

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*

State Engineer,

Plaintiff,

v.

No. Civ. 66-06639 WJ/WPL

Subfiles **RG-34378**

PM-89224

R. LEE AAMODT *et al.*

PM-89217

Defendants,

RG-30627

and

UNITED STATES OF AMERICA,

PUEBLO DE NAMBÉ,

PUEBLO DE POJOAQUE,

PUEBLO DE SAN ILDEFONSO,

and PUEBLO DE TESUQUE,

Plaintiffs-in-Intervention.

**AMENDED CONSOLIDATED SCHEDULING ORDER FOR
SUBFILES PM-89224, PM-89217, RG-30627, RG-34378**

THIS MATTER is before the Special Master pursuant to Fed. R. Civ. P. 53, the Order of Reference [Doc. No. 6336], as amended [Doc. No. 7736], the Court's Procedural and Scheduling Order for the Adjudication of Water Rights Under Domestic Wells Permitted After January 13, 1983, filed July 14, 2007 [Doc. No. 6239], the Court's Procedural and Scheduling Order for the Adjudication of Water Rights for Domestic Wells, Including Pre-Basin Domestic Wells, Drilled or Permitted Prior to this Court's Order of January 13, 1983 (No. 641), filed August 2, 2012 [Doc. No.

7736], and the Consolidated Scheduling Order for Subfiles RG-34378, PM-89224, PM-89217, RG-30627 [Doc. No. 10356].

On January 22, 2016, the Special Master held an off-the-record status conference regarding subfiles RG-34378, PM-89217, and RG-30627. In attendance at that conference was Legal Counsel for Defendants Barbara Garcia, Leroy Garcia and Christian Gossein, Legal Counsel for the State Engineer's Office, and the Special Master. Counsel for the parties in attendance provided the following status updates regarding subfiles RG-34378, PM-89224, PM-89217, and RG-30627:

For subfile RG-34378 which represents the claims of Barbara Garcia and Leroy Garcia, the parties have signed on to a proposed consent order regarding well RG-22649, which counsel represent is the correct right at issue. This proposed consent order shall be submitted to the Special Master for review on or before February 12, 2016.

For subfile RG-30627 which represents the claims of Anthony Duran, Plaintiff the State represented that this claim has settled and that the parties are reviewing the order for submission to the Special Master. A proposed order for this subfile shall be submitted to the Special Master for review on or before February 12, 2016.

For subfiles PM-89217 and PM 89224, counsel and Plaintiff the State represented that no agreement has been reached. On January 11, 2016, the State filed a Motion for Summary Judgment on each of those claims [Doc. Nos. 10437 and 10438].

Counsel for Defendants Gossein then requested additional time to declare a testifying expert, and showed good cause therefore. Plaintiff the State of New Mexico did not oppose. Due to the need to extend discovery and trial deadlines for Defendants Gossein, the Special Master extended deadlines for Defendants Jiang and Rosen, Subfile PM-89224.

In light of these status updates, the Special Master hereby amends the September 23, 2015

Consolidated Scheduling Order for Subfiles RG-34378, PM-89224, PM-89217, and RG-30627

[Doc No. 10356], as follows:

The Federal Rules of Civil Procedure and the local rules of the Court will apply to these claims. All discovery deadlines in this case not contained in this Amended Consolidated Scheduling Order have passed and may not be reopened with the exception of the following limited discovery that has been permitted upon a showing of good cause by Defendants pursuant to Rule 16(b)(4) and concurrence by Plaintiff. All deadlines contained herein shall be construed to require that discovery be completed on or before the date listed herein.

Defendants shall identify to the Plaintiff hereto in writing any expert witness to be used at trial and shall provide expert reports pursuant to Fed. R. Civ. P. 26(a)(2)(B) no later than **February 2, 2016**. Supplementation pursuant to Fed. R. Civ. P. 26(e) shall not be permitted except by leave of court.

Plaintiff may depose any expert disclosed by Defendants, on a schedule of Plaintiff's choosing after conferring with Defendants. Each deposition shall be limited to no more than 4 hours on the record. Deposition of any such expert shall be taken between **February 15, 2016 and February 26, 2016**.

Only affidavits of expert witnesses disclosed pursuant to this Order and affidavits of previously disclosed expert or lay witnesses shall be permitted in support of summary judgment briefing.

Rebuttal reports from retained experts pursuant to Fed. R. Civ. P. 26(a)(2) shall be due from Plaintiff no later than **March 2, 2016**.

Defendant's Responses to Plaintiff's Motions for Summary Judgment filed January 11,

Plaintiff shall file its Reply to any Responses to Summary Judgment filed by Defendants no later than **March 4, 2016**.

Submission of Pre-trial Briefs, if any, for both Plaintiff and Defendants pursuant to Rule 16(b) shall be due **March 4, 2016**.

A trial date is to be determined, and shall be set within the **first two weeks of April, 2016**. Trials shall be held at the United States Courthouse, in Santa Fe, New Mexico. Further scheduling for the preparation of a Pretrial Order, a Pretrial Conference, and a trial setting for each individual subfile will be determined as needed.

THE PARTIES ARE NOTIFIED THAT WITHIN 20 DAYS OF SERVICE of a copy of this order, report, or recommendations, they may file written objections with the Clerk of the Court pursuant to Federal Rule of Civil Procedure 53(f)(2). **A party must file any objections with the Clerk of the Court within the twenty-day period if that party wants the District Judge to hear their objections. If no objections are filed within the twenty-day period, the District Judge may adopt the order, report or recommendations in whole.**

IT IS SO ORDERED.

/s/ Pierre Levy
Pierre Levy, Special Master

February 1, 2016

I hereby certify that on the date of filing, I caused the foregoing to be filed electronically through the CM/ECF system which caused the parties on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail, and to the following persons by United States Mail:

Yiwen Jiang and David S. Rosen
58C Three Rock Road
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Anthony and Donna Duran
11 W. Gutierrez Unit 3405
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/s/ Pierre Levy
Pierre Levy