

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

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

PLAINTIFF,

vs.

ROMAN ARAGON, et al.,

**69cv07941-BB
RIO CHAMA STREAM SYSTEM
Section 7, Rio Brazos**

DEFENDANTS.

MOTION FOR LEAVE TO FILE OBJECTION

COMES NOW, Defendant, Parkview Community Ditch, by and through its attorneys, William J. Waggoner, Robert M. Strumor and Daniel A. Sanchez, The Waggoner Legal Group, and moves this Court for permission to file an objection to the State's Proposed Determination of the priority date for the Ismael Ulibarri portion of the Ensenada Ditch in the Rio Brazos Subsection of Section 7 ("Brazos Subsection"), also pursuant to the Court's Notice and Order to Show Cause filed herein on May 28, 2010, (Documents 9769 and 9770), and pursuant to the Federal Rules of Civil Procedure Rule 7 and 11 and LR-CV7. As grounds for this Motion, the Defendant Parkview Community Ditch, states as follows:

1. Defendant, Parkview Community Ditch, did not realize that their Counsel of record could not file their objection as he could have conflict in that he represents the entity of which the interested individual ditches are members;

2. There will be no prejudice to any of the parties in allowing this late filing and this Motion is not filed for delay, obstruction or any other improper purpose, but for legitimate adjudication purposes;

3. The objections filed by the Asociacion de Acequias Nortenas de Rio Arriba and The Tierra Amarilla Community Ditch filed as document 9922 on July 28, 2010 at ¶ 6 identifies that “there may be two different ditches in the area known to (sic) as the Ismael Ulibarri Ditch,” and they objected to the extent that the incorrect ditch was referred to in the Notice and Order to Show Cause filed herein;

4. Defendant, further objects (based upon this matter being brought to the attention of this Court noted in ¶ 3) to any priority date that might have been given to this ditch prior to 1895 as attested to by the attached document (Exhibit A). At the bottom of the body of the document on the 15th, 16th, and 17th lines this document states that said ditch was constructed in “mil ocho cientos noventa y cinco” (1895), thus, giving it a priority date of 1895 and not 1861; and

5. Counsel for Parkview Community Ditch has sought concurrence on this motion from Counsel for the other ditches and concurrence was not given.

WHEREFORE, the reasons stated above, Defendant, Parkview Community Ditch, respectfully requests that the priority date for the Ismael Ulibarri Ditch be 1895, and at a time subsequent to the priority date of the Parkview Community Ditch, and for such other and further relief as deemed appropriate by this Court.

Respectfully submitted,

THE WAGGONER LEGAL GROUP
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Electronically Filed

By: /s/ William J. Waggoner
William J. Waggoner

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of October, 2011, I filed the foregoing electronically through CM/EFC system which caused the parties on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail.

By: /s/ William J. Waggoner
William J. Waggoner