

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

El Rancho Ditch  
Subfile Nos. 5.59 & 5.68  
RG-44398

Plaintiffs-in-Intervention.

**REPLY IN SUPPORT OF MOTION TO CORRECT SUBFILE ORDER TO ADOPT  
PRIORITY FOR DOMESTIC/LIVESTOCK WELL (SUBFILES 5.59 & 5.68)**

The State of New Mexico (“State”), by and through its counsel, hereby submits this reply in further support of the State’s *Motion to Correct Subfile Order to Adopt Priority for Domestic/Livestock Well (Subfile Nos. 5.59 & 5.68)* (July 14, 2015, Doc. 10237) (the “Motion”), and in opposition to the response letter (July 30, 2015, Doc. 10249) (“Hogden’s Response” or “Response”) filed by John Hogden as owner of the subject domestic/livestock well:

1. The Motion requests the Court to adopt an 1880 priority for the domestic/livestock well (RG-44398) adjudicated under Subfile Nos. 5.59 & 5.68 in 1969 without a priority date. *See* Motion, Ex. 1 (March 14, 1969, Subfile Order). A proposed form of Order granting this relief is attached as Exhibit 2 to the Motion.

2. Hogden objects to the Motion, but his Response does not offer any argument or evidence in support of a different priority date for the subject domestic/livestock well, RG-44398. He therefore concedes the Motion as to the State's requested 1880 priority.

3. Hogden's opposition to the Motion instead concerns language in the State's proposed Order describing the adjudicated amount of water under the subject domestic/livestock well which he calls a "blatant theft of water rights." This accusation is unfounded. Hogden may be unaware of the Court's July 22, 1994 Order (Doc. 4391), amending previously entered non-Pueblo domestic and livestock well subfile orders that describe the adjudicated amount of water as "[n]ot to exceed three (3.0) acre-feet per annum." The March 14, 1969, Subfile Order in Subfile Nos. 5.59 & 5.68 contains this language. *See* Motion, Ex. 1. The Court's 1994 Order, attached hereto as *Exhibit 1*, amended this language in Hogden's subfile order effective as of the date entry (March 14, 1969) to state as follows:

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.

July 22, 1994 Order, ¶¶1-2.

4. Consequently, the State's inclusion of the foregoing language in its Motion and proposed Order is not a back-door gambit to steal or reduce the amount of Hodgson's domestic/livestock right, but rather uses the Court's own language to describe an adjudicated element of the water right: the amount of water.

ACCORDINGLY, for the foregoing additional reasons the State requests that the Court grant the Motion and enter the proposed form of Order attached as Exhibit 2 to the Motion.

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 August 3, 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

DELMIRIA LUJAN  
RT. 5, BOX 272  
SANTA FE, NM 87506

ISAAC LUJAN  
RT. 5, BOX 272  
SANTA FE, NM 87506

MARVIN BACA  
324 B COUNTY ROAD 84  
SANTA FE, NM 87506

GUADALUPE QUINTANA c/o CARMEN MONTOYA  
P.O. BOX 771  
LOS ALAMOS, NM 87544

ELAINE BACA  
324 B COUNTY ROAD 84  
SANTA FE, NM 87506

JOSEPH A. QUINTANA  
RT. 5, BOX 258  
SANTA FE, NM 87506

NIEVES QUINTANA c/o A. HAYDEK  
5609 CASTLE FORD WAY  
ELK GROVE, CA 9575-84773

MARION DUBEAU  
3 CORNERSTONE LANE  
SANTA FE, NM 87506-7145

JOHN HOGDEN  
3 CORNERSTONE LANE  
SANTA FE, NM 87506-7145