

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,)
))
Plaintiffs-in-Intervention.)

No. 66cv6639 WJ/WPL

Acequia Otra Vanda
Subfile No. 5.4
RG-95671, RG-95672

**MOTION TO CORRECT SUBFILE ORDER TO ADOPT PRIORITY DATE FOR
SUPPLEMENTAL GROUNDWATER IRRIGATION WATER RIGHT
(SUBFILE NO. 5.4)**

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 correct the subfile order entered in Subfile No. 5.4 by adopting a December 31, 1939, priority for the supplemental groundwater irrigation water right adjudicated for diversion from two wells designated by the Office of the New Mexico State Engineer (“OSE”) as Well Nos. RG-95671 and RG-95672. The State offers the following grounds for this motion:

1. On July 23, 1968, the Court entered an “Order” (“Subfile Order”) in Subfile 5.4 identifying two wells as groundwater point of diversion for irrigation supplemental to the Acequia Otra Vanda of 11.28 acres as shown on Hydrographic Survey Map Sheet No. 5, Tract 4

(“Tract 5.4”). The Subfile Order, attached as *Exhibit 1*, omitted a priority date for the supplemental groundwater irrigation water right adjudicated for diversion from these two wells.

2. The Subfile Order also adjudicated domestic and livestock rights for diversion from two wells with a 1939 and 1954 priority, respectively. *See Exhibit 1*. These wells were later designated as RG-95671 and RG-95672 by OSE.

3. Well Nos. RG-95671 and RG-95672 have the same legal description as the two supplemental irrigation wells identified in Paragraph 5.A of the Subfile Order. Additionally, the Hydrographic Survey incorporated by reference into the Subfile Order shows only two wells associated with the subject property. *See map attached as Exhibit 2*. Based on the foregoing, it is reasonable to conclude that the two irrigation wells identified in the Subfile Order are Well Nos. RG-95671 and RG-95672.

4. The State therefore proposes a December 31, 1939, priority for the supplemental groundwater irrigation water right based upon the earlier of two priority dates adjudicated to the domestic and livestock water rights under Subfile 5.4. The State further proposes that “Point of Diversion” in Paragraph 5 of the Subfile Order should be corrected to state the following:

Groundwater: Well No. RG-95671 located in the SW ¼ NW ¼ Sec.11, T. 19N, R. 8E, and Well No. RG-95672 located in the SW ¼ NW ¼ Sec.11, T.19N, R. 8E.

Priority: 12/31/1939

5. Except as requested by this motion, all other elements of the rights adjudicated under Subfile No. 5.4 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 parties or persons who, according to the records of the State, may have an ownership interest in Subfile No. 5.4. The State's proposed order is attached as *Exhibit 3*.

WHEREFORE, the State requests that the Court enter the attached order correcting the July 23, 1968 Order entered in Subfile No. 5.4 by adopting a December 31, 1939 priority for the supplemental groundwater irrigation water right adjudicated for diversion from Well Nos. RG-95671 and RG-95672.

Electronically Filed,

/s/ Brett Olsen

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 19, 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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