

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

Frank V. Ortiz Ditch No. 2

Plaintiffs-in-Intervention.

**MOTION TO ADD OMITTED SOURCE OF WATER  
AND POINT OF DIVERSION TO SUBFILE ORDERS  
FOR SURFACE WATER RIGHTS SERVED  
BY THE FRANK V. ORTIZ DITCH NO. 2**

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 Frank V. Ortiz Ditch No. 2 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 Frank V. Ortiz Ditch No. 2.

The State offers the following grounds for this motion:

1. The following subfiles were adjudicated surface water irrigation rights under the Frank V. Ortiz Ditch No. 2: **18.2, 18.3**

2. The Frank V. Ortiz Ditch No. 2 diverts surface water from the Rio Chupadero at a point located in the SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  SE  $\frac{1}{4}$  Section 16, T. 18N, R. 10E 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 Frank V. Ortiz Ditch No. 2 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 Frank V. Ortiz Ditch No. 2's point of diversion on the Rio Chupadero.

4. The above-referenced subfile orders adjudicated under the Frank V. Ortiz Ditch No. 2 omit reference to the right to receive water from the Rio en Medio. Accordingly, Section 5.A of each subfile order adjudicated under the Frank V. Ortiz Ditch No. 2 should be corrected to include this omitted information as follows:

The Frank V. Ortiz Ditch No. 2 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 Frank V. Ortiz Ditch No. 2'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 Frank V. Ortiz Ditch No. 2 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

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 27, 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:

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/s/ Brett Olsen

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