

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

STATE OF NEW MEXICO, <i>ex rel.</i> STATE)
ENGINEER,)
)
Plaintiff,)
)
v.)
)
R. LEE AAMODT, <i>et al.</i> ,)
)
Defendants,)
)
and)
)
UNITED STATES OF AMERICA, PUEBLO DE)
NAMBÉ, PUEBLO DE POJOAQUE, PUEBLO DE)
SAN ILDEFONSO, and PUEBLO DE TESUQUE,)
)
Plaintiffs-in-Intervention.)

No. 66cv6639 MV/WPL

**[PROPOSED] NOTICE OF *INTER SE* PROCEEDING AND
DEADLINE FOR FILING *INTER SE* OBJECTIONS TO NON-PUEBLO WATER
RIGHTS OF THE NAMBÉ-POJOAQUE-TESUQUE STREAM SYSTEM**

TO: ALL PERSONS WHO CLAIM A RIGHT TO USE THE SURFACE OR UNDERGROUND WATERS OF THE NAMBÉ-POJOAQUE-TESUQUE STREAM SYSTEM AND ASSOCIATED UNDERGROUND WATER BASIN, INCLUDING PERSONS PREVIOUSLY JOINED AS DEFENDANTS IN THE ABOVE-CAPTIONED ACTION AND ALL UNKNOWN CLAIMANTS OF INTEREST.

YOU ARE HEREBY NOTIFIED that the United States District Court, District of New Mexico, is conducting an *inter se* proceeding to hear *inter se* objections to the final adjudication of remaining non-Pueblo water rights in the Nambé-Pojoaque-Tesuque Stream System (“Pojoaque Basin”), described below, and to enter a proposed Final Judgment and Decree finally adjudicating all claims to divert or impound and beneficially use water in the Pojoaque Basin that will be final and binding on all persons claiming water rights within the Pojoaque Basin.

This notice states the deadline established by the Court to file an *inter se* objection to the water rights described below, that will be finally adjudicated in the Proposed Decree.

PLEASE READ THIS NOTICE CAREFULLY. IT DESCRIBES THE ONLY OPPORTUNITY YOU WILL HAVE TO PARTICIPATE IN THE ADJUDICATION OF THE REMAINING NON-PUEBLO WATER RIGHTS CLAIMED IN THE NAMBE-POJOAQUE-TESUQUE STREAM SYSTEM DESCRIBED BELOW. PLEADINGS FILED IN THIS SUBPROCEEDING MUST INCLUDE THE CASE CAPTION AS SET FORTH ABOVE. THE COURT HAS SET _____ AS THE DEADLINE FOR FILING SUCH *INTER SE* OBJECTIONS.

Brief Summary of the Proceedings:

This case is a general adjudication of all water rights of the Pojoaque Basin, a tributary of the Rio Grande. The water rights of the Pueblos of Tesuque, Pojoaque, Nambé, and San Ildefonso were finally adjudicated in the *Partial Final Judgment and Decree of the Water Rights of the Pueblos of Nambé, Pojoaque, San Ildefonso, and Tesuque*, entered by the Court on March 23, 2016 (Doc. 10547). The proprietary water rights claims of the United States were adjudicated in the Court's *Memorandum Opinion and Order* filed on January 24, 1986 (Doc. 2752) and confirmed as a final judgment on June 18, 1986 (Doc. 2781).

In 1983, the Court conducted an *inter se* proceeding on the nature and extent of all non-Pueblo surface water rights, except for priorities. Only the Pueblos and United States filed *inter se* objections. Under Section 6.1 of the Settlement Agreement approved by the Court on March 21, 2016, (Doc. 10543), all pending *inter se* objections between settlement parties shall be dismissed with prejudice, and any further *inter se* challenges between settlement parties are barred.

In 2008, the Court conducted an *inter se* proceeding on the priority dates for non-Pueblo surface water rights (except for water rights served by Las Acequias de Chupadero), which were finally adjudicated in the *Order Granting the State of New Mexico's Motion for Order Making*

Final Determination of Priority Dates of Surface Water Rights in the Nambe-Pojoaque-Tesuque Stream System (Doc. 9546) on August 27, 2014. The United States and the Pueblos reserved their rights to file *inter se* objections, to the extent these *inter se* objections are not barred under the Settlement Agreement.

The State has completed the adjudication of individual groundwater rights in the Pojoaque Basin. Claimants in the Pojoaque Basin have yet to be provided with an opportunity to file *inter se* objections to the elements of the groundwater rights in subfile orders that have been entered, or to the specific elements of surface water rights described below.

Final Inter Se Proceeding on Remaining Non-Pueblo Water Rights:

This proceeding is to provide notice and an opportunity to file *inter se* objections to all remaining non-Pueblo water rights that have not yet been subject to *inter se*. You have the right to file *inter se* objections if your water rights will be affected by the final determination of the following water rights or water right elements:

1. all elements of non-Pueblo groundwater rights;
2. the source of water, point of diversion and priority dates of non-Pueblo surface water rights served by Las Acequias de Chupadero; or
3. additional sources of water that have been adjudicated to non-Pueblo surface water rights since 1983, as follows:

(a) Rio Tesuque, Barry's Spring, Dona Inez Spring, Spring "A," Spring "B," and Spring "C" as additional sources of water for non-Pueblo surface water rights served by Acequia Larga de Jacona; and

(b) Pojoaque Creek and Rio Tesuque as additional sources of water for non-Pueblo surface water rights served by the Acequia Ancon de Jacona.

In addition, to the extent consistent with prior orders of the Court and the Settlement Agreement, the Pueblos and the United States may file objections to non-Pueblo surface water priorities.

The Court has made previous determinations on the remainder of the water right claims of Pueblo and non-Pueblo claimants that are binding on all claimants, known and unknown, to the right to divert and use water in the Pojoaque Basin. **This proceeding is not an opportunity to object to the adjudication of your own water rights.**

The descriptions of the water rights subject to *inter se* objection in this *inter se* proceeding are provided in the Addendum to the Proposed Decree. Copies of the Proposed Decree, the Addendum, and hydrographic survey maps showing the location of all non-Pueblo irrigated tracts and the location of all non-Pueblo wells described in the Proposed Decree, are available for public inspection at the Santa Fe County satellite office in Pojoaque, at the Federal District Court in Santa Fe, at the Utton Center at the UNM School of Law in Albuquerque, and at the Water Resource Allocation Program (WRAP) of the Office of the State Engineer in Santa Fe at the following addresses:

Office of the Clerk
United States District Court
106 South Federal Place
Santa Fe, New Mexico

Office of the Clerk
United State District Court
333 Lomas Blvd. NW
Albuquerque, New Mexico

Joe M. Stell Ombudsman Program at Utton Center
UNM School of Law
1117 Stanford NE Rm. 1216
Albuquerque, New Mexico

Office of the State Engineer
Water Resource Allocation Program
Bataan Memorial Building, Rm. 102
Santa Fe, New Mexico

County of Santa Fe
Satellite Office
Pojoaque, New Mexico

The Proposed Decree and Addendum are posted on the Office of the State Engineer's website:

www.ose.state.nm.us or

http://www.ose.state.nm.us/Legal/Adjudication/Aamodt/adj_aamodt.php.

Rights and Options of Water Right Owners:

If you claim a water right in the Nambe-Pojoaque-Tesuque stream system, its tributaries or associated underground water basin, you have the following rights and options:

1. You may do nothing.

If you do not wish to object to the determination of water rights of other individuals, as described in the Proposed Decree, you do not need to take any further action. If *inter se* objections are filed to your water right, you may participate in the proceedings to resolve those *inter se* objections as described below. If no *inter se* objections are filed with the Court to a water right described in the Proposed Decree, you will be bound by the provisions of the Proposed Decree.

2. You may file an *inter se* objection using the attached form.

If you wish to object, you or your attorney must, no later than [**DATE to be determined as 20 days from last date of publication**] file an *inter se* objection in person or by mail with the Clerk's Office of the U.S. District Court, 333 Lomas Blvd. NW, Suite 270, Albuquerque, NM 87102 *or* 106 S. Federal Place, Santa Fe, NM 87501, using the form included with this document and following the instructions. If you retain an attorney, that attorney must follow the instructions on the form. Organizations and entities such as corporations, partnerships, associations, and trusts may only appear if represented by an attorney licensed to practice law before the Federal District Court for the District of New Mexico. Additional *inter se* objection forms will be available to the public with the Proposed Decree at the locations described above.

3. You may respond to *inter se* objections to your water right(s).

If *inter se* objections are timely filed, the State will prepare a report that summarizes all *inter se* objections and make the report available for public inspection at the locations described above, within 10 days after the deadline for filing *inter se* objections. The State shall mail a copy of the *inter se* Objections to those persons whose water rights are the subject of those *inter se* objections, by certified mail, return receipt requested, and file an appropriate Certificate of Service with the Court.

4. If you file or receive an *inter se* objection, you must attend a Court scheduling conference.

If you file an *inter se* objection by **DATE**, or have an *inter se* objection filed to your water right(s), you must attend a scheduling conference in the Court on **DATE**, at a time and place to be announced, where you will learn how your *inter se* objection(s) will be resolved by

the Court. **Any party not appearing at the scheduling conference in person or by counsel will not be allowed to participate in this *inter se* proceeding.**

All persons having water rights in the Pojoaque Basin will be bound by the outcome of the proceedings to resolve *inter se* objections.

For further information:

If you have any question about this notice or the process described herein, you may call or write:

Darcy Bushnell
Joe M. Stell Ombudsman Program at Utton Center
UNM School of Law
1117 Stanford NE Rm. 1216
Albuquerque, New Mexico
(505) 277-0551 or (877) 775-8333
E-mail address Bushnell@law.unm.edu
Please call for directions.

This Notice approved this _____ day of _____, 2016.

WILLIAM JOHNSON
UNITED STATES DISTRICT JUDGE