

FIFTH JUDICIAL DISTRICT
CHAVES COUNTY NM
FULTON CITY OFFICE

2004 APR 13 PM 4:43

DAVID W. BONEM
DISTRICT COURT 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,
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

ORDER TO SHOW CAUSE

TO: Those persons who have not withdrawn the Objections that they previously filed with the Clerk of the Court pertaining to the Stipulated Offer of Judgment between the CID, the United States, and the State filed with the Court on June 22, 1994 and consented to the entry of the proposed Partial Final Decree.

You are one of the persons describe above. Therefore, the Court has directed that this Order to Show Cause be served upon you and that you file an Objection with the Court to Show Cause why the proposed Partial Final Decree, filed with the Court on March 28, 2003, should not be entered and made final and binding upon them. If you do not wish to object to all or any part of the water rights that would be adjudicated by the proposed Partial Final Decree, or to object to the terms of the Settlement Agreement incorporated therein, or to take any further part in these proceedings, you do not have to take any further action.

ORDER TO SHOW CAUSE

Pursuant to the terms of the Scheduling and Procedural Order entered by the Court on October 2, 2003, you have until May 31, 2004 to file with the Court and serve on the attorneys listed below, a statement setting forth with particularity the grounds for your objection to the entry of the proposed Partial Final Decree, together with a statement setting forth with particularity objections to: the Negotiating Parties' legal authority to enter the agreements contained in such Decree or the Settlement Agreement incorporated therein, or how your water rights will be adversely affected by the priority, amount, purpose, periods and place of use, together with other conditions as set forth in the proposed Partial Final Decree. Said Statements of Objection also shall include, to the extent available to you, a summary of the evidence you will present in support of the objection.

The Court held a scheduling and prehearing conference on April 15, 2004 to review all Statements of Objection that have been filed as of March 31, 2004 and to: establish a pretrial scheduling order; clarify, simplify and consolidate the issues presented; consolidate hearings on all issues where possible; establish a schedule and procedures for discovery; and, address such other matters as may aid in disposition of the objections. The Court also established a schedule for hearings so that determinations can be made on the Objections as expeditiously as possible.

If you choose to file a Statement of Objection, a separate scheduling and prehearing conference will be held on June 7, 2003 to review all Statements of Objection that are filed pursuant to this Notice and to accomplish those tasks set forth in the preceding paragraph. In addition, the Court also will establish a schedule for hearings so that determinations can be made on the Objections as expeditiously as possible. To the maximum extent feasible, that schedule will be coordinated with the schedule and procedures established at the April 15, 2004 scheduling and prehearing conference.

At such hearings, persons filing Statements of Objections shall bear the initial burden to make a *prima facie* showing how their water rights will be adversely affected by entry of the Partial Final Decree. Upon such a showing, the CID, PVACD, U.S. and State (collectively, the "Negotiating Parties") shall have the burden of overcoming such a *prima facie* case by a preponderance of the evidence that such persons will not be adversely affected by entry of the Partial Final Decree. If the Court determines that entry of the proposed Partial Final Decree will adversely affect valid water rights of a person making such a *prima facie* case, the Court will afford the Negotiating Parties an opportunity to propose terms or conditions in the Partial Final Decree which would prevent or ameliorate such effect without further notice to water rights claimants on the Pecos River, other than those who have filed an Objection that has not otherwise been dismissed for failure to comply with the procedures set forth in the Court's October 2, 2003 Scheduling and Procedural Order.

Any person who files a Statement of Objection who does not fully comply with the procedural requirements governing the hearing of all objections filed with the Court are subject to having their objections dismissed.

STATEMENTS OF OBJECTION MUST BE FILED WITH THE CLERK OF THE COURT AND SERVED ON THE COUNSEL FOR THE NEGOTIATING PARTIES AT THE ADDRESSES SET FORTH BELOW.

ORDER TO SHOW CAUSE

Bee J. Clem, District Court Clerk
Fifth Judicial District Court
P.O. Box 1776, Roswell, NM 88202-1776
1597 South Main, Roswell, NM 88203
ATTN: Pecos River Stream System Water Rights Adjudication - Statement of Objection

Attorneys' Addresses: (a copy of this Statement must be served by mail or in person on each of the attorneys listed below):

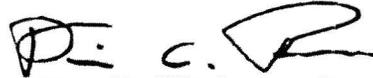
Christopher G. Schatzman
Special Assistant Attorney General
Office of the State Engineer
PO Box 25102
Santa Fe, NM 87504-5102
Attorney for the State of New Mexico

Stuart D. Shanor, Esq.
Hinkle, Hensley, Shanor & Martin
P.O. Box 10
Roswell, NM 88202
Attorney for Pecos Valley Artesian
Conservancy District

Steven Hernandez, Esq.
Beverly J. Singleman, Esq.
Hubert & Hernandez, P.A.
P.O. Drawer 2857
Las Cruces, NM 88004-2857
Attorneys for Carlsbad Irrigation District

David W. Gehlert, Esq.
United States Department of Justice
999 18th St., Suite 945 N
Denver, CO 80202
Attorney for the United States

IT IS SO ORDERED.



DAVID W. BONEM
DISTRICT JUDGE *PRO TEMPORE*

EXHIBIT D - FORM OF NOTICE OF PENDENCY OF ORDER TO SHOW CAUSE

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Honorable David W. Bonem
District Judge Pro Tempore
Carlsbad Basin Section
Carlsbad Irrigation District
Sub- Section
Project (Offer) Phase

NOTICE OF PENDENCY OF ORDER TO SHOW CAUSE

TO THOSE PERSONS LISTED BELOW AND TO ALL THE UNKNOWN HEIRS OF SUCH
PERSONS LISTED BELOW WHO MAY BE DECEASED: (INSERT NAME AND ADDRESS
OF PERSONS TO WHOM ORDER TO SHOW CAUSE IS ADDRESSED.)

An Order to Show Cause in the above referenced matter has been issued in your name because
you have not withdrawn the Objections previously filed with the Clerk of the Court pertaining
to the Stipulated Offer of Judgment between the CID, the United States, and the State filed
with the Court on June 22, 1994 and consented to the entry of the proposed Partial Final
Decree.

The Court has directed that an Order to Show Cause be served upon you and that you file an
Objection with the Court to Show Cause why the proposed Partial Final Decree, filed with the Court
on March 28, 2003, should not be entered and made final and binding upon them. If you do not
wish to object to all or any part of the water rights that would be adjudicated by the proposed

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Christopher G. Schatzman
Special Assistant Attorneys General
Office of the State Engineer
PO Box 25102
Santa Fe, NM 87504-5102
Attorney for the State of New Mexico

Stuart D. Shanor, Esq.
Hinkle, Hensley, Shanor & Martin
P.O. Box 10
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Attorney for Pecos Valley Artesian
Conservancy District

Steven Hernandez, Esq.
Beverly J. Singleman, Esq.
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P.O. Drawer 2857
Las Cruces, NM 88004-2857
Attorneys for Carlsbad Irrigation District

David W. Gehlert, Esq.
United States Department of Justice
999 18th St., Suite 945 N
Denver, CO 80202
Attorney for the United States

By: Bee J. Clem
Bee J. Clem, District Court Clerk
Fifth Judicial District Court
P.O. Box 1776, Roswell, NM 88202-1776
1597 South Main, Roswell, NM 88203
505-622-2212