

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

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

v.

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

No. ~~D-307-CV-96-888~~  
Lower Rio Grande Adjudication

James J. Wechsler,  
Judge Pro Tem

Stream System Issue No. 108  
Global Assessed Acreage Proceedings  
SS-97-108

FILED

2020 DEC -3 PM 4:14

DISTRICT COURT  
DOÑA ANA COUNTY, NM

**NOTICE OF PROPOSED ORDER AMENDING PROCEDURAL ORDER  
FOR GLOBAL ASSESSED ACREAGE PROCEEDINGS**

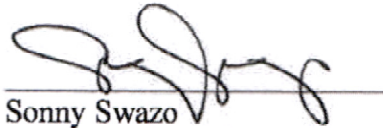
Pursuant to the Court's instructions at the Status Conference Hearing on December 2, 2020, the State hereby files this notice of proposed order amending procedural order for global assessed acreage proceedings ("proposed amended order"). A copy of the proposed amended order and a copy of the proposed objection form, Form F, are attached to this notice as Attachment A.

Respectfully submitted this 3<sup>rd</sup> day of December 2020.

Sonny Swazo  
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Santa Fe, NM 87504-5102  
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Attorney for the State of New Mexico

**CERTIFICATE OF SERVICE**

I hereby certify that, in the absence of a service list for SS-97-108, I have caused to be emailed on December 3, 2020, and mailed by First Class U.S. Mail on December 4, 2020, a true and correct copy of the foregoing Notice to counsel and parties of record located on the SS-97-104 and SS-97-107 service lists on the Lower Rio Grande Adjudication website.



Sonny Swazo  
Special Assistant Attorney General

**STATE OF NEW MEXICO  
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**James J. Wechsler,  
Presiding Judge**

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

**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 Objections**

- 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.**

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James L. Wechsler  
Presiding Judge

EXHIBIT A

STATE OF NEW MEXICO  
COUNTY OF DOÑA ANA  
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State of New Mexico *ex rel.*  
Office of the State Engineer,  
Plaintiff,

No. D-307-CV-96-888  
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James J. Wechsler, Presiding Judge

v.

Global Assessed Acreage Proceedings  
D-307-SS-9700108

And

Case No.: \_\_\_\_\_

Subfile No.: \_\_\_\_\_

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

**[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:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**EXHIBIT A**

My Mailing Address: \_\_\_\_\_

\_\_\_\_\_

Telephone Number: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

[Instructions and State's mailing address here]