

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.,)	No. 66cv6639 WJ/WPL
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 ENTRY OF FINAL JUDGMENT AND DECREE

The State of New Mexico, *ex rel.* State Engineer (“State”), hereby moves the Court to enter the Final Judgment and Decree of Water Rights in the Nambé-Pojoaque-Tesuque Stream System (“Pojoaque Basin”). The State has attached its Proposed Final Judgment and Decree (“Proposed Final Decree”) as Exhibit 1, which contains an Addendum that summarizes the non-Pueblo water rights adjudicated in the Pojoaque Basin.

I. INTRODUCTION

This cause of action is a general adjudication of all water rights of the Pojoaque Basin, a tributary of the Rio Grande. The water rights of the Pueblos of Tesuque, Pojoaque, Nambé, and San Ildefonso were finally adjudicated in the *Partial Final Judgment and Decree of the Water Rights of the Pueblos of Nambé, Pojoaque, San Ildefonso, and Tesuque*, entered by the Court on

March 23, 2016 (Doc. 10547). Except for the water rights described in Subfile Nos. 31.1, 31.2, and 31.3 in the Addendum, the proprietary water rights claims of the United States were adjudicated in the Court's *Memorandum Opinion and Order* filed on January 24, 1986 (Doc. 2752) and confirmed as a final judgment on June 18, 1986 (Doc. 2781).

In 1983, the Court conducted an *inter se* proceeding on the nature and extent of all non-Pueblo surface water rights, except for priorities. *Order Setting Dates for filing Inter Sese Objections and for Hearing on Entry of Partial Final Decree* (Doc. 752, filed July 6, 1982); *Pretrial Order* (Doc. 654, filed February 2, 1983); *Order* (Doc 684, filed March 21, 1983) (collectively, "Pueblo 1983 Objections"). Only the Pueblos and United States filed *inter se* objections. *Pueblos' Objections to State's Proposed Order to Show Cause* (Doc. 724, filed June 6, 1983) and *United States' and Pueblos' Amended Objections to Subfile Judgments* (Doc. 758a, filed July 12, 1983). Under the Settlement Agreement approved by the Court on March 21, 2016, (Doc. 10543), all pending *inter se* objections between settlement parties shall be dismissed with prejudice, and any further *inter se* challenges between settlement parties are barred. *Settlement Agreement*, Section 6.1.

In 2008, the Court conducted an *inter se* proceeding on the priority dates for non-Pueblo surface water rights (except for certain water rights now subject to *inter se*), which were finally adjudicated in the *Order Granting the State of New Mexico's Motion for Order Making Final Determination of Priority Dates of Surface Water Rights in the Nambe-Pojoaque-Tesuque Stream System* (Doc. 9546) on August 27, 2014. The United States and the Pueblos reserved their rights to file *inter se* objections, to the extent these objections are not barred under the Settlement Agreement.

The State has completed the adjudication of individual groundwater rights in the Pojoaque Basin. Defendants in the Pojoaque Basin have yet to be provided with an opportunity to file *inter se* objections to the elements of the groundwater rights in subfile orders that have been entered, or to the specific surface water rights and elements of surface water rights described in the Procedural Orders. *See Procedural 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 [Doc. No. 1076]* (September 9, 2016; Doc. 10849); *Order Granting State of New Mexico's Motion to Establish Inter Se Notice Procedure for Provisional Water Rights Identified in the Addendum to the Proposed Final Judgment and Decree* (November 30, 2016; Doc. 11152); *Order Granting Expedited Motion to Amend Order Granting Plaintiff State of New Mexico's Motion to Establish Procedures for Final Inter Se Proceeding and Entry of a Final Judgment and Decree (Doc. 10849) to (1) Extend Deadline to File Motion for Entry of Proposed Final Judgment and Decree and (2) Clarify the Scope of Surface Water Inter Se Proceedings* (November 30, 2016; Doc. 11153) ["Procedural Orders"].

II. INTER SE PROCEEDINGS

Pursuant to the Procedural Orders governing the filing of this motion and the *inter se* proceedings, the State will commence the *inter se* phase of this adjudication by providing notice to all claimants and interested persons. This *inter se* proceeding is the final proceeding necessary before entry of a Final Judgment and Decree of Water Rights in the Pojoaque Basin. All persons having water rights in the Pojoaque Basin will be bound by the outcome of the proceedings to resolve *inter se* objections. The Proposed Final Decree, if approved by the Court after opportunity for *inter se* objections to the remaining non-Pueblo water rights and for

hearings thereon, will finally adjudicate all water rights in the Pojoaque Basin, and bind all claimants of water rights of any type in the Pojoaque Basin.

III. BRIEFING ON MOTION AND ENTRY OF FINAL JUDGMENT AND DECREE

Pursuant to the Procedural Orders, the filing of responses to the Motion to Enter shall be stayed until after the Court enters a scheduling order following the initial mandatory scheduling conference that sets deadlines for filing responses and replies to the State's Motion to Enter.

Due to the large number of parties involved in this case, the State did not seek concurrence on this motion.

WHEREFORE the State requests that the Court enter an Order granting this motion and enter a Final Judgment and Decree of Water Rights in the Nambe-Pojoaque-Tesuque Stream System.

Submitted by:

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 9, 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 mailed the same to the parties listed on the attached service list by U.S. mail (without the Addendum, which will be available on the State Engineer's website at <http://www.ose.state.nm.us/Legal/Adjudication/Aamodt/finProp.php>).

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