

STATE OF NEW MEXICO
COUNTY OF HIDALGO
SIXTH JUDICIAL DISTRICT

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

Plaintiff,

v.

ROSETTE, INC., *et al.*

Respondents

No. D-623-CV-2005-00054
Honorable J. C. Robinson

ANIMAS UNDERGROUND WATER
BASIN ADJUDICATION

**SPECIAL MASTER’S SCHEDULING ORDER: SEPTEMBER 20, 2017 SCHEDULING
CONFERENCE**

THE ANIMAS UNDERGROUND WATER BASIN ADJUDICATION came before the
Special Master for a Rule 1-016 Scheduling Conference on September 21, 2017.

Ms. Susan Kery, counsel for the State of New Mexico (the “State”), reported on the
progress of the State’s efforts to adjudicate the not yet adjudicated subfiles and responded to my
questions related to the Court’s data management report. A brief summary of Ms. Kery’s
comments follows:

Although the Court’s records indicate that no attempt has been made to serve
adjudication packets in 34 subfiles, the State has been working on those subfiles.
A new hydrographic survey staff member has been assigned to the Animas
adjudication, and she is preparing proposed subfile judgments and working on the
other task required to serve an adjudication packet. The State continues to believe
it will be able to serve adjudication packets in the remaining subfiles by the end of
this calendar year.

According to the Court’s records, consultations between the State and the
claimants in 15 subfiles are pending. Ms. Kery reported that site visits and
consultations are ongoing in most of those subfiles and also reported that revised
proposed subfile judgments were served in four subfiles. Ms. Kery stated that the
State intends to serve Notices Terminating Consultations in the four subfiles
because the claimants have not yet accepted the revised judgments after having
ample opportunity to do so.

According to the Court's records, the subfile claimants in 20 subfiles are in default because they have not responded to their adjudication packets. Ms. Kery reported that, according to the State's records, 13 subfiles are in default. Ms. Kerry requested leave to consult with the Court's data manager to reconcile the discrepancies. None of the parties raised an objection, so I granted Ms. Kery's request.

According to the Court's records, returns of service have not been filed in ten subfiles. I ask Ms. Kery if it was time for the State to serve the subfile claimants in those subfiles by publication. Ms. Kerry requested an opportunity to attempt to find more current addresses for the claimants in question before serving process by publication.

I informed the parties at the Scheduling Conference that it appears from the Court's records that notice of the opportunity to file *inter se* objections to the proposed subfile judgment in Subfile AUB-010-0001 was inadvertently not given before the Court entered the judgment. The Special Master will file a short report with the Court requesting that the judgment be set aside because of a clerical error and that appropriate notice of the opportunity to file *inter se* objections be given.

After considering the comments of counsel, it is ORDERED THAT

1. The State shall file Notices Terminating consultations in the following subfiles by October 10, 2017:

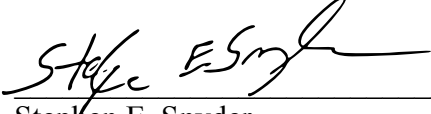
AUB-013-0002A
AUB-013-0002B
AUB-013-0008A
AUB-013-0008B

2. The State shall file motions for default judgment by October 23 against all subfile claimants who are in default on account of their failure to file an appropriate response to the adjudication packet.

3. The State shall be prepared to report at the next scheduling conference as to whether it found more current addresses for the subfile claimants whom it has not been able to serve.

4. The Subfile Judgment in Subfile AUB-012-0022 contains a possible ambiguity. Although the judgment apparently is intended to adjudicate a “no right” for “Header A”, two elements of Header A-- “Location and Amount of Acreage” and “Amount of Water” – are not consistent with a no right. On or before October 20, 2017, the State shall review the judgment and, if appropriate, file a Rule 1-060.A motion requesting that the Court correct the clerical error.

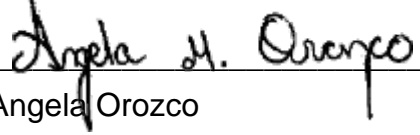
IT IS SO ORDERED



Stephen E. Snyder
Special Master

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the above file stamped date, this order was served by email, to the attorneys and parties at their last known address.



Angela Orozco
Sixth Judicial District Court