

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

Anthony N. Chavez 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 ANTHONY N. CHAVEZ 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 Anthony N. Chavez Ditch by:

- a. providing the legal description for the Anthony N. Chavez Ditch’s point of diversion on the Rio Chupadero;
- b. identifying the Rio en Medio as a source of water for surface water rights adjudicated under the Anthony N. Chavez Ditch; and

c. 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 Anthony N. Chavez Ditch.

The State offers the following grounds for this motion:

1. The following subfile was adjudicated surface water irrigation rights under the Anthony N. Chavez Ditch: **18.4**

2. The March 27, 1970, subfile order entered in Subfile No. 18.4 does not give the legal description for the Anthony N. Chavez Ditch's point of diversion on the Rio Chupadero. Rather, Section 5.A of the subfile order merely describes the point of diversion as "[s]urface waters of the Pojoaque River, Chupadero Creek."

3. The above-referenced subfile order adjudicated under the Anthony N. Chavez Ditch also omits reference to the right to receive water from the Rio en Medio. As reflected in the March 19, 1979, Agreement on Water Rights (Doc. 145), the Anthony N. Chavez Ditch 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 Anthony N. Chavez Ditch's point of diversion on the Rio Chupadero.

4. Accordingly, Section 5.A of the subfile order adjudicated under the Anthony N. Chavez Ditch, Subfile No. 18.4, should be corrected to include omitted point of diversion and source of water information for both the Rio Chupadero and the Rio en Medio as follows:

The Anthony N. Chavez Ditch diverts from the Rio Chupadero at a point located at X: 419661.78 Y: 3960879.67, NM State Plane Coordinate System NAD 83 UTM, Zone 13N.

The Anthony N. Chavez 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 Anthony N. Chavez 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 subfile. The State's proposed order is attached as *Exhibit 1*.

WHEREFORE, the State requests that the Court enter the attached order correcting Subfile No. 18.4 adjudicated under the Anthony N. Chavez Ditch to give the ditch's point of diversion on the Rio Chupadero and to reference the right to receive water from the Rio en Medio, all as described in paragraph 4 above and in the attached order.

Electronically Filed,

By /s/ Brett Olsen

Brett Olsen

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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:

New Mexico Women's Land Trust  
PO Box 707  
Tesuque, NM 87574

/s/ Brett J. Olsen