

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-51140

**UNOPPOSED MOTION TO VACATE ORDER ADJUDICATING POST-1982  
DOMESTIC WELL SUBFILE PM-51140 FOR TONI LIPTON AND SCOTT F. TEMPLE  
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 January 5, 2011 *Order Adjudicating Post-1982 Domestic Well Water Rights* (No. 7240), and enter the Consent Order adjudicating the Post-1982 domestic well water right associated with subfile RG-51140 attached hereto as Exhibit C, and in support thereof, states as follows:

1. On December 14, 2010, the State forwarded to the Court a proposed Order Adjudicating Post-1982 Domestic Well Water Rights under subfile PM-51140 to Defendants Toni Lipton and Scott Temple.

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

3. On January 5, 2011, the Court entered the *Order Adjudicating Post-1982 Domestic Well Water Rights* (No. 7240) for a single household well.

4. On January 20, 2016, Gerald Vitamvas and Linda Wervey Vitamvas filed a change of ownership with the State Engineer, asserting that they were the new owners of well RG-51140. Their change of ownership is attached hereto as Exhibit A.

5. On January 26, 2016, the new owners asserted that their well was being used for multiple households, and changed their permit with the State Engineer to accurately reflect the fact that it is a multiple use well. Their current multiple use permit is attached hereto as Exhibit B.

6. Gerald Vitamvas and Linda Wervey Vitamvas and the State have signed a Consent Order adjudicating the Post-1982 water right under subfile PM-51140 consistent with the above described changes to ownership and use, attached hereto as Exhibit C. Upon the Court vacating the January 5, 2011 *Order Adjudicating Post-1982 Domestic Well Water Rights*, the State will submit the new Consent Order to the Special Master.

7. Defendants Toni Lipton and Scott Temple, and counsel for Defendants Gerald Vitamvas and Linda Wervey Vitamvas have been contacted and do not oppose this motion.

WHEREFORE, the State requests that the Court vacate its January 5, 2011 *Order Adjudicating Post-1982 Domestic Well Water Rights* (No. 7240), and enter the Consent Order adjudicating the Post-1982 domestic well water right associated with subfile RG-51140 attached hereto as Exhibit C.

Electronically Filed

/s/ Edward C. Bagley

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Edward C. Bagley  
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on September 28, 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 upon the following by United States First Class mail:

Toni Lipton  
Scott F. Temple  
P.O. Box 808  
Tesuque, New Mexico 87574