

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-44530

**MOTION TO AMEND ORDER ADJUDICATING PRE-BASIN DOMESTIC WELL
SUBFILE RG-44530 FOR DEFENDANT ELENA ORTIZ TO CORRECT PRIORITY
DATE**

The State of New Mexico ex rel. State Engineer (“State”) hereby moves the Court to, pursuant to Fed. R. Civ. P. 60(b), amend its March 14, 1969 *Order* adjudicating subfile 19.16 to Defendant Elena Ortiz to correct the priority date in section B stated for the domestic and stock well to state “December 31, 1941.” In support thereof, the State states as follows:

1. On April 6, 1968, Defendant Elena Ortiz signed the State’s Offer of Judgment with regard to her water rights, and shortly thereafter the State forwarded a proposed Order to the Court consistent in all respects with that Offer of Judgment.

2. On March 14, 1969, the Court entered the *Order*, attached hereto as Exhibit A. The *Order* adjudicated, *inter alia*, under section B on page 2, a domestic and stock well water

right with no State Engineer file number. The *Order* provided that the Priority for that domestic and stock well water right was 1956.

3. Subsequent to the entry of the *Order*, Defendant's successors-in-interest, Jose Carlos Ortiz, contacted the State, and alerted it to the fact that the well dated from 1941.

4. In support of this, Defendant Ortiz produced his April 1, 1985 Declaration of Underground Water Right and the Affidavit of Juanita Ortiz, attached hereto as Exhibit B, stating that the well dated from at least 1941.

5. The State undertook an investigation of the Defendant's assertion and supporting documents, and found them to be correct.

6. Additionally, the Declaration of Underground Water Right assigned a permit number of RG-44530 to the domestic and livestock water right.

7. The State therefore requests the Court amend the Priority stated on page 2 of the March 14, 1969 *Order* for domestic and stock well RG-44530 from "1956" to read instead "December 31, 1941."

8. The March 14, 1969 *Order* is correct in all other respects.

9. Defendant Elena Ortiz's successors-in-interest, Jose Carlos Ortiz, does not object to this motion. Defendant Elena Ortiz could not be contacted.

WHEREFORE, the State requests that the Court amend its March 14, 1969 *Order* adjudicating subfile 19.16 to Defendant Elena Ortiz to correct the priority date in section B on page 2 stated for well RG-44530 to state "December 31, 1941."

Electronically Filed

/s/ Edward C. Bagley

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on November 28, 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:

Jose Carlos Ortiz
Route 5, Box 220 AA
Santa Fe, NM 87501