

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.

69cv7941-MV/LFG

RIO CHAMA STREAM SYSTEM

Section 3, Rio Nutrias

**MOTION FOR ENTRY OF PARTIAL FINAL JUDGMENT AND
DECREE ON SURFACE WATER IRRIGATION RIGHTS
IN THE RIO NUTRIAS SUBSECTION OF SECTION 3
OF THE RIO CHAMA STREAM SYSTEM**

The Plaintiff State of New Mexico, *ex rel.* State Engineer (“State”) requests the Court to enter a *Partial Final Judgment and Decree on Surface Water Irrigation Rights in the Rio Nutrias Subsection of Section 3 of the Rio Chama Stream System*, and in support Plaintiff states as follows:

1. On July 1, 2011, the Court filed its *Order Granting Motion to Establish Procedures for Entry of Partial Final Judgment and Decree on Surface Water Irrigation Rights in Rio Nutrias Subsection, Section 3, Rio Chama Stream System* (Doc. 10177) to control the course of *inter se* proceedings in the Rio Nutrias Subsection leading to the entry of a Partial Final Judgment and Decree (“Decree”). Notice of the deadline for filing *inter se* objections to any water rights previously adjudicated in a subfile order and described in the Decree was served on all claimants, known and unknown, to the use of water in the Rio Nutrias Subsection.

2. On December 12, 2011, Filiberto Ulibarri and Domitilia L. Ulibarri filed objections to the proposed decree of water right of Lucia A. Montoya and Robert J. Montoya in Subfile CHCNU-

002-0014 (Doc. 10664). No other *inter se* objections were filed with the Court. On April 29, 2013, the Ulibarris gave notice that they had entered into a Settlement Agreement with the Montoyas, and the Ulibarris withdrew their *inter se* objections (Doc. 10904).

2. All claimants to the use of water in the Rio Nutrias Subsection were provided with adequate legal notice of all proceedings to adjudicate their water rights claims and adequate legal notice of all *inter se* proceedings. All *inter se* objections that were timely filed with the Court have been finally resolved.

3. All claims to the diversion and use of public surface water in the Rio Nutrias Subsection for irrigation purposes have been determined and adjudicated by this Court.

4. There is no just reason to delay the entry of a final judgment in accordance with Fed. R. Civ. P. 54(b) on surface water irrigation rights in the Nutrias Subsection.

WHEREFORE, the State requests the Court to enter the *Partial Final Judgment and Decree on Surface Water Irrigation Rights in the Rio Nutrias Subsection of Section 3 of the Rio Chama Stream System* attached hereto as Exhibit 1. The Addendum materials and hydrographic survey maps that were placed with the Court for public inspection pursuant to the *Notice* filed August 19, 2011 (Doc. 10534) should be attached as an Addendum to the filed Decree.

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 phone
(505) 867-2299 facsimile

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 30th day of April, 2013 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.

/s/ Ed Newville
Edward G. Newville