

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 WJ/WPL

**PROCEDURAL AND SCHEDULING ORDER
FOR THE ADJUDICATION OF PRIORITY DATES FOR WATER DIVERTED FROM
THE RIO EN MEDIO AND CONVEYED THROUGH A COMMON DITCH TO THE
RIO CHUPADERO**

THIS MATTER comes before the Court on the State’s *Motion to Enter Procedural and Scheduling Order for the Adjudication of Priority Dates for Water Diverted From the Rio en Medio and Conveyed Through a Common Ditch to the Rio Chupadero*, filed March 13, 2015 [Doc. No. 10129].

The motion falls within the jurisdiction of the Special Master. *See* [Doc. No. 6336]. The Special Master, having reviewed the motion, pertinent portions of the record and the law, and being otherwise fully advised in the premises, FINDS:

I. SURFACE RIGHT PRIORITIES

This Order governs the adjudication of priority dates for water diverted from the Rio en Medio and conveyed through a common ditch to the Rio Chupadero for water rights served by ditches in the Rio Chupadero Basin.

II. ORDER TO SHOW CAUSE

The Court shall issue an Order to Show Cause (“OSC”) with respect to the priority date proposals that the State intends to serve on all individual subfile defendants with water rights served by water diverted from the Rio en Medio and conveyed through a common ditch to the Rio Chupadero. The OSC shall describe in detail the process for filing objections to the proposed priority dates for water diverted from the Rio en Medio and conveyed through a common ditch to the Rio Chupadero. No later than January 31, 2016, the State shall begin service of the Order to Show Cause by mail on all individual subfile defendants with water rights served by water diverted from the Rio en Medio and conveyed through a common ditch to the Rio Chupadero. The OSC will inform the defendants that the Court has entered an order that requires them to show cause why the priority date for water diverted from the Rio en Medio and conveyed through a common ditch to the Rio Chupadero should not be determined to be the

priority date proposed by the State for that Defendant's own ditch. The defendants will also be informed:

1. of the process for filing objections;
2. that they will have no other opportunity to protest the priority date determinations;
3. that failure to respond prior to the deadline set by the Court will bar any

objections they may have to the proposed priority dates.

The State shall not be required to make a determination of current ownership of any tracts, nor mail notices to any person not a party to these proceedings. A successor-in-interest to an individual subfile defendant may request substitution of parties under Fed.R.Civ.P. 25(c) in order to participate in these proceedings.

III. SCHEDULING AND PRETRIAL CONFERENCE

After the deadline has expired for filing objections to the proposed determination of priority dates for water rights served by water diverted from the Rio en Medio and conveyed through a common ditch to the Rio Chupadero the State will file a motion with a proposed case management order, and the Court will set a scheduling and pretrial conference for further proceedings, at a time and place to be announced.

In the absence of objections to the priority dates proposed by the State for water diverted from the Rio en Medio and conveyed through a common ditch to community and private ditches on the Rio Chupadero, the Court may enter final orders with respect to the priority dates of all

water diverted from the Rio en Medio and conveyed through a common ditch to water rights served by community and private ditches on the Rio Chupadero.

IT IS SO ORDERED

THE PARTIES ARE NOTIFIED THAT WITHIN 20 DAYS OF SERVICE of a copy of this order, report, or recommendations, they may file written objections with the Clerk of the Court pursuant to Federal Rule of Civil Procedure 53(f)(2). A party must file any objections with the Clerk of the Court within the twenty-day period if that party wants the District Judge to hear their objections. If no objections are filed within the twenty-day period, the District Judge may adopt the order, report or recommendations in whole.

/s/ Pierre Levy
Pierre Levy, Special Master

December 28, 2015