

**STATE OF NEW MEXICO  
COUNTY OF HIDALGO  
SIXTH JUDICIAL DISTRICT COURT**

<b>STATE OF NEW MEXICO</b> <i>ex rel.</i>	)	<b>No. D-623-CV-2005-00054</b>
<b>NEW MEXICO STATE ENGINEER</b>	)	<b>Honorable Jarod K. Hofacket</b>
	)	
<b>Plaintiff,</b>	)	<b>ANIMAS UNDERGROUND WATER</b>
<b>vs.</b>	)	<b>BASIN ADJUDICATION</b>
	)	
<b>ROSETTE, INC., et al.</b>	)	<b>Subfile No. AUB-019-0002D</b>
	)	
<b>Defendants.</b>	)	<b>Claimant(s): Jonathan Daniel Shoffner</b>
	)	<b>Sylvia P. Shoffner</b>

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**STATE OF NEW MEXICO’S MOTION FOR SUBFILE DEFAULT JUDGMENT**

The State of New Mexico (“State”), in accordance with the April 22, 2014 Procedural Order Governing Expedited *Inter Se* Adjudication of State Law Water Rights (“Procedural Order”), moves the Court to enter a default judgment against the following claimants, incorporating the terms set forth in the Proposed Subfile Final Judgment for the subfile referenced above:

**JONATHAN DANIEL SHOFFNER  
SYLVIA P. SHOFFNER**

In support of this Motion, the State states as follows:

1. In accordance with the Procedural Order, the claimants listed above were served in this action by certified mail, return receipt requested, with an adjudication packet containing a summons, a description of the adjudication process and the claimants’ obligations, a proposed Subfile Final Judgment, and a Response and Request for Consultation form.
2. A Return of Service for the claimants was filed with the Court on July 30, 2024.

3. The claimants failed to respond to the adjudication packet as ordered by returning a signed Subfile Final Judgment, a Response and Request for Consultation, or another responsive pleading.

4. On September 19, 2024, the District Court Clerk of the Sixth Judicial District of the State of New Mexico filed a Certificate as to the State of the Record and Nonappearance, stating that process was issued to the claimants on July 18, 2024, that process was served on the claimants on July 25, 2024, and that the claimants have failed to appear in the action.

WHEREFORE, the State respectfully requests that the Court enter a Subfile Final Judgment incorporating the terms of the proposed Subfile Final Judgment served on the claimants, as set forth in the proposed Order Granting Subfile Default Judgment submitted with this Motion.

Respectfully submitted,

UTTON & KERY, P. A.  
*Attorney for Plaintiff State of New Mexico ex rel.*  
*New Mexico State Engineer*  
500 Tijeras Ave. NW  
Albuquerque, NM 87102  
(505) 379-4203

*Electronically Filed*  
By: /s/Susan C. Kery  
SUSAN C. KERY  
[susan@uttonkery.com](mailto:susan@uttonkery.com)

#### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed to the following claimants and was served to parties of record via the Court's Odyssey File & Serve System this 11th day of October, 2024.

Jonathan Daniel and Sylvia P. Shoffner  
3612 Sparrow Pond Lane  
Raleigh, NC 27606-8489

/s/Susan C. Kery  
SUSAN C. KERY

**STATE OF NEW MEXICO  
COUNTY OF HIDALGO  
SIXTH JUDICIAL DISTRICT COURT**

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

**Plaintiff,**  
**vs.**

**ROSETTE, INC., *et al.***

**Defendants.**

**No. D-623-CV-2005-00054  
Honorable Jarod K. Hofacket**

**ANIMAS UNDERGROUND WATER  
BASIN ADJUDICATION**

**Subfile No. AUB-019-0002D**

**Claimant(s): Jonathan Daniel Shoffner  
Sylvia P. Shoffner**

**ORDER GRANTING SUBFILE DEFAULT JUDGMENT**

THIS MATTER coming to be heard upon motion by Plaintiff State of New Mexico for entry of a Subfile Default Judgment against the following claimants:

**JONATHAN DANIEL SHOFFNER  
SYLVIA P. SHOFFNER**

and the Court, having considered the record and being otherwise fully advised in the premises, finds:

1. The Court has jurisdiction of the parties and the subject matter herein.
2. The claimants have been legally served with process.
3. The claimants have failed to timely respond to an adjudication packet or a Notice

Terminating Water Rights Consultation.

4. The water rights of the claimants to divert and use public waters of the Animas Underground Water Basin are as follows:

**A. UNDERGROUND WATER**

Office of the State Engineer File No(s): NONE

(1) Priority: A-00717-POD1: NONE

A-00718-POD1: NONE

(2) Source of Water: Animas Underground Water Basin

(3) Purpose of Use: No Right

(4) Point(s) of Diversion:

Well No.: A-00717-POD1

Location: X= 2,397,105 Y= 347,664 Map: AUB-19

Well No.: A-00718-POD1

Location: X= 2,397,426 Y= 347,586 Map: AUB-19

on the New Mexico State Plane Coordinate System, West Zone, 1983 N.A.D.

(5) Location and Amount of Irrigated Acreage:

Township 27S, Range 20W, Section 22, N.M.P.M.

Pt. NW¼ .80

Total: .80 no right acres

Water right is appurtenant to .80 acres as shown on the attached Hydrographic Survey Map for Subfile No. AUB-019-0002D.

(6) Amount of Water: NONE

5. All terms and conditions set forth or incorporated in the State of New Mexico's proposed Subfile Final Judgment served on the claimants shall be incorporated into this Judgment.

6. There is no just reason for delay of the entry of a final judgment as to the elements of the claims of the claimants adjudicated by this Judgment.

IT IS THEREFORE ORDERED that the rights of the claimants are set forth above.

IT IS FURTHER ORDERED that the claimants and all those in privity with the claimants are enjoined from any diversion or use of the public underground waters of the Animas

Underground Water Basin except in strict accordance with the water right(s) set forth in this Order and in other orders of this Court.

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HONORABLE JAROD K. HOFACKET  
District Judge

**AGREED:**

PLAINTIFF STATE OF NEW MEXICO

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

Date: \_\_\_\_\_

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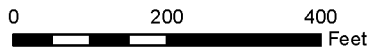
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### Legend

-  Point of Diversion
- No Right

New Mexico State Plane West NAD 83  
2016 Aerial Imagery

1:3,000  
1 inch equals 250 feet



State of New Mexico  
Office of the State Engineer  
Elizabeth K. Anderson, P.E., State Engineer

Animas Underground Water Basin  
Hydrographic Survey  
Animas Village Section



Subfile Number  
**AUB-019-0002D**  
October 09, 2024