

STATE OF NEW MEXICO
COUNTY OF HIDALGO
SIXTH JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO *ex rel.*)
NEW MEXICO STATE ENGINEER,)
)
Plaintiff,)
)
v.)
)
ROSETTE, INC., *et al.*,)
)
Respondents.)
_____)

CV 2005-0054
Hon. J. C. Robinson

ANIMAS UNDERGROUND WATER
BASIN ADJUDICATION

Subfile No. AUB-014-0004

Claimant(s):
Dennis O. Massey
Dianna Massey

SUBFILE FINAL JUDGMENT: UNLICENSED WATER RIGHTS

THIS MATTER COMES BEFORE the Court upon the stipulation, set forth below, between the State of New Mexico (the "State") and the water rights claimant(s) named in the case caption above (collectively, the "Claimant"). The Court, based on the stipulation between the State and the Claimant and its examination of the Court's file, FINDS AND CONCLUDES THAT:

1. The Court has personal jurisdiction over the State and the Claimant and has *in rem* jurisdiction over all water rights in the Animas Underground Water Basin (the "Basin"). Notice of this Court's *in rem* jurisdiction was served on all water rights claimants in the Basin in accordance with Rule 1-071.2(C) NMRA and the Case Management Order Mandating Basin-Wide Issue Proceeding and Expedited *Inter Se* Proceedings and Prescribing Procedure for Giving Notice of All Such Proceedings, filed August 9, 2012 (the "Case Management Order").

2. The State and the Claimant have agreed that the Court should enter this Judgment adjudicating all elements of the Claimant's right to divert and place to beneficial use the public waters of the Basin, as set forth below.
3. Notice of the parties' request that the Court enter this Judgment and an opportunity to object to that request have been provided to water rights claimants in the Basin pursuant to this Court's Monthly Adjudication Report. Notice of the purpose and availability of the Monthly Adjudication Report was provided to all water rights claimants in the Basin pursuant to Rule 1-071.2(C) and the Case Management Order.
4. Any objections to the State's and Claimant's request that the Court enter Judgment have been resolved in court proceedings pursuant to the Procedural Order Governing Expedited *Inter Se* Adjudication of State Law Water Rights.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

1. The water rights of the Claimant are as follows:

A. UNDERGROUND WATER

Office of the State Engineer File No(s). A-00040

- (1) Priority: A-00040: May 27, 1948
A-00040-S: May 27, 1948
A-00040-S2: May 27, 1948

(2) Source of Water: Animas Underground Water Basin.

(3) Purpose of Use: Irrigation

(4) Point(s) of Diversion:

Well No.:A-00040

Location: X=2,407,763 Y= 371,327 Map: AUB-14

Well No.:A-00040-S

Location: X=2,408,571 Y= 371,318 Map: AUB-14

Well No.:A-00040-S2

Location: X=2,407,160 Y= 371,312 Map: AUB-14

(5) Location and Amount of Irrigated Acreage:

Township 26S, Range 20W, Section 26, N.M.P.M. Pt. NW¼	43.60
Township 26S, Range 20W, Section 26, N.M.P.M. Pt. NE¼	124.70
Township 26S, Range 20W, Section 26, N.M.P.M. Pt. SW¼	5.50
Township 26S, Range 20W, Section 26, N.M.P.M. Pt. SE¼	27.20
Total:	<u>201.00</u> acres

Water right is appurtenant to 201.00 acres as shown on the attached
Hydrographic Survey Map for Subfile No. AUB-014-0004.

(6) Amount of Water, Not to Exceed:

Farm Delivery Requirement: 3.0 acre-feet per acre per year at the wellhead

Consumptive Irrigation Requirement: 2.1 acre-feet per acre per year

B. UNDERGROUND WATER (STACKED)

Office of the State Engineer File No(s). A-00040

- (1) Priority: A-00040: May 27, 1948
A-00040-S: May 27, 1948
A-00040-S2: May 27, 1948

(2) Source of Water: Animas Underground Water Basin.

(3) Purpose of Use: Irrigation

(4) Point(s) of Diversion:

Well No.:A-00040

Location: X=2,407,763 Y= 371,327 Map: AUB-14

Well No.:A-00040-S

Location: X=2,408,571 Y= 371,318 Map: AUB-14

Well No.:A-00040-S2

Location: X=2,407,160 Y= 371,312 Map: AUB-14

- (5) Place of Use:
Irrigated Lands as described in 1.A.(5) above.
- (6) Amount of Water:
Under permit no. A-00040:
(i) Water has been placed to beneficial use and a water right perfected in an amount of 0.71 acre feet per annum, 0.497 acre-feet per annum consumptive use.
(ii) Water may be placed to beneficial use in an additional amount up to 6.72 acre feet per annum in accordance with the terms and conditions of the permit or as otherwise authorized by the New Mexico State Engineer.

C. UNDERGROUND WATER (STACKED)

Office of the State Engineer File No(s). A-00040

- (1) Priority: A-00040: May 20, 1948
A-00040-S: May 20, 1948
A-00040-S2: May 20, 1948
- (2) Source of Water: Animas Underground Water Basin.
- (3) Purpose of Use: Irrigation
- (4) Point(s) of Diversion:
- Well No.:A-00040
Location: X=2,407,763 Y= 371,327 Map: AUB-14
- Well No.:A-00040-S
Location: X=2,408,571 Y= 371,318 Map: AUB-14
- Well No.:A-00040-S2
Location: X=2,407,160 Y= 371,312 Map: AUB-14

- (5) Place of Use:
Irrigated Lands as described in 1.A.(5) above.
- (6) Amount of Water:
Under permit no. A-00040:
(i) Water has been placed to beneficial use and a water right perfected in an amount of 0.535 acre feet per annum, 0.3745 acre-feet per annum consumptive use.
(ii) Water may be placed to beneficial use in an additional amount up to 178.2 acre feet per annum in accordance with the terms and conditions of the permit or as otherwise authorized by the New Mexico State Engineer.

D. UNDERGROUND WATER (STACKED)

Office of the State Engineer File No(s). A-00040

- (1) Priority: A-00040: May 10, 1948
A-00040-S: May 10, 1948
A-00040-S2: May 10, 1948
- (2) Source of Water: Animas Underground Water Basin.
- (3) Purpose of Use: Irrigation
- (4) Point(s) of Diversion:
Well No.:A-00040
Location: X=2,407,763 Y= 371,327 Map: AUB-14
Well No.:A-00040-S
Location: X=2,408,571 Y= 371,318 Map: AUB-14
Well No.:A-00040-S2
Location: X=2,407,160 Y= 371,312 Map: AUB-14
- (5) Place of Use:
Irrigated Lands as described in 1.A.(5) above.
- (6) Amount of Water:
Under permit no. A-00040:
 - (i) Water has been placed to beneficial use and a water right perfected in an amount of 0.715 acre feet per annum, 0.5005 acre-feet per annum consumptive use.
 - (ii) Water may be placed to beneficial use in an additional amount up to 8.94 acre feet per annum in accordance with the terms and conditions of the permit or as otherwise authorized by the New Mexico State Engineer.

E. UNDERGROUND WATER

Office of the State Engineer File No(s). A-00040-B

- (1) Priority: A-00040: May 27, 1948
A-00040-S: May 27, 1948
A-00040-S2: May 27, 1948
- (2) Source of Water: Animas Underground Water Basin.
- (3) Purpose of Use: Irrigation

(4) Point(s) of Diversion:

Well No.:A-00040

Location: X=2,407,763 Y= 371,327 Map: AUB-14

Well No.:A-00040-S

Location: X=2,408,571 Y= 371,318 Map: AUB-14

Well No.:A-00040-S2

Location: X=2,407,160 Y= 371,312 Map: AUB-14

(5) Location and Amount of Irrigated Acreage:

Township 26S, Range 20W, Section 25, N.M.P.M.

Pt. SW¼

74.49

Total: 74.49 acres

(6) Amount of Water, Not to Exceed:

Farm Delivery Requirement: 3.0 acre-feet per acre per year at the wellhead

Consumptive Irrigation Requirement: 2.1 acre-feet per acre per year

F. UNDERGROUND WATER

Office of the State Engineer File No(s). A-00040-B

(1) Priority: A-00040: May 10, 1948

A-00040-S: May 10, 1948

A-00040-S2: May 10, 1948

(2) Source of Water: Animas Underground Water Basin.

(3) Purpose of Use: Irrigation

(4) Point(s) of Diversion:

Well No.:A-00040

Location: X=2,407,763 Y= 371,327 Map: AUB-14

Well No.:A-00040-S

Location: X=2,408,571 Y= 371,318 Map: AUB-14

Well No.:A-00040-S2

Location: X=2,407,160 Y= 371,312 Map: AUB-14

(5) Location and Amount of Irrigated Acreage:

Township 26S, Range 20W, Section 25, N.M.P.M.

Pt. SW¼ 49.76

Total: 49.76 acres

(6) Amount of Water, Not to Exceed:

Farm Delivery Requirement: 3.0 acre-feet per acre per year at the wellhead

Consumptive Irrigation Requirement: 2.1 acre-feet per acre per year

G. UNDERGROUND WATER (STACKED)

Office of the State Engineer File No(s). A-00040-B

(1) Priority: A-00040: May 10, 1948

A-00040-S: May 10, 1948

A-00040-S2: May 10, 1948

(2) Source of Water: Animas Underground Water Basin.

(3) Purpose of Use: Irrigation

(4) Point(s) of Diversion:

Well No.:A-00040

Location: X=2,407,763 Y= 371,327 Map: AUB-14

Well No.:A-00040-S

Location: X=2,408,571 Y= 371,318 Map: AUB-14

Well No.:A-00040-S2

Location: X=2,407,160 Y= 371,312 Map: AUB-14

(5) Place of Use:

Irrigated Lands as described in 1.E.(5) & 1.F.(5) above.

(6) Amount of Water:

Under permit no. A-00040-B:

(i) Water has been placed to beneficial use and a water right perfected in an amount of 0.715 acre feet per annum, 0.5005 acre-feet per annum consumptive use.

(ii) Water may be placed to beneficial use in an additional amount up to 1.95 acre feet per annum in accordance with the terms and conditions of the permit or as otherwise authorized by the New Mexico State Engineer.

H. UNDERGROUND WATER (STACKED)

Office of the State Engineer File No(s). A-00040-B

(1) Priority: A-00040: May 20, 1948

A-00040-S: May 20, 1948

A-00040-S2: May 20, 1948

(2) Source of Water: Animas Underground Water Basin.

(3) Purpose of Use: Irrigation

(4) Point(s) of Diversion:

Well No.:A-00040

Location: X=2,407,763 Y= 371,327 Map: AUB-14

Well No.:A-00040-S

Location: X=2,408,571 Y= 371,318 Map: AUB-14

Well No.:A-00040-S2

Location: X=2,407,160 Y= 371,312 Map: AUB-14

(5) Place of Use:

Irrigated Lands as described in 1.E.(5) & 1.F.(5) above.

(6) Amount of Water:

Under permit no. A-00040-B:

(i) Water has been placed to beneficial use and a water right perfected in an amount of 0.535 acre feet per annum, 0.3745 acre-feet per annum consumptive use.

(ii) Water may be placed to beneficial use in an additional amount up to 131.55 acre feet per annum in accordance with the terms and conditions of the permit or as otherwise authorized by the New Mexico State Engineer.

2. All conditions imposed by the Office of the State Engineer in granting any permit relating to these water rights are incorporated into this Subfile Final Judgment.
3. The Claimant has no right to divert and use the public waters of the Basin except in strict accordance with the water rights described herein. This restriction in no way affects any additional water rights the Claimant may have, as adjudicated in other subfiles in this proceeding.

4. If ownership of all or any part of the water rights described herein is transferred for any reason whatsoever, including by operation of law, the successor in interest shall file a notice of change of ownership with the Office of the State Engineer as required by NMSA 1978, Section 72-1-2.1 (1996). No successor in interest to the Claimant may participate in any aspect of this adjudication unless it first files a motion for substitution of parties in accordance with Rule 1-025 NMRA and attaches to the motion proof that it has filed the required change of ownership form with the Office of the State Engineer.
5. This Judgment adjudicates the water rights described herein as between both the State and the Claimant and the Claimant and all other claimants in the Basin. This Judgment binds the State, the Claimant and all other water rights claimants in the Basin regardless of whether all water rights claimants were served and joined as defendants, participated in or received actual notice of this subfile proceeding, or filed *inter se* objections to the water rights adjudicated by this Subfile Final Judgment.
6. The Claimant and all successors, representatives, heirs and assigns of the Claimant are enjoined from any diversion or use of the public waters of the Basin except in strict accordance with the water rights set forth in this Judgment.
7. Pursuant to Rule 1-054(B) NMRA, the Court determines there is no just reason for delay of the entry of a final Judgment as to the water rights adjudicated hereby. The Court enters this Judgment as a final judgment as to all issues related to the nature, extent, elements and validity of the water rights adjudicated hereby. This Judgment may be modified or amended only to the extent permitted by Rule 1-060 NMRA.

IT IS SO ORDERED.

J. C. Robinson
District Judge, Pro Tempore

AGREED:

Plaintiff State of New Mexico

Susan C Kery

Susan C. Kery
Utton & Kery, P. A.
317 Commercial St. NE
Albuquerque, New Mexico 87102
(505) 379-4203
Attorney for the State of New Mexico

5/7/2019
Date

AGREED:

DIANNA MASSEY

Dianna Massey
Signature

34 Boothill Rd
Animas, NM
88020

Mailing address

(575) 544-1178

Phone number

E-mail address

May 3, 2019
Date

DENNIS O. MASSEY

Dennis O Massey
Signature

34 Boothill Rd
Animas, NM 88020

Mailing address

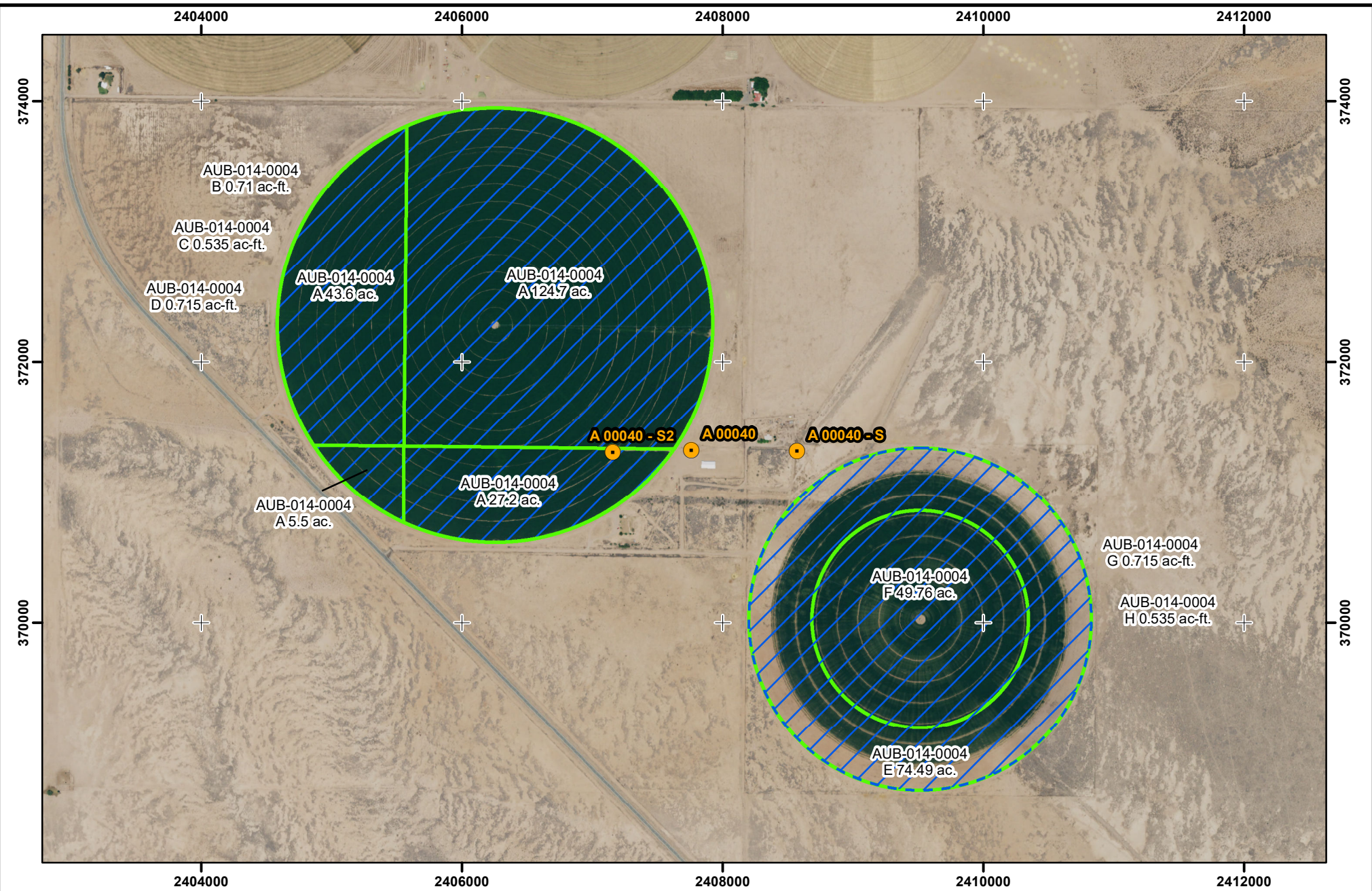
(575) 544-1178

Phone number




dennisomassey@gmail.com

E-mail address

5/3/19
Date



Legend

-  Point of Diversion
-  Water Right
-  Stacked Water Right

New Mexico State Plane West NAD 83
 2016 Aerial Imagery
 1:12,000
 1 inch equals 1,000 feet

0 500 1,000 2,000
 Feet

State of New Mexico
 Office of the State Engineer
 John R. D'Antonio Jr., P.E., State Engineer
 Animas Underground Water Basin
 Hydrographic Survey
 Cotton City Section



Subfile Number
AUB-014-0004
 May 08, 2019