

Exhibit 2
01-cv-00072-MV-WPL
Subfile ZRB 2-0098

STATE OF NEW MEXICO
COUNTY OF CHAVES
FIFTH JUDICIAL DISTRICT

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
Presiding Judge

PECOS RIVER STREAM SYSTEM
Gallinas River Subsection

Court File No.: CV-WB-01-58

Subfile No.: GR-12.1

CONSENT ORDER

Having considered the agreement set forth below between the State of New Mexico
ex rel., State Engineer (State) and

DORIS VARELA
GILBERT C. VARELA, SR.

(Defendant) concerning the Defendant's right to use the public waters of the Pecos River Stream
System, Gallinas River Subsection, the Court FINDS:

1. The Court has jurisdiction over the parties and the subject matter of this suit.
2. The State and the above-named Defendant have agreed concerning the elements of the Defendant's right to divert and to place the public waters of the Pecos River Stream System, Gallinas River Subsection, to beneficial use. The State and the Defendant have approved and accepted these elements of Defendant's water right as set forth in paragraph 3.

3. The right of the Defendant to divert and to use the public waters from the Pecos River Stream System, Gallinas River Subsection, is set forth below:

A. IRRIGATED LANDS (Surface Water Only):

Office of the State Engineer File No(s): 6363-1

Priority: December 31, 1880

Source of Water Surface waters of the Gallinas Creek, a tributary of the Pecos River.

Purpose of Use: IRRIGATION

Point of Diversion:

Ditch: GALLEGOS DITCH

Location: X= 197,840 feet **Y=** 1,702,100 feet

New Mexico State Plane Coordinate System, East Zone, NAD 1927

Location and Amount of Irrigated Acreage:

Within the Las Vegas Grant 6.50 acres

Total 6.50 acre(s)

As shown on the attached revised Hydrographic Survey Map for Subfile No. 12.1

Amount of Water: 2.0 acre-feet per acre per annum delivered at the farm headgate,

B. NO RIGHT (Surface Water Only):

Office of the State Engineer File No(s): 6363-1

Priority: NONE

Source of Water Surface waters of the Gallinas Creek, a tributary of the Pecos River.

Purpose of Use: NO RIGHT

Point of Diversion:

Ditch: GALLEGOS DITCH

Location: X= 197,840 feet **Y=** 1,702,100 feet

New Mexico State Plane Coordinate System, East Zone, NAD 1927

Location and Amount of Acreage:

Within the Las Vegas Grant 3.30 acres

Total 3.30 acre(s)(No Right)

As shown on the attached revised Hydrographic Survey Map for Subfile No. 12.1

Amount of Water: NONE

4. The Defendant has no surface water right in the Pecos River Stream System, Gallinas River Subsection, other than that set forth in this Consent Order and in other orders entered by this Court.
5. The water right set forth herein is subject to challenge in the *inter se* proceedings by any other defendant having an adjudicated water right.
6. The Defendant shall file a notice with the Court and serve the State Engineer, through its counsel of record, with a copy of any change(s) of ownership of all or any part of Defendant's water right within 30 days of such change.
7. This Consent Order is binding on the Defendant, Defendant's heirs, successors, representatives, and assigns. The Defendant shall notify such heirs, successors, representatives, or assigns of this Consent Order.
8. The Court enters this Consent Order as a final judgment between the Defendant and the State as to all issues addressed herein and this Consent Order is not subject to appeal, or modification, except as provided in paragraph 9.

9. The Court has set August 30, 2004 as the deadline for certain parties to file motions for the determination of the farm delivery requirement (FDR-which is defined as the amount of water deliverable at the farm headgate) of water on a stream wide basis and motions for determination of priority on a ditch wide basis. The Court may subsequently impose deadlines for the filing of similar motions on other parties. If any such motions are filed, the FDR and priority elements of the water right described in this Consent Order may be redetermined by the Court following a hearing on those motions and this Consent Order may be modified to reflect any such redetermination. Any redeterminations made shall be based on the issues raised in the motions and no other grounds will be considered. If no motions are filed by the required dates, the determination of the FDR and priority in this Consent Order shall be final and not subject to modification or appeal.
10. If the Court, after the filing of Motions permitted in paragraph 9, finds that no redetermination of FDR or priority is necessary, then this Consent Order is final as to all elements contained herein; including FDR and priority, and this Consent Order is not subject to modification or appeal.

IT IS THEREFORE ORDERED that the water right of the Defendant is as set forth above.

IT IS FURTHER ORDERED that the Defendant and all those in privity with the Defendant are enjoined from any diversion or use of the public underground and surface waters of the Pecos River Stream System, Gallinas River Subsection, except in strict accordance with the water right set forth in this Consent Order or in other orders of this Court.

DONE and ORDERED this ____ day of _____, 2010.

Hon. James J. Wechsler
Presiding Judge

ACCEPTED: _____
GILBERT C. VARELA, SR.

ACCEPTED: _____
DORIS VARELA

ADDRESS: _____

ADDRESS: _____

DATE: _____

DATE: _____

Submitted by:

Approved by:

Special Assistant Attorney General

Stephen E. Snyder, Special Master

Date

Date