

STATE OF NEW MEXICO
COUNTY OF HIDALGO
SIXTH JUDICIAL DISTRICT COURT

STATE OF NEW MEXICO <i>ex rel.</i>)	CV 2005-0054
NEW MEXICO STATE ENGINEER,)	Hon. Jarod K. Hofacket
)	
Plaintiff,)	ANIMAS UNDERGROUND WATER
)	BASIN ADJUDICATION
v.)	
)	Subfile No. AUB-011-0003A
ROSETTE, INC., <i>et al.</i> ,)	
)	Claimant(s):
Respondents.)	Jon Schmidt 2019 Living 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-00084-B

- (1) Priority: A-00084: December 31, 1947
A-00084-S: December 31, 1947
A-00084-S2: December 31, 1947
A-00084-S3: December 31, 1947
A-00084-S4: December 31, 1947
A-00084-S5: December 31, 1947
A-00084-S6: December 31, 1947
A-00084-S7: December 31, 1947
A-00084-S8: December 31, 1947
A-00084-S9: December 31, 1947
- (2) Source of Water: Animas Underground Water Basin.
- (3) Purpose of Use: Irrigation

(4) Point(s) of Diversion:

Well No.:A-00084

Location: X= 2,397,712 Y= 399,696 Map: AUB-11

Well No.:A-00084-S

Location: X= 2,396,077 Y= 400,776 Map: AUB-11

Well No.:A-00084-S2

Location: X= 2,397,808 Y= 399,870 Map: AUB-11

Well No.:A-00084-S3

Location: X= 2,397,327 Y= 402,314 Map: AUB-11

Well No.:A-00084-S4

Location: X= 2,398,277 Y= 399,902 Map: AUB-11

Well No.:A-00084-S5

Location: X= 2,396,645 Y= 399,956 Map: AUB-11

Well No.:A-00084-S6

Location: X= 2,397,823 Y= 402,286 Map: AUB-11

Well No.:A-00084-S7

Location: X= 2,396,012 Y= 401,019 Map: AUB-11

Well No.:A-00084-S8

Location: X= 2,398,730 Y= 400,392 Map: AUB-11

Well No.:A-00084-S9

Location: X= 2,396,236 Y= 402,317 Map: AUB-11

(5) Location and Amount of Irrigated Acreage:

Township 25S, Range 20W, Section 27, N.M.P.M.

Pt. NW¼ 2.00

Township 25S, Range 20W, Section 27, N.M.P.M.

Pt. NE¼ 3.50

Total: 5.50 acres

Water right is appurtenant to 5.50 acres as shown on the attached Hydrographic Survey Map for Subfile No. AUB-011-0003A.

(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

Office of the State Engineer File No(s). A-00084-B

(1) Priority: A-00084: June 08, 1948

A-00084-S: June 08, 1948

A-00084-S2: June 08, 1948

A-00084-S3: June 08, 1948

A-00084-S4: June 08, 1948

A-00084-S5: June 08, 1948

A-00084-S6: June 08, 1948

A-00084-S7: June 08, 1948

A-00084-S8: June 08, 1948

A-00084-S9: June 08, 1948

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

(3) Purpose of Use: Irrigation

(4) Point(s) of Diversion:

Well No.:A-00084

Location: X= 2,397,712 Y= 399,696 Map: AUB-11

Well No.:A-00084-S

Location: X= 2,396,077 Y= 400,776 Map: AUB-11

Well No.:A-00084-S2

Location: X= 2,397,808 Y= 399,870 Map: AUB-11

Well No.:A-00084-S3

Location: X= 2,397,327 Y= 402,314 Map: AUB-11

Well No.:A-00084-S4

Location: X= 2,398,277 Y= 399,902 Map: AUB-11

Well No.:A-00084-S5

Location: X= 2,396,645 Y= 399,956 Map: AUB-11

Well No.:A-00084-S6

Location: X= 2,397,823 Y= 402,286 Map: AUB-11

Well No.:A-00084-S7

Location: X= 2,396,012 Y= 401,019 Map: AUB-11

Well No.:A-00084-S8

Location: X= 2,398,730 Y= 400,392 Map: AUB-11

Well No.:A-00084-S9

Location: X= 2,396,236 Y= 402,317 Map: AUB-11

(5) Location and Amount of Irrigated Acreage:

Township 25S, Range 20W, Section 27, N.M.P.M.

Pt. NW $\frac{1}{4}$ 7.50

Township 25S, Range 20W, Section 27, N.M.P.M.

Pt. NE $\frac{1}{4}$ 111.50

Total: 119.00 acres

Water right is appurtenant to 119.00 acres as shown on the attached Hydrographic Survey Map for Subfile No. AUB-011-0003A.

(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

C. UNDERGROUND WATER

Office of the State Engineer File No(s). A-00084-B

(1) Priority: A-00084: March 01, 1948

A-00084-S: March 01, 1948

A-00084-S2: March 01, 1948

A-00084-S3: March 01, 1948

A-00084-S4: March 01, 1948

A-00084-S5: March 01, 1948

A-00084-S6: March 01, 1948

A-00084-S7: March 01, 1948

A-00084-S8: March 01, 1948

A-00084-S9: March 01, 1948

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

(3) Purpose of Use: Irrigation

(4) Point(s) of Diversion:

Well No.:A-00084

Location: X= 2,397,712 Y= 399,696 Map: AUB-11

Well No.:A-00084-S

Location: X= 2,396,077 Y= 400,776 Map: AUB-11

Well No.:A-00084-S2

Location: X= 2,397,808 Y= 399,870 Map: AUB-11

Well No.:A-00084-S3

Location: X= 2,397,327 Y= 402,314 Map: AUB-11

Well No.:A-00084-S4

Location: X= 2,398,277 Y= 399,902 Map: AUB-11

Well No.:A-00084-S5

Location: X= 2,396,645 Y= 399,956 Map: AUB-11

Well No.:A-00084-S6

Location: X= 2,397,823 Y= 402,286 Map: AUB-11

Well No.:A-00084-S7

Location: X= 2,396,012 Y= 401,019 Map: AUB-11

Well No.:A-00084-S8

Location: X= 2,398,730 Y= 400,392 Map: AUB-11

Well No.:A-00084-S9

Location: X= 2,396,236 Y= 402,317 Map: AUB-11

(5) Location and Amount of Irrigated Acreage:

Township 25S, Range 20W, Section 27, N.M.P.M.

Pt. NW $\frac{1}{4}$ 58.20

Township 25S, Range 20W, Section 27, N.M.P.M.

Pt. NE $\frac{1}{4}$ 5.50

Total: 63.70 acres

Water right is appurtenant to 63.70 acres as shown on the attached Hydrographic Survey Map for Subfile No. AUB-011-0003A.

(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

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

Date 06/16/2021

AGREED:

JON SCHMIDT 2019 LIVING TRUST

Jon W. Schmidt
By: Jon W. Schmidt, Trustee
28361 W. Depot Master Dr
Tracy, California 95304

Mailing address

(209) 386 3695

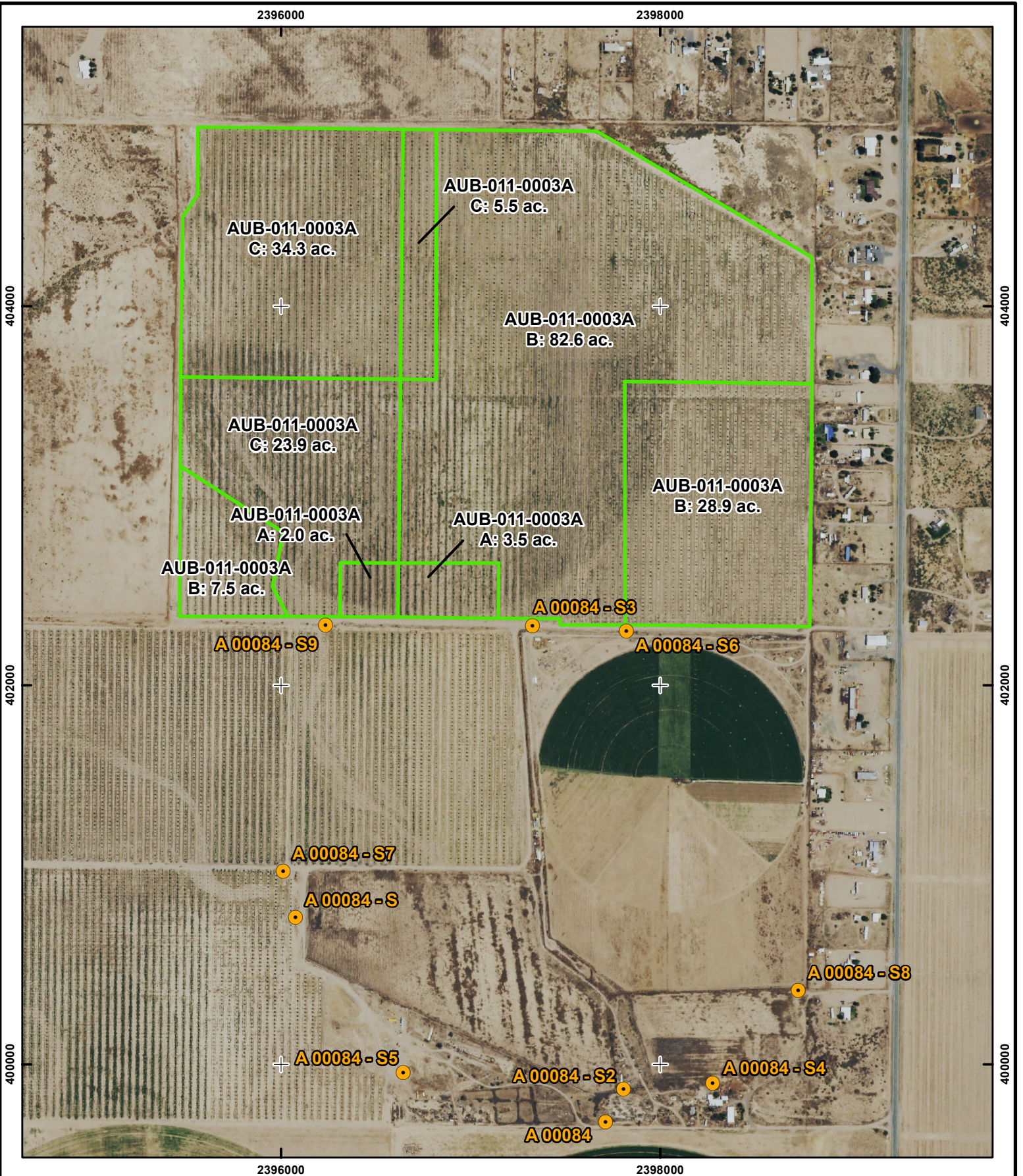
Phone number

thepecannursery@gmail.com

E-mail address

6/16/2021

Date _____



Legend

● Point of Diversion

New Mexico State Plane West NAD 83
2018 Aerial Imagery

1:8,000

1 inch equals 667 feet

0 400 800 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-011-0003A
May 26, 2021