

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-MV/LFG

RIO CHAMA STREAM SYSTEM

Acequia de Chamita

Subfile No. 267

**RESPONSE BY STATE OF NEW MEXICO**  
**TO RESPONSE BY DAVID ORTIZ**  
**TO ORDER TO SHOW CAUSE**

Pursuant to the *Order to Show Cause* entered on October 9, 2013 (Doc. 10971), David Ortiz was required to show cause why the Court should not strike his objections to *Magistrate Judge's Findings and Recommended Disposition* (Doc. 10939) for failure to comply with Rule 72(b)(2) of the Federal Rules of Civil Procedure. Rule 72(b)(2) provides: "Unless the district judge orders otherwise, the objecting party must promptly arrange for transcribing the record, or whatever portions of it the parties agree to or the magistrate judge considers sufficient." Mr. Ortiz has not arranged for transcribing the record in this matter including the testimony taken before Magistrate Judge Garcia on February 11-12, 2013. *See Order to Show Cause* at 2.

In responding to the *Order to Show Cause* (Doc. 10974), Mr. Ortiz presents at some length his arguments on the merits of his claims, and attaches a multitude of exhibits said to support those claims. These arguments and exhibits are irrelevant to the question of why he has not provided the Court with a transcript of the proceedings that would enable the District Judge to review the actual

testimony before Magistrate Judge Garcia when reviewing Ortiz' objections to the Magistrate Judge's factual findings and recommended disposition.

For the reasons stated in the *Response by State of New Mexico to Objections to Magistrate Judge's Findings and Recommended Disposition* (Doc. 10963), and because Mr. Ortiz has failed to show cause why the Court should not strike his objections based on his failure to comply with Rule 72(b)(2), the State respectfully requests that the Court overrule or strike the objections of David and Cecilia Ortiz to *Magistrate Judge's Finding and Recommended Disposition* filed August 2, 2013 (Doc. 10939), and further that the Court adopt the Findings and Recommended Disposition of Magistrate Judge Lorenzo F. Garcia in this matter.

Respectfully submitted,

/s/ Ed Newville  
EDWARD G. NEWVILLE  
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Office of State Engineer  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 1<sup>st</sup> day of November, 2013, 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:

David Ortiz  
Cecilia S. Ortiz  
P.O. Box 1082  
San Juan Pueblo, NM 87566

/s/ Ed Newville  
EDWARD G. NEWVILLE