

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

STATE OF NEW MEXICO <i>ex rel.</i>)	No. D-623-CV-2005-00054
NEW MEXICO STATE ENGINEER)	Honorable Jarod K. Hofacket
)	
Plaintiff,)	ANIMAS UNDERGROUND WATER
vs.)	BASIN ADJUDICATION
)	
ROSETTE, INC., <i>et al.</i>)	Subfile No. AUB-019-0002E
)	
Defendants.)	Claimant: Barrett Michael Guthrie
)	

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 claimant, incorporating the terms set forth in the Proposed Subfile Final Judgment for the subfile referenced above:

BARRETT MICHAEL GUTHRIE

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

1. In accordance with the Procedural Order, the claimant listed above was 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 claimant’s obligations, a proposed Subfile Final Judgment, and a Response and Request for Consultation form.

2. A Return of Service for the claimant was filed with the Court on July 25, 2024.

3. The claimant 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 claimant on July 19, 2024, that process was served on the claimant on July 22, 2024, and that the claimant has 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 claimant, 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

CERTIFICATE OF SERVICE

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

Barrett Michael Guthrie
31011 N. 56th St.
Cave Creek, AZ 85331-3033

/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-019-0002E

Claimant(s): Barrett Michael Guthrie

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 claimant:

BARRETT MICHAEL GUTHRIE

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 claimant has been legally served with process.
3. The claimant has failed to timely respond to an adjudication packet or a Notice

Terminating Water Rights Consultation.

4. The water rights of the claimant 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 .20

Total: .20 no right acres

Water right is appurtenant to .20 acres as shown on the attached Hydrographic Survey Map for Subfile No. AUB-019-0002E.

(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 claimant 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 claimant adjudicated by this Judgment.

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

IT IS FURTHER ORDERED that the claimant and all those in privity with the claimant 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.

HONORABLE JAROD K. HOFACKET
District Judge

AGREED:

PLAINTIFF STATE OF NEW MEXICO

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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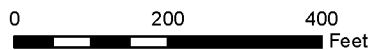
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Legend

-  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-019-0002E
October 09, 2024