

FILED 
UNITED STATES DISTRICT COURT
ADJUDICATION NEW MEXICO

RESPONSE TO ORDER TO SHOW CAUSE IN AAMODT ADJUDICATION

2016 FEB 10 PM 3:37

NO. 66cv6639 WJ/WPL

CLERK-SANTA FE

Edward C. Bagley

Office of the State Engineer

P.O. Box 25102

Santa Fe, New Mexico 87504-5102

ATTN: Aamodt Adjudication for well #RG4524

I request a consultation with the Office of the State Engineer regarding the recent action taken against the owners of pre-basin well #RG4524.

I am a well owner for pre-basin well #RG4524. This well has a permitted use by the Office of the State Engineer for 3 acre feet of water annually. Other pre-basin wells in the Pojoaque basin that carry a permitted use of 3 acre feet of water annually have been adjudicated to continue their annual permitted use of 3 acre feet of water. By what right can the Office of the State Engineer now treat the owners of #RG4524 in a different and punitive manner by attempting to bully the well owners into accepting a reduction from 3 acre feet of water permitted use to 0.7 acre feet of water permitted use annually?

Repeatedly during Aamodt community meetings, pre-basin well owners were told by representatives of the Office of the State Engineer that pre-basin well owners would be allowed to keep their wells while agreeing to 15% reduction from 3 acre feet. Now the Office of the State Engineer is attempting to intimidate well owners to accept a massive reduction in annual permitted water use by bringing civil action against well owners.

Well #RG4524, a pre-basin well, is governed by Aamodt Settlement section 3.1.7.4.2.1 Non-Pueblo Water Rights. This calls for only a 15% reduction in the HBU. Since no HBU data is available, I maintain that the 15% reduction must be taken from the annual permitted use of 3 acre feet as allowed by the Office of the State Engineer. When action was taken on well #RG4524 on 4 February 2013 the Office of the State Engineer again attached a permitted use of 3 acre feet of water annually. I am in possession of that permit as signed by Patsy Bailey, then water clerk of the Office of the State Engineer. I demand that the Office of the State Engineer abide by its own permitting system.

All wells in the Pojoaque area are being adjudicated as part of the Aamodt lawsuit proposed settlement. A major component of that proposed settlement requires the construction of a Pojoaque regional water system. At this date there is no credible evidence that such a regional

water system can and will be built at any point in the future, let alone within the deadlines defined in the proposed Aamodt settlement, which was negotiated without input from pre-basin domestic well owners. Government funds thus far allocated for the construction of the proposed regional water system are woefully insufficient. Santa Fe County has temporarily withdrawn its funding commitment over the lack of clarity of ownership of roads near or on San Ildefonso Pueblo. That lawsuit must be decided before Santa Fe County agrees to lift the current hold on its funding commitment.

Give that the majority of non-pueblo domestic well owners in the Pojoaque basin are opposed to the proposed Aamodt settlement, why is the Office of the State Engineer putting the cart before the horse by demanding that pre-basin well owners give up a portion of their annual permitted use amounts of water for a lawsuit that seems increasingly likely to fall apart? Will the Office of the State Engineer then restore the previously permitted use of 3 acre feet of water annually for pre-basin well owners? What possible sense does it make for pre-basin well owners to permanently give up annual permitted use of water for nothing in return?

The Office of the State Engineer issued a permitted use of 3 acre feet for well #RG4524. This is the condition under which I bought the property on which the well is located in October 2006. By now attempting to seize the major portion of the annual permitted water use for well #RG4524, the Office of the State Engineer is behaving in an arbitrary and capricious fashion. I have no grounds on which to trust any future action originating from the Office of the State Engineer.

I hold a document issued by the Office of the State Engineer granting well #RG4524 a permitted use of 3 acre feet of water annually. This document is notarized by a representative of the Office of the State Engineer. I expect the Office of the State Engineer to abide by its own documents.

I demand to be treated fairly. Other pre-basin well owners granted a permitted annual use of 3 acre feet by the Office of the State Engineer have been allowed to keep 3 acre feet permitted use. For the Office of the State Engineer to now deny the validity of its own documents for well #RG 4524 permitting 3 acre feet of water annually is unacceptable.

Victoria Erhart

9 February 2016

SIGNATURE

DATE

Victoria Erhart – Owner of Well #RG4524

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