

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 Medio (Ortiz Branch)

UNITED STATES OF AMERICA, )

PUEBLO DE NAMBE, )

PUEBLO DE POJOAQUE, )

PUEBLO DE SAN ILDEFONSO, )

and PUEBLO DE TESUQUE, )

Subfile Nos. 1.7, 2.45 & 2.46, 2.48, 2.50,  
2.52, 2.53

Plaintiffs-in-Intervention. )

**MOTION TO CORRECT SUBFILE ORDERS FOR WATER RIGHTS SERVED BY  
ACEQUIA DEL MEDIO (ORTIZ BRANCH) TO ADOPT PRIORITY DATE FOR  
SUPPLEMENTAL GROUNDWATER IRRIGATION WATER RIGHT ADJUDICATED  
FOR DIVERSION FROM COMMUNITY IRRIGATION WELL**

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 adopt a priority of “November 28, 1956, or date the well was completed if earlier” for the supplemental groundwater irrigation water right adjudicated for diversion from the Acequia del Medio (Ortiz Branch) community irrigation well, and correct all subfile orders for water rights served by the Acequia del Medio (Ortiz Branch) to fully describe said right and well. The State offers the following grounds for this motion:

1. Subfile orders adjudicating water rights or “no right” on tracts served by the Acequia del Medio (Ortiz Branch) were entered in the following subfiles: 1.7, 2.45 & 2.46, 2.48,

2.50, 2.52, and 2.53 (the “Subfile Orders”).

2. In addition to referencing the surface water point of diversion for the Acequia del Medio (Ortiz Branch), the Subfile Orders reference a community irrigation well which provides supplemental groundwater for irrigation of certain subfile tracts. Whether or not a particular subfile tract has a right to receive water from the community well is stated in the Subfile Order.

3. No order has been entered adjudicating a priority date for the supplemental groundwater irrigation water right adjudicated for diversion from the community irrigation well. The State has searched its files and the files of the OSE Water Rights Division for an OSE permit, a Declaration of Owner of Underground Water Right, or other evidence concerning first beneficial use of water on which to adjudicate priority for the right. To date, the State has found no such evidence.

4. The New Mexico State Engineer’s order declaring the Rio Grande Underground Water Basin is dated November 29, 1956. *See* Rule 19.27.49.8.A NMAC. It is reasonable to assume given the absence of any OSE filings for the community irrigation well that it is a pre-basin well. The State therefore requests that the Court adopt a pre-basin priority of “November 28, 1956, or date the well was completed if earlier” for the supplemental groundwater irrigation water right associated with the community irrigation well. The State further requests that the Subfile Orders be corrected to fully describe this right as follows:

Purpose – Irrigation

Groundwater:

State Engineer File No: None

Priority: November 28, 1956, or date the well was completed  
if earlier

Point of Diversion: The Acequia del Medio (Ortiz  
Branch) is also supplied with groundwater  
from a community irrigation well located in  
the NE ¼ SW ¼ NW ¼ Sec. 9,T. 19N, R. 8E.

5. To be clear, the State does not propose in this motion to alter the determination in the Subfile Orders concerning the right to receive water from the community irrigation well. Whether a given subfile tract has the right to receive water from the community irrigation well should remain as stated in the Subfile Order.

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 the above-referenced subfiles. The State's proposed order is attached as *Exhibit 1*.

WHEREFORE, the State requests that the Court enter the attached order:

(a) adopting a priority of "November 28, 1956, or date the well was completed if earlier" for the supplemental groundwater irrigation water right adjudicated for diversion from the Acequia del Medio (Ortiz Branch)'s community irrigation well; and

(b) correcting the subfile orders entered in the above-referenced subfiles for surface water rights served by the Acequia del Medio (Ortiz Branch) to fully describe the supplemental groundwater irrigation water right associated with the community irrigation well.

Electronically Filed,

By /s/ Brett Olsen

Brett Olsen

Attorney for State of New Mexico

P.O. Box 25102

Santa Fe, NM 87504-5102

Telephone: (505) 827-6150

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 14, 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 served the following by U.S. Mail:

ROBERT D. KROHN  
BARBARA KROHN  
205 WITWERT CT.  
LOS LUNAS, NM 87031

TIM CASH  
24A COUNTY ROAD 84B  
SANTA FE, NM 87506

TIM CASH  
MARLENE RUTHERFORD CASH  
1362 TRINITY DR., STE. D 2430  
LOS ALAMOS, NM 87544

GAIL M. STADELMAIER  
ALBERT F. STADELMAIER  
2805 B WALNUT  
LOS ALAMOS, NM 87544

ALBERT STADELMAIER  
P.O. BOX 3766, POJOAQUE STATION  
SANTA FE, NM 87501

BERNICE S. KELLY  
1791 JANELLA WAY  
SANDY, UT 84092

BRUCE DURAN  
MICHELLE DURAN  
73 CAMINO CHUPADERO  
SANTA FE, NM 87506

ANTONIO C. DURAN  
64 COUNTY ROAD 84B  
SANTA FE, NM 87506-7215

MARIA C. DURAN  
64 COUNTY ROAD 84B  
SANTA FE, NM 87506-7215

EZEQUIEL SALAZAR  
P.O. BOX 3842  
SANTA FE, NM 87501

MARIA E. DURAN  
RT. 5, BOX 301  
SANTA FE, NM 87506

DEBORAH J. STEVEN  
63-A COUNTY RD. 84B  
SANTA FE, NM 87506

KEITH OLSON JR.  
CHERYL OLSON  
63B COUNTY ROAD 84B  
SANTA FE, NM 87506

KEITH OLSON  
PO BOX 1436  
LOS ALAMOS, NM 87544

DON DALE  
P.O. BOX 1062  
LOS ALAMOS, NM 87544

MICHAEL J. UPTON  
63A COUNTY RD. 84B  
SANTA FE, NM 87506

MELAQUIAS DURAN  
73 COUNTY ROAD 84B  
SANTA FE, NM 87506-7126

GRACE R. DURAN  
73 COUNTY ROAD 84B  
SANTA FE, NM 87506-7216

ROBERT L. DURAN  
73 COUNTY ROAD 84B  
SANTA FE, NM 87506-7216

STEVEN R. MILLER  
70 COUNTY ROAD 84B  
SANTA FE, NM 87506-7215

ISAURO VALENCIA  
RT 5 BOX 304  
SANTA FE, NM 87501

*/s/ Brett Olsen*

---

Brett Olsen