

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 del Cajon Grande
Subfile No. 29.5
OSE File No. RG-87922

Plaintiffs-in-Intervention.

**MOTION TO CORRECT SUBFILE ORDER TO ADOPT PRIORITY DATE FOR
SUPPLEMENTAL GROUNDWATER IRRIGATION WATER RIGHT AND
PARTIALLY VACATE ORDER [DOC. 10766]**

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:

(a) correct the May 8, 1968, subfile order in Subfile 29.5 to adopt a February 12, 1954 priority for the supplemental groundwater irrigation water right adjudicated under Subfile No. 29.5; and

(b) partially vacate the Court’s July 26, 2016, Order [Doc. 10766] which adopted a priority of “November 28, 1956, or date the well was completed if earlier” for the supplemental groundwater irrigation water right adjudicated under Subfile 29.5.

The State offers the following grounds for this motion:

1. On May 8, 1968, the Court entered an “Order” (“Subfile Order”) adjudicating a supplemental groundwater irrigation water right for diversion from an unnumbered well for irrigation of 0.91 acres identified as Tract 5 on Hydrographic Survey Map No. 29. The Subfile Order, attached as *Exhibit 1*, omits a priority date for this right, but states that the irrigation well is located “within the Juan de Gabaldon Grant, in Tract J-2 on the Turley survey of December 15, 1955.”

2. Based on review of internal files and files of the Office of the State Engineer (“OSE”), the State has determined that the irrigation well is RG-87922. This is the same well identified in Paragraph 5.B of the Subfile Order which adjudicated a domestic/livestock groundwater right for diversion from Well No. RG-87922 with a February 12, 1954 priority. *See* Order Granting Motion to Correct Subfile Order to Add Omitted Groundwater Point of Diversion for Domestic/Livestock Well (Subfile No. 29.5) [Doc. 10330, September 15, 2015].

3. The State proposes to adopt the same February 12, 1954 priority for the supplemental groundwater irrigation water adjudicated for diversion from Well No. RG-87922. The State further proposes that “Point of Diversion” in subpart A of Paragraph 5 of the Subfile Order should be corrected to state this priority for said right.

4. In conjunction with the foregoing correction to the Subfile Order, the State requests that the Court partially vacate its July 26, 2016, Order [Doc. 10766]. That Order adopted a priority of “November 28, 1956, or date the well was completed if earlier” for supplemental groundwater irrigation water rights adjudicated under several subfiles including Subfile 29.5. It should be vacated as to Subfile No. 29.5 only.

5. Except as requested by this motion, all other elements of the rights adjudicated under Subfile No. 29.5 should remain as stated in the Subfile Order and subsequent orders of this Court.

6. The State is serving a copy of this motion and a proposed order on all persons who, according to the records of the State, may have an ownership interest in Subfile No. 29.5. Undersigned counsel attempted unsuccessfully to make contact with these individuals prior to filing the motion. The State's proposed order is attached as *Exhibit 2*.

WHEREFORE, the State requests that the Court enter the attached order correcting the May 8, 1968, subfile order in Subfile 29.5 to adopt a February 12, 1954 priority for the supplemental groundwater irrigation water right adjudicated therein; and partially vacating its earlier Order [Doc. 10766, July 26, 2016] as to Subfile No. 29.5 only.

Electronically Filed,

/s/ Brett Olsen

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 2, 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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