

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

STATE OF NEW MEXICO *ex rel.*
State Engineer, *et al.*,

Plaintiffs,

v.

69cv07941 BB
Rio Chama Adjudication

RAMON ARAGON, *et al.*,

Defendants.

ORDER

THIS MATTER comes before the Court on the State of New Mexico's Motion to Exclude Additional Evidence in Memorandum by *Pro se* Party Tina Garcia (Doc. No. 9944, filed August 23, 2010).

The Special Master held evidentiary hearings regarding the priority dates for three acequias and filed her Report (Doc. No. 9546, filed December 16, 2009). A few *pro se* parties objected to the Special Master's Report and cited evidence not presented at the evidentiary hearings. The Court granted the State's motion asking the Court to limit its consideration of objections to the Special Master's Report to those filed by persons that timely objected to the Notices and Orders to Show Cause regarding the proposed priority dates, or their successors-in-interest. (*See* Mem. Op. and Order at 4, Doc. No. 9700, filed April 28, 2010). The Court also granted the State's motion asking the Court to limit its review of the objections to the Special Master's Report to the evidence and testimony presented to the Special Master at the evidentiary hearings. (*See* Mem. Op. and Order at 3, Doc. No. 9910, filed June 25, 2010).

Pro se party Tina Garcia filed a memorandum (Doc. No. 9940, filed August 17, 2010) containing genealogical evidence "to show that as a Parciante who now draws water to irrigate lands

off of the Acequia De Chamita, so did her Primos Pobladores forebearers work that Acequia at San Gabriel in 1598.” The State subsequently filed its Motion to exclude the additional evidence in Tina Garcia’s memorandum on the grounds that (1) she did not timely file an objection to the Notice and Order to Show Cause in 1995 or 1996, nor is she a successor-in-interest to the owner of a subfile who did timely object, and (2) Ms. Garcia did not show that the additional material was not readily available at the time of the hearing, is newly discovered evidence, or could not have been discovered with the exercise of due diligence. (Motion at 2-3). Ms. Garcia did not file a response opposing the State’s Motion.

For the reasons stated in its June 25, 2010, Memorandum Opinion and Order (Doc. No. 9910), the Court will **GRANT** the State’s Motion.

IT IS SO ORDERED.



BRUCE D. BLACK
CHIEF UNITED STATES DISTRICT JUDGE