

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*

State Engineer,

Plaintiff,

v.

No. Civ. 66-06639 WJ/WPL

R. LEE AAMODT *et al.*

Defendants,

and

UNITED STATES OF AMERICA,

PUEBLO DE NAMBÉ,

PUEBLO DE POJOAQUE,

PUEBLO DE SAN ILDEFONSO,

and PUEBLO DE TESUQUE,

Plaintiffs-in-Intervention.

**ORDER SETTING DEADLINE
FOR FILING RESPONSES TO PLAINTIFF THE STATE OF NEW MEXICO'S
APPLICATION FOR ORDER TO SHOW CAUSE [DOC. NO. 9960]**

THIS MATTER is before the Special Master pursuant to Fed. R. Civ. P. 53, and the Order of Reference [Doc. No. 6336]. On December 19, 2014, Plaintiff the State of New Mexico filed an Application for Order to Show Cause [Doc. No. 9960] concerning domestic wells developed prior to the November 29, 1956 declaration of the Rio Grande Underground Water Basin. No timely response was filed. *See* D.N.M. LR.-Civ. 7.4(a) (“[a] response must be served and filed within fourteen (14) calendar days after service of the motion”). At a January 23, 2015 status conference, 34 days after the filing of the Application, Plaintiff the State was instructed to tender a form of order granting the motion.

Shortly after this status conference, *pro se* parties began to file untimely responses to the

Application for Order to Show Cause. *See* [Doc. Nos. 10,000; 10,001; 10,002; 10,003; 10,004; 10,005; 10,006; 10,007; 10,009]. It is well established that *pro se* parties must follow the rules of procedure. *See, e.g. Garrett v. Selby Connor Maddux & Janer*, 425 F.3d 836 (10th Cir. 2005); *see also Ghazali v. Moran*, 46 F.3d 52 (9th Cir. 1995). Likewise, it is not the Court's role to "assume the role of advocate for the *pro se* litigant." *Garrett*, 425 F.3d 836, 841, *citing Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). Nevertheless, courts have discretion when considering *pro se* filings, including the discretion to consider *pro se* pleadings liberally, and all pleadings must be construed as to do substantial justice. *See, e.g. Erickson v. Pardus*, 551 U.S. 89,127 S.Ct. 2197 (2008); *Estelle v. Gamble*, 429 U.S. 97, 97 S.Ct. 285 (1976); *see also United States v. Bennett*, 539 F.2d 45 (10th Cir. 1976).

Therefore, the untimely *pro se* responses to the Application will be considered by the Special Master. No *pro se* response filed after February 11, 2015, however, will be considered. Further, absent good cause shown and on motion no attorney may now file a response to the Application. Plaintiff the State of New Mexico is directed to file a consolidated reply to all responses, if any, on or before February 25, 2015, and to file a notice of completion of briefing as directed under the Court's Local Rules at the appropriate date.

IT IS SO ORDERED.

THE PARTIES ARE NOTIFIED THAT WITHIN 20 DAYS OF SERVICE of a copy of this order, report, or recommendations, they may file written objections with the Clerk of the Court pursuant to Federal Rule of Civil Procedure 53(f)(2). A party must file any objections with the Clerk of the Court within the twenty-day period if that party wants the District Judge to hear their objections. If no objections are filed within the twenty-day period, the District Judge may adopt the order, report or recommendations in whole.

/s/ Pierre Levy
Pierre Levy, Special Master

February 5, 2015

CERTIFICATE OF SERVICE

I hereby certify that on the date of filing I caused the foregoing to be filed electronically through the CM/ECF system which caused the parties on the electronic service list as of the time of filing, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail.

/s/ Pierre Levy
Pierre Levy