

FIFTH JUDICIAL DISTRICT  
CHAVES COUNTY NM  
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2002 OCT 10 AM 10: 03

BEE J. CLEM  
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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 & 22600  
Consolidated

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

Carlsbad Irrigation  
District Section

### DECISION AND ORDER

**This Decision and Order Confirms the Determinations and Adjudications of the Court Re the Claims of the United States of America (United States) Concerning Its Rights, Duties, and Obligations Pertaining to the Diversion and Storage of Water and the Rights, Duties, and Obligations of the Carlsbad Irrigation District (CID) Pertaining to the Distribution of Water in Connection with the Carlsbad Irrigation District Project (Project Water)**

THIS MATTER comes on for consideration by the Court in connection with the entry of a

decision and order confirming the determinations and adjudications of the Court re the rights, duties and obligations of the United States pertaining to the diversion and storage of Project Water and the rights, duties and obligations of CID pertaining to the distribution of Project Water.

## **I. Background**

The claims of the United States concerning this matter are set forth in THE UNITED STATES' STATEMENT OF CLAIMS, RIGHTS, DUTIES AND OBLIGATIONS WITH RESPECT TO THE DIVERSION, STORAGE AND DISTRIBUTION OF WATER IN CONNECTION WITH THE CARLSBAD PROJECT filed on January 22, 2001.

The claims of CID concerning this matter are set forth in DEFENDANT CARLSBAD IRRIGATION DISTRICT'S STATEMENT OF CLAIMS, RIGHTS, DUTIES AND OBLIGATIONS WITH RESPECT TO STORAGE, DIVERSION, AND DISTRIBUTION OF PROJECT WATER SUPPLY WITHIN THE CARLSBAD PROJECT filed on January 22, 2001.

## **II. The Court's Decisions and Orders**

The following Decisions and Orders determine and adjudicate the rights, duties and obligations of the United States in connection with the diversion and storage of Project Water and the rights, duties and obligations of CID in connection with the distribution of Project Water:

1. OPINION RE THRESHOLD LEGAL ISSUE NO. 3, filed on November 4, 1997;
2. COURT'S DECISIONS AND ORDERS RE REQUEST FOR INFORMATION, OBJECTIONS, COMMENTS, AND SUGGESTIONS RE OPINIONS - THRESHOLD LEGAL ISSUE NO. 3 AND THRESHOLD LEGAL ISSUE NO. 4 AND ORDER RE PREPARATION OF SUPPLEMENTAL PRE-HEARING ORDER, filed on January 12, 1998;
3. DECISION AND ORDERS RE UNITED STATES' MOTION FOR RECONSIDERATION AND CLARIFICATION OF COURT'S DECISIONS AND ORDERS RE THRESHOLD LEGAL ISSUE NO. 3 OR FOR ENTRY OF JUDGMENT PURSUANT TO RULE 54(C), filed on March 23, 1998;

4. ORDER - IDENTIFYING PRELIMINARY THRESHOLD LEGAL ISSUES, RE THE CLAIMS OF THE UNITED STATES OF AMERICA AND THE CARLSBAD IRRIGATION DISTRICT CONCERNING THEIR RESPECTIVE RIGHTS, DUTIES AND OBLIGATIONS PERTAINING TO THE DIVERSION, STORAGE AND DISTRIBUTION OF WATER WITHIN THE CARLSBAD PROJECT WHICH REQUIRE THE SUBMISSION OF MEMORANDA BRIEFS AND SCHEDULING TIMES FOR THEIR SUBMISSION, filed on April 6, 2001;
5. DECISION AND ORDER ADDRESSING THE ISSUES SET FORTH IN THE COURT'S MARCH 20, 2001 DECISION AND ORDER CONCERNING THE QUANTIFICATION, PURPOSE OF USE AND PRIORITY OF WATER RIGHTS CLAIMS OF MEMBERS OF THE CARLSBAD IRRIGATION DISTRICT, filed on October 22, 2001;
6. SUPPLEMENTAL DECISION AND ORDER ADDRESSING THE COMMENTS, SUGGESTIONS, OBJECTIONS AND MEMORANDUM BRIEFS OF COUNSEL FOR THE PARTIES SET FORTH IN THEIR RESPECTIVE RESPONSES TO THE COURT'S OCTOBER 19, 2001 DECISION AND ORDER CONCERNING THE WATER RIGHTS CLAIMS OF MEMBERS OF CID, filed on December 20, 2001;
7. DECISION AND ORDER ADDRESSING THE ISSUES AND MATTERS REQUESTING RESPONSES SET FORTH IN THE APRIL 6, 2001 ORDER RE CLAIMS OF THE UNITED STATES OF AMERICA CONCERNING ITS RIGHTS, DUTIES AND OBLIGATIONS PERTAINING TO THE DIVERSION AND STORAGE OF PROJECT WATER AND THE RIGHTS, DUTIES AND OBLIGATIONS OF THE CARLSBAD IRRIGATION DISTRICT IN CONNECTION WITH THE DISTRIBUTION OF PROJECT WATER, filed on January 10, 2002;
8. SECOND SUPPLEMENTAL DECISION AND ORDER IN RESPONSE TO SUBMISSIONS RE THE COURT'S DECISION AND ORDER SERVED ON DECEMBER 19, 2001, filed on March 6, 2002;
9. SUPPLEMENTAL DECISION AND ORDER ADDRESSING THE OBJECTIONS, COMMENTS AND SUGGESTIONS OF COUNSEL RE THE COURT'S JANUARY 10, 2002 DECISION AND ORDER CONCERNING THE CLAIMS OF THE UNITED STATES OF AMERICA PERTAINING TO ITS RIGHTS, DUTIES AND OBLIGATIONS IN CONNECTION WITH THE DIVERSION, STORAGE OF PROJECT WATER AND THE CLAIMS OF THE CARLSBAD IRRIGATION DISTRICT PERTAINING TO ITS RIGHTS, DUTIES AND OBLIGATIONS IN CONNECTION WITH THE DISTRIBUTION OF PROJECT WATER filed on

March 14, 2002.

Additional rights, duties and obligations of the United States and CID, if any, as well as the quantity of water available for diversion and storage by the United States and distribution by CID, in connection with the Carlsbad Irrigation District Project remain to be determined in the Project (Offer) Phase of this proceeding. Because the rights, duties, and obligations heretofore determined have been determined as a matter of law, no findings of fact are necessary.

The Court hereby FINDS, CONCLUDES, RATIFIES AND CONFIRMS that all matters in regard to the rights, duties and obligations of the United States in respect to the diversion and storage of Project Water, and the rights, duties and obligations of the CID in respect to the distribution of Project Water have been determined and adjudicated, or reserved in connection with matters to be determined in the Project (Offer) Phase of these proceedings.

Nothing herein contained shall be construed as reversing, contradicting or otherwise limiting or modifying any prior ruling of this Court bearing upon the issue of the rights, duties or obligations of the United States or CID as to Project Water of the Carlsbad Irrigation District Project.

IT IS SO ORDERED.

DATED: 10-08-02



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Harl D. Byrd  
District Judge *Pro Tempore*

CERTIFICATE OF SERVICE

The undersigned does hereby certify that he caused to be mailed, postage prepaid, a copy of the forgoing decision and order to Christopher Schatzman, Esq., counsel for the State on this 8th day of October, 2002.



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HARL D. BYRD

DISTRICT JUDGE *PRO TEMPORE*