

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 WJ/WPL

Acequia Barranco del Jacona

Subfile No. 5.32

RG-29031

Plaintiffs-in-Intervention.

**MOTION TO CORRECT SUBFILE ORDER TO ADOPT PRIORITY FOR
DOMESTIC/LIVESTOCK GROUNDWATER RIGHT (SUBFILE NO. 5.32)**

Pursuant to Section A.2 of 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 enter the attached order adopting an October 31, 1956, priority for the groundwater right adjudicated for domestic/livestock use under Subfile No. 5.32 without a priority date. The State offers the following grounds for this motion:

1. The attached September 5, 1967, “Order” (“Subfile Order”) adjudicated two groundwater rights for domestic and/or livestock use to Edgar Pulliam under Subfile No. 5.32. The Subfile Order omitted a priority date for one of the two rights. *See* Subfile Order, *Exhibit 1* hereto, ¶5.B.2.

2. The State has reviewed its files, as well as the files of the OSE Water Rights Division, for evidence of first beneficial use of water on which to adjudicate priority for this domestic/livestock right. The State's review of OSE files indicate that the right was subsequently designated as RG-29031 by OSE with an October 31, 1956 priority.

3. Additionally, the State's files contain an Offer of Judgment, attached as *Exhibit 2*, signed by the subfile defendant Edgar Pulliam on or about June 30, 1966. "Oct 1966" is handwritten on the signed Offer of Judgment. It is reasonable to conclude that Edgar Pulliam wrote this date on the Offer of Judgment which was left blank as to priority when it was sent to him by the State.

4. In light of the foregoing evidence, the State proposes that the Court adopt a priority date for this domestic/livestock right (RG-29031) of October 31, 1956. Subpart B.2 of Paragraph 5 of the Subfile Order should therefore be corrected to state the following:

Purpose: Non NMSA § 72-12-1 and -1.1 Domestic use for One Household and/or Livestock (Groundwater Only)

State Engineer File No.: RG-29031

Priority: October 31, 1956

Point of Diversion: NE ¼ SW ¼ SE ¼ Sec. 10, T. 19N, R. 8E

Place of Use: Within the property owned by the Defendant(s) served by the well

Amount of Water: Not to exceed a diversion of 3.0 acre-feet per year from the well described above or the historic beneficial use, whichever is less.

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 Subfile No. 5.32. The State's proposed order is attached as *Exhibit 3*.

WHEREFORE, the State requests that the Court enter the attached order correcting Subpart B.2 of Paragraph 5 of the September 5, 1967 Order entered in Subfile 5.32 by adopting an October 31, 1956, priority for the domestic/livestock right for which a priority date was previously omitted.

Electronically Filed,
By /s/ Brett J. Olsen
Brett J. Olsen
Attorneys 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 July 9, 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:

/s/ Brett Olsen
Brett J. Olsen

RITA DOMINGUEZ
RT. 5 BOX 261-BB
SANTA FE, NM 87501

EDGAR PULLIAM
RT. 5, BOX 261-B
SANTA FE, NM 8750

PETE A. DOMINGUEZ
337 COUNTY ROAD 109A
SANTA FE, NM 87506