

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, ex rel. STATE )  
ENGINEER, )

Plaintiff, )

v. )

No. 66cv6639 MV/WPL

R. LEE AAMODT, et.al., )

Defendants, )

And )

Acequia del Rio

UNITED STATES OF AMERICA, )

PUEBLO DE NAMBE, )

PUEBLO DE POJOAQUE, )

PUEBLO DE SAN ILDEFONSO, )

and PUEBLO DE TESUQUE, )

Subfile Nos. 2.2A, 2.37 & 2.39, 2.40

Plaintiffs-in-Intervention. )

**MOTION TO CORRECT SUBFILE ORDERS FOR WATER RIGHTS  
SERVED BY THE ACEQUIA DEL RIO TO REMOVE REFERENCE  
TO COMMUNITY IRRIGATION WELL (SUBFILE NOS. 2.2A, 2.37 & 2.39, 2.40)**

Pursuant to 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 correct the subfile orders entered in Subfile Nos. 2.2A, 2.37 & 2.39, and 2.40 for water rights served by the Acequia del Rio to remove reference to a community irrigation well. The State offers the following grounds for this motion:

1. Subfile orders adjudicating surface water irrigation water rights served by the Acequia del Rio were entered in the following subfiles: 2.2A, 2.7C, 2.8A, 2.36, 2.37, 2.38, 2.39 and 2.40.

2. In addition to referencing the Acequia del Rio's surface water point of diversion, Subfile Order Nos. 2.2A, 2.37 & 2.39 and 2.40 state the "Acequia del Rio is also supplied with groundwater from a community irrigation well...." See Orders attached jointly as *Exhibit 1*.<sup>1</sup> No other subfile orders for surface water irrigation water rights served by the Acequia del Rio reference a community irrigation well.

3. The State has searched the files of the Office of the State Engineer ("OSE") and found no *Declaration of Owner of Underground Water Right* or permit for a community well providing supplemental groundwater to multiple subfile tracts served by the Acequia del Rio.

4. As part of errors and omissions work performed during the 1990s, hydrographic survey staff concluded that the so called "community irrigation well" referenced in Subfile Order Nos. 2.2A, 2.37 & 2.39 and 2.40 is actually two private supplemental wells that serve Subfile Tract 2.36 only. A *Declaration of Owner of Underground Water Right*, attached as *Exhibit 2*, was filed for these two wells in 1992. The supplemental groundwater irrigation water right supplied by these two wells referenced in this Declaration (Well Nos. RG-56157 and RG-56157-X) is the subject of the State's pending *Motion to Vacate Order [Docket No. 10421] and Correct Subfile Order to Add Omitted Supplemental Groundwater Irrigation Water Right (Subfile No. 2.36)* [Doc. 10560, April 7, 2016].

5. Accordingly, because there is no community irrigation well supplying the Acequia del Rio to serve tracts irrigated from that acequia, "Point of diversion:" in Subpart A of Paragraph 5 of Subfile Order Nos. 2.2A, 2.37 & 2.39, and 2.40 should be corrected by removing all reference to a community well.

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<sup>1</sup> The September 5, 1967 Order entered in Subfile No. 2.2A states "no right" to water from the community irrigation well. See *Exhibit 1*.

6. The State is serving a copy of this motion and a proposed order granting the motion on all parties or persons who, according to the records of the State, may have an ownership interest in Subfile Nos. 2.2A, 2.37 & 2.39, and 2.40. The State's proposed order is attached as *Exhibit 3*.

WHEREFORE, the State requests that the Court enter the attached order removing reference to a community irrigation well in the subfile orders entered in Subfile Nos. 2.2A, 2.37 & 2.39, and 2.40.

Electronically Filed,  
/s/ Brett Olsen  
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 7, 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:

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