

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

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

Plaintiff,
v.

ROMAN ARAGON, *et al.*,

Defendants.

69-cv-07941-BB-LFG

RIO CHAMA STREAM SYSTEM

Section 7, Rutherford & Plaza Blanca

NOTICE AND ORDER TO SHOW CAUSE

TRUDY M. KEMPER
303 PORTILLO DR
LOS ALAMOS NM 87544

KRYAN B. KEMPER
303 PORTILLO DR
LOS ALAMOS NM 87544

Subfile No.: CHRU-001-0005

Ditch or Acequia

WILLOW CREEK MESA DITCH

Priority Dates

You are hereby notified that the Court has entered an order requiring you to file an objection with the Court if you disagree with the State's proposed determination of the priority date for your water right and ditch, or the priority date for any other community or private ditch in the Rutherford & Plaza Blanca Subsection of Section 7 ("Rutherford & Plaza Blanca Subsection") as described below:

DITCH

PRIORITY DATE

Plaza Blanca Ditch
Trujillo Ditch

1861
1877

These priority dates described above will apply to all individual irrigation water rights served by the ditches listed, unless you or other parties file objections. The priority dates for ditches listed above will also apply to a spring that serves as a source of water for irrigators under those ditches, and which is described in an individual subfile order filed with the Court.

You are hereby notified that you are required to file an objection with the Court if you disagree with the State's proposed determination of the ditch-wide priority dates for lands in the Rutherford & Plaza Blanca Subsection that are irrigated under a final license issued by the Office of the State Engineer, or irrigated under an approved permit for the transfer of water rights, as described below:

<u>DITCH</u>	<u>OSE LICENSE</u>	<u>PRIORITY DATE</u>
<u>Willow Creek Mesa Ditch</u>	No. 1545 & 1699	December 4, 1922

The above priority of December 4, 1922 will apply to all lands irrigated by the Willow Creek Mesa Ditch under OSE License No. 1545 & 1699 with the exception of the lands in the subdivisions described below.

<u>Willow Creek Mesa Ditch</u>	No. 1545 & 1699	February 2, 1926
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<u>Subfile No.</u>	<u>Subdivision</u>	<u>Acres</u>
CHRU-002-0001	Sec 34, T2S, R2E	
	NE1/4 SE1/4	10.20
	SE1/4 SE1/4	1.05
	SW1/4 SE1/4	0.67
	Sec 35, T2S, R2E	
	NW1/4 NW1/4	3.32
	NE1/4 NW1/4	6.14
	NW1/4 NE1/4	8.62
	SW1/4 NE1/4	22.54
	SE1/4 NE1/4	0.03
	NW1/4 SE1/4	6.41
	SW1/4 SW1/4	15.73
	SE1/4 SW1/4	21.26
	Sec 2, T3S, R2E	
NW1/4 NW1/4	7.49	

CHRU-001-0003	Sec 36, T2S, R2E SW1/4 NW1/4	0.70
CHRU-003-0006	Sec 1, T3S, R2E SE1/4 NW1/4	13.99
CHRU-004-0042	Sec 11, T3S, R2E SW1/4 NE1/4	0.86
CHRU-004-0043	Sec 11, T3S, R2E SW1/4 NE1/4 SE1/4 NW1/4	1.35 1.12

A copy of a map prepared by the Office of the State Engineer showing the location of the lands described above, to which the priority of February 2, 1926 will apply, is available for inspection at the Office of The State Engineer in Santa Fe. Copies of this map are also included with the Court's Notice/Order mailed to defendants in Subfiles CHRU-002-0001, 001-0003, 003-0006, 004-0042 and 004-0043.

TRANSFERRED WATER RIGHTS

<u>Move-to Location</u>	OSE Permit	PRIORITY DATE
CHRU-004-0050A (Unser LLC)	No. 1545 & 1699 into 4888 & 4889	December 4, 1922

Irrigation Water Requirements

You are hereby notified that the Court has entered an order requiring you to file an objection with the Court if you disagree with the State's proposed determination of the irrigation water requirements for surface water irrigation use under pre-1907 ditches located in the Rutheron & Plaza Blanca Subsection, as described below:

- a. The weighted consumptive irrigation requirements (CIR) is 1.08 acre-feet per acre per annum.
- b. The farm delivery requirement (FDR) is 2.70 acre-feet per acre per annum.
- c. The project diversion requirement (PDR) is 4.50 acre-feet per acre per annum.

The ditches in the Rutheron & Plaza Blanca Subsection to which the above amounts apply are all of the ditches identified above with the exception of the Willow Creek Mesa Ditch.

You are hereby notified that you are required to file an objection with the Court if you disagree with the State's proposed determination of the irrigation water requirements for surface water irrigation use on lands in the Rutheron & Plaza Blanca Subsection that are irrigated under a final license issued by the Office of the State Engineer, or irrigated under an approved permit for the transfer of water rights, as described below:

Willow Creek Mesa Ditch:

- a. The weighted consumptive irrigation requirement (CIR) is 1.08 acre-feet per acre per annum.
- b. The farm delivery requirement (FDR) is 1.5 acre-feet per acre per annum.
- c. The project diversion requirement (PDR) is 2.5 acre-feet per acre per annum.

TRANSFERRED WATER RIGHTS

<u>Move-to Location</u>	OSE Permit	AMOUNT OF WATER
CHRU-004-0050A	No. 1545 & 1699	23.67 acre-feet per annum consumptive use
	into 4888 & 4889	40.35 acre-feet per annum diversion amount

The term "Consumptive Irrigation Requirement" ("CIR") refers to the quantity of water, expressed in acre-feet per acre per year, exclusive of effective precipitation, that is consumptively used by plants or is evaporated from the soil surface during one calendar year. The term "Farm Delivery Requirement" (FDR) refers to the quantity of water expressed in acre-feet per acre per year, exclusive of effective precipitation, delivered to the farm headgate or which is diverted from a source of water which originates on the farm itself, such as a well or spring, necessary to satisfy the consumptive irrigation requirements of crops grown on a farm in one calendar year. The Project

Diversion Requirement” (PDR) or off-farm diversion requirement is defined as the quantity of water, exclusive of effective precipitation, which is diverted from the stream or an off-farm source to satisfy the farm delivery requirement for one calendar year. The irrigation water requirements set forth above do not include diversion requirements associated with stockponds or other impoundments determined to have valid water rights in these proceedings.

If you agree with the priority dates and irrigation water requirements described above, you do not need to take any action. If any objections are filed by any persons, you will be notified of the objections and may participate in the proceedings to resolve those objections. If no objections are filed, the Court will enter an order that recognizes those elements of your water rights and the water rights of other surface water users in the Rutherford & Plaza Blanca Subsection as described above. If you disagree, you must follow the instructions below.

In the absence of any objections, you will have no other opportunity in these proceedings to object to the determination of priority dates or irrigation water requirements in the Rutherford & Plaza Blanca Subsection, and subsequent *inter se* proceedings in the Rutherford & Plaza Blanca Subsection will not include the opportunity to object to those determinations.

IT IS THEREFORE ORDERED THAT if you object to any of the priority dates stated above, or to the irrigation water requirements for surface water irrigation use in the Rutherford & Plaza Blanca Subsection as stated above, you must file the form entitled Objection and Response to Notice and Order to Show Cause with the Court, in person or by mail **FOR RECEIPT NO LATER THAN June 1, 2012.**

United States District Court Clerk
333 Lomas Blvd. NW, Suite 270
Albuquerque, NM 87102

If you timely file an objection the Court will notify you of a mandatory scheduling and pretrial conference, where you will learn how objections will be heard by the Court. This will be your only

opportunity to object to these elements of your water rights in the Rutherford & Plaza Blanca Subsection. If you fail to timely object and attend the scheduling and pretrial conference you may not raise objections in the future.

If you have any questions, call or write:

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

or,

John W. Utton
Attorney for Asociación de Acéquias
Norteñas de Rio Arriba
Sheehan & Sheehan, PA
P.O. Box 271
Albuquerque, NM 87103-0271
(505) 699-1445 telephone
(505) 842-8890 facsimile



BRUCE D. BLACK
CHIEF UNITED STATES DISTRICT JUDGE

Approved:



LORENZO F. GARCIA
UNITED STATES MAGISTRATE JUDGE