

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.,)
)
Defendants,)
)
And)
UNITED STATES OF AMERICA,)
PUEBLO DE NAMBE,)
PUEBLO DE POJOAQUE,)
PUEBLO DE SAN ILDEFONSO,)
and PUEBLO DE TESUQUE,)

No. 66cv6639 WJ/WPL

Subfile No. 11.116A
RG-449

Plaintiffs-in-Intervention.

**UNOPPOSED MOTION TO CORRECT PRIORITY DATE FOR
DOMESTIC/LIVESTOCK RIGHT (SUBFILE NO. 11.116A, RG-449)**

Pursuant to Section A.2 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 enter the attached order adopting a December 31, 1941 priority date for the groundwater right adjudicated for domestic/livestock use from Well No. RG-449 under Subfile No. 11.116A. The State offers the following grounds for this motion:

1. The attached September 5, 1967, “Order” (“Subfile Order”) entered in Subfile No. 11.116A adjudicated a groundwater right for domestic and/or livestock use under NMSA 1978, Section 72-12-1, for diversion from Well No. RG-449, in the name of Egripina Garcia Garduno. The Subfile Order adopted a February 26, 1957 priority for this right based upon a February 26,

1957, Permit to Appropriate the Underground Waters of the State of New Mexico (“Permit”).
See Subfile Order and Permit attached joint as *Exhibit 1*.

2. The records of the State reflect that the water rights associated with Subfile No. 11.116, including rights adjudicated under RG-449, are currently in the name of Steve L. Dunbar (“Dunbar”). Dunbar does not oppose this motion.

3. Dunbar has submitted evidence to the State in support of his request for an earlier priority for the domestic/livestock right adjudicated for diversion from Well No. RG-449. This evidence consists of the affidavit of Stella Garduno stating personal knowledge concerning the history of the well. The affidavit is attached as *Exhibit 2*. The State believes there is sufficient evidence on which to conclude first beneficial use of water for this right occurred in or about 1941. The State therefore proposes to correct the Subfile Order by adopting a priority date of December 31, 1941 for the domestic/livestock right adjudicated for diversion from Well No. RG-449, and clarifying that said domestic/livestock right is a pre-basin, non-NMSA 1978, Section 72-12-1 and -1.1 right.

4. The State’s proposed order granting the motion is attached as *Exhibit 3*.

WHEREFORE, the State requests that the Court enter the attached order correcting the September 5, 1967, Order in Subfile No. 11.116A by adopting a December 31, 1941 priority for the groundwater right adjudicated for domestic and/or livestock use under Subfile No. RG-449.

Electronically filed,

/s/ Brett Olsen

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on September 19, 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 U.S. mail:

STEVE L. DUNBAR
P.O. BOX 769
TESUQUE, NM 87574

/s/ Brett Olsen
Brett J. Olsen