

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
Section 1, Chama Mainstream

ACEQUIA DE LOS RANCHITOS

Subfile No. 4.1

MOTION TO AMEND SUBFILE ORDER ENTERED ON MARCH 6, 2007

The plaintiff State of New Mexico, *ex rel.* State Engineer (“State”) moves the Court to revise *Subfile Order* entered March 6, 2007 (Doc. No. 8600) in the Section 1, Chama Mainstream describing irrigation water rights under the Ranchitos Ditch (corrected to Acequia de los Ranchitos by *Notice of Errata* filed May 9, 2007, Doc. No. 8646), and in support states the following:

1. In August 2014, Ms. Ellen Lange contacted the State requesting information concerning a water right on her land. Ms. Lang provided a certified copy of a deed showing the location of her property (attached hereto as Exhibit 1). This deed was filed with the Rio Arriba County Clerk’s Office on April 15, 2004, in Book 493 at pages 218 to 220.

2. Upon further research by the State, it appears that claimant Frances A. Martinez was not the owner of record for the entire 9.84 acres listed in the *Subfile Order* entered on March 6, 2007 for Subfile 4.1, and Ellen Lange should have been adjudicated the 0.24 acre tract

identified on the accompanying map for subfile 4.1A (attached hereto as Exhibit 2).

3. In order to rectify this oversight, an *Order Amending Subfile Order* entered on March 6, 2007 should be entered for Subfile 4.1 in the name of Frances A. Martinez that excludes the 0.24 acre tract owned by Ms. Lange. The *Order Amending Subfile Order* should amend the location and amount of irrigated acreage in Subfile No. 4.1 from 9.84 acres to 9.60 acres, as follows:

Location and Amount of Irrigated Acreage:

Within the Town of Abiquiu Grant 9.60 acres
Total 9.60 acres

4. A map showing the revised acreage of Subfile 4.1 is attached hereto as Exhibit 3.

5. The *Subfile Order* entered on March 6, 2007 should be amended to include water rights in the name of Ellen Lange as follows:

ELLEN LANGE

Subfile No. 4.1A

A. **IRRIGATED LANDS (Surface Water Only):**
Office of the State Engineer Files No(s) None

Priority: 1735

Source of Water: La Cienega de Don Simon, a tributary of the Rio Chama

Purpose of Use: IRRIGATION

Point of Diversion:

Ditch: ACEQUIA DE LOS RANCHITOS

Location: X= 473.869 feet **Y=** 1,890.256 feet
New Mexico State Plan Coordinate System, Central Zone, NAD 1927

Location and Amount of Irrigated Acreage:

Within the Town of Abiquiu Grant 0.24 acres
Total: 0.24 acres

As shown on the attached Hydrographic Survey Map for Subfile No. 4.1A.

Amount of Water: Not to exceed three (3) acre-feet per acre per annum delivered at the farm headgate.

6. Ellen Lange has requested that the State correct the oversight concerning the 0.24 irrigated acres on her property through the adjudication Court, and she has indicated that she approves this motion.

7. A proposed *Order Amending Subfile Order Filed March 6, 2007* is attached hereto as Exhibit 4.

WHEREFORE, the State requests the Court to enter its *Order Amending Subfile Order Filed March 6, 2007*.

Pursuant to the Court's February 4, 2013 *Order* (Doc. No. 10891), the State requests the Clerk of the Court to mail copies of the approved Orders requested in this Motion to the *pro se* parties listed below at the address listed.

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 22nd day of September, 2014, 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 by electronic mail, and served the following non-CM-ECF participants in the manner indicated:

Via first class mail, postage prepaid addressed as follows:

Subfile No. 4.1
Frances A. Martinez
P.O. Box 166
Abiquiu, NM 87510

Subfile No. 4.1A
Ellen Lange
P.O. Box 733
Abiquiu, NM 87510

/s/ Ed Newville
EDWARD G. NEWVILLE