

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

FILED

2017 JUL 28 PM 2:07

DISTRICT COURT
DOÑA ANA COUNTY, NM

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

v.

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

D-307-CV-96-888

Lower Rio Grande Adjudication
James J. Wechsler, Presiding Judge

Stream System Issue No. 97-104

Stream System Issue No. 97-107


**NOTICE OF HEARING, SCHEDULING CONFERENCE, AND STATUS
CONFERENCE**

PLEASE TAKE NOTICE THAT the Court has set a Hearing and Conferences for
AUGUST 30, 2017 beginning at 1:00 p.m., at the Third Judicial District Court, 201 W. Picacho

Avenue, Las Cruces, New Mexico, as follows:

1. Outstanding subfile objections;
2. Parties' report on how to proceed in SS-97-104 and SS-97-107;
3. Global proceedings on assessed acreage;
4. Draft procedural Order for Global proceeding on assessed acreage (*See* attached draft Order);
5. Any other matters the Court deems necessary.

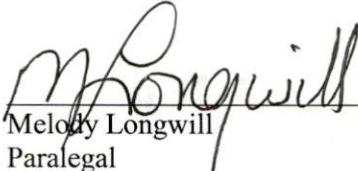
Parties who do not intend to present argument to the Court may also appear via telephone by calling 1-605-475-5950 and entering access code 9353217. This is a free conference call. Also, a Video Conference will be set up at the Court of Appeals for those who wish to watch the proceedings.


MELODY LONGWILL
Paralegal

THE DISTRICT COURT COMPLIES WITH THE AMERICANS WITH DISABILITIES ACT. IT IS COUNSEL'S, OR A PRO SE PARTY'S OBLIGATION TO NOTIFY THE CLERK OF THE COURT AT LEAST FIVE (5) DAYS BEFORE ANY HEARING OF THE ANTICIPATED ATTENDANCE OF A DISABLED PERSON SO THAT APPROPRIATE ACCOMMODATIONS CAN BE MADE. ALL COUNSEL ARE TO VERIFY COURT TIME ALLOWED FOR THIS MATTER.

CERTIFICATE OF MAILING

I hereby certify that on the above file-stamped date, I have caused to be emailed and/or mailed by First Class US Mail, a true and correct copy of the foregoing instrument to those listed on the SS-97-104 and SS-97-107 mailing lists on the Lower Rio Grande website.



Melody Longwill
Paralegal

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**James J. Wechsler,
Presiding Judge**

**Stream System Issue No. 108
Global Assessed Acreage Proceedings
Case No.: D-307-SS-9700108**

**[DRAFT] AMENDED PROCEDURAL ORDER FOR GLOBAL
ASSESSED ACREAGE PROCEEDINGS**

Procedural Order for Global Assessed Acreage Proceedings, entered on June 6, 2017, describes procedures for adding assessed acreage to subfiles of Elephant Butte Irrigation District members that were adjudicated prior to implementation of the agreement between the State and EBID to adjudicate EBID members' surface water rights as appurtenant to the acreage assessed by EBID, rather than to the actual irrigated acreage, as had been the practice for both groundwater and surface water in the past. *See* Stipulated Order Regarding Threshold Motion Number Two: Declaration That Lands Under Irrigation Ditches and Temporary Farm Roads Are Lands Upon Which Water Rights Can Attach, filed November 19, 2009. The Court hereby amends the procedural order to describe in more detail the procedure for resolving Objections to assessed acreage.

The procedures for adding assessed acreage, to be designated Global Assessed Acreage Proceedings, are as follows:

I. Identifying the historical assessed acreage

- A. The tracts of assessed acreage to be added to previously adjudicated subfiles will be identified by their EBID parcel numbers, with the amount of acreage specified.
- B. The State will create and provide to EBID a special ARC map layer of the adjudicated subfile polygons with spatially referenced attributes for each, including but not limited to: subfile number, EBID map serial number, status use, right heading, purpose of use, ownership, and date adjudicated.
- C. EBID will research its records using this layer and provide the State, in stages, with parcel numbers and assessed acreage amounts for each subfile as of the date the subfile was adjudicated.

II. Adding the assessed acreage of claimants who do not file Objections

- A. The Court has created a case file number for the Global Assessed Acreage proceeding, D-307-SS-9700108.
- B. Periodically, as sufficient data is provided by EBID, the State will produce a proposed list of previously adjudicated subfiles with their parcel numbers and assessed acreage amounts denoted.
- C. The State shall file the proposed list with the Court, captioned as first

proposed, second proposed, etc., list in the global proceedings in case number D-307-SS-9700108.

- D. The proposed list shall be posted on the Court's adjudication website at <https://lrgadjudication.nmcourts.gov/ss-97-108.aspx> and additionally will be made available at the Lower Rio Grande hydrographic survey office, Office of the State Engineer, 1680 Hickory Loop, Suite J, Las Cruces, N.M., 88005-6598.
- E. Once a week for three consecutive weeks, the State shall publish notice of the proposed list, in a newspaper of general circulation, informing EBID members where the list may be viewed and directing those with subfile numbers on the list to review their parcel numbers and amounts of assessed acreage. The notice also will be posted on the Court's adjudication website.
- F. The notice will explain that claimants who object to their parcel numbers or amounts of assessed acreage must appear and show cause why their acreage should not be adjudicated as described on the list, by completing Form F, Objection to Description of Assessed Acreage (attached as Exhibit A), and mailing it to the State within thirty (30) days of the final publication of the notice. The Notice will inform claimants that Form F will be available on the Court's website at <http://lrgadjudication.nmcourts.gov/court-forms.aspx>, and that a separate Objection must be submitted for each subfile for which the

claimant objects to the parcel numbers or the assessed acreage amounts.

- G. Ninety (90) days after the final publication of the Notice, the State shall prepare and file a final list from which all subfiles with unresolved Objections have been removed, and all stipulated amendments have been incorporated (see Sec. III, ¶ E below). The State shall submit to the Court the final list and a proposed Global Order Adding Assessed Acreage for Certain Subfiles (Global Order).
- H. The Court will enter a Global Order with the final list attached. The Global Order will be posted on the Court's adjudication website.
- I. The State shall file an individually captioned Statement of Adjudication in each subfile that: (i) describes the parcel number(s) and assessed acreage amount(s) to be added to that subfile, (ii) indicates that the assessed acreage has been adjudicated by Global Order, and (iii) provides the case number and file date of that Global Order.

III. Adding the assessed acreage for claimants who file oObjections

- A. When the State receives an Objection, the State will promptly file the Objection with the Court. If the claimant is new to the subfile adjudication, the State will assign an individual court case number for the claimant and record it in the case caption of the Objection before filing it with the Court. The Objection shall be filed in both case D-307-SS-9700108 and in the

subfile.

- B. The Objections will be posted on the Court's adjudication website.
- C. Claimants' Objections shall be limited to their parcel numbers or amounts of assessed acreage identified in the list.
- D. The State will have sixty (60) days from the date the Objection is filed to contact the claimant and negotiate informally to resolve the Objection.
- E. If the State and claimant are able to resolve claimant's Objection to the description of the assessed acreage, the State shall submit to the Court a stipulated amendment to the list, signed by both parties, substituting the revised description for the original description on the proposed list. The stipulated amendment shall be filed in both case number D-307-SS-9700108 and the subfile.
- F. If the State and the claimant are unable to resolve the Objection informally, the State will file a request for mediation. Mediation will proceed in accordance with the governing procedural order in CV-96-888. All documents related to mediation shall be filed only in the subfile, except orders.
- G. If the Objection is resolved through mediation, the State shall submit to the Court a proposed order adding assessed acreage. The Court shall enter an order adding assessed acreage in both case D-307-SS-9700108 and in the

subfile, and the order will be posted on the Court's adjudication website. All documents related to trial will be filed only in the subfile, except orders.

- H. If mediation fails to resolve the Objection, the Court will set a mandatory scheduling conference and then, if necessary, the matter may proceed to trial.
- I. Once a trial is concluded, the State shall submit to the Court a proposed order adding assessed acreage. The Court shall enter an order adding assessed acreage in both case D-307-SS-9700108 and in the subfile, and the order will be posted on the Court's adjudication website.

IT IS SO ORDERED.

James L Wechsler
Presiding Judge

EXHIBIT A

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Global Assessed Acreage Proceedings
D-307-SS-9700108

And

Case No.: _____
Subfile No.: _____

[DRAFT] FORM F
OBJECTION TO DESCRIPTION OF ASSESSED LAND ACREAGE

Each claimant who wants to object to either the EBID Parcel Number(s) or the Assessed Acreage Amount(s) must submit a Form F to the State for each Subfile

Please type or print legibly.

I, (Name) _____, object to the following description

of the assessed acreage:

Description found in the (Title of List) _____

Subfile Number: _____

EBID Parcel No(s): _____

Assessed Acreage Amount(s): _____

Reasons for Objecting:

My Mailing Address: _____

EXHIBIT A

Telephone Number:

(Signature)

[Instructions and State's mailing address here]