

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

STATE OF NEW MEXICO, ex rel. STATE)
ENGINEER,)

Plaintiff,)

v.)

R. LEE AAMODT, et al.,)

No. 66cv6639 MV/WPL

Defendants,)

and)

UNITED STATES OF AMERICA,)

PUEBLO DE NAMBE,)

PUEBLO DE POJOAQUE,)

PUEBLO DE SAN ILDEFONSO,)

and PUEBLO DE TESUQUE,)

Plaintiffs-in-Intervention.)

**JANUARY 15, 2015 QUARTERLY STATUS REPORT REGARDING THE
ADJUDICATION OF DOMESTIC WELL AND SURFACE RIGHTS**

The State of New Mexico (“State”), pursuant to the Court’s July 5, 2006 *Order* (No. 6174), December 18, 2008 *Supplemental Procedural Order* (No. 6524) and March 12, 2009 *Order Setting Status Conference* (No. 6621) hereby reports to the Court, addressing the status of “the work completed the previous quarter and the work to be completed during the subsequent quarter for both domestic well and surface water rights.” July 5, 2006 *Order*, p. 1.

I. Claims to Domestic Well Water Rights – Previous Quarter

A. Post-Moratorium Section 72-12-1 Domestic Well Water Rights

1. During the previous quarter, the Court entered eighteen (18) orders adjudicating water rights from post-moratorium domestic wells.

2. This past quarter eighteen (18) post-moratorium domestic well water right claimants were joined and served with a proposed domestic well order and the *Order to Show Cause*. See October 20, 2014 *Order Granting the State of New Mexico's Thirty-Third Motion to Join Additional Parties Defendants* (No. 9874).

3. Litigation continues with regard to three unadjudicated water rights from post-moratorium wells. More specifically, the claimants under subfiles PM-67833, PM-77023 and PM-68445, through their attorney, have objected to the Special Master's granting of summary judgment to the State. (Nos. 8223, 8233 and 8250). Those objections have been fully briefed and are now in front of the Court. See May 9, 2014 *Defendants' Completion Notice for Motion Packet* (No. 9418).

4. There were two *Notice[s] That the Consultation Period Has Ended* regarding water rights from post-moratorium wells filed during the previous quarter. (Nos. 9879 and 9880). Defendants filed Answers, and the Court has entered an Initial Scheduling Order to govern the course of litigation. December 10, 2014 *Initial Scheduling Order, Subfile RG-30627 (Duran) and PM-89217 (Gossein)* (No. 9952).

B. Pre-Moratorium Section 72-12-1 Domestic Well Water Rights

5. During the previous quarter, the Court entered six (6) orders adjudicating pre-moratorium Section 72-12-1 domestic well water rights.

6. This past quarter, eleven (11) domestic well water right claimants were joined and served with a proposed domestic well order and the Court's March 17, 2013 *Order to Show Cause* (No. 7861). See December 5, 2014 *Order Granting State of New Mexico's Seventh Motion to Join Pre-Moratorium Claimants as Additional Parties Defendant* (No. 9947).

7. The State moved to join ten (10) more post-moratorium domestic well water right claimants. See December 19, 2014 *Eighth Motion to Join Additional Parties Defendant* (No. 9959). That *Motion* currently remains pending.

8. There is one outstanding *Notice That the Consultation Period Has Ended* regarding pre-moratorium well water rights. October 20, 2014 *Notice That the Consultation Period Has Ended* (No. 9873). The State has prepared a default motion, but at the request of the Claimant has agreed not to file it until February 4, 2014, and has forwarded her another copy of the proposed Consent Order for her to review.

II. Claims to Domestic Well Water Rights – Subsequent Quarter

A. Post-Moratorium Section 72-12-1 Domestic Well Water Rights

9. The State plans to file a motion requesting leave of the Court to serve eight (8) joined claimants associated with post-moratorium domestic well subfiles by publication.

B. Pre-Moratorium Section 72-12-1 Domestic Well Water Rights

10. Before the end of the upcoming quarter through April 15, 2015, with regard to the 72-12-1 pre-moratorium well water right claimants already joined and served, the State expects

to meet in consultations with those who disagree with their proposed Pre-Moratorium Domestic Well Orders, as their requests for consultations are received. With regard to those who do not object, the State will continue submitting the proposed Orders to the Special Master when the claimants' time to respond has passed.

11. The State plans to submit twelve (12) proposed orders adjudicating multiple-user pre-moratorium domestic well water rights pursuant to direction from the Court with regard to the form of those orders. See October 29, 2014 *Memorandum Opinion and Order Overruling Objection to Recommendation of Special Master on Multiple-User Domestic Wells* (No. 9904).

12. The State will continue the process of reviewing, surveying, mapping and identifying the owners of water rights associated with pre-basin and pre-moratorium domestic wells in order to identify further domestic well claims to be adjudicated.

III. Claims to Surface Water Rights – Previous Quarter

13. As discussed in the State's previous Status Reports, counsel and technical staff for the State continued to perform comparisons of the hydrographic survey maps and the State's WRATS database, and identified several subfiles with errors and inconsistencies requiring the filing of motions to correct or amend the existing subfile orders.

14. As noted in the State's July 2014 Status Report, the State retained Karla Bruner during the first quarter of 2014 as a subcontractor to assist with data management and technical review of subfiles in preparation for entry of a final decree. See Notice (Doc. 8243, March 18,

2014). Since that time, counsel and technical staff for the State have been, and continue to correct errors in WRATS, as well as to identify and evaluate errors and discrepancies in subfile orders in preparation for filing corrective motions.

IV. Claims to Surface Water Rights – Subsequent Quarter

15. With regard to work to be completed in the upcoming quarter, through January 15, 2015, the State plans to file a motion for a procedural and scheduling order to address the adjudication of priority dates for water rights for water diverted from the Rio En Medio to the Rio Chupadero through Las Acequias de Chupadero.

16. Counsel and technical staff for the State will continue to identify and evaluate errors or inconsistencies apparent on the face of individual subfile orders that may require correction and file motions to correct errors and inconsistencies in subfiles pursuant to the Court's *Procedural Order for Correcting Subfile Errors*.

Respectfully submitted this 21st day of January, 2015.

Electronically Filed

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that January 21, 2015 I filed the foregoing electronically through the CM/ECF system, which caused the parties or counsel reflected on the Notice of Electronic Filing to be served by electronic means, and to the following person(s) by United States Mail:

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