

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,)
)
Plaintiffs-in-Intervention.)
_____)

NO. 66cv6639 WJ/WPL

Subfile: RG-15753

UNOPPOSED MOTION TO VACATE ORDER ADJUDICATING PRE-1982 DOMESTIC WELL SUBFILE RG-15753 FOR ERNESTINE HERRERA AND CONRAD HERRERA AND ENTER REVISED SIGNED CONSENT ORDER

The State of New Mexico ex rel. State Engineer (“State”) hereby moves the Court to pursuant to Fed. R. Civ. P. 60(b) vacate its January 28, 2016 *Order Adjudicating Pre-1982 Domestic Well Water Rights* (No. 10490), and enter the Consent Order adjudicating the Post-1982 domestic well water right associated with subfile RG-15753 attached hereto as Exhibit A, and in support thereof, states as follows:

1. On January 12, 2016, the State forwarded to the Court a proposed Order Adjudicating Pre-1982 Domestic Well Water Rights under subfile RG-15753 for Defendants Ernestine Herrera and Conrad Herrera.

2. The attorney for the State, Edward Bagley, correctly certified in that document that the Defendants had not submitted a request for consultation.

3. On January 28, 2016, the Court entered the *Order Adjudicating Pre-1982 Domestic Well Water Rights* (No. 10490). The purpose of use was identified as “Domestic use for One Household.” *Id.*

4. Subsequent to the entry of the *Order*, Defendant Ernestine Herrera contacted the State, and alerted it to the fact that she had been beneficially using water in a greater amount, and for multiple households.

5. Defendant Ernestine Herrera also informed the State that her husband, Defendant Conrad Herrera, had died, and that she was now the sole owner of the water right under subfile RG-15753.

6. The State undertook an investigation of the Defendant’s assertions, and found them to be correct.

7. Defendant and the State have signed a Consent Order adjudicating the Pre-1982 water right under subfile RG-15753 consistent with the above described investigation, the amount used, and the multiple use character of the well. The Consent Order is attached hereto as Exhibit A.

8. Contemporaneously with the filing of this Motion, the State will submit the Consent Order to the Special Master.

9. Defendant does not oppose this motion.

WHEREFORE, the State requests that the Court vacate its January 28, 2016 *Order Adjudicating Pre-1982 Domestic Well Water Rights* (No. 10490), and enter the Consent Order

adjudicating the pre-1982 domestic well water right associated with subfile RG-15753 attached hereto as Exhibit A.

Electronically Filed

/s/ Edward C. Bagley

Edward C. Bagley
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on November 15, 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 upon the following by United States First Class mail:

Ernestine Herrera
6A Calle Matilde
Santa Fe, NM 87506