

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

STATE OF NEW MEXICO, ex rel. STATE )	)	
ENGINEER, )	)	
	)	
Plaintiff, )	)	
v. )	)	
	)	No. 66cv6639 WJ/WPL
R. LEE AAMODT, et.al., )	)	
	)	
Defendants, )	)	
	)	
And )	)	Acequia de la Comunidad
	)	a/k/a "Community Ditch"
UNITED STATES OF AMERICA, )	)	Subfile No. 10.38
PUEBLO DE NAMBE, )	)	OSE File Nos. RG-10668 & RG-86934
PUEBLO DE POJOAQUE, )	)	
PUEBLO DE SAN ILDEFONSO, )	)	
and PUEBLO DE TESUQUE, )	)	

Plaintiffs-in-Intervention.

**MOTION TO CORRECT AMENDED SUBFILE ORDER TO ADD OMITTED  
GROUNDWATER POINT OF DIVERSION FOR  
DOMESTIC/LIVESTOCK WELLS (SUBFILE NO. 10.38)**

Pursuant to Section A.2 of the July 23, 2013, *Procedural Order for Correcting Subfile Errors* (Doc. 7909), the State of New Mexico ("State"), by and through its counsel, requests the Court to enter the attached Order providing the legal description of the point of diversion (i.e., well location) for the groundwater rights adjudicated for domestic and/or livestock use under Subfile No. 10.38. The State offers the following grounds for this motion:

1. On September 5, 1967, the Court entered an "Order" under Subfile No. 10.38 ("Subfile Order") adjudicating two groundwater rights for domestic and/or livestock use to Michel Pijoan. The Subfile Order omitted a legal description for both domestic/livestock wells, and instead described the point of diversion for one well as "[a]djacent to house," and the other

as “basement of house.” The Subfile Order gave no Office of the State Engineer (“OSE”) file number for either well, but the State has determined that the well described in the Subfile Order as “[a]djacent to house” has been designated as OSE File No. RG-86934. The well described as “[in the] basement of house” has been designated as OSE File No. RG-10668. A copy of the Subfile Order is attached hereto as *Exhibit 1*.

2. On October 9, 1969, the Court entered an “Amended Order” under Subfile 10.38 (“Amended Subfile Order”) changing the amount of irrigated acreage under the adjudicated surface water right. The Amended Subfile Order identified Well No. RG-86934, but did not give a legal description for the well. The Amended Subfile Order omitted all reference to Well No. RG-10668. A copy of the Amended Subfile Order is attached jointly with the Subfile Order as *Exhibit 1*.

3. The Amended Subfile Order should be corrected to identify both wells (RG-86934 and RG-10668) and provide an accurate legal description for each well’s point of diversion. Accordingly, the State proposes the following correction to Subpart B of Paragraph 5 of the Amended Subfile Order:

1. Purpose: Non NMSA § 72-12-1 and -1.1 Domestic use for One Household and/or Livestock (Groundwater Only)

State Engineer File No.: RG-86934

Priority: 1938

Point of Diversion: X= 578,227 and Y= 1,782,249 on the New Mexico State Plane Coordinate System, Central Zone, 1927 N.A.D.

Place of Use: Within the property owned by the Defendant(s) served by the well

Amount of Water: Not to exceed a diversion of 3.0 acre-feet per year from the well described above or the historic beneficial use, whichever is less.

2. Purpose: Non NMSA § 72-12-1 and -1.1 Domestic use for One Household and/or Livestock (Groundwater Only)

State Engineer File No.: RG-10668

Priority: 1942

Point of Diversion: NE ¼ NE ¼ Section 9, T. 19N, R. 9E

Place of Use: Within the property owned by the Defendant(s) served by the well

Amount of Water: Not to exceed a diversion of 3.0 acre-feet per year from the well described above or the historic beneficial use, whichever is less.

4. Except as requested by this motion, all other elements of the rights adjudicated under Subfile No. 10.38 should remain as stated in the October 9, 1969, Amended Subfile Order and subsequent orders of this Court.

5. The State is serving a copy of this motion and a proposed order granting the motion on all parties or persons who, according to the records of the State, may have an ownership interest in Subfile No. 10.38. The State's proposed order is attached as *Exhibit 2*.

WHEREFORE, the State requests that the Court enter the attached order correcting the October 9, 1969, Amended Subfile Order entered in Subfile No. 10.38 as set forth above in paragraph 3 of the motion, by identifying both domestic/livestock wells (RG-86934 and RG-10668) adjudicated under Subfile No. 10.38, and providing an accurate legal description for the point of diversion (e.g., well location) of each well.

Electronically Filed,

By /s/ Brett J. Olsen

Brett J. Olsen

Attorneys for State of New Mexico

P.O. Box 25102

Santa Fe, NM 87504-5102

Telephone: (505) 827-6150

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 7, 2015, I filed the foregoing electronically through the CM/ECF system, which caused the parties or counsel reflected on the Notice of Electronic Filing to be served by electronic means, and to the following person(s) by U.S. mail:

/s/ Brett Olsen  
Brett J. Olsen

SUSAN TRUJILLO  
RT. 1, BOX 108-AAA  
SANTA FE, NM 87501

JOHN L. LENSSEN  
7A COUNTY ROAD 113  
SANTA FE, NM 87506-9744