

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.*,

Defendants.

69cv07941-BB

RIO CHAMA STREAM SYSTEM

Section 1, Chama Mainstream

Acequia de Suazo

**MOTION FOR ORDER ON PRIORITY DATE OF WATER RIGHTS
UNDER ACEQUIA DE SUAZO**

The Plaintiff State of New Mexico, *ex rel.* State Engineer (“State”), by and through its undersigned counsel, requests the Court to enter an Order revising the priority date of all water rights under the Acequia de Suazo in Section 1 of the Chama Mainstream Section, and in support of this Motion states the following:

1. Pursuant to the *Amended Order on the Adjudication of Water Right Priorities* (Doc. No. 3497, filed July 8, 1994), each defendant water rights owner and each defendant community ditch in Section 1 of the Rio Chama Stream System was required to be served a Notice and Order to Show Cause setting forth the priority dates for such water rights proposed by the court-appointed expert witness Dr. John O. Baxter or the State of New Mexico.

2. All know and unknown claimants of water rights under the Acequia de Suazo were served with a Notice and Order to Show Cause setting forth a priority date of 1735 for their water rights under this acequia. *See Certificate of Service* filed October 20, 1994 (Doc. No. 3526.A); *New*

Mexico's Certificate of Publication for Priority Date Notices and Orders to Show Cause filed November 29, 1995 (Doc. No. 4413). No objections were filed to the proposed priority date of 1735 for water rights under the Acequia de Suazo.

3. The commissioners of the Acequia de Suazo and the State of New Mexico have recently entered into a stipulation on priority date of the water rights under the Acequia de Suazo, and have stipulated that the priority date of those rights is 1735. *See Stipulation on Priority Date* filed April 12, 2010 (Docket No. 9668).

4. The Court should enter an Order approving and adopting the *Stipulation on Priority Date* filed April 12, 2010, determine that 1735 is the priority date of the water rights under this acequia, and amend all individual subfiles orders entered to date for irrigation water rights under the Acequia de Suazo. The requested Order should be entered as a final order subject to the right of other water rights owners to file objections to individual adjudication orders prior to the entry of a final decree.

5. A proposed form of Order granting this motion is attached hereto.

6. Fred J. Waltz, counsel for the Acequia de Suazo, does not oppose the granting of this motion.

7. A proposed Order granting this Motion is attached hereto as Exhibit 1.

WHEREFORE, the State respectfully requests the Court to enter an Order that approves and adopts the *Stipulation on Priority Date* filed April 12, 2010 (Docket No. 9668), and that makes the determination that 1735 is the priority date of the water rights served by the Acequia de Suazo.

FURTHER, the State requests the Court to amend the individual subfile orders for water rights under the Acequia de Suazo to state that 1735 is the priority date of those rights.

FURTHER, the State requests that the Court enter the requested Order as a final judgment, subject to the right of other water rights owners to file objections to individual adjudication orders prior to the entry of a final decree.

Respectfully submitted,

/s/ Ed Newville

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18th, day of April 2011, I filed the foregoing electronically through the CM/ECF 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, and served the following non-CM/ECF Participants in the manner indicated:

via first class mail, postage prepaid addressed as shown on the attached Service List.

/s/ Ed Newville

EDWARD G. NEWVILLE