

FIFTH JUDICIAL DISTRICT
COUNTY OF CHAVES
STATE OF NEW MEXICO

Nos. 20294 and 22600
Consolidated

STATE OF NEW MEXICO, *ex rel.*)
STATE ENGINEER)
and PECOS VALLEY ARTESIAN)
CONSERVANCY DISTRICT,)

Hon. James J. Wechsler
Judge Pro Tempore

Plaintiffs,)

Pecos River Stream System
Cow Creek Section

v.)

L.T. LEWIS, *et al.*, and)
THE UNITED STATES OF AMERICA)

Case No. D-504-CV-WS-19000001

Defendants.)

_____)

**SECOND AMENDED PROCEDURAL ORDER GOVERNING THE
ADJUDICATION OF WATER RIGHTS IN THE COW CREEK SECTION**

This Order is entered by the Court pursuant to 1-016(B) NMRA to guide the course of the statutory adjudication of water rights claims in the Cow Creek Section of the Pecos River stream system. This Order governs the subfile phase only. *Inter se* proceedings will be governed by a separate procedural order issued by this Court after the conclusion of this subfile phase. This Order provides a framework for settlement negotiations between individual claimants and the State of New Mexico. Claimants shall receive individual notifications from the State regarding their individual adjudications, and their individual adjudications will proceed without reference to the adjudications of other claimants.

The Court ordered on October 9, 2015, that all known and unknown water right claimants in the Cow Creek Section be given notice of the procedure to be followed when providing water right claimants with notice of court hearings and the filing of orders, motions and other documents with the clerk. On January 5, 2016, the State of New Mexico (State) filed its Certificate of Service, certifying that the Notice of Adjudication of Water Rights in the Cow

Creek Section of the Pecos River Stream System had been served on all known and unknown water right claimants pursuant to 1-071.2(C) NMRA. The Notice of Adjudication of Water Rights in the Cow Creek Section of the Pecos River Stream System required subscription to a Monthly Adjudication Report, found at <https://cowcreek.nmcourts.gov/>, to receive notice of all court proceedings and deadlines. Water right claimants who fail to subscribe to the Monthly Adjudication Report are deemed to have waived their right to notice of any deadline or hearing, except those pertaining specifically to their own claimed water right, until such time as they subscribe to the report.

This order supersedes the April 28, 2017 Amended Procedural Order Governing the Adjudication of Water Rights in the Cow Creek Section. The adjudication of water rights in the Cow Creek section can now proceed in accordance with the procedures set forth in this Order.

IT IS THEREFORE ORDERED THAT:

A. Service and Joinder

1. Pursuant to Rule 1-071.1 NMRA, the State shall join each person who claims a water right in the Cow Creek section (“claimant”) as a party to this adjudication. To the extent practicable, the State shall complete joining claimants on one ditch before joining claimants on a different ditch. The service of Adjudication Packets as provided below shall constitute service of process on a water right claimant and joinder of that claimant as a defendant to this adjudication.

2. Upon entry of this Order, the State shall commence serving Adjudication Packets on known water right claimants identified in the 2015 Cow Creek Watershed Hydrographic Survey (Hydrographic Survey). Service shall be by certified mail, pursuant to Rule 1-004(E) NMRA. Any claimants who refuse service by certified mail shall be personally served. For every claimant for whom service by certified mail and by personal service has failed, the State shall

