

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-62141

**UNOPPOSED MOTION TO AMEND THE AUGUST 22, 2016 ORDER ADJUDICATING
PRE-BASIN DOMESTIC WELL WATER RIGHT TO JOHN G. BOURNE UNDER
SUBFILE RG-62141 FROM DOMESTIC USE FOR ONE HOUSEHOLD TO
DOMESTIC USE FOR MULTIPLE HOUSEHOLDS**

The State of New Mexico ex rel. State Engineer (“State”) hereby moves the Court to, pursuant to Fed. R. Civ. P. 60(b), amend the August 22, 2016 *Order Adjudicating Pre-Basin Domestic Well Water Rights* (No. 10810) to John G. Bourne under subfile RG-62141 to have the Purpose on page 2 read “Non NMSA § 72-12-1 and -1.1 Domestic use for Multiple Households”; and the Amount of Water on that same page to read “Not to exceed a diversion and consumption of 0.7 acre feet per year per household, from the well described above but in no event may the aggregate use of those households served by the well exceed 3.00 acre feet per year, unless a more restrictive diversion limit applies pursuant to court order, covenant or

ordinance. Well will be shared among multiple households pursuant to property covenant or agreement addressing water sharing.” In support thereof, the State states as follows:

1. On July 21, 2016, the State forwarded to the Court a proposed Order Adjudicating Pre-Basin Domestic Well Water Rights under subfile RG-62141 for Defendant John G. Bourne.

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

3. On August 22, 2016, the Court entered the *Order Adjudicating Pre-Basin Domestic Well Water Rights* (No. 10810).

4. On page 2 of the *Order*, the Purpose of the water right is identified as “Non NMSA § 72-12-1 and -1.1 Domestic use for One Household”.

5. Subsequent to the entry of the *Order*, Defendant, through his attorney, Seth Fullerton, Esq., contacted the State, and alerted it to the fact that the pre-basin domestic well water right served multiple households, not one household as the *Order* stated.

6. The State undertook an investigation of Defendant Bourne’s assertion, and found it to be correct.

7. To address the fact that this is a multiple household well, the State requests the Court to amend the Purpose of “Non NMSA § 72-12-1 and -1.1 Domestic use for One Household” stated on page 2 the *Order* to instead read “Non NMSA § 72-12-1 and -1.1 Domestic use for Multiple Households”.

8. The State also requests the Court amend the Amount of Water, which is currently stated on page 2 of the *Order* as

Not to exceed a diversion and consumption of 0.7 acre feet per year from the well described above unless a more restrictive diversion limit applies pursuant to court order, covenant or ordinance

to instead read:

Not to exceed a diversion and consumption of 0.7 acre feet per year per household, from the well described above but in no event may the aggregate use of those households served by the well exceed 3.00 acre feet per year, unless a more restrictive diversion limit applies pursuant to court order, covenant or ordinance. Well will be shared among multiple households pursuant to property covenant or agreement addressing water sharing.

8. Defendant's attorney Seth Fullerton, Esq. does not oppose this motion.

WHEREFORE, the State requests that the Court amend the August 22, 2016 *Order Adjudicating Pre-Basin Domestic Well Water Rights* (No. 10810) to John G. Bourne under subfile RG-62141 to have the Purpose on page 2 read "Non NMSA § 72-12-1 and -1.1 Domestic use for Multiple Households"; and the Amount of Water on that same page to read "Not to exceed a diversion and consumption of 0.7 acre feet per year per household, from the well described above but in no event may the aggregate use of those households served by the well exceed 3.00 acre feet per year, unless a more restrictive diversion limit applies pursuant to court order, covenant or ordinance. Well will be shared among multiple households pursuant to property covenant or agreement addressing water sharing."

Electronically Filed

/s/ Edward C. Bagley

Edward C. Bagley
Special Assistant Attorney General
Attorney for State of New Mexico
P.O. Box 25102
Santa Fe, NM 87504-5102
Telephone: (505) 827-6150

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on April 5, 2017 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.