

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

**UNOPPOSED MOTION TO AMEND THE OCTOBER 19, 2015 ORDER
ADJUDICATING PRE-1982 DOMESTIC WELL WATER RIGHT TO R. HOWARD
SEARS FAMILY TRUST UNDER SUBFILE RG-30780 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 October 19, 2015 *Order Adjudicating Pre-1982 Domestic Well Water Rights* (No. 10390) to R. Howard Sears Family Trust under subfile RG-30780 to have the Purpose on page 2 read “Domestic use for Multiple Households pursuant to NMSA § 72-12-1 and -1.1”; 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 October 5, 2015, the State forwarded to the Court a proposed Order Adjudicating Pre-1982 Domestic Well Water Rights under subfile RG-30780 for Defendant R. Howard Sears Family Trust.
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 October 19, 2015, the Court entered the *Order Adjudicating Pre-1982 Domestic Well Water Rights* (No. 10390).
4. On page 2 of the *Order*, the Purpose of the water right is identified as “Domestic use for One Household pursuant to NMSA § 72-12-1 and -1.1”.
5. On April 8, 2015, a Change of Ownership, attached hereto as Exhibit A, was filed with the Office of the State Engineer regarding RG-30780, changing ownership to Defendant Tansucasa LLC.
6. Subsequent to the entry of the *Order*, Defendant R. Howard Sears Family Trust and Defendant Tansucasa both contacted the State, and alerted it to the fact that the pre-1982 domestic well water right served multiple households, not one household as the *Order* stated.
6. The State undertook an investigation of Defendants’ 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 “Domestic use for One Household pursuant to NMSA § 72-12-1 and -1.1” stated on page 2 the *Order* to instead read “Domestic use for Multiple Households pursuant to NMSA § 72-12-1 and -1.1”.

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 R. Howard Sears Family Trust and Defendant Tansucasa do not oppose this motion.

WHEREFORE, the State requests that the Court amend the October 19, 2015 *Order Adjudicating Pre-1982 Domestic Well Water Rights* (No. 10390) to R. Howard Sears Family Trust under subfile RG-30780 to have the Purpose on page 2 read “Domestic use for Multiple Households pursuant to NMSA § 72-12-1 and -1.1”; 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

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on April 19, 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, and on the following by regular mail:

R. Howard Sears
3140 Cambridge Ct., South
Palm Springs, CA 92264-5617

Daryl Stanton
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Santa Fe, NM 87504