

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, ex rel. STATE)
ENGINEER,)

Plaintiff,)

v.)

No. 66cv6639 WJ/WPL

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.)

MOTION FOR PROCEDURAL AND SCHEDULING ORDER
TO ESTABLISH EXPEDITED PROCESS FOR JOINDER, SERVICE, AND RESPONSE
OF KNOWN WATER RIGHTS CLAIMANTS

The State of New Mexico (State), by and through its counsel, requests the Court to enter a procedural order establishing an expedited process to allow the State to join and serve known claimants of water rights and establish a shortened time frame for such claimants to respond to proposed orders adjudicating each claimant’s water rights in the Nambe-Pojoaque-Tesuque stream system (“Pojoaque Basin”). The State offers the following grounds for this motion:

1. The State currently has a deadline of November 30, 2016 for filing its motion for entry of final judgment and decree that will attach a description of all recognized water rights in the Pojoaque Basin.

2. The State has consulted with or sent proposed consent orders to a group of known individuals who have not yet been made a party to the adjudication. This group contains owners

of water rights that the State has already identified and to whom the State has prepared and mailed proposed consent orders.

3. Because time is of the essence, the State seeks an order establishing the following expedited procedure for joinder, service, and response:

A. The State shall serve the claimant by certified mail, return receipt requested, or by any means permitted by Fed. R. Civ. P. 4 with a packet that includes: (1) an explanatory cover letter; (2) a copy of the April 20, 1966 Complaint; (3) a Request for Waiver of Service of Summons; (4) two copies of the Waiver of Service of Summons; (5) a copy of the order establishing the expedited process requested in this motion; (6) the Court's *Notice to Pro Se Parties* (Doc. No. 6222, filed April 6, 2007); (7) a proposed consent order adjudicating the water rights; (8) a summons; and (9) an Answer form.

C. If the claimant agrees with the proposed consent order, the claimant has twenty (20) days to return the signed consent order to the State.

D. If the claimant disagrees with the proposed order, the claimant must file an Answer disagreeing with the proposed consent order and shall identify the subfile, explain the claimant's reason for disagreeing with the proposed consent order, and include a statement that the claimant has made a good faith effort to consult with and resolve the disagreement with counsel for the State.

E. Failure of the claimant to return the signed consent order will result in the entry of an order that contains the provisions of the proposed consent order.

F. The claimant will be joined as a party upon the filing of the Waiver of Service of Summons, Answer, consent order or order adjudicating the subfile.

WHEREFORE, the State requests that the Court enter the attached order.

Electronically Filed,

/s/ Kelly Brooks Smith

Kelly Brooks Smith

Edward C. Bagley

Special Assistant Attorney General

Office of the State Engineer

P.O. Box 25102

Santa Fe, NM 87504-5102

Phone: (505) 827-3866

Attorneys for the State of New Mexico

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on November 25, 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.

/s/ Kelly Brooks Smith

Kelly Brooks Smith