

FIFTH JUDICIAL DISTRICT OF  
COUNTY OF CHAVES  
STATE OF NEW MEXICO

STATE OF NEW MEXICO, <i>ex rel.</i>	)	
OFFICE OF THE STATE ENGINEER,	)	
and PECOS VALLEY ARTESIAN	)	Nos. 20294 and 22600
CONSERVANCY DISTRICT,	)	Consolidated
Plaintiffs,	)	
v.	)	Hon. Harl D. Byrd
	)	District Judge Pro Tempore
L. T. LEWIS, et al., and	)	
UNITED STATES OF AMERICA,	)	Carlsbad Section
Defendants.	)	Carlsbad Irrigation District Sub-Section
	)	
	)	PROJECT (OFFER) PHASE

**JOINT MOTION FOR ENTRY OF PARTIAL FINAL DECREE**

The State of New Mexico, *ex rel.*, the State Engineer (“State”), the Carlsbad Irrigation District (“CID”), the Pecos Valley Artesian Conservancy District (“PVACD”), and the United States (collectively, the “Movants”), by and through their counsel of record, hereby move the Court to approve and enter in these proceedings the Partial Final Decree, which incorporates the Settlement Agreement attached thereto, and which Partial Final Decree and Settlement Agreement are together attached hereto as Exhibit A and incorporated herein by this reference (hereinafter referred to as the “Settlement”).

As grounds for this Motion, the Movants state:

1. Pursuant to a Joint Motion of the Movants, the Court entered an Order dated August 5, 2002, which stayed the Project (Offer) Phase of these proceedings until January 15, 2003. By Order of this Court dated January 13, 2003, the Court extended its stay Order of August 5, 2002, through March 14, 2003 (“Stay Orders”). The purpose of the Stay Orders was to allow the Movants adequate time in which to conduct negotiations to reach the agreements that the Legislature has

required before the New Mexico Interstate Stream Commission (“ISC”) may make the expenditures authorized by NMSA 1978, §72-1-2.4 (2002).<sup>1</sup>

2. Pursuant to the Legislature’s mandate as facilitated by the Stay Orders, the Movants have completed their negotiations, and have reached agreement on the terms of the Settlement.

3. As required by §72-1-2.4(C), the Settlement incorporates the agreements of Movants that specify the actions the parties agree will be taken or avoided to ensure that the expenditures contemplated thereby will be effective toward permanent compliance with New Mexico’s obligations under the Pecos River Compact and the amended decree in *Texas v. New Mexico*, 485 U.S. 388 (1988). Additionally, the ISC and the Fort Sumner Irrigation District have entered into an agreement pursuant to §72-1-2.4 (C), consistent with the Settlement, which agreement is attached hereto as Exhibit B and incorporated herein by this reference.

4. As required by §72-1-2.4 (D) (1) (c), the Settlement incorporates the agreements of Movants regarding the settlement of the surface water claims of the CID and the United States.

5. The State has completed and the Movants have reviewed computer modeling of the terms of the Settlement. The terms of the Settlement were subject to public hearings held on February 27, 2003, in Roswell by PVACD and in Carlsbad by the CID; and on February 28, 2003, in Roswell by the ISC. The Movants further conducted consultations on the terms of the Settlement with the Lower Pecos River Basin Committee, a state-appointed Committee consisting of representatives of the major water user entities, industries and political subdivisions within the Lower Pecos River Basin below Sumner Reservoir. Additionally, the Lower Pecos River Basin Committee and the

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<sup>1</sup> H.B. 417, 2002 Regular Legislative Session, “An Act Relating to Water; Changing the Purpose of and Extending the Expenditure Period for Certain Appropriations from the New Mexico Irrigation Works Construction Fund to Purchase Water Rights in the Pecos River Basin for Compliance with the Pecos River Compact; Providing Conditions for Expenditures.” Laws 2002, Ch. 94 Sec. 2.

Movants have conducted briefings of the terms of the Settlement with members of the New Mexico Legislature. The Movants have solicited and received public comment on the terms of the Settlement, and the Movants have considered comments received in the development of the Settlement.

6. The Movants have further agreed upon a process for approval by this Court, by which the Court would consider the Settlement. As part of this process, the Movants will request and will aggressively undertake good faith efforts to seek to have as many of the objectors in the Project (Offer) Phase of these proceedings as possible execute Withdrawals that withdraw their objections and indicate concurrence with the Settlement upon this Court's entry of a Partial Final Decree containing the same terms as contained in the Settlement. Said Withdrawals will further provide that upon entry of a Partial Final Decree containing the same terms as contained in the Settlement, the parties to said Withdrawals shall not present any claim or objection in the Membership Phase of the Carlsbad Irrigation District Sub-Section or any *inter se* phase of the these proceedings that is inconsistent with the Settlement; provided, however, that nothing therein shall prevent any party to said Withdrawals from protesting any change in purpose and/or place of use on grounds provided by applicable law in proceedings before the State Engineer or an appeal therefrom.

7. Upon the entry of a Partial Final Decree in these proceedings containing the same terms as contained in the Settlement, the Movants shall not present any claim or objection in the Membership Phase of the Carlsbad Irrigation District Sub-Section or *inter se* phase of these proceedings that is inconsistent with the Settlement; provided, however, that nothing herein shall prevent any Movant from protesting any change in purpose and/or place of use on grounds provided by applicable law in proceedings before the State Engineer or an appeal therefrom.



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