

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

Rafael Vigil 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 RAFAEL VIGIL 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 Rafael Vigil 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 Rafael Vigil Ditch.

The State offers the following grounds for this motion:

1. The following subfiles were adjudicated surface water irrigation rights under the Rafael Vigil Ditch: **15.15**

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

3. As reflected in the March 19, 1979, Agreement on Water Rights (Doc. 145), the Rafael Vigil 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 Rafael Vigil Ditch's point of diversion on the Rio Chupadero.

4. The above-referenced subfile order adjudicated under the Rafael Vigil Ditch omits reference to the right to receive water from the Rio en Medio. Accordingly, Section 5.A of the subfile order for Subfile 15.15, adjudicating surface water rights under the Rafael Vigil Ditch, should be corrected to include this omitted information as follows:

The Rafael Vigil 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 Rafael Vigil 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 Subfile 15.15 adjudicating surface water rights under the Rafael Vigil 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

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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:

SOREN PETERS

4056 CERRILLOS ROAD, SANTA FE, NM 87507

/s/ Brett Olsen

Brett Olsen