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DISTRICT COURT CLERK

FIFTH JUDICIAL DISTRICT  
COUNTY OF CHAVES  
STATE OF NEWMEXICO

STATE OF NEW MEXICO, ex rel.,  
State Engineer  
And PECOS VALLEY ARTESIAN  
CONSERVANCY DISTRICT,  
Plaintiffs,  
  
vs.  
  
L.T. LEWIS, et al.  
UNITED STATES OF AMERICA,  
Defendants,  
  
and  
  
STATE OF NEW MEXICO, ex rel.  
State Engineer  
And PECOS VALLEY ARTESIAN  
CONSERVANCY DISTRICT,  
Plaintiffs,  
  
vs.  
  
HAGERMAN CANAL CO., et al.  
Defendants.

Nos. 20294 and 22600  
Consolidated

Honorable David W. Bonem  
District Judge *Pro Tempore*

Carlsbad Basin Section  
Carlsbad Irrigation District  
Sub-Section  
Project (Offer) Phase

SETTLEMENT PARTIES' JOINT DECLARATION OF  
SETTLEMENT IMPLEMENTATION

The Settlement Parties, (the State of New Mexico, ex rel. State Engineer, the New Mexico Interstate Stream Commission ("ISC"), the Pecos Valley Artesian Conservancy District ("PVACD"), the Carlsbad Irrigation District ("CID") and the United States), jointly declare that the Conditions Precedent required for implementation of the Settlement Agreement<sup>1</sup> have been

<sup>1</sup> On March 28, 2003, the Settlement Parties filed the Joint Motion for Entry of Partial Final Decree. The Settlement Agreement is an attachment to that motion.

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sufficiently satisfied such that the Settlement Parties agree that the settlement terms should now be implemented. In support of this Joint Declaration, the Settlement Parties state as follows:

1. On December 22, 2004, the Court granted the Parties' Joint Motion to Extend the Date to Satisfy Conditions Precedent, extending the date for satisfaction or waiver of the Conditions Precedent specified in Paragraph 2 of the Settlement Agreement to August 31, 2006. On August 31, 2006, the Court granted the Settlement Parties' Joint Motion to Extend Settlement Deadline and extended the settlement deadline to June 30, 2007. On June 26, 2007 the Court granted the Settlement Parties' Joint Motion to Extend Settlement Deadline and extended the settlement deadline to June 30, 2008. On June 30, 2008 the Court granted the Settlement Parties' Joint Motion to Extend Settlement Deadline and extended the settlement deadline to June 30, 2009.

2. For approximately three years, the only remaining condition precedent has been completion of the requirement that the ISC purchase of a total of 4,500 acres of appurtenant water rights in CID and 7,500 acres of appurtenant water rights in the Roswell Artesian Basin ("RAB"). To date, the ISC has purchased 4,498 acres of land on the CID assessment rolls entitled to delivery of water. As of June 30, 2009, the ISC anticipates it will have purchased 7,246.5 acres of land with appurtenant water rights or water rights in the RAB. The ISC has committed to the other Settlement Parties that it will work expeditiously to complete additional transactions sufficient to acquire 7,500 acres of water rights within the RAB. Additionally, the ISC and PVACD have entered into a Memorandum of Agreement to allow the ISC to utilize up to 1,000 acres of senior artesian RAB water rights held by PVACD in its water conservation program for augmentation pumping, thus ensuring that the ISC will have sufficient pumping capacity to meet the requirements of the Settlement Agreement.

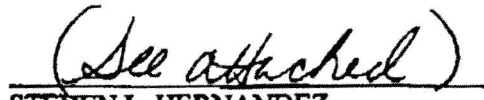
3. Wherefore, as the Settlement Parties have completed all other conditions precedent necessary to implement the Settlement Agreement, the parties provide notice to the Court of the waiver of the requirement that the ISC purchase the full 4,500 acres of water rights in CID and 7,500 acres of water rights within the RAB and declare that the Settlement Agreement is effective based on the amount of water rights the ISC has acquired as of the date of this notice.

Respectfully submitted,



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Conservancy District

3. Wherefore, as the Settlement Parties have completed all other conditions precedent necessary to implement the Settlement Agreement, the parties provide notice to the Court of the waiver of the requirement that the ISC purchase the full 4,500 acres of water rights in CID and 7,500 acres of water rights within the RAB and declare that the Settlement Agreement is effective based on the amount of water rights the ISC has acquired as of the date of this notice.

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was faxed and mailed by United States Mail, first class postage prepaid, this 11 day of ~~May~~ *June*, 2009, to those listed on this certificate of service.

  
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