

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, )  
 )  
Plaintiffs-in-Intervention. )

No. 66cv6639 MV/WPL

OCTOBER 15, 2015 QUARTERLY STATUS REPORT REGARDING THE  
ADJUDICATION OF DOMESTIC WELL AND SURFACE RIGHTS

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The State of New Mexico (“State”), pursuant to the Court’s July 5, 2006 *Order* (No. 6174) and the December 18, 2008 *Supplemental Procedural Order* (No. 6524) hereby reports to the Court addressing the status of “the work completed the previous quarter and the work to be completed during the subsequent quarter for both domestic well and surface water rights.” July 5, 2006 *Order*, p. 1.

**I. Claims to Domestic Well Water Rights – Previous Quarter**

**A. Post-Moratorium Section 72-12-1 Domestic Well Water Rights**

1. During the previous quarter, the Court entered orders adjudicating seven (7) post-moratorium domestic well claims.

2. During the previous quarter, the Court joined twelve (12) post-moratorium domestic well water right claimants. See August 14, 2015 *Order Granting State of New Mexico's Thirty-Fifth Motion to Join Additional Parties Defendant* (No. 10272).

3. The State moved to join an additional thirteen (13) post-moratorium domestic well water right claimants. See September 11, 2015 *Thirty-Sixth Motion to Join Additional Parties Defendants* (No. 10312).

4. Litigation continues with regard to two (2) unadjudicated water rights from post-moratorium wells. More specifically, discovery is currently taking place with regard to subfiles PM-89224 and PM-89217. See September 23, 2015 *Consolidated Scheduling Order for Subfiles 34378, PM-89224, PM-89217 and RG-30627* (No. 10356).

5. Litigation has been resolved with regard to two (2) unadjudicated water rights from post-moratorium wells, specifically subfiles 34378 and RG-30627, and proposed consent orders settling the claims will shortly be submitted to the Court.

6. There are no outstanding *Notices That the Consultation Period Has Ended* regarding post-moratorium well water rights.

#### **B. Pre-Moratorium Section 72-12-1 Domestic Well Water Rights**

7. During the previous quarter, the Court entered orders adjudicating twenty-seven (27) pre-moratorium domestic well claims.

8. During the previous quarter, the Court joined one-hundred (100) pre-moratorium domestic well water right claimants. See August 14, 2015 *Order Granting State of New*

*Mexico's Thirteenth Motion to Join Pre-Moratorium Claimants as Additional Parties Defendant* (No. 10270); August 14, 2015 *Order Granting State of New Mexico's Fourteenth Motion to Join Pre-Moratorium Claimants as Additional Parties Defendant* (No. 10271); August 31, 2015 *Order Granting State of New Mexico's Fifteenth Motion to Join Pre-Moratorium Claimants as Additional Parties Defendant* (No. 10280); August 31, 2015 *Order Granting State of New Mexico's Sixteenth Motion to Join Pre-Moratorium Claimants as Additional Parties Defendant* (No. 10282); August 31, 2015 *Order Granting State of New Mexico's Seventeenth Motion to Join Pre-Moratorium Claimants as Additional Parties Defendant* (No. 10283); September 18, 2015 *Order Granting State of New Mexico's Eighteenth Motion to Join Pre-Moratorium Claimants as Additional Parties Defendant* (No. 10351).

9. On September 10, 2015, the State filed its *Notice That the Consultation Period has Ended* (No. 10310) with regard to subfile RG-32708. On September 25, 2015 Defendants filed their *Answer* (No. 10362). The State and Defendants have since settled this matter, and expect to submit a proposed consent order to the Court shortly.

10. There are no outstanding *Notices That the Consultation Period Has Ended* regarding pre-moratorium well water rights.

11. During the previous quarter, the Court entered four (4) orders granting corrective motions to add points of diversion or adjudicate priority dates for Pre-Moratorium Section 72-12-1 Domestic Well Water Rights.

**C. Pre-Basin Domestic Well Water Rights**

12. During the previous quarter, the Court joined twenty (33) pre-basin domestic well water right claimants. See August 31 *Order Granting State of New Mexico's Third Motion to Join Pre-Basin Claimants as Additional Parties Defendant* (No. 10281); September 18, 2015 *Order Granting State of New Mexico's Fourth Motion to Joint Pre-Basin Claimants as Additional Parties Defendant* (No. 10352).

13. During the previous quarter, the Court entered fourteen (14) orders granting corrective motions to add points of diversion or adjudicate priority dates for Pre-Basin Domestic Wells. An additional three (3) corrective motions were filed during the previous quarter and are pending before the Court.

**II. Claims to Domestic Well Water Rights – Subsequent Quarter**

**A. Post-Moratorium Section 72-12-1 Domestic Well Water Rights**

14. Before the end of the upcoming quarter through January 15, 2016, with regard to the 72-12-1 post-moratorium domestic well water right claimants already joined and served, the State expects to meet in consultations with those who disagree with their proposed Post-Moratorium Domestic Well Orders, as their requests for consultations are received. With regard to those who do not object, the State will continue submitting the proposed Orders to the Special Master when the claimants' time to respond has passed.

**B. Pre-Moratorium Section 72-12-1 Domestic Well Water Rights**

15. Before the end of the upcoming quarter through January 15, 2016, with regard to the 72-12-1 pre-moratorium domestic well water right claimants already joined and served, the State expects to meet in consultations with those who disagree with their proposed Pre-Moratorium Domestic Well Orders, as their requests for consultations are received. With regard to those who do not object, the State will continue submitting the proposed Orders to the Special Master when the claimants' time to respond has passed.

16. The State will continue the process of reviewing, surveying, mapping and identifying the owners of water rights associated with pre-basin and pre-moratorium domestic wells in order to identify further domestic well claims to be adjudicated.

17. As part of its subfile by subfile review, counsel and technical staff have identified approximately two additional subfile orders adjudicating Pre-Moratorium Section 72-12-1 Domestic Wells without points of diversion or priority dates. One corrective motion has been filed as of the filing of this status report, and all necessary corrective motions will be filed before the end of the upcoming quarter.

**C. Pre-Basin Domestic Well Water Rights**

18. Before the end of the upcoming quarter through January 15, 2016, with regard to the pre-basin domestic well water right claimants already joined and served, the State expects to meet in consultations with those who disagree with their proposed Pre-Basin Domestic Well Orders, as their requests for consultations are received. With regard to those who do not object,

the State will continue submitting the proposed Orders to the Special Master when the claimants' time to respond has passed.

19. As part of its subfile by subfile review, counsel and technical staff have identified approximately two additional subfile orders adjudicating Pre-Basin Domestic Wells without points of diversion or priority dates. All necessary corrective motions will be filed before the end of the upcoming quarter.

### **III. Claims to Surface Water Rights – Previous Quarter**

20. During the previous quarter, the Court entered separate orders granting the State's motions to add additional sources of water and points of diversion for eight (8) Rio Chupadero acequias.

21. As part of its subfile by subfile review, counsel and technical staff are evaluating subfile orders and OSE files to identify errors or omissions concerning groundwater wells adjudicated or which should have been adjudicated as supplemental points of diversion for surface water irrigation rights. To date, the State has identified approximately three (3) subfiles requiring corrective motions to adjudicate supplemental groundwater wells, and one corrective motion has been filed.

### **IV. Claims to Surface Water Rights – Subsequent Quarter**

22. The State will complete its review described in paragraph 21 above, and commence filing corrective motions as necessary to address supplemental groundwater wells.

23. The State had intended during the previous quarter to file motions to correct subfile orders under four NPT ditches to reference omitted points of diversion and correct errors in existing points of diversion. However, the State elected to focus efforts on the filing of corrective motions concerning pre-basin and permitted domestic wells. That work is almost complete, and during the upcoming quarter, the State will file the four motions directed to subfiles on the four NPT ditches.

24. During the upcoming quarter, the State will continue its subfile by subfile review of all surface water irrigation water rights to identify additional errors and omission requiring correction.

Respectfully submitted this 18th day of November, 2015.

Electronically Filed

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that 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 United States Mail:

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