

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

STATE OF NEW MEXICO, ex rel. STATE )  
ENGINEER, )

Plaintiff, )

v. )

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, )

No. 66cv6639 WJ/WPL

Subfile No. DS-0021

OSE File No. RG-8211

Plaintiffs-in-Intervention.

**MOTION TO CORRECT SUBFILE ORDER TO ADD  
OMITTED GROUNDWATER POINT OF DIVERSION AND CLARIFY PURPOSE OF  
USE FOR DOMESTIC WELL (SUBFILE NO. DS-0021)**

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) and clarifying the purpose of use for the groundwater right adjudicated for domestic and/or livestock use under Subfile No. DS-0021. The State offers the following grounds for this motion:

1. On December 2, 1969, the Court entered an “Order” (“Subfile Order”) adjudicating several water rights by default judgment, including a groundwater right under Subfile No. DS-0021 for domestic and/or livestock use in the name of Edward H. Roybal. This

right and its associated well were identified in the Subfile Order as Office of the State Engineer (“OSE”) file number RG-8211. The relevant portion of the Subfile Order is attached as *Exhibit 1*.

2. The Subfile Order omitted a legal description for Well No. RG-8211, and instead described the point of diversion as “[w]ithin the Jacona Grant.” *See* Subfile Order, ¶15.B. OSE records reflect that Well No. RG-8211 was permitted on or about November 14, 1962 for domestic use only, and is located in the NW ¼ SW ¼ NE ¼ Section 10, T. 19N, R. 8E. *See* Permit to Appropriate Underground Waters in Accordance with Section 75-11-1 New Mexico Statutes, dated November 14, 1962, attached as *Exhibit 2*.

3. Accordingly, Subsection B of Paragraph 15 of the Subfile Order should be corrected to include the legal description of Well No. RG-8211 and clarify the purpose of use as follows:

Purpose: Domestic use for One Household pursuant to  
NMSA § 72-12-1 and -1.1

State Engineer File No.: RG-8211

Priority: November 14, 1962

Point of Diversion: NW ¼ SW ¼ NE ¼ Section 10, T. 19N, R. 8E.

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. DS-0021 should remain as stated in the December 2, 1969, 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. DS-0021. The State's proposed order is attached as *Exhibit 3*.

WHEREFORE, the State requests that the Court enter the attached order correcting the December 2, 1969, Order as set forth above in paragraph 3 of the motion, by adding the legal description and clarifying the purpose of use of the well and groundwater right (RG-8211) adjudicated under Subfile No. DS-0021.

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 November 18, 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

Edward H Roybal  
Rt. L, Box 408  
Española, NM 8732