

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.,)
)
 Defendants,)
 and)
)
 UNITED STATES OF AMERICA, PUEBLO)
 DE NAMBÉ, PUEBLO DE POJOAQUE,)
 PUEBLO DE SAN ILDEFONSO, and)
 PUEBLO DE TESUQUE,)
)
 Plaintiffs in Intervention.)
)
)

No. 66cv6639 WJ/WPL

FINAL JUDGMENT AND DECREE
OF THE WATER RIGHTS OF THE
NAMBE, POJOAQUE AND TESUQUE STREAM SYSTEM

THIS MATTER comes before the Court pursuant to the State of New Mexico’s motion for the entry of a Final Judgment and Decree (“Decree”) on the water rights to the Nambe, Pojoaque, and Tesuque stream system, tributaries to the Rio Grande (“Pojoaque Basin”) (Doc. 11186, filed on December 9, 2016). This Decree is entered in accordance with NMSA 1978, § 72-4-19 (1907), and is a final judgment in accordance with Fed. R. Civ. P. 54(b). The Court, having considered the pleadings and orders previously filed or entered and having heard and considered all objections thereto and being otherwise fully advised in the premises, FINDS:

1. The Court has jurisdiction over the subject matter and the parties in this action.

2. This cause is a general adjudication of all rights to divert or impound, and beneficially use the public surface and underground waters of the Pojoaque Basin, pursuant to NMSA 1978, §§ 72-4-13 through -19.

3. All rights of the Pueblos of Nambé, Pojoaque, San Ildefonso, and Tesuque (“Pueblos”) to divert or impound, and beneficially use the public surface and underground waters of the Pojoaque Basin were adjudicated and decreed in the *Partial Final Judgment and Decree of the Water Rights of the Pueblos of Nambé, Pojoaque, San Ildefonso, and Tesuque*, entered March 23, 2016 (Doc. 10547).

4. Except for the water rights described in Subfile Nos. 31.1, 31.2, and 31.3 in the Addendum, the proprietary water rights of the United States were adjudicated in the Court’s *Memorandum Opinion and Order* filed on January 24, 1986 (Doc. 2752) and confirmed as a final judgment on June 18, 1986 (Doc. 2781). These subfile orders are expressly approved and confirmed as valid as of the date of the entry of the subfile order.

5. Orders adjudicating the water rights of non-Pueblo, non-federal defendants, as against the State of New Mexico, have previously been entered for all subfiles within the stream system. These subfile orders are expressly approved and confirmed as valid as of the date of the entry of the subfile order.

6. Beneficial use is the basis, the measure and the limit of all of the water rights decreed herein.

7. Notice of the deadlines for filing and serving *inter se* objections to any water rights previously adjudicated in a subfile order and described in this Decree was served on all parties to this action, all known Pojoaque Basin water right owners, and all known and unknown potential claimants of water rights in the Pojoaque Basin.

8. Throughout the course of these proceedings, all such parties, owners and claimants to the use of water in the Pojoaque Basin were provided with adequate legal notice of all proceedings to adjudicate their water rights claims and adequate notice of all *inter se* proceedings and provided a full and fair opportunity to be heard on any objections prior to the Court's decision to enter this Decree.

9. All persons having water rights in the Pojoaque Basin are bound by this Decree, which finally adjudicates all water rights in the Pojoaque Basin and binds all claimants of water rights of any type in the Pojoaque Basin.

10. For the convenience of the parties, the State of New Mexico has filed an Addendum to this Decree, which summarizes the water rights adjudicated and decreed herein. *See* Doc's 11553-11555, filed July 12, 2017. Copies of the Addendum may be obtained from the Court or the Office of the State Engineer. The substantive elements of the water rights are those adjudicated by the subfile orders and subsequent orders of the Court.

11. The subfile orders and this Decree are not to be construed in any manner as making any findings of fact determining the rights, title, or ownership of any persons or parties in, to or against any of the lands described, or any part or parcel thereof.

12. The water rights adjudicated herein may in the future be subject to general *inter se* proceedings involving all adjudicated water rights of the Rio Grande stream system and its tributaries.

13. The Complaint in the above-captioned case (commonly referred to as the "Aamodt Case") was filed on April 20, 1966. The Aamodt Case has been an active case in the United States District Court for the District of New Mexico for more than fifty-one years.

Accordingly, there is no just reason for delay in the entry of this Final Judgment and Decree as a final judgment pursuant to Fed. R. Civ. P. 54 (b).

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that:

1. Upon consideration and after notice and having considered all objections, and having made all necessary findings of fact and conclusions of law, the Court denies all remaining objections to the entry of this Final Judgment and Decree.

2. This Decree incorporates the water rights of the Pueblos of Nambé, Pojoaque, San Ildefonso, and Tesuque adjudicated in the *Partial Final Judgment and Decree of the Water Rights of the Pueblos of Nambé, Pojoaque, San Ildefonso, and Tesuque*, entered March 23, 2016 (Doc. 10547). The Settlement Agreement, dated April 19, 2012, is incorporated into this Final Judgment and Decree of the Water Rights of the Nambe, Pojoaque and Tesuque Stream System by reference, as if fully set forth herein. This Court shall retain continuing jurisdiction to interpret and enforce the terms, provision, and conditions of the Settlement Agreement, the Interim Administrative Order, and the Final Decree.

3. This Decree incorporates the proprietary water rights claims of the United States adjudicated in the Court's *Memorandum Opinion and Order* filed on January 24, 1986 (Doc. 2752) and confirmed as a final judgment on June 18, 1986 (Doc. 2781). The proprietary water rights claims of the United States set forth in previously filed subfile orders and summarized in the Addendum, are finally adjudicated by this Decree.

4. All non-Pueblo water rights within the Pojoaque Basin, as set forth in previously filed orders and summarized in the Addendum, are finally adjudicated by this Decree.

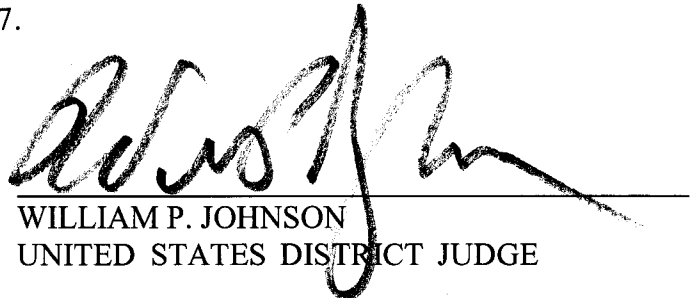
5. The defendants whose water rights are adjudicated herein, and their successors, representatives and assigns, are hereby enjoined from diverting or using the public waters of the

Pojoaque Basin except in strict accordance with this Decree and such other orders of the Court that may be entered in this cause, or as may be authorized administratively in permits issued by the New Mexico State Engineer.

6. The Addendum is incorporated by reference as though fully set forth herein. In the event there is a discrepancy between the description of water rights set forth in the Addendum and the specific order or document that determines that right, the specific order or document is controlling unless expressly stated otherwise in the Addendum.

7. There is no just reason for delay, and the Court hereby expressly directs entry of this Final Judgment and Decree pursuant to Fed. R. Civ. P. 54(b).

DATED this 14th day of July, 2017.



WILLIAM P. JOHNSON
UNITED STATES DISTRICT JUDGE