

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

STATE OF NEW MEXICO ex rel.)	
State Engineer,)	
)	No. 69cv07941-BB
Plaintiffs)	
)	Consolidated with Cause No. 4922
v.)	Rio Arriba County District Court
)	
ROMAN ARAGON, et al.,)	Rio Chama Adjudication
)	Section 8 – Rio Puerco de Chama
Defendants)	Acequia Mesa del Medio

MOTION TO SUBSTITUTE PARTIES

JOSE LEANDRO MARTINEZ and MAGDALENA L. MARTINEZ (“Movants”), pursuant to Federal Rule of Civil Procedure 25, respectfully move this Court to substitute them as parties, as owners of a certain tract of land to which this Court has adjudicated irrigation water rights in the proceeding referenced above. In support of this motion, Movants would show the following:

1. Jose Leandro Martinez and Magdalena L. Martinez own a 28-acre tract of land of which approximately 19.5 acres have appurtenant water rights.
2. The 19.5 acres is part of the 42.2-acre tract, as shown in the northeast quarter of Map 19 of the 1952 Rio Puerco de Chama Hydrographic Survey, a copy of which is attached as Exhibit A, that was decreed to Jose Onisimo Lujan and wife Corlinda Lujan in the Final Decree entered in this cause on June 1, 1962.
3. The 42.2 acres is part of a 160-acre tract patented to Jose Onecimo Lujan, Sr., and upon his death in 1936, Pablita A. Lujan, his widow, became the owner of the 160-acre tract.

4. On January 15, 1952, Pablita A. Lujan conveyed 34 acres of the 160 acre tract to Fabian Lujan, her grandson, which deed was filed for record in 1957. A copy of the deed, recorded in Rio Arriba County records on December 20, 1957 at Book 107, page 26, is attached as Exhibit B.

5. The location of Fabian Lujan's 34 acres within the 160 acres is shown on a plat of the 160 acres prepared by J.C. Lujan, NM PE &LC Lic. # 3522, from field notes he had taken in June 1964 and recorded in Book 105A, page 195 in the records of Rio Arriba County. A copy of the plat is attached as Exhibit C.

6. On August 10, 1964, Fabian Lujan conveyed 28 acres to Movants. A copy of the deed, recorded in Rio Arriba County records on November 9, 1970 at Book 107, page 26, is attached as Exhibit D.

7. In 1984, Movants filed a Change of Ownership of Water Rights with the New Mexico State Engineer. By overlaying a copy of the plat upon Map Sheet 19, the Water Rights Division of the New Mexico State Engineer Office determined that approximately 19.5 acres of Movants' 28 acres had appurtenant water rights. A copy of the overlay is attached as Exhibit E.

8. Based on this chain of title, it is appropriate to substitute Movants (Jose Leandro Martinez and Magdalena L. Martinez) for Jose Onisimo Lujan and Corlinda Lujan in this cause with respect only to the approximately 19.5 acres identified and described in Paragraphs 2 and 7 above, and that Jose Onisimo Lujan and Corlinda Lujan would remain parties with respect to the remainder of the 42.2-acre tract adjudicated in this cause on June 1, 1962 as set forth in Paragraph 2 above, excluding the 19.5 acres identified herein.

9. Counsel for Movants contacted counsel for Plaintiff-in-Intervention State of New Mexico, who stated that the State of New Mexico does not oppose this motion.

10. On information and belief, Jose Onisimo Lujan is deceased and is survived by his wife, Corlinda Lujan. A copy of this motion is being served on Corlinda Lujan, through her counsel.

WHEREFORE, for the reasons stated above, Movants respectfully request the Court to substitute them as parties in regard to ownership of 19.5 acres of the 42.2 acres of land with water rights identified on Map Sheet 19 as belonging to Jose O. Lujan and for such other relief as may be just and proper.

Respectfully submitted,

NEW MEXICO LEGAL AID, INC.

/s/ David Benavides

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CERTIFICATE OF SERVICE

I certify that on this 22nd day of March, 2012, I filed the foregoing electronically through the CM/ECF system, which caused the parties or counsel reflected on the Notice of Electronic Filing to be served by electronic means, and also served the foregoing by first-class mail on Corlinda Lujan through her counsel:

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