

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/LFG

RIO CHAMA STREAM SYSTEM

Section 7, Rutherford & Plaza Blanca

Subfile No. CHRU-004-0045

MOTION TO AMEND CONSENT ORDER
DESCRIBING THE WATER RIGHTS OF THE RUTHERON MUTUAL
DOMESTIC WATER CONSUMERS ASSOCIATION IN SUBFILE CHRU-004-0045

The plaintiff State of New Mexico, *ex rel.* State Engineer (State) moves the Court to amend the Consent Order entered on July 24, 2006 (Doc. No. 8343) in Subfile CHRU-004-0045 describing the water rights of defendant Rutherford Mutual Domestic Water Consumers Association (Association) and as grounds therefore plaintiff states:

1. The Consent Order entered on July 24, 2006 (Doc. No. 8343) that describes the water rights of the Rutherford Mutual Domestic Water Consumers Association does not include a description of the amount of water or the priority of the Association's water rights. These elements of the Association's water rights were reserved for future determination. *See id.* The State has reviewed the information in the water rights files of the Office of the State Engineer with the staff of the Water Rights Division, and the State believes the Association presently has the right to divert and use 11.694 acre-feet of surface water per annum as follows:

Amount of Water 10.537 acre-feet per annum
Priority 1960

Amount of Water 1.157 acre-feet per annum
Priority December 4, 1922

2. Counsel for the State has contacted the Board of Directors of the Association, who agree with the State's assessment of the Association's water rights as described above.

3. The Association is in the process of transferring additional water rights to its infiltration gallery for use by the Association under OSE Application SD-03303-18 CHRU-004-0017 into OSE 4656 (filed March 24, 2011). The entry of an Order to revise the Consent Order entered on July 24, 2006 in Subfile CHRU-004-0045 will have no effect on this application. Any surface or groundwater rights transferred to the Association by an approved OSE permit after the date of the entry of an Order that revises the Consent Order entered on July 24, 2006 will be addition to those recognized in Subfile CHRU-004-0045.

WHEREFORE, the plaintiff State of New Mexico requests the Court to amend the Consent Order entered on July 24, 2006 (Doc. No. 8343) in Subfile CHRU-004-0045 to include the description of the elements of the Association's water rights as described above.

Respectfully submitted,

/s/ Ed Newville
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 8th day of June 2012, 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

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