

**IN THE UNITED STATES DISTRICT  
COURT FOR THE DISTRICT OF NEW  
MEXICO**

STATE OF NEW MEXICO ex rel.  
State Engineer,

Plaintiff,

v.

ROMAN ARAGON, et al.,

Defendants,

NO. 69cv07941 MV/KK

RIO CHAMA STREAM SYSTEM

Section 1: Rio del Oso & Rito Vallecitos

Subfile Nos. CHRO-002-0003

CHRO-004-0001

CHRO-003-0001

**AFFIDAVIT OF DAVID ARCHULETA, PRESIDENT OF THE  
BOARD OF TRUSTEES OF THE MERCED DEL PUEBLO ABIQUIU**

STATE OF NEW MEXICO    )  
  ) ss  
COUNTY OF SANTA FE    )

I, David Archuleta, being duly sworn, state as follows:

1. I am the President of the Board of Trustees of La Merced del Pueblo Abiquiu (a/k/a Abiquiu Land Grant) (“Merced”) which is a land grant-merced in Rio Arriba County, New Mexico and is a political subdivision of the State of New Mexico. I have been President since October 13, 2015. La Merced del Pueblo Abiquiu is governed by a five-member Board of Trustees.

2. I signed three consent orders that were entered in this proceeding on May 18, 2017, adjudicating water rights to the Merced del Pueblo Abiquiu. The subfile numbers for the three Consent Orders are CHRO-002-0003, CHRO-004-0001, and CHRO-003-0001. However, I was not authorized by the Board of Trustees to sign the consent orders.

3. I received the three proposed consent orders in the mail. I discussed them with only one other member of the Board of Trustees, Max Archuleta, and those discussions were outside any meeting of the Board of Trustees. After those discussions, I mistakenly signed the consent orders and delivered them to the Office of the State Engineer.

4. I was never authorized to sign the consent orders by the Board of Trustees, either in writing or otherwise. In no meeting of the Board of Trustees was the question of whether the Board of Trustees should sign off on the proposed consent orders considered or decided by the Board of Trustees. In no meeting of the Board of Trustees was I given written or unwritten authorization to make a decision regarding the water rights of the Merced or otherwise to sign off on those water rights on behalf of the Board Trustees and the Merced. I have verified this by reviewing the minutes of the Board of Trustees meetings from October 13, 2015 through the date that the court entered the Consent Orders, which was May 18, 2017.

5. The Acting President of the Merced just prior to my tenure as President, whose name is Juan O. Lopez, did receive authorization from the Board of Trustees to sign documents presented by the OSE, but that authorization did not extend to me or to my tenure as President. In a letter to the OSE dated October 2, 2015 and signed by all the Trustees other than Mr. Lopez, the Trustees stated:

“This is to confirm Juan O. Lopez is the current Acting President of the Merced del Pueblo Abiquiu after the resignation of former President, Alfred Garcia. Mr. Lopez has authorization to represent and sign all documents on behalf of the Merced until the re-organization of the Board of Trustees at the monthly meeting on October 13, 2015. In the meantime if you have any questions, please contact Max Archuleta at 505-685-4641.”

6. No similar letter was ever written naming me as the person to represent or sign

documents in negotiations with the OSE. No similar letter was ever written covering the period of time after October 13, 2015 or authorizing anyone to sign these types of documents after October 13, 2015. For this reason, the matter of the proposed consent orders should have been taken up by the Trustees in a meeting and direction given or a vote taken. This did not happen, as my review of the minutes showed.

7. The Merced did not have an attorney assisting it at any time prior to the Consent Orders being entered by the Court.

STATE OF NEW MEXICO )  
 ) ss  
COUNTY OF SANTA FE )

  
\_\_\_\_\_  
DAVID ARCHULETA

Subscribed and sworn to before me this 11<sup>th</sup> day of October 2017.

  
\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: 10-14-19

