IN THE DISTRICT COURT OF CHAVES COUNTY STACE OF HEW MENICO

STATE OF NEW MEXICO, on this) relation of S. M. Reynolds,) Stans Engineer, and PECOS) VALUET ARTUSIAN COMMERVALICY) DISTRICT,)

Pluintiff,

L. T. LEWIS, et al., UNITED STATES OF AMERICA,

Defendants.

and

V.

v.

STATE OF MEW MEXICO, on the relation of S. E. Reynolds, State Engineer, and PECOS VALLEY ACTESIAN CONSERVANCY DISTRICT,

Plaintiffs,)

HAGERMAN CANAL CO., et al.,)
Defendants.)

No. 22600

Ho. 20294

CONSOLIDATED

COMSOLIDATED PETITION

COME NOW the Plaintiffs, by and through their attorneys, and by leave of the Court, file this their Consolidated Patition, and allege:

I.

That S. E. Reynolds is the duly appointed, qualified and acting State Engineer of the State of New Mexico and maintains this action on behalf of the State of New Mexico in said capacity.

II.

District, was created to conserve where necessary the waters of the Coswell Artesian Dasin and has concurrent power and authority with the state engineer to enforce the statutes and rules and regulations provided thereupder insofar as the waters of the terminal and a line are affected and that this action

is necessary in order to conserve the waters of said artesian basin and in order to prevent waste.

III

That all of the underground waters in the Reswell
Actesian Basin belong to the public and are subject to
appropriation for beneficial use only in the manner provided
by law.

IV.

That the water rights of the Roswell Basin have been adjudicated herein.

V.

That the Hondo River and its surface and groundwater tributaries are public waters and constitute a major source of re-charge to the Roswell Basin and are tributary thereto.

VI.

appropriations are being made from the Hondo River and its tributaries, and future appropriations therefrom are contemplated, which appropriations will adversely affect the re-charge of the Roswell Dasin and the water rights which have been adjudicated herein and that all diversions and uses of water by and from the Hondo River Stream System affect the Roswell Artesian Basin and the water supply of those parties herein owning water rights in the Roswell Artesian Basin.

VII.

That by order of this Court the State Engineer has undertaken a Hydrographic Survey of the Hondo River and its tributaries pursuant to New Mexico States. 2 75-4-2, et seq. (1953).

VIII.

What a Mydrographic Survey is being mondeched and prepared by the State Englisher, and whom portions of said survey are completed, they will be filed in this Cours. Plaintiffs hereby ask the Court to order upon motion of the State Engineer the naming of such additional parties whose interests may be about to interests. That it is neither practical nor feasible for the Court to hear all of the remaining testimeny in this cause, and that such exceptional conditions exist as require the appointment of a Special Master to hear the evidence and make recommended findings of fact and conclusions of law to this Court.

I

That until such time as the water rights of each of the above-mentioned additional defendants are determined and defined as against each other, the State of New Mexico, and as against the rights previously adjudicated herein, the right to the use of water from the Hondo River and the Roswell Basin will remain unclear and uncertain.

WHEREFORE, Plaintiffs, pray:

- 1. That this Court appoint its Special Master to take evidence and make his report on all remaining questions of face and law, which report shall resolve all such general and specific issues of fact, and to make such findings of fact and conclusions of law as may to him appear necessary and proper:
- 2. That the above-mentioned additional defendants be required to appear before the Court to describe fully and in requisite detail what rights, if any, they claim to the use of water in the Hondo River and its tributaries, and more specifically:
 - To legally describe the point of diversion of claimed outface vators;
 - To legally inguribe the location of wells pertaining to anderground claims;
 - c. To state the rount of water classed;
 - d. To state whom the said water right and iritiated;
 - e. To state the purpose for which the water is used;
 - To state the assumt of vater necessary for the beneficial use for which it was appropriated;

- g. To legally describe with regard to irrigation claims the land to which the water is appurtenant; and
- h. To state such other matters as may be necessary to define a particular right and its priority.
- 3. That the Court determine and define the water rights of each of the several additional defendants, as against the State of New Mexico, the owners of water rights previously adjudicated herein, and jeter sese, and enter its decree stating:
 - a. The water rights adjudged each party;
 - The point of diversion or well locations, the priority, amount, purpose, periods and place of use of each right;
 - c. The specific tracts of land to which water rights for irrigation are appurtenant; and
 - d. Such other matters as may be necessary to define a particular right and its priority.
- 4. That the Court enter its Order enjoining all illegal use of surface and underground waters of the Hondo River and its tributaries, and require measuring devices at points of diversion where necessary to effectuate its Order:
- 5. That the Court name additional parties from time to time as it appears necessary for the orderly adjudication of all the water rights of the Mondo River and its tributaries.
- 6. That the Court enter such preliminary, interlocutory, and final Orders as are necessary to a final adjudication of all the water rights of the Roswell Artesian Basin and the Hondo River and its tributaries.

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