


FILED 
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

2013 JUL 29 AM 10:25

IN THE UNITED STATES DISTRICT COURT CLERK-SANTA FE

FOR THE DISTRICT OF DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, on the relation
The State Engineer,

Case No. 69cv-07941-MV/LFG

Plaintiff,

Rio Chama Stream System

v.

Section 1 (mainstream)

ROMAN ARAGON, et al,

Defendants.

To: The Honorable Lorenzo F. Garcia, Magistrate Judge

From: Parciantes of Acequia de Chamita

Motion requesting Senior Priority call by the Acequia de Chamita Parciantes by Acequia spokesman, David Ortiz

Your Honor attached (Exhibit A & B) are letters that I tried to submit to the WaterMaster and they would not accept. I will go into a brief explanation on my part.

On the morning of July 25, 2013, I hand delivered the 3 pages, one (1) titled, SENIOR PRIORITY WATER CALL, and two (2) with the signatures of 44 parciantes. The WaterMaster was not allowed to stamp, date and sign for, by 2 individuals in that division, one being the director. I was asked if I was a commissioner and I replied I was not. I was told it had to be delivered by a Commissioner and signed by him. I advised them that a signature of one of the commissioners and the Mayordomo was on the signup sheet. They would not accept it unless it was

delivered by a Commissioner. I left to an Acequia Workshop. If it was mailed would they refuse it from the mailman?

While there, I read the WaterMasters Rules and Regulations, referenced on the attached July, 2013 letter and on Doc.10930. I went back to the WaterMasters office to request the form provided by the WaterMaster for a Priority call and was told by 4 separate individuals that there was no such form. The WaterMasters instructions do not use Commissioner, but official. My interpretation is the signature of "an" official, meaning only one. One of them argued that the Mayordomo was not an official of the ditch, he had to be elected. I replied the Mayordomo is elected, still they would not accept the Priority call. I went back to Chamita and prepared that above referenced letter (Exh.B) which 2 of the 3 Commissioners signed, and the Mayordomo, one of the the two not being available on Wednesday because he was at the Doctors in Albuquerque. The third one was non-responsive.

On the morning of July 26, 2013, the Mayordomo and myself went back to the WaterMasters office and Mr. Vince Chavez would still not accept the Priority call.

Your Honor has the State spent all those millions of dollars and all that time of the Court and Judges to assign priority dates and then they don't intend to enforce Senior Priority Administration? Doc.10930 & -1. And what about what yet remains to be done in time and money? (exh.a) Is it all for nothng?

My only remedy is to ask that the Court order the WaterMaster honor and enforce the Priority call of the Parciantes of the Acequia de Chamita and that those other individuals be ordered to quit obstructing the WaterMaster from performing his duties as WaterMasters Rules and Regulations and Document 10930 and 10930-1 instruct him. They told him not to accept, sign and stamp the Priority Request.

Respectfully,

Parciantes of the Acequia de Chamita (see sign up list, including page 4)

July 29, 2013

Acequia de Chamita Parciantes

Established August 11, 1598

ExH.A

Interstate Stream Commission
Bataan Memorial Bldg Room 101
PO Box 25102
Santa Fe New Mexico 87504-5102

Senior Priority Water Call

Gentlemen,

As Parciantes of the Acequia de Chamita, we are making the Senior Priority Water call. At the present time there is only according to the Interstate Stream Commission, enough water for the 3 Senior Acequia's, Chamita being #1. The State of New Mexico must begin enforcing restrictions on the Junior Acequia's above and below the Abiquiu Dam.

The State is spending and will spend \$Millions of Dollars to determine who is Senior and how much they can use, adjudicating the waters to determine Senior users and yet all the Acequia' above us continue to use water when there is only enough for the 3 Senior's.

According to the Partial Final Judgment and Decree, Filed July 26, 1971 we have rights to water year around, which we do not use, shutting down in Dec., Jan., Feb., and March. We also have rights to 18CFS in the Acequia which we have not utilized in at least 50 to 60 years, running at the most 14 CFS and probably averaging about 10 to 11 CFS in all those years. We also have as a major parciante (approx.240 Acres, the Pueblo of Okhay Owingeh) (Chamita Community approx.480 acres). You show on your July 12, 2012, Hydrographic Survey map of Acequia's, Chamita having 472.85 Acres, which is in error and should be approx. 700 acres. You have not included Okhay Owingeh.

P 1 of 3 plus 1 + 1 = 5

(1)

EXH.A

Therefore the following members on the attached sheets with names and addresses and acres under irrigation do respectfully request that we be delivered a full ditch up to the 18 Cfs that is our right to divert.
Thank You

	Printed name	Signed name	Adresss	Acreage
1	DAVID CRITZ	David Critz	PO BOX 1082 SJP, NM 87566	15.12
2	Dwight M. Salazar	Dwight M. Salazar	PO BOX 1185 SJP "	35.32
3	Tina Garcia	Tina Garcia	PO BOX 1304 SJP "	19.13
4	Eloy GARCIA	Eloy Garcia	PO BOX 24 SJP "	9.46
5	RoseMARIE VELAZQUEZ	Rose Marie Velazquez	14 Prt D. 1663 SJP Sec 280, SAN JUAN ME	
6	Santiago Gallegos	Santiago Gallegos	Hwy 74 Hse 81A	6.114
7	PETE LOWE	Pete Lowe	ST. Rd. 74 House 87 Chamita	1.75
8	JACOBO BACA	Jacobo Baca	RD. 1045 OHKAY OWINGEH PEXO	5.65
9	Joseph Gallegos	Joseph Gallegos	P.O. 1304 20 San Juan Pueblo, NM	2.11
10	Jacob D. Gallegos	Jacob D. Gallegos	P.O. BOX 9 San Juan Pueblo, N.M.	3.423 3.50
11	Jony J. Maestas TONY J. MAESTAS	Jony J. Maestas	RT 2 BOX 279 B San Juan Pueblo, NM	3.61
12	Leo J. Martinez	Leo J. Martinez	PO. Box 1202 San Juan Pueblo NM	1.20
13	Anthony Maestas	Anthony Maestas	PO BOX 1328 San Juan Pueblo NM 87566	6.16
14	JOE BRANCH	Joe Branch	PO Box 1114 OHKAY OWINGEH, NM 87566	15.22
15	Mary D. Archuleta	Mary D. Archuleta	Box 1540 San Juan Pueblo N. Mex	7.85
16	Pete De Herrea	Pete de Herrea	Rio Rancho N.M. 7088 HUSKY Drive	13.65
17	RON W. PUNDSTRÖM	Ron W. Pundstrom	P.O. BOX 1791, ESPANOLA New Mexico 87532	3.
18	Andrew B. Valdez	Andrew B. Valdez	P.O. Box 104 OHKAY OWINGEH N.M. 87566	16.95
19	Cathy Guillen	Cathy Guillen	PO BOX 2 San Juan Pueblo, NM 87532	16.49
20	Morris J. Santistevan	MORRIS J. SANTISTEVAN	P O BOX 4516 FAIRVIEW, NM 87533	15.36
21	Jose L Pacheco	Jose L Pacheco	PO Box 1153 San Juan Pueblo NM 87566	17.36
22	RENEE A PACHECO	Renee Pacheco	P.O. Box 4685 Fairview, NM 87533	2.5
23	David P. Martinez	David Martinez	PO Box 1033 Española NM 87532	1.2
24	Jimmy Chavez	Jimmy Chavez	56 County Rd 56 House 105 OHKAY OWINGEH N.M. 87566	.842

EXH.A

PRINT	SIGNATURE	ADDRESS	Acreage
25. Gary Martin	<i>Gary Martin</i>	97A County Rd. 56A Okay Dwingoh	4.5
26. Rick R. MASCARENAS	<i>Rick R. Mascarenas</i>	P.O. Box 1180 San Juan Pueblo	13.6
27. Christina Mascareñas	<i>Christina A Mascarenas</i>	171 SR 74 San Juan Pueblo, NM	11.9
28. Margaret Herrera	<i>Margaret Herrera</i>	P.O. Box 1366 San Juan Pueblo, N.M.	1
29. Carlos E. Vigil	<i>Carlos E Vigil</i>	P.O. Box 1502, OKAY DWINGOH, NM 87566	1
30. Robert Tainter	<i>Robert Tainter</i>	Rt 4, Box 206 Hough, NM 87566	378.47
31. Raymond Gallegos	<i>Raymond Gallegos</i>	P.O. Box 1096 San Juan Pueblo, N.M. 87566	6.4
32. Pedro P Trujillo	<i>Pedro P Trujillo</i>	P.O. Box 1215 San Juan Pueblo	9.82
33. JOHNNY L MARTINEZ	<i>Johnny L Martinez</i>	P.O. Box 1373 SAN JUAN Pueblo NM 87566	0.24
34. Dolores MARTINEZ	<i>Dolores Martinez</i>	PO BOX 217 ESPANOLA, NM 87532	.647
35. FRED F FLORES	<i>Fred F Flores</i>	RT 4 BOX 282-75 SAN JUAN Pueblo NM 87566	2.425
36. Eric Rombal	<i>Eric Rombal</i>	55 CR 56A San Juan NM 87566	5.3
37. Ernesto Mazon	<i>Ernesto Mazon</i>	P.O. Box 1058 San Juan Pueblo, NM 87566	3.91
38. Rick Romero	<i>Rick Romero</i>	Route 4 Box 179 Espanola N.M. 87532	9.92
39. Kathleen Rainsay Horak	<i>Kathleen Rainsay Horak</i>	#7 Shady Lane Espanola NM 87532	6.868
40. Mike Purdy	<i>Mike Purdy</i>	RT: 4 BOX 278-8 SAN JUAN NM 87566	8.71
41. ISAAC SALAZAR	<i>Isaac Salazar</i>	PO Box 4054 Kirtland NM 87533	4.99
42. Ron Velarde	<i>Ron Velarde</i>	67 County Rd. 56 Okay Dwingoh.	6.38
43. URSULA CORDOVA	<i>Ursula Cordova</i>	P.O. Box 713 San Juan Pueblo, N.M. 87566	11.3
44. Richard M. Salazar	<i>Richard M Salazar</i>	PO BOX 1330 SANTUAN Pueblo, NMex 87566	19.12
45. Alex Seneers	<i>Alex Seneers</i>	PO Box 749 San Serran Pueblo 87566	4.140
* 650-636-3611	SUSAN DOMINGUEZ	1416 CRESPIAN DR PACIFICA, CALIF. 94044	7.81
* 505-471-7455	FRANCISCO HERRERA	2735 VIA CABALLERO del SUR SANTA FE, NM 87505	10
* 801-865-1442	LEONARD SALAZAR	1972 EAST 12200 SOUTH DRAPER, UTAH 84020-9680	7.41
* 505-362-2739	ENRIQUE RAEI	2737 VALLE GRANDE S.W. ALBUQUERQUE, NM 87105	4.632
* 505-299-6929	JAMES MAESTAS	11421 PASEO del CEO ALBUQUERQUE NM 8711-2666	7.29
* 505-417-1632	TAMMY GRIFFITH	PO BOX 289 SAN RAMON, CALIF. 94583	6.24
* 925-519-1188			
* 925-536-9937			

* OUT OF TOWN, STATE. BY PHONE, NUMBER PROVIDED

(3)

355.65

July 25, 2013

Interstate Streams Commission
Bataan Memorial Bldg
PO Box 25102
Santa Fe, NM 87504-5102

ExH.B

State Engineer of the State of New Mexico
Rio Chama Water Master

Gentlemen,

On July 25, 2013, David Ortiz hand delivered to the WaterMaster a letter requesting a Senior Priority call for the Acequia de Chamita Parciantes. The WaterMasters office would not accept it stating that it had to be signed and delivered by a Commissioner. I advised them that it had been signed by a Commissioner and the Mayordomo. They still would not accept it. I left.

After reading WaterMaster's Rules & Regulations, filed May 30, 1972, page 4, Article 3, Priority Administration, 3-1., A priority call shall be made in a written request on a form provided by the watermaster and signed by an official of the ditch., I then returned to ask for the form to make a priority call. 4 different people said there was no such form and one of them argued that the Mayordomo was not an elected official of the ditch. I say he is, what do you say?

It is not up to us to determine Junior's, it is up to the WaterMaster to identify them, (count of 18 is found on the map refrenced requesting Senior Priority call), and do what ever he has to to secure up to 18 cfs allotted to Chamita.

As you see on the sign up list of Parciantes requesting their Senior Water Rights, it is approximately 380 of the 480 Irrigated acres and the only reason it is not more is because they could not be found.

Therefore, if there is only 18 cfs in the Chama River, it must come in this Acequia.

Official of the Acequia de Chamita

Alfred Jesus Comun
Richard M Delayan Comms.
Gley Garcia Mayordomo

Ruling protects senior water rights

By John Fleck / Journal Staff Writer on Fri, Jul 26, 2013

ABQ Jm

<http://www.abqjournal.com/225869/news/ruling-protects-senior-water-rights.html>

ExH. a

New Mexico residents remain free to drill domestic wells to meet household water needs, the state Supreme Court ruled Thursday. But the state has an obligation to ensure that, once wells are drilled, the resulting groundwater pumping doesn't cut into the water rights of neighbors, the court found.

The ruling creates the possibility that, for the first time, New Mexico could be forced to curtail pumping from domestic wells if the well reduces water supplies to neighbors with senior water rights.

The decision provides new legal teeth to the argument that state government must begin enforcing the "doctrine of prior appropriation," defending the rights of the state's oldest water users, experts said Thursday.

"New Mexico has never done that," said Reed Benson, a professor at the University of New Mexico School of Law. The decision, Benson said, "may mean that we are on the verge of a new era."

New Mexico has a total of 201,473 legally permitted domestic wells, though a recent study suggests there are likely many more wells drilled illegally by homeowners that are also drawing water from the state's aquifers. Last year, in the midst of severe drought, the state issued permits for 2,191 new domestic wells.

Thursday's Supreme Court decision settles a seven-year-old suit filed by Horace Bounds, a farmer in the Mimbres Basin in southwestern New Mexico with some of the most senior, high-priority water rights in the basin. Bounds alleged that, because all of the water in the Mimbres was already spoken for by existing water rights holders, including himself, domestic well permits issued for new homes being built in the basin amounted to a violation of his water rights.

Bounds charged that simply by issuing new domestic well permits, the Office of the State Engineer, which oversees water rights, was violating the New Mexico Constitution.

The court ruled that the act of issuing a permit did not violate Bounds' rights. But it went on to say that the resulting pumping, if it reduced the amount of water available to Bounds, could be a violation of his rights.

Under the law, the state water engineer has a legal obligation to defend senior water users' rights, including curtailing domestic well use if necessary to achieve that, the court ruled. In its decision, it urged the state engineer to "fulfill its superintending responsibility by applying priority administration for the protection of senior water users."

Despite losing the case, Bounds' attorney, Steve Hernandez, said he was pleased with the decision. Hernandez called the decision a victory for Native American communities, acequias, farmers and irrigation districts, all groups with senior water rights that have long complained about the state's failure to defend their rights.

D.L. Sanders, chief counsel to the Office of State Engineer, acknowledged Thursday that the state has never curtailed pumping by any of the state's domestic well users. He also acknowledged that the state has not acted on regulations allowing for the creation of "Domestic Well Management Areas," intended to help manage groundwater depletions by homeowners drilling wells.

Legislation calling for creation of the management areas was approved in 2006 and the state Senate earlier this year unanimously approved a memorial sponsored by Sen. Peter Wirth, D-Santa Fe, complaining that the Office of State Engineer had done nothing to implement the law.

Sanders said the agency was waiting for a decision in the Bounds case before proceeding.

Thursday's decision, along with a related Supreme Court ruling last year, clears the way for the state engineer to begin developing the tools needed to enforce prior appropriation, Sanders said in an interview. But he said he expects some water users to be back in court attempting to block the new water management rules.

"Within 18 months, we'll all be back in court because the rules we promulgate will be challenged by somebody," Sanders said.

Robin Collier

125 A La Posta, Taos, NM 87571

575-758-9791 robincollier@newmex.com