

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. 5.19 & 5.19A
OSE File No. RG-18389

Plaintiffs-in-Intervention.

**MOTION TO CORRECT SUBFILE ORDER TO ADD OMITTED GROUNDWATER
POINT OF DIVERSION FOR DOMESTIC/LIVESTOCK WELL
(SUBFILE NO. 5.19 & 5.19A)**

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 providing the legal description of the point of diversion (i.e., well location) for the groundwater right adjudicated for domestic and livestock use under Subfile No. 5.19 & 5.19A. The State offers the following grounds for this motion:

1. On August 7, 1968, the Court entered an “Order” under Subfile 5.19 & 5.19A adjudicating a groundwater right for domestic use to R. Lee Aamodt (“Subfile Order”). The Subfile Order omitted a legal description of the well location, and instead described the point of diversion as “[w]ithin the Jacona Grant.” Records of the Office of the State Engineer (“OSE”)

indicate that the groundwater right and associated domestic well were later designated as OSE File No. RG-18389 and that the well is located on Hydrographic Survey Tract 5.19.¹ See Subfile Order & 2/15/71 Permit to Appropriate Underground Waters in Accordance with Section 75-11-1 New Mexico Statutes, attached jointly as *Exhibit 1*.

2. Subpart B of Paragraph 5 of the August 7, 1968, Subfile Order entered in Subfile No. 5.19 & 5.19A 5.18A should be corrected to give the legal description of the point of diversion for Well No. RG-18389 as follows:

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

State Engineer File No.: RG-18389

Priority: 1918

Point of Diversion: X= 553,468 Y= 1,778,420 on the New Mexico State Plane Coordinate System, Central Zone, 1927 N.A.D.

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.

3. Except as requested by this motion, all other elements of the rights adjudicated under Subfile 5.19 & 5.19A should remain as stated in the August 7, 1968, Subfile Order and subsequent orders of this Court.

¹ An "Amended Order" was entered in Subfile 5.19A on April 6, 1976. The Amended Order made certain changes to the amount of the irrigation water right on Tract 5.19A, but did not reference Tract 5.19 or the domestic well (RG-18389) adjudicated under Subfile No. 5.19 & 5.19.A. Because RG-18389 is not associated with Tract/Subfile No. 5.19, the State submits that it is appropriate to correct the August 7, 1968, Subfile Order in Subfile No. 5.19 & 5.19A to give the legal description for RG-18389 rather than the April 6, 1976, Amended Order in Subfile No. 5.19A.

4. 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 5.19 & 5.19A. The State's proposed order is attached as *Exhibit 2*.

WHEREFORE, the State requests that the Court enter the attached order correcting Subpart B of Paragraph 5 of the August 7, 1968, Subfile Order entered in Subfile No. 5.19 & 5.19A to give the legal description for the point of diversion of the groundwater right adjudicated for domestic use (RG-18389) as described in paragraph 2 above.

Electronically Filed,
By /s/ Brett J. Olsen
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 13, 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
Brett J. Olsen