

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. Jarod K. Hofacket

ANIMAS UNDERGROUND WATER
BASIN ADJUDICATION

Subfile No. AUB-018-0007A

Claimant(s):

Peterson Family Revocable Trust

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-00008-AB

(1) Priority: Priority dates for the wells listed below: June 06, 1948 for 10 acre-feet/annum;
May 31, 1948 for 1.05 acre-feet/annum.

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

(3) Purpose of Use: Commercial

(4) Point(s) of Diversion:

Well No.:A-00008-A

Location: X=2,421,422 Y= 347,689 Map: AUB-18

Well No.:A-00008-AA

Location: X=2,420,317 Y= 348,026 Map: AUB-18

Well No.:A-00142-POD2

Location: X=2,421,257 Y= 348,108 Map: AUB-18

(5) Place of Use: Cattle Feed Yard Operation on Lands of the Peterson Family Revocable Trust located in Part SW 1/4, Part SE 1/4, Section 17, Township 27 South, and Range 19 West, N.M.P.M.

(6) Amount of Water:

Under permit no. A-00021 through A-00024-A into A-00045-A

(i) Water has been placed to beneficial use and a water right perfected in an amount of 7.63 acre feet per annum.

(ii) Water may be placed to beneficial use in an additional amount up to 11.05 acre Feet consumptive use per annum in accordance with the terms and conditions of the permit, or as otherwise authorized by the New Mexico State Engineer.

B. UNDERGROUND WATER

Office of the State Engineer File No(s). A-00142

(1) Priority: A-00142-POD2: August 17, 1953

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

(3) Purpose of Use: 72-12-1 Domestic & Livestock

(4) Point(s) of Diversion:

Well No.:A-00142-POD2

Location: X=2,421,257 Y= 348,108 Map: AUB-18

(5) Place of Use: Lands of the Peterson Family Revocable Trust located in Part SW 1/4, Part SE 1/4, Section 17, Township 27 South, and Range 19 West, N.M.P.M.

- (6) Amount of Water: Historical beneficial use not to exceed 3.00 acre-feet per year.
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.

JAROD K. HOFACKET
DISTRICT COURT JUDGE

AGREED:

Plaintiff State of New Mexico

Susan C Kery
Susan C. Kery
Utton & Kery, P. A.
500 Tijeras Ave. NW
Albuquerque, New Mexico 87102
(505) 379-4203
Attorney for the State of New Mexico

06/09/2022
Date

AGREED:

PETERSON FAMILY REVOCABLE TRUST

~~Andrew Jay Peterson~~ Kelly L. Peterson (Trustees)
Signature

P.O. Box 375
Animas, N. M.
88020

Mailing address

(575) 544-1117

Phone number

petersonbunch@hotmail.com
E-mail address

6/6/22
Date

2421500

2421000

2420500

347500

348000



347500

348000

2421500

2421000

2420500

New Mexico State Plane West NAD 83

2020 Aerial Imagery

1:2,000

1 inch equals 167 feet



Legend

● Point of Diversion

State of New Mexico
Office of the State Engineer
Mike A. Hamman, P.E., State Engineer
Animas Underground Water Basin
Hydrographic Survey
Animas Village Section



Subfile Number
AUB-018-0007A

March 28, 2022