

FIFTH JUDICIAL DISTRICT
 COUNTY OF CHAVES
 STATE OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*)
 STATE ENGINEER)
 and PECOS VALLEY ARTESIAN)
 CONSERVANCY DISTRICT,)
)
 Plaintiffs,)
 v.)
)
 L.T. LEWIS, *et al.*, and)
 THE UNITED STATES OF AMERICA)
)
 Defendants.)

Nos. 20294 and 22600
 Consolidated
 Hon. James J. Wechsler
 Judge *Pro Tempore*
 Pecos Stream System
 Cow Creek Section
 Case No.: D504-WS-19000001

**STATE’S *EX PARTE* MOTION FOR APPROVAL OF
 NOTICE OF DEADLINE TO CLAIM WATER RIGHTS AND
SERVICE OF PROCESS BY PUBLICATION**

Plaintiff, State of New Mexico *ex rel.* State Engineer ("State"), moves for an order of the Court directing the Clerk of the Court to issue the Notice of Deadline to Claim Water Rights ("Notice") attached to this Motion, and to enter the proposed Order submitted with this Motion authorizing service of the Notice as contemplated by the Second Amended Procedural Order, entered January 9, 2023, which governs these proceedings, including service by publication pursuant to Rule 1-004(K) NMRA, on all water right claimants unknown to the State. As grounds for this motion, the State asserts:

1. Section B of the Second Amended Procedural Order requires that a Notice of Deadline to File Omitted Claim be served
 - a. By first class mail on all property owners of record in the Cow Creek basin;
 - b. By means of an attachment to the Court’s Monthly Adjudication Report; and
 - c. By publication, pursuant to Rule 1-004(K) NMRA.

The Notice is attached to this Motion and, as required, describes how claimants may file their

claims to any right or interest in the use of the waters of Cow Creek that are not depicted or described in the 2015 Hydrographic Survey of the Cow Creek Section.

2. The Cow Creek basin is located within San Miguel County, but near the boundary with Santa Fe County, and many of the claimants identified in the 2015 Hydrographic Survey reside in Santa Fe. Therefore, the State proposes to publish the Notice in both the Las Vegas Daily Optic, a newspaper of general circulation in San Miguel County, and the Santa Fe New Mexican, a newspaper of general circulation in Santa Fe County.

3. The State has acquired from San Miguel County the names and record addresses of all owners of property within the Cow Creek basin and is fully prepared to serve them the Notice by first class mail.

3. Upon entry of the proposed Order, the State will execute all three forms of service in a coordinated manner to ensure sufficient time for any claimant to assert their claim prior to the deadline.

4. The State has not provided an affidavit as required by Rule 1-004(J) NMRA because of the nature of this motion - to serve unknown claimants and because the method for serving unknown claimants was previously considered by this Court and is detailed in the Second Amended Procedural Order.

5. Because of the nature of this motion – to serve unknown claimants - the State could not seek concurrence in this motion, and this motion is presented to the Court *ex parte*.

WHEREFORE, the State moves the Court to enter the proposed Order submitted herewith (1) directing the Clerk of the Court to issue the Notice of Deadline to Claim Water Rights attached to this Motion; (2) directing the State to serve the Notice as prescribed by the Second Amended Procedural Order: by first class mail throughout the Cow Creek basin, by the

Court's Monthly Adjudication Report and by publishing the Notice in the Las Vegas Daily Optic and Santa Fe New Mexican newspapers once a week for three consecutive weeks as required by Rule 1-004 NMRA; and (3) directing the State to file proof of such publication with the Court.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Meghan Thomas', written over a horizontal line.

Meghan Thomas
Paul Bossert
Special Assistant Attorneys General

New Mexico Office of the State Engineer
P.O. Box 25102
Santa Fe, New Mexico 87504-5102
Phone: (505) 827-6150
meghan.thomas@ose.nm.gov
paul.bossert@ose.nm.gov
Attorneys for Plaintiff, State of New Mexico

FIFTH JUDICIAL DISTRICT
COUNTY OF CHAVES
STATE OF NEW MEXICO

STATE OF NEW MEXICO, <i>ex rel.</i>)	Nos. 20294 and 22600
STATE ENGINEER)	Consolidated
and PECOS VALLEY ARTESIAN)	Hon. James J. Wechsler
CONSERVANCY DISTRICT,)	Judge <i>Pro Tempore</i>
)	
Plaintiffs,)	Pecos Stream System
v.)	Cow Creek Section
)	
L.T. LEWIS, <i>et al.</i> , and)	
THE UNITED STATES OF AMERICA)	Case No.: D504-WS-19000001
)	
Defendants.)	
)	

NOTICE OF DEADLINE TO CLAIM WATER RIGHTS

FROM: Clerk of the New Mexico District Court for the Fifth Judicial District, Chaves County

This Notice is directed to all unknown persons who may claim any right to the use of the waters of Cow Creek and its tributaries.

THIS NOTICE IS THE ONLY NOTICE YOU WILL RECEIVE OF THE PENDENCY OF THIS ADJUDICATION OF WATER RIGHTS.

YOU ARE HEREBY NOTIFIED that there is pending in the New Mexico Fifth Judicial District Court an action to adjudicate all claims to rights to use of the waters of the Cow Creek Section of the Pecos River Stream System. As the owner(s) of land located in the Cow Creek basin, you are required to appear before the Court and describe the rights, if any, that you claim to the use of the surface waters of Cow Creek.

Unless you file a Claim with the Clerk of the Court and serve a copy on the Office of the State Engineer by JULY 4, 2025, any right you may have to use the surface waters of Cow Creek may be adjudicated by default judgment.

The Plaintiff in this action is the State of New Mexico *ex rel.* State Engineer [State]. A copy of the Amended Complaint filed in this action on May 30, 1978, may be obtained from the Fifth Judicial District Court, Chaves County Court House, P.O. Box 1776, Roswell, NM 88202-1776, under the caption State of New Mexico *ex rel.* Reynolds v. L.T. Lewis, et al., Nos. 20294 and 22600 Consolidated.

The 2015 Cow Creek Hydrographic Survey published September 11, 2015, may be viewed at: (1) the Office of the State Engineer, 130 S. Capitol, Santa Fe, NM 87504; or (2) OSE website at <https://www.ose.nm.gov/HydroSurvey/index.php>.

The Cow Creek Section adjudication is controlled by the Second Amended Procedural Order, issued January 9, 2023, which requires the State to make each water right claimant a party to the adjudication suit. For claims not identified or described in the 2015 Hydrographic Survey, the procedural order directs the State to serve notice on all unknown claimants of the procedure and deadline for submitting their claim of a water right. The form for submitting such claims is attached to this Notice. All claims must be submitted by completing the attached form, filing it with the Court, and serving a copy on the Office of the State Engineer. **The deadline for submitting such claims is JULY 4, 2025.**

The plaintiff's attorneys are:

Meghan Thomas
Paul Bossert
Special Assistant Attorneys General
Office of the State Engineer
P.O. Box 25102
Santa Fe, New Mexico 87504-5102
(505) 827-6150

WITNESS the hand and seal of the Fifth Judicial District Court for the Counties of Chaves, Eddy and Lea, State of New Mexico.

STACY L. MORA, CLERK
Fifth Judicial District Court

By: _____
Deputy Clerk

CLAIM TO SURFACE WATER RIGHT

The claimant(s) listed below submit(s) this Claim to Surface Water Right for a water right that was not depicted or described in the 2015 Cow Creek Watershed Hydrographic Survey.

1. Claimant(s) name(s) and contact information:

Claimant 1

Claimant 2

First and last name

First and last name

Mailing address

Mailing address

Mailing address continued

Mailing address continued

Email address

Email address

Phone number

Phone number

2. Priority date

: _____

3. Source of water:

4. Amount of water:

5. Purpose of use:

6. Period of use:

7. Place of use (including 2015 Cow Creek Watershed Hydrographic Survey map sheet(s) where claimed water right is located): _____

8. Place or point of diversion (ditch):

9. Number of irrigated acres (if purpose of use is irrigation):

Attach a copy of the deed or other proof of ownership of the land where the water is being used.

Claimant 1 signature

Date

Claimant 2 signature

Date

FIFTH JUDICIAL DISTRICT COURT
COUNTY OF CHAVES
STATE OF NEW MEXICO

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

vs.

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

and

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

vs.

HAGERMAN CANAL CO., *et al.*,
Defendants.

Nos. 20294 and 22600
Consolidated

Hon. James J. Wechsler
Judge *Pro Tempore*

Pecos River Stream System
Cow Creek Section

Case No. D504-WS-19000001

**ORDER ON STATE'S *EX PARTE* MOTION FOR APPROVAL OF
NOTICE OF DEADLINE TO CLAIM WATER RIGHTS AND
SERVICE OF PROCESS BY PUBLICATION**

THIS MATTER is before the Court on the State of New Mexico's *ex parte* Motion for Approval of Notice of Deadline to Claim Water Rights and Service of Process by Publication ("State's Motion"). The Court, having reviewed the pleadings and being otherwise fully advised, concludes that the Motion is well taken and should be GRANTED.

IT IS HEREBY ORDERED that 1) the Clerk of the Court is directed to issue the Notice of Deadline to Claim Water Rights ("Notice") attached to the State's Motion; (2) the State is authorized to accomplish service of process on unknown water rights claimants by mailing the Notice to all property owners of record in the Cow Creek basin, by distributing the Notice in the Court's Monthly Adjudication Report, and by publishing the Notice in

1. The Las Vegas Daily Optic newspaper, published in the City of Las Vegas, New Mexico, a newspaper of general circulation in San Miguel County; and
2. The Santa Fe New Mexican newspaper, published in Santa Fe, New Mexico, a newspaper of general circulation in Santa Fe County,

once a week for three consecutive weeks as required by Rule 1-004(K) NMRA; and (3) the State is directed to file proof of such publication with the Court.

Hon. James J. Weschler
Judge *Pro Tempore*

Respectfully submitted,



Meghan Thomas
Paul Bossert
Special Assistant Attorneys General

New Mexico Office of the State Engineer
P.O. Box 25102
Santa Fe, New Mexico 87504-5102
Phone: (505) 827-6150
Paul.bossert@ose.nm.gov
Meghan.thomas@ose.nm.gov
Attorneys for Plaintiff, State of New Mexico