

STATE OF NEW MEXICO
COUNTY OF DOÑA ANA
THIRD JUDICIAL DISTRICT COURT

State of New Mexico *ex rel.*
New Mexico State Engineer,
Plaintiff,

v.

Elephant Butte Irrigation District, *et al.*,
Defendants.

FILED

2018 FEB 28 PM 3: 52

DISTRICT COURT
DOÑA ANA COUNTY, NM

No. CV 96-888

Hon. James J. Wechsler

Subfile No. LRO-28-008-9009

Case No.: 307-OA-9703126
New Mexico Copper Corporation

SUBFILE ORDER AND JUDGMENT

This matter having come before the Court as a designated expedited *inter se* proceeding, and trial having been held on March 14 through 18, June 14, and June 27 through July 1, 2016, with the active participation of New Mexico Copper Corporation, William Frost, Harris Gray, Turner Ranch Properties, L.P., fifteen named individuals and entities from the vicinity of Hillsboro, New Mexico, and the State of New Mexico, and the Court having filed its Findings of Fact and Conclusions of Law on December 28, 2017, this final Subfile Order and Judgment is hereby entered with respect to the right of Defendant

NEW MEXICO COPPER CORPORATION

to use the public waters of the Lower Rio Grande stream system and the Lower Rio Grande Underground Water Basin. The Court FINDS that it has jurisdiction over the parties and the subject matter of this suit, and that the rights of New Mexico Copper Corporation to use the public waters of the Lower Rio Grande stream system and the Lower Rio Grande Underground Water Basin are as follows:

December 29, 2017

Event Code: 3597

RANCHES
EXHIBIT
38

UNDERGROUND WATER ONLY

A. Office of the State Engineer File No(s): LRG-04652

- (1) Priority: December 10, 1975
- (2) Source of Water: Underground waters of the Lower Rio Grande Underground Water Basin.
- (3) Purpose of Use: Dust control
- (4) Point(s) of Diversion for this right:

Well No. LRG-04652-S-17 Location: X=1,246,658 Y= 719,198

Map: LRO-8

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

- (5) Place of Use: location of patented mining claims located within Sections 24, 25, 26, 27, 33, 34, 35 and 36, Township 15 South, Range 7 West, NMPM and unpatented mining claims located within Sections 22, 23, 24, 25, 26, 27, 34, 35 and 36, Township 15 South, Range 7 West, NMPM, within Sections 19, 29, 30, 31, Township 15 South Range 6 West, NMPM and within Sections 2 and 3, Township 16 South, Range 7 West, NMPM.

- (6) Amount of Water: 34.45 acre-feet per annum.

UNDERGROUND WATER ONLY

B. Office of the State Engineer File No(s): LRG-04652

- (1) Priority: December 31, 1943
- (2) Source of Water: Underground waters of the Lower Rio Grande Underground Water Basin.
- (3) Purpose of Use: Non 72-12-1 Livestock Watering and Domestic
- (4) Point(s) of Diversion for this right:

Well No. LRG-04652-S-8 Location: X=1,258,129 Y= 713,905

Map: LRO-8

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

(5) Place of Use: Within the property owned by the Defendant(s).

(6) Amount of Water: Historical beneficial use not to exceed 3.00 acre-feet per year

UNDERGROUND WATER ONLY

C. Office of the State Engineer File No(s): LRG-04652

(1) Priority: NONE

(2) Source of Water: Underground waters of the Lower Rio Grande Underground Water Basin.

(3) Purpose of Use: No Right

(4) Point(s) of Diversion for this right:

Well No. LRG-04652-S-10	Location: X=1,258,243	Y= 717,786
Map: LRO-8		
Well No. LRG-04652-S-4	Location: X=1,257,495	Y= 717,823
Map: LRO-8		
Well No. LRG-04652-S-5	Location: X=1,257,759	Y= 718,401
Map: LRO-8		
Well No. LRG-04652-S-6	Location: X=1,257,051	Y= 719,984
Map: LRO-8		
Well No. LRG-04652-S-7	Location: X=1,258,117	Y= 713,845
Map: LRO-8		
Well No. LRG-04652-S-9	Location: X=1,258,288	Y= 716,782
Map: LRO-8		

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

(5) Place of Use: NONE

(6) Amount of Water: NONE

UNDERGROUND WATER ONLY

D. Office of the State Engineer File No(s): LRG-04654

- (1) Priority: NONE
- (2) Source of Water: Underground waters of the Lower Rio Grande Underground Water Basin.
- (3) Purpose of Use: No Right
- (4) Point(s) of Diversion for this right:

Well No. LRG-04654

Location: X=1,251,834 Y= 723,515

Map: LRO-8

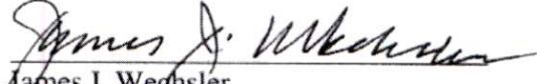
on the New Mexico State Plane Coordinate System, Central Zone, 1983 N.A.D.

- (5) Place of Use: NONE
- (6) Amount of Water: NONE
1. Any conditions imposed by the Office of the State Engineer in granting any permit or license relating to these water right(s) are incorporated into this Stipulated Subfile Order.
2. The Court may enjoin and condition the exercise of the Defendant(s)' right(s) to the extent provided by state or federal law.
3. The Defendant(s) will file notice with the Court and provide the Office of the State Engineer with a copy of any change of ownership of all or any part of their water right(s).


4. The Court enters this Subfile Order and Judgment as a final judgment.
5. There is no just reason for delay of the entry of a final judgment as to the elements of the claims of the Defendant(s) adjudicated by this Subfile Order and Judgment.

IT IS THEREFORE ORDERED that the water right(s) of the Defendant(s) are as set forth above.

IT IS FURTHER ORDERED the Defendant(s) and all those in privity with the Defendant(s) are enjoined from any diversion or use of the public underground and surface waters of the Lower Rio Grande stream system and the Lower Rio Grande Underground Water Basin on the properties specifically described herein, except in strict accordance with the water right(s) set forth in this Order and in other orders of this Court. This restriction in no way affects any additional water rights the Defendant(s) may have in other subfiles.


James J. Wechsler
Presiding Judge

Submitted by:



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(505) 827-3854
Attorney for the State of New Mexico

Approved as to form only:

Law & Resource Planning Associates, PC

By: approval by email, 2/22/2018

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Attorneys for New Mexico Copper Corporation, William Frost and Harris Gray

Davidson Law Firm, LLC

By: telephonic approval 2/22/2018

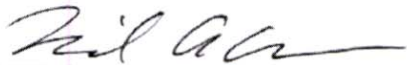
Tessa T. Davidson

P.O. Box 2240

Corrales, NM 87048

Attorney for Turner Ranch Properties, LP

As of the date of submission of this Subfile Order and Judgment, February 28, 2018, the New Mexico Environmental Law Center, 1405 Luisa Street, Ste. 5, Santa Fe, NM 87505, Attorneys for the Hillsboro Mutual Domestic Water Consumers Association, Charles T. Barrett, Melody K. Sears, *et al.*, has not been able to convene the Board of the Hillsboro Mutual Domestic Water Consumers Association to either approve or object to the form of this Subfile Order and Judgment, per phone conference with Douglas Meiklejohn, New Mexico Environmental Law Center, on February 27, 2018.



Richard A. Allen

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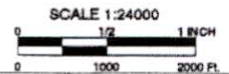
STATE OF NEW MEXICO
 Office of the State Engineer
 Tom Blaine, P.E.
 State Engineer

Lower Rio Grande
 Adjudication
 Outlying Areas Section

- Legend**
- Irrigated Tract Boundary
 - Total Irrigated Acreage.
 - Land with No Right
 - Reservoir

- Irrigation Wells
- Domestic/Livestock Wells
- All Other Wells
- Spring
- ◆ Headgate or Siphon
- Land Formerly Irrigated

- ▨ Land with Water Rights Transferred Off
- ▨ Encroachments



Subfile Number
 LRO-280089009



28-06-0917