

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 los Ortizes
Subfile No. 10.66
RG-1485

Plaintiffs-in-Intervention.

**UNOPPOSED MOTION TO CORRECT SUBFILE ORDER TO ADOPT PRIORITY
DATE FOR SUPPLEMENTAL GROUNDWATER IRRIGATION WATER RIGHT
(SUBFILE NO. 10.66, RG-1485)**

Pursuant to Section A.2 of the July 23, 2013, *Procedural Order for Correcting Subfile Errors* (Doc. 7909), Plaintiff State of New Mexico ex rel. State Engineer (“State”) requests the Court to correct the April 20, 1998, Amended Order [Doc. 5382] entered in Subfile No. 10.66 by adopting a December 31, 1910 priority for the supplemental groundwater irrigation water right adjudicated for diversion from a private well (RG-1485) for irrigation supplemental to the Acequia de los Ortizes. The State offers the following grounds for this motion:

1. On April 6, 1998, the State and defendant LTM Cattle Company filed a *Revised Joint Motion to Amend Subfile* [Doc. 5375] (“Revised Joint Motion”), attached as *Exhibit 1*, to correct the water rights adjudicated under Subfile No. 10.66. On April 20, 1998, the Court

entered an Amended Order [Doc. 5382] (“Amended Subfile Order”) in Subfile No 10.66 adjudicating a groundwater irrigation water right supplemental to the Acequia de Los Ortizes for diversion from a private, supplemental irrigation well identified in the Office of the State Engineer’s records as RG-1485. *See* Amended Subfile Order, attached as *Exhibit 2*, at ¶1. The Amended Subfile Order did not adjudicate a priority date for this right. *See id.*

2. The “Affidavit of Robin Martin in Support of Joint Motion to Amend Subfile No. 10.66” (“Martin Affidavit”), filed as an attachment to the Revised Joint Motion, presents the results of Robin Martin’s investigation regarding Well No. RG-1485. As part of this investigation, Martin interviewed Pablita Ortiz who remembered use of the well for irrigation of an orchard on the property in or about 1910. *See Exhibit 1* (Martin Affidavit at ¶¶4-11). A transcript of the Ortiz interview was filed as an attachment to the Martin Affidavit. *See id.*

3. Based upon evidence in the Martin Affidavit reflecting beneficial use of Well No. RG-1485 for irrigation in or about 1910, the State proposes to adopt a December 31, 1910 priority for the supplemental groundwater irrigation water right adjudicated under Subfile 10.82 for diversion from Well No. RG-1485. The State further proposes that Paragraph 1.a of the Amended Subfile Order be corrected to state as follows:

1. Purpose: Irrigation
 - a) Priority:
 - Surface: 1790 (Acequia de los Ortizes)
 - Groundwater: 12/31/1910 (Well No. RG-1485)

A proposed order granting the motion is attached as *Exhibit 3*.¹

¹ Surface water irrigation water rights served by the Acequia de los Ortizes were adjudicated a 1790 priority. *See Order Granting the State of New Mexico’s Motion for Order Making Final Determination of Priority Dates of Surface Water Rights in the Nambe-Pojoaque-Tesuque Stream System [Doc. No. 9379] [Doc. 9546, August 27, 2014].*

4. Except as requested by this motion, all other elements of the rights adjudicated under Subfile No. 10.66 should remain as stated in the Amended Subfile Order and other orders of this Court.

5. The State's records show the Robin M. Martin Trust (the "Trust") as the successor-in-interest to the rights adjudicated under Subfile No. 10.66. The Trust does not oppose the Motion.

WHEREFORE, the State requests that the Court enter the attached order correcting the April 20, 1998, Amended Order [Doc. 5382] entered in Subfile No 10.66 as set forth in paragraph 3 above.

Electronically Filed,
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 19, 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

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