

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 MV/WPL

Torres Ditch

Plaintiffs-in-Intervention.

**MOTION TO ADD OMITTED SOURCE OF WATER
AND POINT OF DIVERSION TO SUBFILE ORDERS
FOR SURFACE WATER RIGHTS SERVED
BY THE TORRES DITCH**

Pursuant to 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 correct all subfile orders for tracts served by the Torres Ditch by:

- a. identifying the Rio en Medio as a source of water for surface water rights adjudicated under these subfile orders; and
- b. providing the legal description for the point of diversion of the common ditch that conveys surface water from the Rio en Medio to the Rio Chupadero for diversion by downstream ditches including the Torres Ditch.

The State offers the following grounds for this motion:

1. The following subfiles were adjudicated surface water irrigation rights under the Torres Ditch: **15.10A, 15.11, 15.12**

2. The Torres Ditch diverts surface water from the Rio Chupadero at a point located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 36 , T. 19N, R. 9E NMPM. This point of diversion on the Rio Chupadero is identified in the subfile orders entered for the foregoing subfiles.

3. As reflected in the March 19, 1979, Agreement on Water Rights (Doc. 145), the Torres Ditch also receives surface water from the Rio en Medio by means of a common ditch that diverts water from the Rio en Medio to the Rio Chupadero at a location upstream of the Torres Ditch's point of diversion on the Rio Chupadero.

4. The above-referenced subfile orders adjudicated under the Torres Ditch omit reference to the right to receive water from the Rio en Medio. Accordingly, Section 5.A of each subfile order adjudicated under the Torres Ditch should be corrected to include this omitted information as follows:

The Torres Ditch also receives water from the Rio en Medio through a common ditch which diverts from the Rio en Medio at a point located at X: 425523.65 Y: 3961646.94, NM State Plane Coordinate System NAD 83 UTM, Zone 13N. This water is delivered through the ditch to the Rio Chupadero and flows downstream in the bed of the Rio Chupadero to the Torres Ditch's point of diversion on the Rio Chupadero.

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 the above-referenced subfiles. The State's proposed order is attached as *Exhibit 1*.

WHEREFORE, the State requests that the Court enter the attached order correcting all subfiles adjudicated under the Torres Ditch to reference the right to receive water from the Rio en Medio as described in paragraph 4 above and in the attached order.

Electronically Filed,

By /s/ Brett Olsen

Brett Olsen

Attorney 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 May 26, 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:

MARTISA JIMENEZ	RT. 4, BOX 69, SANTA FE, NM 87501
FILOMENO JIMENEZ	RT. 4, BOX 69, SANTA FE, NM 87501
EUGENIA HOULE	106 SOLANA DRIVE, SANTA FE, NM 87501
THOMAS D. PARKER	106 SOLANA DRIVE, SANTA FE, NM 87501
KIT CARSON	RT. 1, BOX 397, SANTA FE, NM 87501
RAL MILLER	2850 GOLDEN GATE, SAN FRANCISCO, CA 94118
CYNTHIA BARCLAY	P.O. BOX 9, TESUQUE, NM 87574
ANDREW GEER	P.O. BOX 9, TESUQUE, NM 87574
JOHN HANDELIN c/o GORDON BRUEN	23 ENCANTADO LOOP, SANTA FE, NM 87505
HENRY R. HOYT	P.O. BOX 1264, SANTA FE, NM 875041264

/s/ Brett Olsen

Brett Olsen