

OCT 23 1997

BEE J. CLEM, CLERK

FIFTH JUDICIAL DISTRICT COURT
COUNTY OF CHAVES
STATE OF NEW MEXICO

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.)

Nos. 20294 & 22600
CONSOLIDATED

Carlsbad Basin Section
Carlsbad Irrigation District

**SECOND AMENDMENT AND REVISION TO OPINION RE THRESHOLD
LEGAL ISSUE NO. 2 AND ORDER REQUESTING THAT COUNSEL SUBMIT
ALTERNATE DATES FOR A PRETRIAL CONFERENCE**

THIS MATTER comes on for consideration by the Court in connection with certain recommended corrections set forth in a letter dated October 17, 1997 from Fred H. Hennighausen, Esq., Stuart D. Shanor, Esq., and Eric Biggs, Esq., attorneys for Pecos Valley Artesian Conservancy District (PVACD), which should be made in the **OPINION RE THRESHOLD LEGAL ISSUE NO. 2** served on September 19, 1997 and the Court being sufficiently advised;

IT IS THEREFORE ORDERED that:

1. In the citation to *El Paso & R.I. Ry. Co. v. District Court of the Fifth Judicial District*, page 4, the reference to the year of the case, (1981) is deleted and (1931) substituted therefor.
2. In the middle of line 18, page 4, (third line in the last incomplete

paragraph), the word "with" is inserted between the words "connection" and "the".

3. The citation to *Johnson v. Aztec Well Servicing Co.*, 117 N.M. 701, 875 P.2d 1132 (App. 1994), page 18, is changed to 117 N.M. 697, at 700, 875 P.2d 1128 (App. 1994).
4. The word "were" is inserted between the words "which" and "included" on page 19, line 11, (third line of the only full paragraph on the page).

No recommendations of counsel, other than PVACD's Comments on Court's Opinion re Threshold Legal Issue No. 2 and The United States' and the Carlsbad Irrigation District's Comments on the Court's Opinion re Threshold Legal Issue No. 2 and Request for Additional Time to Present Supplemental Evidentiary Materials, have been received.

The opinion requested that counsel submit "...recommendations to the Court concerning alternate dates for a pretrial conference (if deemed desirable) and an evidentiary hearing...". At page 31.

Counsel are requested to confer and comply with the Court's directive by submitting agreed upon alternate dates for a pretrial conference and an evidentiary hearing by November 17, 1997.



HARL D. BYRD
DISTRICT JUDGE PRO TEMPORE