

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

**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**

The State of New Mexico, *ex rel.* State Engineer (“State”), hereby moves the Court to enter a *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* in the proposed form attached hereto as Exhibit A, and an associated *Order to Show Cause* in the proposed form attached hereto as Exhibit B, and in support thereof, states as follows:

1. The Court previously conducted an order to show cause proceeding to adjudicate the priority dates of all surface water rights in the NPT Basin. See *Notice and Order to Show Cause* (No. 6378). This previous proceeding determined the priority dates for water rights on ditches in the Rio Chupadero Basin, whose source of water is the Rio Chupadero. See August 27, 2014 *Order Granting State of New Mexico's Motion for Order Making Final Determination of Priority Dates for Surface Water Rights in the Nambe-Pojoaque-Tesuque Stream System* (No. 9546). However, the priority dates for water diverted from the Rio en Medio, an additional source of water, and conveyed through a common ditch to the Rio Chupadero to serve community and private ditches in the Rio Chupadero Basin were not determined in the prior proceeding.

2. The State proposes to use the same order to show cause process that is presently being used for the adjudication of domestic well water rights, and was previously used for the adjudication of priority dates for surface water rights, to adjudicate priority dates for water diverted from the Rio en Medio for water rights served by community and private ditches in the Rio Chupadero Basin. See April 9, 2008 *Procedural and Scheduling order for the Adjudication of Surface Water Rights Priorities* (No. 6315). That process will facilitate the efficient and timely determination of the priority dates, while providing the necessary due process protections for the individual subfile defendants.

3. Thus, each individual owner of a surface water right served by water from both the Rio Chupadero and Rio en Medio will receive an Order 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 ditch for water diverted from the Rio En Medio.

4. Counsel for Las Acequias de Chupadero does not oppose this Motion. Given the large number of potential opposing parties and counsel, contacting all of them in advance of filing would not be possible, so opposition has been assumed with regard to this Motion.

WHEREFORE, the State requests the Court enter the proposed a *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*, in the form attached hereto as Exhibit A, and an associated *Order to Show Cause* in the proposed form attached hereto as Exhibit B.

Respectfully submitted this 13th day of March, 2015.

Electronically Filed

/s/ Edward C. Bagley

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on March 13, 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.