

MAY 28 2002

BEE J. CLEM, CLERK

FIFTH JUDICIAL DISTRICT  
COUNTY OF CHAVES  
STATE OF NEW MEXICO

STATE OF NEW MEXICO, <u>ex rel.</u> ,	)	Nos. 20294 and 22600
STATE ENGINEER and	)	Consolidated
PECOS VALLEY ARTESIAN	)	
CONSERVANCY DISTRICT,	)	Hon. Harl D. Byrd
	)	District Judge Pro Tempore
Plaintiffs,	)	
	)	Carlsbad Irrigation
vs.	)	District Section
	)	
	)	
L.T. LEWIS, et al.,	)	
UNITED STATES OF AMERICA	)	

**CERTIFICATE OF SERVICE**

I hereby certify that a Notice Packet containing the following:

- Notice Regarding Participation in the Offer Phase of the Adjudication, endorsed May 20, 2002;
- Statement of Intent to Participate in the Offer Phase;
- Court's Order Regarding Service and Participation Issues for the Project (Offer) Phase, signed May 15, 2002, and endorsed May 20, 2002;
- List of Offer Issues as they existed at the time of the Court's Order dated February 26, 1996;
- Rules for Limitations on Service as set forth in the February 26, 1996 Order; and
- List of the Public Repositories

was served first class postage prepaid on May 22, 2002, to each of the parties who filed a Statement of Intent to Participate in Briefing and Hearing on Objections as found on attached Exhibit A, and to Ms. Motley on attached Exhibit B. The Navarettes were not served as it was discovered that they were erroneously included on the Exhibit B list. Copies of the served documents are attached as Exhibit C.



Christopher Bulman, Esq.  
Special Assistant Attorney General  
Office of the State Engineer  
P.O. Box 25101  
Santa Fe, New Mexico 87504-5102

EXHIBIT A

	A.T. Austin HCR 68 Box 10 Santa Rosa, NM 88431	Walter G. Barr & Joni L. E c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415
Bogle Farms (now Bogle Ltd.Co.) c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415	Clarence (Bill) Bogle c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415	Inez F. Bogle Estate c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415
Stuart & Donald Bogle c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415	Herbert C. Bohannon, Jr. Peggy Bohannon McCullough c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415	Bettie Anne Brantley c/o W.T. Martin, Jr. P.O. Box 2168 Carlsbad, NM 88221-2168
Draper Brantley, Jr. c/o W.T. Martin, Jr. P.O. Box 2168 Carlsbad, NM 88221-2168	George & Mary Brantley Estate c/o W.T. Martin, Jr. P.O. Box 2168 Carlsbad, NM 88221-2168	George & Nancy Brantley c/o W.T. Martin, Jr. P.O. Box 2168 Carlsbad, NM 88221-2168
Will M. Brantley c/o W.T. Martin, Jr. P.O. Box 2168 Carlsbad, NM 88221-2168	Breedyk Dairy, Ltd. Co. c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415	Phil Brewer c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415
Carlsbad Irrigation District 201 S. Canal Carlsbad, NM 88220	Carlsbad Irrigation District c/o Steve Hernandez P.O. Box 2857 Las Cruces, NM 88004-2857	Chaves County District Court 401 N. Main P.O. Box 1776 Roswell, NM 88201
Commissioner of Public Lands c/o Stephen G. Hughes Christopher G. Schatzman P.O. Box 1148 Santa Fe, NM 87504-1148	Herbert Corn Estate c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415	James L. and Mary L. Crockett c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415
Marion K. Crothers c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415	Davis Trust c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415	Elmer Dean Sons c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415
DeBaca County Courthouse 514 Avenue C P.O. Box 910 Ft. Sumner, NM 88119	DeGraff Family Trust, Horizon Dairy, Vista Grande Dairy c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415	Delaware Ranch Corp. c/o W.T. Martin, Jr. P.O. Box 2168 Carlsbad, NM 88221-216
Eagle Creek Inter-Community Water Supply Association c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415	Eastern New Mexico Medical Center c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415	El Visto Dairy Ellis & Janet Visser c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415

<p>Aubrey M. Evans c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415</p>	<p>Felix Farms/Arthur Casarez c/o Frederick H. Hennighausen P.O. Box 1415 Roswell, NM 88202</p>	<p>Norman R. Fenimore c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415</p>
<p>Finney Farms, Inc. c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415</p>	<p>Herb Finney c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415</p>	<p>Gents Cattle Co. c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415</p>
<p>H. &amp; R. Gorzeman Dairy c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415</p>	<p>Ron &amp; Charlene Beth Gorzeman c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415</p>	<p>James &amp; Bonnie Grassie c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415</p>
<p>Guadalupe County Courthouse 420 Parker, 2nd Floor Santa Rosa, NM 88435</p>	<p>Hafliager Dairy c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415</p>	<p>Henrietta W. Hurd, Peter W. Hurd &amp; Michael Hurd c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415</p>
<p>Jennings &amp; Jennings c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415</p>	<p>Dr. Emmitt Jennings c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415</p>	<p>Jennings Farms c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415</p>
<p>Randy &amp; Vicky Jennings c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415</p>	<p>Kerr Farms Ben &amp; Colleen Kerr c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415</p>	<p>Ollie &amp; Patti King c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415</p>
<p>George Krasowsky, Jr. Kustom Kare c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415</p>	<p>George Krasowsky, Sr. c/o Phil Brewer P.O. Box 298 Roswell, NM 88202-0298</p>	<p>John Krasowsky c/o Phil Brewer P.O. Box 298 Roswell, NM 88202-0298</p>
<p>Leprino Foods Company c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415</p>	<p>LIMNOS of New Mexico c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415</p>	<p>Charlene G. Maestas c/o James M. Curry IV 1717 Carlisle NE Albuquerque, NM 87110</p>
<p>Fred J. Maestas c/o James M. Curry IV 1717 Carlisle NE Albuquerque, NM 87110</p>	<p>Betty and William A. McAlpine Jr. c/o Marion J. Craig III P.O. Box 1436 Roswell, NM 88202-1436</p>	<p>McIntosh Trust c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415</p>
<p>Marin Mier Rt. 6 Box 13 Santa Fe, NM 87501</p>	<p>Alice M. Morgan 2112 Kirby NE Albuquerque, NM 87112</p>	<p>Nature's Dairy c/o A.J. Olsen P.O. Box 1415 Roswell, NM 88202-1415</p>

Morgan Nelson  
3755 East Grand Plains Road  
Roswell, NM 88201

Lowell E. Nosker  
Box 85  
Glencoe, NM 88324

Jimmy Pack  
c/o A.J. Olsen  
P.O. Box 1415  
Roswell, NM 88202-1415

Pecos Valley Artesian  
Conservancy District  
2303 East 2nd Street  
Roswell, NM 88201

Pecos Valley Artesian  
Conservancy District  
c/o Eric Biggs  
1751 Old Pecos Trail, Suite D  
Santa Fe, NM 87505

Pecos Valley Artesian  
Conservancy District  
c/o Fred Hennighausen  
P.O. Box 1415  
Roswell, NM 88202-1415

Pecos Valley Artesian  
Conservancy District  
c/o Stuart Shanor  
P.O. Box 10  
Roswell, NM 88202

Perry Ranch, Inc.  
P.O. Box 26  
Glencoe, NM 88324

Charles Ferry  
Box 70  
Ruidoso Downs, NM 88346

Maude Pirtle  
c/o A.J. Olsen  
P.O. Box 1415  
Roswell, NM 88202-1415

Gary Porte Dairy  
c/o A.J. Olsen  
P.O. Box 1415  
Roswell, NM 88202-1415

Opal Reinecke Est.  
Wallace Reinecke  
Box 609  
Dexter, NM 88230

Kevin Robinson/Robinson Farms  
c/o A.J. Olsen  
P.O. Box 1415  
Roswell, NM 88202-1415

Roswell Country Club  
c/o A.J. Olsen  
P.O. Box 1415  
Roswell, NM 88202-1415

Roswell Pecan Co., Ltd.  
c/o A.J. Olsen  
P.O. Box 1415  
Roswell, NM 88202-1415

Ruidoso Downs Racing, Inc.  
c/o A.J. Olsen  
P.O. Box 1415  
Roswell, NM 88202-1415

Village of Ruidoso  
c/o A.J. Olsen  
P.O. Box 1415  
Roswell, NM 88202-1415

Southwind Dairy  
c/o A.J. Olsen  
P.O. Box 1415  
Roswell, NM 88202-1415

State of N.M. ex rel. State Engineer  
c/o Rebecca Dempsey  
Special Assistant Attorney General  
P.O. Box 25102  
Santa Fe, NM 87504-5102

G. David and Vicki S. Sweeney  
c/o Marion J. Craig III  
P.O. Box 1436  
Roswell, NM 88202-1436

Flora Louise Tracy  
Box 700  
Carlsbad, NM 88220

Francis Tracy III  
P.O. Box 868  
Carlsbad, NM 88220

John D. Tracy  
c/o W.T. Martin  
P.O. Box 2168  
Carlsbad, NM 88221-2168

Tracy Trusts  
c/o Flora Louise Tracy  
Box 700  
Carlsbad, NM 88220

United New Mexico Trust Co.,  
Trustee for SRT Trust #1  
c/o A.J. Olsen  
P.O. Box 1415  
Roswell, NM 88202-1415

United States Bureau of Reclamation  
c/o Lynn Johnson  
U.S. Dept. of Justice  
999 18th St., Suite 945  
Denver, CO 80202

Richard & Neal Vaughn  
c/o A.J. Olsen  
P.O. Box 1415  
Roswell, NM 88202-1415

Gary Verhoeven Dairy  
c/o A.J. Olsen  
P.O. Box 1415  
Roswell, NM 88202-1415

Gary & Gertrude Verhoeven  
c/o A.J. Olsen  
P.O. Box 1415  
Roswell, NM 88202-1415

Johanna Visser  
c/o A.J. Olsen  
P.O. Box 1415  
Roswell, NM 88202-1415

Thomas and Dorothy Visser  
c/o A.J. Olsen  
P.O. Box 1415  
Roswell, NM 88202-1415

Larry Waggoner  
c/o A.J. Olsen  
P.O. Box 1415  
Roswell, NM 88202-1415

Nikki Williams Trust, Sara Shields  
Trust, Paige Shields Trust  
c/o Jefferson R. Rhodes  
P.O. Drawer N  
Alamogordo, NM 88311  
Woodcrest Dairy  
c/o A.J. Olsen  
P.O. Box 1415  
Roswell, NM 88202-1415

James E. Lankford  
Lankford Reynold Farm  
1800 Lipan Rd.  
Roswell, NM

Irvin L. Smith  
Box #1456  
Artesia, NM 88210

Brantley Farms Trust  
c/o George Brantley and Nancy Brantley  
1304 West Riverside  
Carlsbad, NM 88220

Lankford Farm & Feed Bins  
1800 Lipan Rd.  
Roswell, NM

Robert & Lorraine Wade, Bata  
Linda Dairy, Wade Farms  
c/o A.J. Olsen  
P.O. Box 1415  
Roswell, NM 88202-1415

Jack and Sarah Walraven  
c/o A.J. Olsen  
P.O. Box 1415  
Roswell, NM 88202-1415

Basil Willis  
c/o A.J. Olsen  
P.O. Box 1415  
Roswell, NM 88202-1415

Albert D. Zamora  
c/o Jefferson R. Rhodes  
P.O. Drawer N  
Alamogordo, NM 88311

Katherine Jean Waggoner  
c/o A.J. Olsen  
P.O. Box 1415  
Roswell, NM 88202-1415

George Westall  
Box 70  
Ruidoso Downs, NM 88346

Basil Ray and Lola Willis  
c/o Marion J. Craig III  
P.O. Box 1436  
Roswell, NM 88202-1436

EXHIBIT B

Kathryn A. Motley  
4718 Cindy Place  
Midland, TX 79707

Marcelo and Erminia Navarrette  
811 Valverde  
Carlsbad, NM 88220

MAY 20 2002

BEE J. CLEM, CLERK

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., and  
UNITED STATES OF AMERICA

Defendants.

Nos. 20294 and 22600  
Consolidated

Hon. Harl D. Byrd  
District Judge Pro Tempore

Carlsbad Basin Section

**NOTICE REGARDING PARTICIPATION IN THE  
OFFER PHASE OF THE ADJUDICATION**

**TO: DEFENDANTS WHO FILED A STATEMENT OF INTENT TO  
PARTICIPATE IN BRIEFING AND HEARING ON OBJECTIONS**

This Notice Regarding Participation in the Offer Phase of the Adjudication is provided pursuant to Court Order signed May 17, 2002. A copy of the Order (without exhibits) is enclosed.

You are hereby notified that the adjudication is moving into the Offer Phase. In 1996, you returned a Statement of Intent to Participate in Briefing and Hearing on Objections. On that form you indicated your intention to participate in the Offer Issues. Offer Issues will be decided in the Offer Phase. A copy of the list of Offer Issues as they existed at the time of the Court's Order dated February 26, 1996 is enclosed for your review. The list of Offer Issues is subject to discussion and possible modification in the pretrial proceedings of the Offer Phase.

**ENCLOSED IS A STATEMENT OF INTENT TO PARTICIPATE IN THE OFFER PHASE.** The Statement includes places for you to designate whether you wish to (a) participate in the Offer Phase, (b) participate in preparation of a proposed Supplemental Pretrial Order, or (c) not participate and be removed from the service list for the Offer Phase. You are not required to participate, but **if you still wish to participate in the Offer Issues you must complete, sign and return the enclosed Statement of Intent to Participate in the Offer Phase within thirty (30) days.**



MAY 20 2002

BEE J. CLEM, CLERK

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 )

Nos. 20294 and 22600  
Consolidated  
Hon. Harl D. Byrd  
District Judge Pro Tempore  
Carlsbad Irrigation  
District Section

**NOTICE REGARDING PARTICIPATION IN  
OFFER PHASE OF ADJUDICATION**

**TO: LANDOWNERS WHO WERE NOT JOINED PRIOR TO FEBRUARY  
26, 1996 DUE TO INADVERTANT OR FAULTY SERVICE**

This NOTICE REGARDING PARTICIPATION IN THE OFFER PHASE OF THE ADJUDICATION is provided pursuant to Court Order signed May 17, 2002. A copy of the Order (without exhibits) is enclosed.

You have been identified as a landowner who was not joined in the above-referenced adjudication prior to February 26, 1996 due to inadvertent or faulty service. You are hereby notified that the adjudication is moving into the Offer Phase and you are entitled to the opportunity to participate in the adjudication of the Offer Issues that will be decided in the Offer Phase. A copy of the list of Offer Issues as they existed at the time of the Court's Order dated February 26, 1996 is enclosed for your review. The list of Offer Issues is subject to discussion and possible modification in the pretrial proceedings of the Offer Phase.

**ENCLOSED IS A STATEMENT OF INTENT TO PARTICIPATE IN THE OFFER PHASE.** The Statement includes places for you to designate whether you wish to (a) participate in the Offer Phase, (b) participate in preparation of a proposed Supplemental Pretrial Order, or (c) not participate and be removed from the service list for the Offer Phase. You are not required to participate, but **if you wish to participate in the Offer Issues you must complete, sign and return the enclosed Statement Of Intent to Participate In The Offer Phase within thirty (30) days.**

**FAILURE TO TIMELY RETURN THE STATEMENT OF INTENT TO PARTICIPATE IN THE OFFER PHASE WITHIN THIRTY (30) DAYS WILL BE DEEMED A RESPONSE THAT YOU DO NOT WISH TO PARTICIPATE AND YOU WILL BE REMOVED FROM THE SERVICE LIST AND FROM FURTHER NOTICE OF PROCEEDINGS IN THE OFFER PHASE.**

If you elect not to participate in the Offer Phase, you may still review pleadings filed by others and orders of the Court at the designated public repositories. The public repositories are located at:

Ms. Georgia Gomez, Clerk  
420 Parker, Suite 5  
Santa Rosa, NM 884

Ms. Trudy Hale, Clerk  
5<sup>th</sup> Judicial District  
P.O. Box 1776  
Roswell, NM 88201

Carlsbad Irrigation District  
201 S. Canal  
Carlsbad, NM 88220

Pecos Valley Artesian  
Conservancy District  
P.O. Box 1346  
Roswell, NM 87103

DeBaca County Courthouse  
P.O. Box 910  
Ft. Sumner, NM 88119

If you elect to participate in the Offer Phase, you must abide by the rules for Limitations on Service found in the Court's Order dated February 26, 1996. A copy of the rules for Limitations on Service is enclosed. The Limitations on Service, paragraph g., provides that **FAILURE TO FILE A BRIEF OR OTHER PLEADING RELATED TO THE ISSUES WILL BE DEEMED A WAIVER OF FURTHER NOTICE OF PROCEEDINGS AS TO THE OFFER ISSUES.**

by:   
Bee J. Clem  
District Court Clerk  
Fifth Judicial District Court  
Chaves County Courthouse  
P.O. Box 1776  
Roswell, NM 88201  
(505) 622-2212

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., and  
UNITED STATES OF AMERICA

Defendants.

Nos. 20294 and 22600  
Consolidated

Hon. Harl D. Byrd  
District Judge Pro Tempore

Carlsbad Basin Section

**STATEMENT OF INTENT TO PARTICIPATE IN THE  
OFFER PHASE OF THE ADJUDICATION**

TO: Christopher G. Schatzman  
Special Assistant Attorney General  
Office of the State Engineer  
P.O. Box 25102  
Santa Fe, NM 87504-5102

FROM: H. & R. GORZEMAN DAIRY  
C/O A.J. OLSEN  
P.O. BOX 1415  
ROSWELL, NM 88202-1415

Check "A" if you intend to participate in the Offer Phase. Participation means that you intend to file a brief or pleading and attend a hearing on one or more of the issues included in the Offer Phase.

Check "B" if you intend to participate in the preparation of a proposed Supplemental Pretrial Order.

Check "C" if you do not intend to participate in either the Offer Phase or preparation of the Supplemental Pretrial Order and elect to be removed from the service list.

- \_\_\_\_\_ A. I will participate in the Offer Phase.
- \_\_\_\_\_ B. I will participate in the preparation of a proposed Supplemental Pretrial Order.
- \_\_\_\_\_ C. I choose not to participate and elect to be removed from the service list.

**If you elect not to participate in the Offer Phase, you may still review pleadings filed by others and orders of the Court at the designated public repositories. A list of the repositories is found on the following page.**

**FAILURE TO RETURN THIS FORM WITHIN THIRTY (30) DAYS WILL BE DEEMED A RESPONSE THAT YOU DO NOT WISH TO PARTICIPATE. YOU WILL THEN BE REMOVED FROM THE SERVICE LIST AND FROM FURTHER NOTICE OF PROCEEDINGS AS TO THE OFFER PHASE.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**COMPLETE, SIGN AND RETURN THIS FORM TO THE OFFICE OF THE STATE ENGINEER WITHIN THIRTY (30) DAYS IN THE ENCLOSED STAMPED SELF-ADDRESSED ENVELOPE.**

FIFTH JUDICIAL DISTRICT COURT  
COUNTY OF CHAVES  
STATE OF NEW MEXICO

FIFTH JUDICIAL DISTRICT  
CHAVES COUNTY NM  
FILED CLERK OFFICE

02 MAY 20 PM 2:49

SEE J. CLEM  
DISTRICT COURT CLERK

STATE OF NEW MEXICO, ex rel.  
STATE ENGINEER and  
PECOS VALLEY ARTESIAN  
CONSERVANCY DISTRICT,

Nos. 20294 & 22300 (Consolidated)

Plaintiffs,

Hon. Harl D. Byrd  
District Judge *Pro Tempore*

vs.

Carlsbad Irrigation  
District Section

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

Defendants.

ORDER REGARDING SERVICE AND PARTICIPATION ISSUES  
FOR THE PROJECT (OFFER) PHASE

THIS MATTER comes on for consideration by the Court pursuant to the Court's February 13, 2002 Order, ¶ 3, pp. 3-4, directing Committee Counsel and Beverly J. Singleman, Esq., to submit recommendations to the Court regarding service and procedures governing participation in the phases of this adjudication. Participating counsel included: W.T. Martin, Esq., on behalf of the Eddys', Traceys' and Brantleys' respective interests; David W. Gehlert, Esq., on behalf of the United States; Steven L. Hernandez, Esq., and Ms. Singleman, Esq., on behalf of Carlsbad Irrigation District; Frederick H. Hennighausen, Esq., and Eric Biggs, Esq., on behalf of Pecos Valley Artesian Conservancy District; and Christopher G. Schatzman, Esq., on behalf of the State. The participants'

recommendations are set forth in Mr. Schatzman's March 20, 2002 letter to the Court.

The recommendations were based on the following orders entered by the Court: Order Limiting Service of Pleadings and Other Papers and Establishing Procedures for Hearing Objections to the Orders of the Court, dated August 30, 1991; Pretrial Order For Carlsbad Project Water Right Claims, dated February 26, 1996; and Decision and Order, dated March 20, 2001. In addition, counsel referred to the State's Filing of Statements of Intent to Participate in Briefing and Hearing on Objections and Service Lists, filed March 18, 1996. Counsel were also guided by the Court's ruling that, following the Court's issuance of a final order regarding the Court's disposition of Threshold Legal Issue No. 3, these proceedings will enter the Project (Offer) Phase. See February 13, 2002 Order, ¶ 4, p. 4.

The Court, having considered the recommendations of the participants, and being otherwise fully informed, hereby ADOPTS the recommendations and ORDERS that:

1. On or before May <sup>22, 2002</sup> 16, 2002, the State shall send a Notice to those persons who returned a statement indicating their intention to participate in the Offer Phase. A list of those persons whose statements indicated an intent to participate is attached as Exhibit A. The Notice shall remind such persons that they may participate in the Offer Phase of these proceedings pursuant to the

Statement of Intent to Participate in Briefing and Hearing on Objection that they had previously sent to the State. The Notice shall also state that they may participate in the preparation of a proposed supplemental pretrial order for the Offer Phase. The Notice shall include a copy of the Limitations of Service set forth on pages 10 and 11 of the Court's February 26, 1996 Pretrial Order, and remind the recipients that participation will be subject to the limitations specified in the Pretrial Order.

2. At the same time, the State shall send a Notice to landowners within the Carlsbad Irrigation District who were joined in the Carlsbad Irrigation District Section proceedings after entry of the February 26, 1996 Pretrial Order, providing them an opportunity to participate in the Offer Phase under the conditions set forth in the February 26, 1996 Pretrial Order, at pages 10-11. This group includes those landowners who were not joined prior to February 26, 1996 due to inadvertence or faulty service. A list of such persons or entities known to the State as of the date this Order is entered is attached as Exhibit B. The Notice sent to these defendants joined after the entry of the February 26, 1996 Pretrial Order shall also include a copy of the Limitations of Service set forth on pages 10 and 11 of the Court's February 26, 1996 Pretrial Order, and a list of the Offer Issues contained on pages 7-8 of that Order. The Notice shall state that participation will be subject to the limitations specified in the Pretrial Order.

3. Along with each of the above-referenced Notices, the State shall enclose





STATE OF NEW MEXICO ex rel.  
STATE ENGINEER and PECOS VALLEY  
ARTESIAN CONSERVANCY DISTRICT.

Plaintiffs.

vs.

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

Defendants.

Nos. 20294 and 22600  
Consolidated

Carlsbad Basin Section  
Carlsbad Irrigation District Section

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**PRETRIAL ORDER FOR  
CARLSBAD PROJECT WATER RIGHT CLAIMS**

THIS MATTER having come before the Court and counsel of record having approved this Pretrial Order, the Court hereby enters it.

**SUMMARY STATEMENT OF CASE AND PRETRIAL ORDER**

The adjudication of the water rights for the Carlsbad Project has been initiated by a stipulated offer of judgment (Offer) entered into by plaintiff State of New Mexico ex rel. State Engineer (State), the United States of America (United States), and the Carlsbad Irrigation District (District) and filed June 22, 1994. Pursuant to the Court's May 9, 1994, pretrial order and February 3, 1995, order, the State served notice of the Offer on water right claimants of record in the Pecos River stream system and published notice in newspapers of general circulation. The notice provided opportunity for objection to the Offer and many objections were filed. On May 26, 1995, the United States and the District filed a motion with the Court seeking a ruling on certain procedural and due process issues. Pursuant to the Court's June 16, 1995 order, State Counsel coordinated a counsel of record report for the Court identifying the issues

response briefs within sixty (60) days following the final date for filing the initial legal briefs and reply briefs within thirty (30) days following the final date for filing the response briefs. All participants shall be prepared to present oral arguments if requested by any party or the Court within forty-five (45) days following completion of the briefing.

The Court's decision with respect to the threshold legal issues will dictate whether it will be necessary to revise the adjudication process or whether the parties can proceed to the Offer issues described below.

### OFFER ISSUES

1. With respect to diversion rights, beneficial use, and historic supply, whether:
  - a. The Offer recognition of direct diversions in addition to storage rights allows an improper aggregation of claims to the detriment of upstream users.
  - b. The annual project diversion or depletion rights are excessive since farm-by-farm determinations of use have not been made.
  - c. Reasonable beneficial use of the claimed right has been made by the District.
  - d. The claimed diversion right must be limited by the historic beneficial use in the project and reflect the historical supply in the river.
2. With respect to priorities and acreage, whether:
  - a. Claimed priorities are justified, either historically or through the relation back doctrine.
  - b. Project acreage must be established by acreage actually and continually irrigated and whether any project acreage has been forfeited or abandoned.
3. With respect to consumptive use, irrigation efficiency, and conveyance loss, whether:
  - a. Irrigation efficiencies stated in the Offer are excessively low and contrary to the conservation of water.

- b. The claimed project water right has been established or expanded through was
- c. The Offer cur., consumptive use, and depletion are correct and justified.
- d. With respect to wells and other sources of supply, whether
  - a. Supplemental wells in the project must be adjudicated first so that claimed surface diversions will not be overstated.
  - b. Black River water is adequately stated as an offset to the use of Pecos River water.
- e. With respect to impoundment, diversion, and storage, whether
  - a. Storage claims are excessive since evaporation, bank storage, loss from bank storage and conveyance losses are not shown and may be limited by the extent of beneficial use.
  - b. The total storage right of 176,500 acre-feet has been put to beneficial use within a reasonable time.
  - c. The 1906 priority for Lake Sumner and Santa Rosa Lake is correct and should apply to the additional lake surface areas and evaporation.
  - d. The 1893 priority for Brantley Lake is correct and should apply to the additional lake surface area and evaporation.
  - e. The total quantities of water for the project are reasonable, and consistent with conservation.
- f. With respect to project water right claims of the United States and the District in the Offer, whether they should be required to make the bases for the following claims more definite:
  - a. Domestic and livestock use.
  - b. Project use of reservoir storage.
  - c. Water right acreages expressed in acres and acre feet and the priorities attached to said acreages.

- c. The claimed project water right has been established or expanded through was
  - d. The Offer duty, consumptive use, and depletion are correct and justified
- b. With respect to wells and other sources of supply, whether:
- a. Supplemental wells in the project must be adjudicated first so that claimed surface diversions will not be overstated
  - b. Black River water is adequately stated as an offset to the use of Pecos River water
- c. With respect to impoundment, diversion, and storage, whether:
- a. Storage claims are excessive since evaporation, bank storage, loss from bank storage and conveyance losses are not shown and may be limited by the extent of beneficial use.
  - b. The total storage right of 176,500 acre-feet has been put to beneficial use within a reasonable time.
  - c. The 1906 priority for Lake Sumner and Santa Rosa Lake is correct and should apply to the additional lake surface areas and evaporation.
  - d. The 1893 priority for Brantley Lake is correct and should apply to the additional lake surface area and evaporation.
  - e. The total quantities of water for the project are reasonable, and consistent with conservation.
- d. With respect to project water right claims of the United States and the District in the Offer, whether they should be required to make the bases for the following claims more definite:
- a. Domestic and livestock use.
  - b. Project use of reservoir storage.
  - c. Water right acreages expressed in acres and acre feet and the priorities attached to said acreages.

STATE OF NEW MEXICO ex rel.  
STATE ENGINEER and PECOS VALLEY  
ARTESIAN CONSERVANCY DISTRICT.

Plaintiffs.

ET LEWIS, et al., and  
UNITED STATES OF AMERICA.

Defendants.

Nos. 20294 and 22600  
Consolidated

Carlsbad Basin Section  
Carlsbad Irrigation District Section

**PRETRIAL ORDER FOR  
CARLSBAD PROJECT WATER RIGHT CLAIMS**

THIS MATTER having come before the Court and counsel of record having approved this  
Pretrial Order, the Court hereby enters it.

**SUMMARY STATEMENT OF CASE AND PRETRIAL ORDER**

The adjudication of the water rights for the Carlsbad Project has been initiated by a stipulated offer of judgment (Offer) entered into by plaintiff State of New Mexico ex rel. State Engineer (State), the United States of America (United States), and the Carlsbad Irrigation District (District) and filed June 22, 1994. Pursuant to the Court's May 9, 1994, pretrial order and February 3, 1995, order, the State served notice of the Offer on water right claimants of record in the Pecos River stream system and published notice in newspapers of general circulation. The notice provided opportunity for objection to the Offer and many objections were filed. On May 26, 1995, the United States and the District filed a motion with the Court seeking a ruling on certain procedural and due process issues. Pursuant to the Court's June 16, 1995 order, State Counsel coordinated a counsel of record report for the Court identifying the issues:

hearings, briefs, notices of hearings, and orders that are filed pursuant to this Pretrial Order will be available for inspection: Guadalupe County Courthouse, 420 Parker, 2nd Floor, Santa Rosa, NM 88436; DeBaca County Courthouse, 514 Avenue C, P.O. Box 910, Ft. Sumner, NM 88119; Jackson County Courthouse, 2383 East 2nd Street, Roswell, NM 88201; Carlsbad Irrigation District, 201 S. Canal, Carlsbad, NM 88220; and Chaves County District Court, 401 W. Main, P.O. Box 1776, Roswell, NM 88201. These public repositories shall be included on all service lists compiled in accordance with the provisions of the Limitations of Service, ¶ b, page 10.

### LIMITATIONS ON SERVICE

Pursuant to SCRA 1-005, service of briefs, other pleadings and notices of hearings filed pursuant to this Pretrial Order is limited as follows:

- a. Every party intending to file a brief or other pleading and to present argument at the hearing on the Procedural, Threshold Legal, or Offer issues established in this Pretrial Order, which issues were included in that party's objections to the Offer, shall so indicate on the form attached hereto as Exhibit A. (Parties participating in litigation of the Offer issues may be subject to discovery and may be required to share in the cost of depositions in which they participate.) The completed forms must be returned to the State within 15 days after service of this Pretrial Order. Parties who do not intend to file briefs and present argument may review pleadings filed by others at the public repositories.
- b. The State shall compile service lists for each category of issues comprised of the names and addresses of the parties who have indicated that they intend to participate in the briefings and hearings on the issues. The State shall serve the service list on every party included on the lists for the Procedural and Threshold Legal Issues no later than 10 days prior to the filing of initial legal briefs for those category of issues, and, as to the list for the Offer Issues, within sixty (60) days following service of this Pretrial Order. The service lists shall include the public repositories listed on this page.

The United States, CID and the State may file briefs or other pleadings on any of the issues included in the Procedural, Threshold Legal, or Offer categories. The Mescalero Tribe may file briefs or other pleadings on any of the Procedural issues and on issues 1 and 2 of the threshold legal issues. Any party filing an initial legal brief or other pleading must serve the brief or other pleading on the United States, CID and the State, and every person on the service list for that category. Any party filing an initial legal brief or other pleading on the Procedural issues or issues 1 and 2 of the threshold legal issues must also serve the brief or other pleading on the Mescalero Tribe.

- c. Any responses to the briefs or other pleadings filed in accordance with subparagraph c. above shall be served only on the parties who filed such pleadings, on the United States, CID and the State, the public repositories, and, for the procedural issues and issues 1 and 2 of the threshold legal issues, on the Mescalero Tribe.
- e. Any replies shall be served only on parties who filed a brief or other pleading in accordance with either subparagraph c. or subparagraph d. and on the United States, CID, the State and the public repositories.
- f. Notice of hearing on issues included in the Procedural, Threshold Legal, or Offer categories shall be served only on parties who have filed a brief or other pleading in accordance with subparagraph c. or subparagraph d. above, on the United States, CID and the State and on the public repositories listed on page 9 above.
- g. Failure of any objector to file a brief or other pleading related to issues included in the Procedural, Threshold Legal, or Offer categories will be deemed a waiver of further notice of proceedings as to the issues included in those categories.

### **MODIFICATIONS**

Objections to the Pretrial Order shall be filed with the Court no later than ten (10) days after service of the Pretrial Order. This Pretrial Order will control the course of the proceedings and may not be amended except by consent of the parties and the Court, or by order of the Court to prevent injustice.

## PUBLIC REPOSITORIES

You may review pleadings filed by others and orders of the Court at the public repositories listed below. **Do not return this page. keep it for your records.**

Ms. Georgia Gomez, Clerk  
420 Parker, Suite 5  
Santa Rosa, NM 88453

Ms. Trudy Hale, Clerk  
5<sup>th</sup> Judicial District  
P.O. Box 1776  
Roswell, NM 88201

Carlsbad Irrigation District  
201 S. Canal  
Carlsbad, NM 88220

Pecos Valley Artesian Conservancy District  
P.O. Box 1346  
Roswell, NM 87103

DeBaca County Courthouse  
P.O. Box 910  
Ft. Sumner, NM 88119