

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

Subfile No. 10.97A
RG-1757

Plaintiffs-in-Intervention.

**UNOPPOSED MOTION TO CORRECT PRIORITY DATE FOR
DOMESTIC/LIVESTOCK RIGHT (SUBFILE NO. 10.97A, RG-1757)**

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 adopting a priority of December 31, 1955, for the groundwater right adjudicated under Subfile No. 10.97A for domestic and livestock use from Well No. RG-1757. The State offers the following grounds for this motion:

1. The attached December 2, 1969, Order (“Subfile Order”) adjudicated a groundwater right under Subfile 10.97A pursuant to NMSA 1978, Section 72-12-1, for domestic and/or livestock use from Well No. RG-1757 in the name of Douglas V. Kennedy. *See* Subfile Order attached as *Exhibit 1*. The Subfile Order adopted a March 10, 1958, priority for this right based upon the filing date of Application No. RG-1757 for Permit to Appropriate the

Underground Waters of the State of New Mexico (“Domestic Well Permit RG-1757”). *See* Domestic Well Permit RG-1757 attached as *Exhibit 2*.

2. Julia Takahashi, successor to the subfile defendant, Douglas V. Kennedy, has submitted evidence to the State in support of her request for an earlier priority for the domestic/livestock right adjudicated for diversion from Well No. RG-1757. This evidence consists of the November 4, 2016, Affidavit of Pedro Nolasco Romero (“Romero Affidavit”), attached as *Exhibit 3*, stating personal knowledge of a hand-dug, domestic/livestock well that existed on the subject property in or about 1955. Based on the Romero Affidavit, it is reasonable to assume that the well drilled pursuant to Domestic Well Permit RG-1757 replaced the existing hand-dug well on the property.

3. Based on the evidence submitted by Julia Takahashi, the State proposes to correct Paragraph 45.B of the Subfile Order by adopting a priority of December 31, 1955, for the domestic/livestock right adjudicated for diversion from Well No. RG-1757, and clarifying that said right is a pre-basin, non-NMSA 1978, Section 72-12-1 and -1.1 right.¹ The State’s proposed order is attached as *Exhibit 4*.

4. Julia Takahashi does not oppose the motion.

WHEREFORE, the State requests that the Court enter the attached order correcting Paragraph 45.B of the December 2, 1969, Order entered in subfile No. 10.97A as set forth in paragraph 3 above.

¹ The New Mexico State Engineer’s order declaring the Rio Grande Underground Water Basin is dated November 29, 1956. *See* Rule 19.27.49.8.A NMAC.

Electronically Filed,
/s/ Brett Olsen
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 14, 2016, 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

Julia Takahashi
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