

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.)

**APRIL 15, 2016 QUARTERLY STATUS REPORT REGARDING THE ADJUDICATION
OF DOMESTIC WELL AND SURFACE RIGHTS**

The State of New Mexico (“State”), pursuant to the Court’s July 5, 2006 *Order* (No. 6174) and the December 18, 2008 *Supplemental Procedural Order* (No. 6524) hereby reports to the Court addressing the status of “the work completed the previous quarter and the work to be completed during the subsequent quarter for both domestic well and surface water rights.” July 5, 2006 *Order*, p. 1.

I. Claims to Domestic Well Water Rights – Previous Quarter

A. Post-Moratorium Section 72-12-1 Domestic Well Water Rights

1. All claimants of post-moratorium Section 72-12-1 domestic well rights have been joined as of December 31, 2015.

2. During the previous quarter, the Court entered orders adjudicating two (2) post-moratorium domestic well claims.

3. Litigation continues with regard to one (1) unadjudicated water right from a post-moratorium well. See April 25, 2016 *State of New Mexico's Response to Defendant Christian Gossein's Rule 59 Motion for New Trial and Rule 60(b)(6) Motion for Reconsideration of the Special Master's Order Granting Summary Judgment Under Subfile PM-89217* (No. 10577).

4. There are no outstanding *Notices That the Consultation Period Has Ended* regarding post-moratorium well water rights.

B. Pre-Moratorium Section 72-12-1 Domestic Well Water Rights

5. All claimants of pre-moratorium Section 72-12-1 domestic well rights have been joined as of December 31, 2015.

6. During the previous quarter, the Court entered orders adjudicating twenty-five (25) pre-moratorium domestic well claims.

7. There are no outstanding *Notices That the Consultation Period Has Ended* regarding pre-moratorium well water rights.

8. During the previous quarter, the Court entered four (4) orders granting corrective motions to add points of diversion or adjudicate priority dates for Pre-Moratorium Section 72-12-1 Domestic Well Water Rights.

C. Pre-Basin Domestic Well Water Rights

9. All claimants of pre-basin domestic well rights have been joined as of December 31, 2015.

10. During the previous quarter, the Court entered orders adjudicating three (3) pre-basin domestic well claims.

11. There are no outstanding *Notices That the Consultation Period Has Ended* regarding pre-basin domestic well water rights.

12. During the previous two quarters, the Court entered twenty-six (26) orders granting corrective motions to add points of diversion or adjudicate priority dates for Pre-Basin Domestic Wells. Two (2) corrective motions were filed during the previous quarter, one of which is pending before the Court.

II. Claims to Domestic Well Water Rights – Subsequent Quarter

A. Post-Moratorium Section 72-12-1 Domestic Well Water Rights

13. Before the end of the upcoming quarter through July 15, 2016, with regard to the remaining 72-12-1 post-moratorium domestic well water right claimants, the State will submit to the Special Master sixteen (16) orders adjudicating post-moratorium Section 72-12-1 domestic well water rights.

14. With regard to the remaining fourteen (14) unadjudicated post-moratorium subfiles, the State expects to meet in consultations with those who disagree with their proposed post-moratorium domestic well orders, as their requests for consultations are received. With

regard to those who do not object, the State will continue submitting the proposed orders to the Special Master when the claimants' time to respond has passed.

B. Pre-Moratorium Section 72-12-1 Domestic Well Water Rights

15. Before the end of the upcoming quarter through July 15, 2016, with regard to the remaining 72-12-1 pre-moratorium domestic well water right claimants, the State will submit to the Special Master thirty-five (35) orders adjudicating pre-moratorium Section 72-12-1 domestic well water rights.

16. With regard to the remaining fifty-seven (57) pre-moratorium unadjudicated subfiles, the State expects to meet in consultations with those who disagree with their proposed pre-moratorium domestic well orders, as their requests for consultations are received. With regard to those who do not object, the State will continue submitting the proposed orders to the Special Master when the claimants' time to respond has passed.

17. Counsel and technical staff are performing final review of the State's internal files to identify subfile orders adjudicating Pre-Moratorium Section 72-12-1 Domestic Wells without points of diversion or priority dates. As part of this review, they are also looking for double adjudicated wells, or wells adjudicated to the wrong subfile. Corrective motions will be filed during the upcoming quarter.

C. Pre-Basin Domestic Well Water Rights

18. Before the end of the upcoming quarter through July 15, 2016, with regard to the remaining pre-basin domestic well water right claimants, the State will submit to the Special

Master thirty (30) orders adjudicating pre-moratorium Section 72-12-1 domestic well water rights.

19. With regard to the remaining fifteen (15) pre-moratorium unadjudicated subfiles, the State expects to meet in consultations with those who disagree with their proposed pre-moratorium domestic well orders, as their requests for consultations are received. With regard to those who do not object, the State will continue submitting the proposed orders to the Special Master when the claimants' time to respond has passed.

20. Counsel and technical staff are performing final review of the State's internal files to identify subfile orders adjudicating Pre-Basin Domestic Wells without points of diversion or priority dates. As part of this review, they are also looking for double adjudicated wells, or wells adjudicated to the wrong subfile. Counsel is consulting with one subfile owner in preparation for filing one (1) motion to correct priority for a Pre-Basin Domestic Well. Corrective motions will be filed during the upcoming quarter.

III. Claims to Surface Water Rights – Previous Quarter

21. During the previous quarter the State served the Court's *Order to Show Cause* (No. 10425) regarding the adjudication of priority dates for water diverted from the Rio En Medio and conveyed through a common ditch to the Rio Chupadero as ordered by the December 28, 2015 *Procedural and Scheduling* (No. 10425). One (1) objection was filed before the deadline of March 31, 2016. January 8, 2016 *Objection to Order Show Cause Filed 12/28/15* (No. 10436).

22. During the previous quarter, the State completed the filing of motions to add omitted points of diversion and sources of water for two NPT ditches: the Acequia Larga de Jacona and the Acequia Ancon de Jacona. The State also filed a motion to correct the legal description of the Tesuque No. 7 Ditch. All corrective motions related to surface water sources of water and points of diversion have now been filed.

IV. Claims to Surface Water Rights – Subsequent Quarter

23. The state will move for the Court to strike the January 8, 2016 *Objection to Order Show Cause Filed 12/28/15*, and enter final orders with respect to the priority dates of all water diverted from the Rio en Medio and conveyed through a common ditch to water rights served by community and private ditches on the Rio Chupadero.

24. The State will continue its subfile by subfile review of all surface water irrigation water rights to identify additional errors and omission requiring correction. The State anticipates filing approximately 5-10 corrective motions to address double-adjudicated surface water irrigation water rights, change water rights acreage, and clarify elements of surface water irrigation water rights.

V. Claims to Supplemental Groundwater Irrigation Water Rights – Previous and Subsequent Quarter

25. As part of its subfile by subfile review, counsel and technical staff identified thirty-nine (39) subfiles adjudicating supplemental groundwater irrigation water rights and associated wells without priority dates. During the previous quarter, the State filed fourteen (14) subfile-specific motions to adopt priority dates for supplemental groundwater irrigation water

rights. The State has prepared a motion to adopt a November 28, 1956 priority (based on declaration of the Rio Grande Underground Water Basin) for supplemental groundwater irrigation water rights adjudicated under an additional twenty-five (25) subfiles. This motion will be filed and served during the next quarter.

26. During the previous quarter, the State performed fieldwork and consulted with acequia commissioners in preparation for filing motions related to community irrigation wells serving water rights under six (6) NPT ditches. The State has filed one such motion, and has prepared separate motions to adopt priority for the community wells serving the other five ditches. The State is continuing to consult with acequia commissioners regarding two of these motions. All of the motions will be filed during the next quarter.

Respectfully submitted this 27th day of April, 2016.

Electronically Filed

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 27, 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 United States Mail:

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