

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

UNITED STATES OF AMERICA, and)	
STATE OF NEW MEXICO, ex rel. STATE)	No. 6:01-cv-00072-DHU-JHR
ENGINEER,)	
)	
Plaintiffs,)	ZUNI RIVER BASIN
)	ADJUDICATION
and)	
)	
ZUNI INDIAN TRIBE, NAVAJO NATION,)	Subfile No. ZRB-1-0148
)	
Plaintiffs in Intervention,)	
)	
v.)	
)	
A & R PRODUCTIONS, et al.,)	
)	
Defendants.)	
_____)	

PLAINTIFFS’ NOTICE OF SUPPLEMENTAL AUTHORITY

Pursuant to D.N.M.LR-Civ. 7.8(b), Plaintiffs United States of America (“United States”) and the State of New Mexico ex rel. State Engineer (“State”) (together, “Plaintiffs”) respectfully notify the Court of the opinion in *State ex rel. Office of the State Engineer v. Romero*, No. S-1-SC-37903, 2022 WL 4461410 (Sept. 26, 2022) (“Opinion”), filed by the Supreme Court of New Mexico on September 26, 2022. As explained below, the Opinion constitutes “pertinent and significant” authority within the meaning of Local Rule 7.8(b).

The Opinion ultimately decides the issue “whether an owner of a groundwater right may forfeit part or all of a claimed water right and whether any use, no matter how small, preserves the right to the whole,” 2022 WL 4461410, at *1, ¶ 1, an issue not before this Court. But in

reaching the conclusion that “New Mexico’s groundwater forfeiture statute allows for partial forfeiture,” *id.*, the Supreme Court made certain statements regarding “the constitutionally acknowledged doctrine of beneficial use,” *id.* at *2, relevant to the issues pending in this case.

This is true because, like the forfeiture doctrine, the doctrine of relation is grounded in New Mexico’s beneficial-use doctrine. Indeed, the Supreme Court’s statement that “there is only one constitutionally valid interpretation of these water forfeiture statutes, and that is through the constitutionally acknowledged doctrine of beneficial use,” *id.* at *2, ¶ 8, applies with equal force to the relation doctrine. The same is true of the Court’s discussion of *State ex rel. Martinez v. City of Las Vegas*, 2004-NMSC-009, 135 N.M. 375, 89 P.3d 47. *See* 2022 WL 4461410, at *3-*4, ¶¶ 13-14. The Opinion thus supports Plaintiffs’ arguments regarding the manner in which the Court should apply the relation doctrine to Norma Meech’s water rights in this case. *See* Doc. 3553, at 9-11 (Point 2). In sum, the Opinion confirms what the State and the United States have contended in this matter from the beginning regarding the constitutional limitations of beneficial use that must inhere in the application of the relation doctrine to Mrs. Meech’s water rights.

DATED: October 14, 2022

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 14, 2022, I filed the foregoing *Plaintiffs' Notice of Supplemental Authority* electronically through the CM/ECF system, which caused CM/ECF Participants to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.



Samuel D. Gollis