

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 TO ESTABLISH *INTER SE* NOTICE PROCEDURE FOR PROVISIONAL
WATER RIGHTS IDENTIFIED IN THE ADDENDUM TO THE PROPOSED FINAL
JUDGMENT AND DECREE**

The State of New Mexico (“State”), by and through its counsel, requests the Court to enter a procedural order establishing the procedure for *inter se* notice regarding provisional water rights identified in the addendum to the proposed final judgment and decree for 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 a final judgment and decree that will finally adjudicate all water rights in the Pojoaque Basin and provide notice of the proceeding for asserting *inter se* objections. *See Order Granting Plaintiff’s State of New Mexico’s Motion to Establish Procedures for Final Inter Se Proceeding and Entry of a Final Judgment and Decree*, (“Procedural Order”) (Doc. 10849) (September 9,

2016). The motion will attach a proposed final judgment and decree and an Addendum summarizing all water rights.

2. As established by the Court in its Procedural Order, the State will mail and publish notice of the *inter se* proceeding (“Notice”), including the availability of the Addendum, to all parties and interested persons after the filing of the motion.

3. The State has identified a number of water rights for which no order has yet been submitted to the Court or a proposed order is pending entry by the Court as of the date of filing of the Addendum. The State will identify these water rights as “provisional water rights” in the Addendum. Provisional water rights do not include signed consent orders that have been submitted to the Court, for which an order has not yet been entered as of the filing of the Motion and Addendum.

4. Because the provisional water rights identified in the proposed final judgment and decree are subject to change prior to the entry of an order, the State wants to ensure that all affected parties receive notice of any changes to the provisional water rights that may be made in a court order.

5. Pursuant to paragraph C.2 of the Procedural Order, the State will file a report summarizing all *inter se* objections timely received, and make the report available for public inspection within 10 days of the deadline for filing objections. The State proposes to provide notice of any objections or subsequent changes to provisional water rights in the report of *inter se* objections.

6. The State will mail any order granting this motion with the Notice, so that all parties and interested persons are aware of the procedure for providing notice regarding provisional water rights.

7. The State respectfully requests that the Court enter an order establishing the following procedure for notifying interested persons of any subsequent changes to provisional water rights:

- A. The Addendum to the proposed final judgment and decree to be filed with the Court and made available for review pursuant to the *Order Granting Plaintiff's State of New Mexico's Motion to Establish Procedures for Final Inter Se Proceeding and Entry of a Final Judgment and Decree* ("Procedural Order") (Doc. 10849), shall identify all "provisional water rights."
- B. "Provisional water rights" are those water rights identified by the State that do not yet have a final order adjudicating the water rights or a signed consent order as of the date of filing of the Addendum.
- C. Any person who is affected by a water right identified as a provisional water right in the Addendum and wishes to receive notice of any changes to the provisional water right must file an *inter se* objection to the provisional water right, following the procedure set forth in the Notice of the *inter se* proceeding to be mailed by the State pursuant to the Procedural Order (Doc. 10849).
- D. The State will include any objections or subsequent changes to provisional water rights with the report of all *inter se* objections timely received, which will be available for public inspection within 10 days of the deadline for filing objections:
- E. Objectors to provisional water rights will be required to attend the scheduling conference to be held in Santa Fe within 14 days of the deadline for filing objections.

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

Electronically Filed,

/s/ Kelly Brooks Smith

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on November 27, 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