTERIM ORDER.

1. The failure by the New Mexico State Engineer to use certified mail means that it will be very difficult to ascertain the number of parties who actually agree with the Settlement and those who simply failed to receive the Order To Show Cause and thus did not respond. Thus, litigation and dispute may result in additional delay in implementing the Regional Water System. Defendant will be harmed by a transfer of well rights without certainty as to how long any dispute may delay implementation.

2. Defendant is therefore unable to determine if it is feasible to install the water system to service the Defendant’s property. Thus, Defendant is asked to relinquish well water rights without full understanding as to logistical issues related to installation of the Regional Water System. Until all easements for the Regional Water System have been identified and acquired, the feasibility and expense is not quantifiable for all parties.

3. The funds needed to connect to the system have not been fully explained and allocated. Therefore, the Defendant is unable to determine what the costs of connection will be and whether Defendant is financially able to afford such connection.



Thus, Defendant is asked to relinquish well water rights without understanding if Defendant will be able to afford to connect to the new regional water system.

4. There is no right for a private non-Indian owner to enforce their position with regard to the Regional Water System. Thus Defendant is asked to abandon well water rights where there are clear enforcement options for a system that is unfair and lopsided.

5. Until an Environmental Impact Statement has been filed, Defendant is unable to ascertain how the proposed system may impact Defendant's property and water rights.

6. The Joint Powers Agreement, Water Rules for the District Water Master and Water Master Rules for the NPT Water Master have not been presented and approved as required by Settlement Agreement, Defendant has insufficient information regarding the organization and administration of the Regional Water System upon which to base an opinion and position as to how the Defendants' water rights will be affected.

7. Due to the lack of certainty concerning rules, easements, required agreements and funding, the water system installation may be delayed for an indefinite period of time. There is no provision for compensation to the Defendant for transfer of water rights and thus there is no consideration to Defendant for this indefinite delay.

8. The Defendant will be denied the protections afforded domestic well owners under New Mexico law. Section 72-12-1.1 of the NMAC protects the owners of domestic wells by declaring that a minimum amount of water used for household purposes should be immune from a priority call.

9. The Settlement Agreement will change our way of living. At recent community informational meetings in the Pojoaque Valley, the County has stated that those who hookup to the County Water Utility can use as much water as they want to, as long as they are willing to pay for it. This is in direct conflict with the Pojoaque Valley's own Community Strategic Plan, (1) which states as one of its goals to "Develop and implement strategies for domestic water conservation" and (2) which states its desire to preserve the rural character, history and culture of the Pojoaque Valley.

This is also in conflict with the water restrictions that are imposed during times of drought by the City of Santa Fe and the County of Santa Fe, as well as throughout New Mexico.

10. Even though Section 611(c)(2) of the Act states that "The Secretary shall not condemn water rights for purposes of the Regional Water System", having to cap our wells upon hookup to the County Water Utility has the same effect.

This objection must be received by the Court no later than April 7, 2014, to be effective.

  
Signature of Objecting Party