

STATE OF NEW MEXICO
COUNTY OF HIDALGO
SIXTH JUDICIAL DISTRICT COURT

Angela Orozco

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

Plaintiff,

v.

ROSETTE, INC., *et al.*

Defendants.

CV 2005-0054
Hon. J. C. Robinson
Animas Underground
Water Basin

**ORDER MAKING FINAL DETERMINATION OF
BASIN-WIDE IRRIGATION WATER REQUIREMENTS**

THIS MATTER came before the Court upon the Motion of the State of New Mexico ("State") for Summary Judgment on Irrigation Water Requirements for Basin-Wide Application in Subfile Proceedings. No responses were filed.

The Court, having reviewed the Motion, pertinent portions of the record and the law, and being otherwise fully advised in the premises, finds the Motion is well taken and should be GRANTED. Further, the Court FINDS that:

On August 9, 2012, the Court issued its Case Management Order and related Notice, as amended. The Case Management Order and Notice ordered that the consumptive irrigation requirement ("CIR") and farm delivery requirement ("FDR") for all water rights in the Animas Underground Water Basin ("Animas Basin") be determined in a basin-wide issues proceeding pursuant to Rule 1-071.2(A) NMRA before commencing the adjudication of individual water right claims.

Due and proper notice of the basin-wide proceedings has been given through the mailing of the Court's Notice by the State to all known claimants and by publication of the Court's

Notice in the Hidalgo County Herald for four consecutive weeks from September 14, 2012 through October 5, 2012, pursuant to the Case Management Order .

The State filed its Motion for Summary Judgment on April 23, 2013, and the Court established a procedural schedule for responsive pleadings. No objection to the State's proposed CIR and FDR has been filed with the Court.

The CIR is defined as the quantity of irrigation water, expressed as a depth or volume (in acre-feet per acre per year), exclusive of effective rainfall, that is consumptively used by plants or is evaporated from the soil surface during one calendar year. There is substantial evidence in the record to determine that the CIR for irrigation purposes shall be 2.1 acre-feet per acre per year for all irrigation subfiles, except where a permit or license issued by the State Engineer specifically states otherwise.

The FDR is defined as the amount of water provided at the irrigation well that is necessary to satisfy the CIR. There is substantial evidence in the record to determine that the FDR for irrigation purposes shall be 3.0 acre-feet per acre per year for all irrigation subfiles, except where a permit or license issued by the State Engineer specifically states otherwise.

There is no just reason for delay for the entry of a final judgment as to irrigation water requirements for irrigation uses in the Animas Basin, and the Court enters this Order as a final judgment as to the irrigation water requirements of the water rights for all irrigation subfiles as described herein.

This final judgment precludes all persons, known and unknown, who claim a right to use the underground waters of the Animas Basin from making any and all objections to the irrigation water requirements established herein during subfile and *inter se* proceedings.

IT IS THEREFORE ORDERED that the basin-wide irrigation water requirements for irrigation use in the Animas Basin are as set forth below:

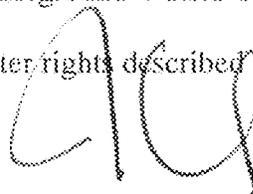
- a. The farm delivery requirement or FDR is 3.0 acre-feet per acre per year.
- b. The consumptive irrigation requirement CIR is 2.1 acre-feet per acre per year.

IT IS THEREFORE FURTHER ORDERED that the amount of water for underground water irrigation use described in individual subfile orders in the Animas Basin shall be adjudicated as follows:

A. All individual subfile orders entered by the Court for irrigation use in the Animas Basin shall incorporate in the description of water rights the FDR and CIR described above, unless a different diversion or consumptive use amount has been specifically determined in a permit or license issued by the State Engineer.

B. For all irrigation water rights described herein, the amount of water shall not exceed 3.0 acre-feet per acre per year from the underground water source diverted at the well, or a beneficial consumptive use of 2.1 acre-feet per acre per year, unless a different diversion or consumptive use amount has been specifically determined in a permit or license issued by the State Engineer.

C. Any diversion and use of the underground waters of the Animas Basin by any defendant except in strict accordance with the water rights described herein is prohibited.



J. C. ROBINSON
DISTRICT JUDGE, DIV. III