

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 de Las Joyas
Subfile No. 8.57A
OSE File No. RG-39877

Plaintiffs-in-Intervention.

**MOTION TO CORRECT SUBFILE ORDER TO ADD OMITTED GROUNDWATER
POINT OF DIVERSION FOR DOMESTIC/LIVESTOCK WELL (SUBFILE NO. 8.57A)**

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. 8.57A. The State offers the following grounds for this motion:

1. On September 5, 1967, the Court entered an “Order” under Subfile 8.57A adjudicating a groundwater right for domestic and/or livestock use to Theodore Amsden (“Subfile Order”). The Subfile Order omitted a legal description of the location of the domestic/livestock well, and instead described the point of diversion as “[w]ithin Pojoaque Pueblo Grant.” The Subfile Order also gave no Office of the State Engineer (“OSE”) file number

for the right, but the State has determined that this groundwater right and its associated well were later designated as OSE File No. RG-39877. *See* Subfile Order attached jointly with May 19, 1983, Declaration of Underground Water Right No. RG-39877 as *Exhibit 1*.

2. Subpart B of Paragraph 5 of the September 5, 1967, Order entered in Subfile No. 8.57A should therefore be corrected to add the legal description for the point of diversion of the domestic/livestock groundwater right 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-39877

Priority: 1939

Point of Diversion: SE ¼ SW ¼ SW ¼ Sec. 6, T. 19N, R. 9E

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 No. 8.57A should remain as stated in the September 5, 1967, Subfile Order and subsequent orders of this Court.

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 No. 8.57A. 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 September 5, 1967, Order entered in Subfile No. 8.57A as described in paragraph 2 above, by adding the legal description for the point of

diversion (well location) of the domestic/livestock groundwater right (RG-39877) adjudicated thereunder.

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 15, 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

RICHARD TAUBMAN
RT. 11, BOX 210-XXX
SANTA FE, NM 87501

HILLARY ZIMMERMAN
10040 E. HAPPY VALLEY RD. #392
SCOTTSDALE, AZ 85255

CHARLES ZIMMERMAN
10040 E. HAPPY VALLEY RD. #392
SCOTTSDALE, AZ 85255