

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. 7.55
RG-16779

Plaintiffs-in-Intervention.

**MOTION TO VACATE ORDER ADJUDICATING
DOMESTIC/LIVESTOCK RIGHT [DOC. 2261]**

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 vacate the attached October 31, 1984, order entered in Subfile No. RG-16779 adjudicating a NMSA 1978, Section 72-12-1 domestic/livestock groundwater right for diversion from Well No. RG-16779. The State offers the following grounds for this motion:

1. A December 2, 1969, default order adjudicated a prebasin ground water domestic/livestock right with a November 28, 1956, priority in the name of Francisco Eugene Chavez. *See Exhibit 1*. The order does not provide an Office of the State Engineer (“OSE”) file number for the well and associated right. However, OSE records indicate that it is RG-16799.

2. On October 31, 1984, the Court entered an order adjudicating an NMSA 1978, Section 72-12-1 statutory domestic/groundwater right under OSE File No. RG-16779 [Doc. 2261], in the name of Stuart H. and Joan D. Papp. *See Exhibit 2*. This order adopted a June 27, 1969, priority for the right based upon a Section 72-12-1 domestic well permit of the same date granted to Francisco Chavez.

3. It appears from the State's review that the prebasin domestic/livestock groundwater right adjudicated under Subfile No. 7.55 was erroneously re-adjudicated as a statutory domestic/livestock groundwater right based upon the above-referenced permit. The State therefore proposes that the October 31, 1984 order [Doc. 2261] be vacated. The State's proposed order granting the motion is attached as *Exhibit 3*.

4. The State is serving a copy of the motion on those individuals who, according to the records of the State, may have an interest in the rights adjudicated under Subfile No. RG-16779.

WHEREFORE, the State requests the Court to enter the attached Order vacating the October 31, 1984, entered in Subfile No. RG-16779 [Doc. 2261].

Electronically Filed,

/s/ Brett Olsen

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 21, 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:

JAMES ROYBAL LANGENBRUNNER
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/s/ Brett Olsen
Brett J. Olsen