

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

STATE OF NEW MEXICO, ex rel.,  
State Engineer,  
Plaintiff,

R. LEE AAMODT et al.,  
Defendants,

No. Civ. 66-06639 WJ/WPL  
Subfile RG-56923

and

UNITED STATES OF AMERICA,  
PUEBLO DE NAMBÉ,  
PUEBLO DE POJOAQUE,  
PUEBLO DE SAN ILDEFONSO,  
and PUEBLO DE TESUQUE,  
Plaintiffs - in- Intervention

RESPONSE TO ORDER TO SHOW CAUSE

Peter B. Shoenfeld responds to the Special Master's Order to Show Cause dated December 30, 2016 (Doc. 11212) why he should not be sanctioned for failure to appear on December 30, 2016 at the scheduled status conference as follows:

1. My former client, Oso Loco Tract D Trust, no longer owns any property or water rights subject to this water right adjudication, having disposed thereof in 2016 by sale to others;

2. Oso Loco Tract D Trust, at the time of the sale of its property and water rights which are the subject of this adjudication, terminated my engagement as counsel, effective March 2016;

3. There are two separate water rights, both in the same name, Oso Loco Tract D Trust, RG-62343 and RG-56923. In years

past both water rights would have been included in one subfile, and I made the unfortunate assumption that this was the case here.

4. I communicated the facts stated in paragraphs 1 and 2 to counsel for the State Engineer, and was informed that the State Engineer's counsel would inquire of counsel for the new owner(s) of the property, Mr. Hays, respecting the matter pending before the Court.

5. I mistakenly assumed that counsel for the State Engineer would seek to substitute the new owners of the property and water rights, one of whom is or was Mr. Hays' client, as a party in place of Oso Loco Tract D Trust, and that my function in connection with the subfile was therefore over;

6. Mr. Hays informed me on January 3, 2017, that his clients did not purchase the water rights which are the subject matter of this inquiry or the property on which they are located and appurtenant (RG-56923), but only the other water right in the name of the trust which is also in the process of adjudication herein (RG-62343).

7. A brief search at the County Clerk's office on January 3, 2017, after the receipt of the Special Master's Order to Show Cause, shows that the purchasers of some of the property and water rights from Oso Loco Tract D Trust in the Spring of 2016 are Edward P. Baird and Kuyomi Baird, who as a matter of law

became the owners of the appurtenant water rights, and with whom I have no attorney-client relationship. No further search was made to determine whether the Bairds have subsequently conveyed to others.

8. Because I have no client in this subfile, and my former client had disposed of all its water rights, as well as terminating my employment, it was and is not clear to me that I had any function to perform or that I was even authorized to appear for any purpose.

9. To the best of my knowledge, neither the State Engineer nor the new owner has taken any steps to deal with remaining issues, if any exist, in connection with RG-56923, and in hindsight it is clear that I should have filed a motion to withdraw. I apologize to the Court, the Special Master and counsel for any inconvenience resulting from my failure to do so.

10. A motion to withdraw as counsel for Oso Loco Tract D Trust is being filed contemporaneously herewith. The authority to seek withdrawal and the former client's consent to withdrawal is inferred from my former client's instruction that I should perform no further legal services, as it had disposed of the property. The trustees of the Oso Loco Tract D Trust have moved away and I have been unable to find any current address(es), telephone numbers for them, or other means to contact them.

WHEREFORE, the undersigned respectfully requests that no

sanctions be imposed.

PETER B. SHOENFELD, P.A.  
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By:  \_\_\_\_\_

CERTIFICATE OF SERVICE

On January 5, 2017, I serve a copy of the foregoing on all counsel and other parties served by the Court's digital filing and service system.

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