

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.

69cv07941-MV/KK

RIO CHAMA STREAM SYSTEM

Section 3: Rio Cebolla

Subfile No. CHCB-001-0007

**MOTION TO DISMISS OBJECTION TO THE STATE’S PROPOSED PRIORITY DATE
IN SUBFILE NO. CHCB-001-0007 IN THE RIO CEBOLLA SUBSECTION OF
SECTION 3 OF THE RIO CHAMA STREAM SYSTEM**

The State of New Mexico, *ex rel.*, the State Engineer (“State”) respectfully requests that this Court dismiss the objection of Defendants Charlie Chacon and Geralda M. Chacon (“Chacons”) to the proposed priority date for their irrigation and stockwatering rights under the Sanchez Ditch in the Rio Cebolla Subsection of Section 3 of the Rio Chama Stream System (“Cebolla Subsection”). This motion is opposed by the Chacons.

In support of this motion, Plaintiff states the following:

1. The Chacons have the right to use water from the Sanchez Ditch to irrigate 1.0 acres of land, and the right to fill a pond with a volume of 0.054 acre-feet of water from the Sanchez Ditch for the purpose of watering stock, under Subfile No. CHCB-001-0007. (*See Consent Order*, Doc. 11243, filed 03/16/17.)
2. The Chacons have no other water rights under the Sanchez Ditch.
3. On December 11, 2017, the Chacons filed an objection to the priority date proposed

for their irrigation and stockwatering rights under the Sanchez Ditch. (Doc. 11310, filed 12/11/17.)

4. By previous agreement with the State, the priority date for the Chacon's irrigation and stockwatering rights under the Sanchez Ditch is 1905. (*See Consent Order*, Doc. 11243, filed 03/16/17.)
5. Under this Court's *Notice and Order to Show Cause in the Rio Cebolla Subsection of Section 3 of the Rio Chama Stream System* (Doc. 11281, p. 9, filed 09/11/17), "[i]n cases where defendants in the Cebolla Subsection have previously agreed with the State on priority dates for their water rights ... and those priority dates ... have been incorporated into subfile orders entered by the Court, those priority dates ... cannot be challenged by those defendants."
6. In addition to the Consent Orders entered by this Court, the agreement between the Chacons and the State as to the previously adjudicated elements of the Chacons' irrigation and stockwatering rights under the Sanchez Ditch has been memorialized in an *Acknowledgment of the Resolution of Claims and Statements Concerning Terms of Settlement*. (Doc. 11247, filed 03/16/17.)

Because the Chacons have previously agreed with the State on the priority date for their irrigation and stockwatering rights under the Sanchez Ditch, and that priority date has been incorporated into a subfile order entered by the Court, that priority date cannot be challenged by the Chacons. Accordingly, the State requests that the portion of the Chacons' objection that addresses the priority date for their water right under the Sanchez Ditch be DISMISSED.

Respectfully Submitted,

/s/ Felicity Strachan _____

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Certificate of Service

I certify that on December 12, 2017 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/ Felicity Strachan

Felicity Strachan