

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

UNITED STATES OF AMERICA,  
PUEBLO DE NAMBE,  
PUEBLO DE POJOAQUE,  
PUEBLO DE SAN ILDEFONSO,  
and PUEBLO DE TESUQUE,

Plaintiffs-in-Intervention.

**MOTION FOR DEFAULT JUDGMENT**

Plaintiff State of New Mexico *ex rel.* State Engineer (“State”) hereby moves the Court to enter the attached Order granting default judgment against the following defendants:

**UNKNOWN CLAIMANTS OF INTEREST TO SURFACE OR GROUND  
WATER RIGHTS WITHIN THE BOUNDARIES OF THE NAMBE-POJOAQUE-  
TESUQUE STREAM SYSTEM.**

The State offers the following grounds for the motion:

1. This Court has “exclusive jurisdiction to hear and determine all questions necessary for the adjudication of water rights” within the Nambe-Pojoaque-Tesuque (“NPT”) stream system, including the claims of “unknown persons who may claim any interest or right to the use of the waters of such stream system....” NMSA 1978, § 72-4-17 (1907). In order to comprehensively adjudicate all claims to the use of surface or ground water within the stream

system, Section 72-4-17 of the Water Code provides for the joinder of such unknown claimants of interest as parties to the adjudication case through notice by publication. *Id.*

2. The State's *Motion to Adopt Procedural Order for Notice by Publication* (Doc. 7900, July 15, 2013) ("State's Motion") proposed procedures for adjudicating the claims of unknown persons not parties to this adjudication, including procedures for providing notice to such unknown persons of the final deadline for filing any and all claims to surface or ground water rights within the NPT stream system that were not included in the 1964 hydrographic survey or otherwise adjudicated. The Court granted the State's Motion on August 15, 2013. *See Procedural Order for Notice by Publication of Claims Deadline* (Doc. 7919, August 15, 2013) ("Court's Procedural Order").

3. Under the Court's Procedural Order, unknown persons who may claim a right to use the surface or ground water of the NPT stream system, and who were not previously joined in these proceedings and whose claims were not included in the State's hydrographic survey, were required to file claims to surface or ground water rights with the Court within forty-five (45) days after the last publication of the State's *Notice of Deadline for Unknown Claimants of Interest to File Water Rights Claims* ("Notice"). *See* Notice attached as Exhibit 2 to the State's Motion.

4. The Notice was published in *The Santa Fe New Mexican*, *The Rio Grande Sun*, and *The Albuquerque Journal*, for four consecutive weeks beginning on September 5, 2013, and ending on September 26, 2013. *Proof of Publication of Notice of Deadline for Unknown Claimants of Interest to File Water Rights Claims* (Doc. 7981, October 25, 2013) ("Proof of Publication"). Accordingly, as shown by the Proof of Publication, the deadline for unknown

claimants of interest to file claims to water rights within the NPT stream system claim was November 10, 2013.

5. Publication of the Notice pursuant to the Court's Procedural Order meets the requirements of Section 72-4-17 for joining unknown claimants of interest to surface or ground water rights within the NPT stream system as parties to this adjudication case. *See* § 72-4-17 ("service of process on, and notice of such [adjudication] suit, against [unknown claimants of interest] may be made as in other cases by publication."). *See also* Proof of Publication. The Court thus has jurisdiction over such unknown claimants of interest and their claims to water rights within the NPT system. *See* § 72-4-17.

6. The unknown claimants of interest named above are in default for failure to appear, answer, or otherwise submit any statement of claim as directed by the Notice which was duly published pursuant to the Court's Procedural Order. *See* Proof of Publication.

WHEREFORE, the State requests the Court to enter its Order granting default judgment against unknown claimants of interest to surface or ground water rights within the NPT stream system, find that such unknown claimants have no surface or ground water rights in the NPT stream system, and bar their assertion of any further claims in these proceedings to the use of surface or ground water in the NPT stream system.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 10, 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:

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