

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., )

No. 66cv6639 MV/WPL

Defendants, )

and )

UNITED STATES OF AMERICA, )

PUEBLO DE NAMBE, )

PUEBLO DE POJOAQUE, )

PUEBLO DE SAN ILDEFONSO, )

and PUEBLO DE TESUQUE, )

Plaintiffs-in-Intervention. )

**JULY 15, 2015 QUARTERLY STATUS REPORT REGARDING THE ADJUDICATION  
OF DOMESTIC WELL AND SURFACE RIGHTS**

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The State of New Mexico (“State”), pursuant to the Court’s July 5, 2006 *Order* (No. 6174), December 18, 2008 *Supplemental Procedural Order* (No. 6524) and the Special Master’s April 13, 2015, *Notice of Status Conference* (No. 10169) hereby reports to the Court, addressing the status of “the work completed the previous quarter and the work to be completed during the subsequent quarter for both domestic well and surface water rights.” July 5, 2006 *Order*, p. 1.

**I. Claims to Domestic Well Water Rights – Previous Quarter**

**A. Post-Moratorium Section 72-12-1 Domestic Well Water Rights**

1. During the previous quarter, the Court joined eleven (11) post-moratorium domestic well water right claimants. See May 7, 2015 *Order Granting State of New Mexico’s Thirty-Fourth Motion to Joint Additional Parties Defendant* (No. 10178).

2. The State moved to join and additional twelve (12) post-moratorium domestic well water right claimants. See July 31, 2015 *Thirty-Fifth Motion to Join Additional Parties Defendants* (No. 10251).

3. Litigation continues with regard to two (2) unadjudicated water rights from post-moratorium wells. More specifically, discovery is currently taking place with regard to subfiles PM-30627 and PM-89217. See April 13, 2015 *Scheduling Order Adopting, In Part, Joint Status Report and Provisional Discovery Plan, Subfiles PM-30627 and PM-89217* (No.10168) and July 21, 2015 *Order Granting Extension of Time for Discovery, Subfiles PM-30627 and PM-89217* (No. 10246).

4. On April 29, 2015, a *Subfile Answer* (No. 10205) was filed regarding PM-89224, and on July 13, 2015 a *Subfile Answer* (No. 10234) was filed regarding PM-34378. The State is in the process of coordinating meet-and-confer sessions with Defendants pursuant to Fed.R.Civ.P. 26(a)(1).

5. There is one (1) outstanding *Motion for Default Judgment* regarding a post-moratorium domestic well water right. August 10, 2015 *Motion for Default Judgment* (No. 10261).

#### **B. Pre-Moratorium Section 72-12-1 Domestic Well Water Rights**

6. During the previous quarter, the Court joined forty-one (41) pre-moratorium domestic well water right claimants. See April 16, 2015 *Order Granting State of New Mexico's Tenth Motion to Joint Pre-Moratorium Claimants as Additional Parties Defendant* (No. 10180);

May 7, 2015 *Order Granting State of New Mexico's Eleventh Motion to Joint Pre-Moratorium Claimants as Additional Parties Defendant* (No. 10195); May 21, 2015 *Order Granting State of New Mexico's Twelfth Motion to Joint Pre-Moratorium Claimants as Additional Parties Defendant* (No. 10220).

7. The State moved to join an additional eighty-nine (89) post-moratorium domestic well water right claimants. See June 17, 2015 *Thirteenth Motion to Join Pre-Moratorium Claimants as Additional Parties Defendant* (No. 10214); July 21, 2015 *Fourteenth Motion to Join Pre-Moratorium Claimants as Additional Parties Defendant* (No. 10245); August 3, 2015 *Fifteenth Motion to Join Pre-Moratorium Claimants as Additional Parties Defendant* (No. 10254); August 11, 2015 *Sixteenth Motion to Join Pre-Moratorium Claimants as Additional Parties Defendant* (No. 10262); August 12, 2015 *Seventeenth Motion to Join Pre-Moratorium Claimants as Additional Parties Defendant* (No. 10263).

8. There are no outstanding *Notices That the Consultation Period Has Ended* regarding pre-moratorium well water rights.

### **C. Pre-Basin Domestic Well Water Rights**

9. During the previous quarter, the Court joined twenty (20) pre-basin domestic well water right claimants. See May 26, 2015 *Order Granting State of New Mexico's First Motion to Joint Pre-Basin Claimants as Additional Parties Defendant* (No. 10194); June 22, 2015 *Order Granting State of New Mexico's Second Motion to Joint Pre-Basin Claimants as Additional Parties Defendant* (No. 10221).

10. The State moved to join an additional fourteen (14) post-basin domestic well water right claimants. See August 4, 2015 *Third Motion to Join Pre-Basin Claimants as Additional Parties Defendant* (No. 10256).

11. As part of its subfile by subfile review of orders adjudicating surface irrigation rights, counsel and technical staff identified approximately four (4) subfile orders adjudicating pre-basin domestic wells without priority dates. During the previous quarter, the State file motions to adjudicate priority dates for wells under three (3) of these subfiles. One of the motions was opposed, and briefing has been completed on all three motions.

12. As part of its subfile by subfile review, counsel and technical staff identified approximately twenty-one (21) subfile orders adjudicating pre-basin domestic wells without a legal description of the well location. During the previous quarter, the State filed motions to correct sixteen (16) of these subfiles to provide the well location/point of diversion by x-y coordinates or PLSS description. No responses or objections to the motions were filed.

## **II. Claims to Domestic Well Water Rights – Subsequent Quarter**

### **A. Post-Moratorium Section 72-12-1 Domestic Well Water Rights**

13. Before the end of the upcoming quarter through October 15, 2015, with regard to the 72-12-1 post-moratorium domestic well water right claimants already joined and served, the State expects to meet in consultations with those who disagree with their proposed Post-Moratorium Domestic Well Orders, as their requests for consultations are received. With regard

to those who do not object, the State will continue submitting the proposed Orders to the Special Master when the claimants' time to respond has passed.

14. The State has prepared six (6) orders adjudicating post-moratorium wells which it will submit in the upcoming quarter.

15. The State will file one (1) corrective motion to address a multiple household, post-moratorium domestic well adjudicated as a single user well.

**B. Pre-Moratorium Section 72-12-1 Domestic Well Water Rights**

16. Before the end of the upcoming quarter through October 15, 2015, with regard to the 72-12-1 pre-moratorium domestic well water right claimants already joined and served, the State expects to meet in consultations with those who disagree with their proposed Pre-Moratorium Domestic Well Orders, as their requests for consultations are received. With regard to those who do not object, the State will continue submitting the proposed Orders to the Special Master when the claimants' time to respond has passed.

17. The State has prepared seventeen (17) orders adjudicating pre-moratorium wells which it will submit in the upcoming quarter.

18. The State will continue the process of reviewing, surveying, mapping and identifying the owners of water rights associated with pre-basin and pre-moratorium domestic wells in order to identify further domestic well claims to be adjudicated.

**C. Pre-Basin Domestic Well Water Rights**

19. Before the end of the upcoming quarter through October 15, 2015, with regard to the pre-basin domestic well water right claimants already joined and served, the State expects to meet in consultations with those who disagree with their proposed Pre-Basin Domestic Well Orders, as their requests for consultations are received. With regard to those who do not object, the State will continue submitting the proposed Orders to the Special Master when the claimants' time to respond has passed.

20. The State has prepared four (4) orders adjudicating post-moratorium wells which it will submit in the upcoming quarter.

21. The State will file the motion to assign a priority date for one pre-basin domestic well adjudicated without a priority date.

22. Technical staff will perform additional field work and file review necessary for filing motions to correct approximately five (5) subfiles during the upcoming quarter to add omitted well location/point of for pre-basin domestic wells.

### **III. Claims to Surface Water Rights – Previous Quarter**

23. During the previous quarter, the State filed eight (8) motions to correct Rio Chupadero Basin subfile orders to reference the right to receive water from the Rio en Medio pursuant to the April 13, 2015, *Stipulated and Amended Scheduling Order for Filing Corrective Motions to Describe the Right to Receive Water From the Rio En Medio for Water Rights in the Rio Chupadero Basin* (No. 10165). No objections to the motions were filed.

24. As discussed in the State's previous Status Reports, counsel and technical staff for the State continued to perform comparisons of the hydrographic survey maps and the State's WRATS database, and to evaluate errors or inconsistencies apparent on the face of individual subfile orders that may require corrective orders. As part of their subfile by subfile evaluation, counsel and technical staff completed a review of ditch points of diversion (PODs) for all NPT ditches (excluding the Rio Chupadero which has already been completed). As part of this review, ditch POD descriptions in ditch agreements and the hydrographic survey were compared to individual subfile orders adjudicating surface irrigation rights under each ditch to determine whether the subfile order omitted necessary POD information for their ditch (e.g., missing PODs). Counsel and technical staff identified three ditches for which subfile orders do not identify all PODs associated with the ditch, and one ditch for which subfile orders contain an incorrect legal description for the ditch POD. Necessary fieldwork has been completed to file motions to identify PODs or correct POD descriptions for subfiles under these ditches.

#### **IV. Claims to Surface Water Rights – Subsequent Quarter**

25. Counsel and technical staff for the State will continue to identify and evaluate errors or inconsistencies apparent on the face of individual subfile orders that may require correction and file motions to correct errors and inconsistencies in subfiles pursuant to the Court's *Procedural Order for Correcting Subfile Errors*.

26. The State will file motions to correct subfile orders under four NPT ditches to reference omitted PODs and correct errors in the existing POD description.

27. The State is evaluating one claim for regarding a supplemental irrigation well omitted from the subfile order adjudicating a surface irrigation right, and may file a corrective motion as appropriate during the upcoming quarter.

Respectfully submitted this 13th day of August, 2015.

Electronically Filed

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that August 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 United States Mail:

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