

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.

6:69cv07941-BB -LFG

RIO CHAMA STREAM SYSTEM

Section 7, Cañones Creek

Subfile No. CHCC-002-0010

MOTION TO AMEND CONSENT ORDER
IN SUBFILE CHCC-002-0010

COMES NOW the plaintiff State of New Mexico, *ex rel.* State Engineer and moves the Court to amend the Consent Order entered for Subfile CHCC-002-0010 (Donald A. Gonzales and Mary E. Gonzales a/k/a Mary Ellen Burns Gonzales) (filed December 12, 2003, Doc. No. 7347) and as grounds therefore plaintiff states:

1. The description of the point of diversion for the Unnamed Ditch No. 2 in the Consent Order entered on December 12, 2003, in Subfile CHCC-002-0010 was based on survey information collected in the original hydrographic survey report prepared by the Office of the State Engineer. This information described two points of diversion for this ditch, one used during periods of “High Flow” and another used during periods of “Low Flow.” Since the time of the preparation of the original hydrographic survey report and the filing of the consent order in this subfile, additional field work was completed in the area where the point of diversion for this ditch is located for another subfile at the request of Mary Ellen Burns Gonzales. The water rights for those lands are described in the Consent

Order for Subfile CHCC-002-0009 (filed January 29, 2009, Doc. No. 9395) (Mary Ellen Burns Gonzales). This field work showed that there was only one point of diversion for the Unnamed Ditch No. 2, and that its actual location was somewhat different from either of the two points of diversion described in the original hydrographic survey report. The consent order entered in Subfile CHCC-002-0009 reflects this information.

2. The Consent Order entered in Subfile CHCC-002-0010 should be amended to correctly describe point of diversion for the Unnamed Ditch No. 2, which serves the irrigated lands described in the subfile orders for both Subfile CHCC-002-0009 and CHCC-002-0010.

3. Subsection B of the Consent Order entered for Subfile CHCC-002-0010 (Donald A. Gonzales and Mary E. Gonzales) (filed December 12, 2003, Doc. No. 7347) should be amended as follows:

B. IRRIGATED LANDS (Surface Water Only):

Office of the State Engineer File No(s): None

Priority: reserved for future determination by court order entered November 19, 2002.

Source of Water: Surface Water of Cañones Creek, a tributary of the Rio Chama.

Purpose of Use: IRRIGATION

Point of Diversion:

Ditch: UNNAMED DITCH NO. 2

Location: X = 1,543,132 feet Y = 2,114,618 feet
New Mexico State Plane Coordinate System, Central Zone, NAD 1983

Location and Amount of Irrigated Acreage:

Within the Tierra Amarilla Grant 29.9 acres

Total 29.9 acres

As shown on the 2000 Hydrographic Survey Map CHCC-2

Amount of Water: reserved for future determination by court order entered November 19, 2002.

WHEREFORE, the plaintiff State of New Mexico requests the Court to amend the Consent Order entered for Subfile CHCC-002-0010 (Donald A. Gonzales and Mary E. Gonzales) (filed December 12, 2003, Doc. No. 7347) to include the correct information on the location of the point of diversion of the Unnamed Ditch No. 2, as described above.

Respectfully submitted,

/s/ Ed Newville

EDWARD G. NEWVILLE
Special Assistant Attorney General
Office of State Engineer
P.O. Box 25102
Santa Fe, NM 87504-5102
(505) 867-7444 telephone
(505) 867-2299 facsimile

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14th day of September 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 parties via first class mail addressed as stated.

/s/ Ed Newville
EDWARD G. NEWVILLE

Donald A. Gonzales
P.O. Box 5353
Santa Fe, NM 87502

Mary Ellen Burns Gonzales
2806 Calle Campeon
Santa Fe, NM 87505