

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

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

Plaintiff,)

v.)

No. 66cv6639 WJ/WPL

R. LEE AAMODT, et.al.,)

Defendants,)

And)

UNITED STATES OF AMERICA,)

Acequia del Medio

PUEBLO DE NAMBE,)

(Ortiz Branch)

PUEBLO DE SAN ILDEFONSO, and)

Subfile No. 2.45

PUEBLO DE TESUQUE,)

Plaintiffs-in-Intervention)

**MOTION TO CORRECT SUBFILE ORDER TO CLARIFY “NO RIGHT”
ON SUBFILE TRACT (SUBFILE NO. 2.45)**

Pursuant to Section A.1 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 clarify that that the May 8, 1968, “Order” entered in Subfile Nos. 2.45 & 2.46 (“Subfile Order”) adjudicated no valid irrigation water right under Subfile No. 2.45; and to correct the Subfile Order to state that the acreage under Subfile No. 2.45 is a “No Right.” The State offers the following grounds for this motion:

1. Paragraph 5.A of the Subfile Order (describing irrigation water rights) references Hydrographic Survey Map 2, Tract 45 (“Tract 2.45”), but does not give a irrigation water rights acreage amount, or alternatively, state “No Right” in reference to Tract 2.45. *See* Subfile Order attached as *Exhibit 1*.

2. The Subfile Order expressly incorporates the Office of the State Engineer's Hydrographic Survey and Report which states that there is no water right on Tract 2.45. *See* Hydrographic Survey Report, p. 19, attached as *Exhibit 2*.

3. Accordingly, the Subfile Order should be corrected to clarify that there is no valid irrigation water right adjudicated under Subfile 2.45, and to add "No Right" next to the description of Tract 2.45 in the Subfile Order.

4. A copy of the State's proposed order granting the motion is attached as *Exhibit 3*. Because the motion seeks only to clarify an element of the subject water right, the State is not required to serve copies of the motion by U.S. mail on defendants of record or persons who, according to the State's records, may have an interest in the right. *Procedural Order for Correcting Subfile Errors*, Sec. A.1 (Doc. 7909, July 23, 2013).

WHEREFORE, the State requests that the Court enter the attached order clarifying that there is no valid irrigation water adjudicated under Subfile No. 2.45; and correcting the May 8, 1968, Order entered in Subfile Nos. 2.45 & 2.46 to state "No Right" for the acreage in Subfile 2.45.

Respectfully Submitted,

/s/ Brett Olsen

Brett J. Olsen

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 3, 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.

/s/ Brett Olsen _____
Brett Olsen