

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 PUEBLOS DE TESUQUE,)
)
Plaintiffs-in-Intervention.)

No. 66cv6639 WPJ/WPL
*Sub-file 34378

SUBFILE ANSWER

COME(S) NOW, Leroy Manuel Garcia and Barbara R. Garcia, Defendants, who are husband and wife and respond herein jointly by and through their attorney of record and answer the complaint as follows: We object to the description of the water right(s) described by the proposed Consent Order for the above Sub-file because:

1. Each Defendant was improperly served with a packet that included a summons, complaint and copy of the States Twelfth Motion to Join Claimants with an incorrect Sub-file number that failed to list any of the three wells they have water rights to in the Rio Grande Water Basin and therefore are unsure which well the complaint was meant to apply to or whether it was meant to apply to all three wells that they own in the Rio Grande Water Basin.

2. Defendants were also mailed a packet on June 30, 2015 that included a copy of a letter, a map of the well location and an Order to Show Cause.
3. The Sub-file numbers for both mailings were listed as RG-34378, which is an incorrect well number.
4. Leroy Garcia and Barbara Garcia believe that they are the owners of the well identified on the maps mailed on July 30, 2015 but the correct well number for the well identified on those maps is RG-23468. Leroy and Barbara Garcia also own two other wells described below that should be accounted for in this litigation if those rights have not already been adjudicated.
5. Because Defendants are not sure which of their well rights are being adjudicated here they demand proper service and make these statements regarding their water rights to preserve their right to water in the Rio Grande Basin.
6. Defendants claim water rights in the Rio Grande Water Basin for each of the following wells described below as follows:

a. Well RG-23468

Purpose of Use: Domestic and Livestock under 72-12-1 NMSA 1978
Priority: June 7, 1973
Amount: 3.0 AFY
Location of Well: SW ¼ NE¼ of Section 07, Township 19N, Range 09E in Santa Fe County. (New Mexico Principal Meridian PLSS Description)
Notes: *Please see attached Exhibit 1 documents relating to Well RG-23468

b. Well RG-22649

Purpose of Use: Domestic and Livestock under 72-12-1 and 72-12-4 NMSA 1978.
Priority: 1937 adjudicated at 3 acre feet per annum in *State of New Mexico ex rel., S.E. Reynolds v. USA* Sub-file DS-96 on October 4, 1966.
Amount: 3.0 AFY

Location of Well: SE¹/₄ SW¹/₄ NE¹/₄ of Section 07, Township 19N, Range 09E in Santa Fe County. (New Mexico Principal Meridian PLSS Description).

Point of Diversion: N: 3,972,596 E: 407,640 (NAD (92)(Meters)).

Notes: *Please see attached Exhibit 2 documents relating to Well RG-22649.

c. Well RG-27268

Purpose of Use: Domestic and Livestock under 72-12-1 and 72-12-4 NMSA 1978.

Priority: About 1938 (NMSA 72-12-4) a permit was later issued to clean out well on May 15, 1977 at which time a well number was issued.

Amount: 3.0 AFY

Location of Well: NE¹/₄ SW¹/₄ NE¹/₄ of Section 07, Township 19N, Range 09E in Santa Fe County. (New Mexico Principal Meridian PLSS Description)

Notes: *Please see attached Exhibit 3 documents relating to Well RG-27268.

7. Defendants and their predecessors in interest have put water to beneficial use from the above described wells under NMSA 72-12-2 1978 by irrigation of noncommercial trees, plants or garden and for household or other domestic use in accordance with 72-12-1.1 NMSA 1978. Defendants additionally also lease the property containing well RG-22649 as a commercial property and the water from that well has been used to support that lessee's business and operations, which may be lost if the water rights are decreased in a manner inconsistent with the needed water usage for that property.
8. Plaintiff, State Engineer has not alleged any violation of 72-12-20 NMSA 1978 by Defendants.
9. Defendants add that their property value is partially based on the value of the attached water rights and a decrease in those water rights would result in decreased property value.

10. Defendants made a good faith effort to resolve their disagreement with the State by:
mailing a request for consultation to the State Engineer on July, 10, 2015 via certified
mail and now await a response.

Respectfully Submitted,

By: /s/ Andrea La Cruz-Crawford electronically
Signature of Attorney

ATTORNEY'S NAME AND ADDRESS: Andrea La Cruz-Crawford

DBA THE STREEPER FIRM

P.O. Box 31058, Santa Fe, NM 87594

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Attorney for: Leroy Garcia and Barbara Garcia
Defendants

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Santa Fe, NM 87506

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CERTIFICATE OF SERVICE

I hereby certify that on July 13, 2015, I caused the foregoing Sub-File Answer (RG-34378) to be filed electronically through the CM/ECF system which caused parties on the electronic service list to be served as described in the Notice of Electronic Filing and that I placed a copy of the same in the mail via certified mail receipt number # 7013 2250 0001 5574 3555 on this 13th day of July, 2015 and properly addressed to:

Office of the State Engineer
Litigation and Adjudication Program
ATTN: Edward Bagley
PO Box 25102
Santa Fe, NM 87504-5102

/s/ Andrea La Cruz-Crawford electronically
Andrea La Cruz-Crawford