

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 3: Rio Nutrias

Subfile No. CHNU-005-0002

MOTION TO CORRECT CLERICAL ERROR

COMES NOW the Plaintiff State of New Mexico, *ex rel.* State Engineer and moves the Court to enter its order correcting certain clerical errors in the Consent Order filed March 24, 2006 (Docket No. 8186) in connection with defendant NAPOLEON L. ULIBARRI in subfile CHNU-005-0002, and as grounds therefore plaintiff states:

1. Under Fed. R. Civ. P. 60(a), clerical mistakes in judgments or orders arising from oversight or omission may be corrected by the court at any time on its own motion or on the motion of any party after such notice, if any, as the court orders.

2. The description of the location and amount of irrigated acreage in sub-parts (A) and (B) in the Consent Order filed March 24, 2006 in subfile CHNU-005-0002 is, in part, incorrect. The description of the lands in sub-part (A) that are irrigated by Juan Ulibarri ditch within the Tierra Amarilla Grant includes two tracts (total of 0.3 acres) that are in fact irrigated by the Solomon Ulibarri ditch. Although the amount of irrigated acreage is included in the description of the water rights, the subfile map (dated August 3, 2005) attached to Consent Order, fails to show the location of the two

tracts of land, which are located just east of the point of diversion for the Juan Ulibarri ditch.

WHEREFORE, the plaintiff State of New Mexico requests the Court to enter its order correcting the information for the description of the location and amount of irrigated acreage under these two ditches in sub-parts (A) & (B) of the Consent Order filed March 24, 2006, in subfile CHNU-005-0002 as follows:

A. IRRIGATED LANDS (Surface Water Only):

Point of Diversion:

Ditch: Juan Ulibarri

Location: X = 1,540,367 feet Y = 2,025,099 feet

New Mexico State Plane Coordinate System, Central Zone, NAD 1983

Location and Amount of Irrigated Acreage:

Section 22, Township 27N, Range 03E, N.M.P.M

Pt. NE ¼	0.3 acres
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Section 23, Township 27N, Range 03E, N.M.P.M

Pt. of Lot 3 and Pt. of Lot 4	18.4 acres
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Pt. of Lot 3 and Pt. of Lot 4	6.8 acres
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Within the Tierra Amarilla Grant	1.0 acres
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	<hr style="width: 100%;"/> Total 26.5 acres
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As shown on the attached revised Hydrographic survey Map for Subfile No. CHNU-005-0002.

B. IRRIGATED LANDS (Surface Water Only):

Point of Diversion:

Ditch: Solomon Ulibarri

Location: X = 1,541,195 feet Y = 2,025,595 feet

New Mexico State Plane Coordinate System, Central Zone, NAD 1983

Location and Amount of Irrigated Acreage:

Section 23, Township 27N, Range 03E, N.M.P.M

Pt. of Lot 3 and Pt. of Lot 4	2.6 acres
Within the Tierra Amarilla Grant	2.4 acres
Within the Tierra Amarilla Grant	0.3 acres
Total	<hr/> 5.3 acres

As shown on the attached revised Hydrographic survey Map for Subfile No. CHNU-005-0002.

FURTHER, the plaintiff State of New Mexico requests the Court to substitute the attached revised subfile map dated April 18, 2011, for the map attached to the Consent Order filed March 24, 2006 (Docket No. 8186).

Dated: May 31, 2011

Respectfully submitted,

/s/ Ed Newville
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 31st day of May 2011, I filed the foregoing electronically through the CM/ECF system which caused the parties listed 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 follows:

Napoleon L. Ulibarri
P.O. Box 125
Los Ojos, NM 87551