

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,)
)
Plaintiffs-in-Intervention.)
_____)

NO. 66cv6639 WJ/WPL

Subfile: PM-81341

**UNOPPOSED MOTION TO VACATE ORDER ADJUDICATING POST-1982
DOMESTIC WELL SUBFILE PM-81341 FOR EHRENBERG 2004 TRUST AND ENTER
REVISED CONSENT ORDER**

The State of New Mexico ex rel. State Engineer (“State”) hereby moves the Court to, pursuant to Fed. R. Civ. P. 60(b), vacate its vacate its March 30, 2011 *Order Adjudicating Post-1982 Domestic Well Water Rights* (No. 7346), and enter the Consent Order adjudicating the Post-1982 domestic well water right associated with subfile RG-81341 attached hereto as Exhibit C, and in support thereof, states as follows:

1. On December 17, 2010, the State forwarded to the Court a proposed Order Adjudicating Post-1982 Domestic Well Water Rights under subfile PM-81341 for Defendant Ehrenberg 2004 Trust.

2. The attorney for the State, Barbara Brill, correctly certified in that document that the Defendant had not submitted a request for consultation.

3. On March 30, 2011, the Court entered the *Order Adjudicating Post-1982 Domestic Well Water Rights* (No. 7346).

4. Subsequent to the entry of the *Order*, Defendant Ehrenberg 2004 Trust and co-owners of the well James Owens and Mark Funk, through their counsel, attorney Kyle Harwood, contacted the State, and alerted it to the fact that Mr. Owens and Mr. Funk had not been named in the *Order*. Their November 25, 2015 change of ownership administratively correcting this was filed with the State Engineer, and is attached hereto as Exhibit A.

5. All three well owners further asserted that the well was in fact being used for multiple households. On November 25, 2015, they changed their permit with the State Engineer to accurately reflect this fact. Their current permit is attached hereto as Exhibit B.

6. Defendants have signed a Consent Order adjudicating the Post-1982 water right under subfile PM-81341 consistent with the above described changes to ownership and use, attached hereto as Exhibit C. Upon the Court vacating the March 30, 2011 *Order Adjudicating Post-1982 Domestic Well Water Rights*, the State will submit the Consent Order to the Special Master.

7. Counsel for Defendants does not oppose this motion.

WHEREFORE, the State requests that the Court vacate its March 30, 2011 *Order Adjudicating Post-1982 Domestic Well Water Rights* (No. 7346), and enter the Consent Order adjudicating the Post-1982 domestic well water right associated with subfile RG-81341 attached hereto as Exhibit C.

Electronically Filed

/s/ Edward C. Bagley

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on September 27, 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.