

FIFTH JUDICIAL DISTRICT  
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, )

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  
Carlsbad Irrigation  
District Section -  
Carlsbad Basin Section

**ORDER**

**Final Order Addressing Threshold Legal Issue No. 2**

THIS MATTER comes on for consideration by the Court in connection with the entry of  
a *final order* in accordance with the Court's FINAL DECISION RE THRESHOLD LEGAL

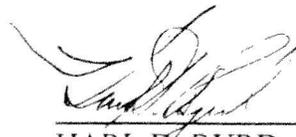
ISSUE NO. 2 filed herein on May 12, 2000<sup>1</sup> thereafter amended on June 1, 2000 by AMENDMENT TO FINAL DECISION RE THRESHOLD LEGAL ISSUE NO. 2;<sup>2</sup> and the Court having solicited the comments and suggestions of counsel concerning the form and content of said order and being otherwise sufficiently advised in the premises;

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that:

1. The findings of fact and conclusions of law set forth in the Court's Final Decision and the Court's letter opinions referred to therein are incorporated herein by reference as though set forth in detail.
2. Subject to the matters set forth in the Court's Final Decision and letter opinions referred to therein, the *Hope Decree* provides the United States of America (United States) with res judicata and estoppel defenses to filed objections pertaining to the proposed STIPULATED OFFER OF JUDGMENT of the United States, the Carlsbad Irrigation District, and the State of New Mexico filed herein on June 22, 1994.
3. This order constitutes the Court's final determinations and order re Threshold Legal Issue No. 2 .
4. The United States has elected to forego any appeals of matters contained in this order re Threshold Legal Issue No. 2.

Dated: \_\_\_\_\_

11/17/2000



\_\_\_\_\_  
HARL D. BYRD  
DISTRICT JUDGE *PRO TEMPORE*

---

<sup>1</sup> Threshold Legal Issue No. 2 is phrased as "Whether the decree in United States of America v. Hope Community Ditch, et al., U.S. District Court Cause No. 712 Equity (1933) provides the United States and the District with res judicata and estoppel defenses to filed objections". The decree is hereinafter called the *Hope Decree*.

<sup>2</sup> These decisions are hereafter collectively referred to as the Court's Final Decision.

CERTIFICATE OF SERVICE

The undersigned does hereby certify that he caused to be mailed, postage prepaid, a copy of the forgoing order to counsel and repositories specified on attached Exhibit A on this 17<sup>th</sup> day of November, 2000.



---

Harl D. Byrd  
District Judge *Pro Tempore*

Lynn A Johnson Esq  
David W. Gehlert Esq  
U.S. Dept of Justice  
Environment & Natural Resources  
999 Eighteenth Street Suite 945  
Denver, Co 80202

Stephen L. Hernandez Esq  
Beverly Singleman Esq  
Hubert & Hernandez, P.A.  
P O Drawer 2857  
Las Cruces, NM 88004-2857

W.T. Martin Esq  
Law Office of W.T. Martin Jr., P.A.  
PO Box 2168  
Carlsbad, NM 88221-2168

Eric Biggs Esq  
8 Jornada Loop  
Santa fe, NM 87505

Dick A. Blenden, Esq.  
208 W. Stevens  
Carlsbad, New Mexico 88220

Gregory M. Quinlan, Esq.  
Fettinger, Bloom & Quinlan, P.C.  
P O Drawer 600  
Alamogordo, New Mexico 88311-0600

Ted Apodaca, Esq.  
Matthew McQueen, Esq.  
Pierre Levy, Esq.  
Heather L. Green, Esq.  
Special Assistant Attorney Generals  
P O Box 25102  
Santa Fe, NM 87504-5102

Fred Hennighausen Esq  
David M. Stevens Esq  
Hennighausen, Olsen & Stevens, L.L.P.  
PO Box 1415  
Roswell, NM 88202-1415

John W. Utton Esq  
Susan C. Kery Esq  
Sheehan Sheehan & Stelzner  
PO Box 271  
Albuquerque, NM 87103

Stuart D. Shanor Esq  
Hinkle Cox Eaton Coffield & Hensley  
PO Box 10  
Roswell, NM 88202

Stephen G. Hughes  
Christopher G. Schatzman  
Office of Commissioner of Public Lands  
PO Box 1148  
Santa Fe, NM 87504-1148

Chaves County Courthouse  
P O Box 1776  
Roswell NM 88201

DeBaca County Courthouse  
P O Box 910  
Ft Sumner NM 88119

Guadalupe County Courthouse  
420 Parker, 2<sup>nd</sup> Floor  
Santa Rosa NM 88435