

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

STATE OF NEW MEXICO *ex rel.*
State Engineer,

Plaintiff,

v.

66cv06639 WJ/WPL

R. LEE AAMODT *et al.*,

Defendants,

and

UNITED STATES OF AMERICA,
PUEBLO DE NAMBÉ,
PUEBLO DE POJOAQUE,
PUEBLO DE SAN ILDEFONSO,
and PUEBLO DE TESUQUE,

Plaintiffs-in-Intervention.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on the State of New Mexico's Application for Order to Show Cause, Doc. 9960, filed December 19, 2015. For the reasons stated below, the Court will **GRANT** the motion.

The State moves the Court to order all defendants with claims to domestic well water rights developed prior to the November 29, 1956 declaration of the Rio Grande Underground Water Basin to show cause within forty-five (45) days after service of the order why the defendant's water right should not be adjudicated as follows: (1) in the quantity of 0.7 acre feet per year per household; and (2) otherwise consistent with the findings of the State's hydrographic survey.

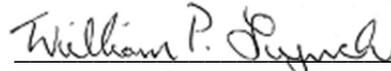
The eighty-two responses that were filed are essentially identical.¹ See Doc's 10000-10008, 10016-10018, 10022, 10026-10034, 10037-10090, 10092-10096, 10098. Those responses state:

1. The State Engineer's attorneys acting with the authority of the Attorney General have previously promised that if a person registered their pre-basin well that they would be under no threat of having their permitted amount of water reduced in the future. This Motion is in direct contradiction of those promises.
2. The State Engineer has completely failed to identify and provide information as to which wells this would apply to, making it nearly impossible to determine whether or not all affected persons are even aware of this new deception by the State Engineer's attorneys or whether or not the Attorney General supports the use of his authority in this manner.
3. Prior to granting the Motion it [is] respectfully requested that the Court hold a public hearing on this matter and allow testimony of affected individuals.

The Respondents apparently misunderstand the State's Motion and proposed order to show cause. The State's Motion and proposed order to show cause do not seek to reduce pre-basin domestic well water rights. The State's Motion and proposed order seek only to establish the procedure for addressing pre-basin domestic well water rights which have not yet been adjudicated. Under that procedure, the State will serve a copy of the order to show cause and a proposed domestic well order by mail on all claimants of unadjudicated domestic well water rights developed prior to the November 29, 1956 declaration of the Rio Grande Underground Water Basin. Any water rights claimant who claims an amount of water use greater than the 0.7 acre-feet per year in the order to show cause or who otherwise opposes the adjudication of their water rights as described in the proposed domestic well order, and who timely files a response to the order to show cause, will be allowed to present evidence and have their claims heard by the Court.

¹ Doc. 10094 adds language indicating that the State Engineer completely failed to show "respondent has never used more than 0.7 acre foot of water in any year."

IT IS ORDERED the State of New Mexico's Application for Order to Show Cause, Doc. 9960, filed December 19, 2015, is **GRANTED**.

A handwritten signature in cursive script that reads "William P. Lynch". The signature is written in black ink and is positioned above a horizontal line.

WILLIAM P. LYNCH
UNITED STATES MAGISTRATE JUDGE