

FIFTH JUDICIAL DISTRICT
COUNTY OF CHAVES
STATE OF NEW MEXICO

JUN 22 1994

BEE J. CLEM, CLERK

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,)

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

STIPULATED OFFER OF JUDGMENT

Plaintiff State of New Mexico ex rel. State Engineer, subject to the approval of the Court, offers judgment in and consents to the entry of an order determining the right of the defendants United States of America and the Carlsbad Irrigation District to:

I. Divert public surface waters from the Pecos River stream system as follows:

A. Pecos River mainstream

1. State Engineer File Number:

2. Purposes:
For irrigation, and for domestic and livestock watering uses incidental to irrigation use.
3. Source:
Surface waters of the Pecos River.
4. Point of diversion:
Avalon Dam gate into the Carlsbad Irrigation District Main Canal in SE¼NW¼SW¼, Sec. 12, T. 21 S., R. 26 E., N.M.P.M.
5. Place of use:
An irrigable area not exceeding 25055.00 acres, all within the boundaries of the Carlsbad Irrigation District (also known as the Carlsbad Project).

The location of said Carlsbad Irrigation District is in T. 21 S., R. 26 E., Sections 14, 23, 25, 26, 35, 36; T. 21 S., R. 27 E., Sections 19, 29, 30, 31, 32, 33; T. 22 S., R. 26 E., Sections 1, 12, 13; T. 22 S., R. 27 E., Section 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 33, 34, 35, 36; T. 22 S., R. 28 E., Sections 19, 29, 30, 31, 32, 33; T. 23 S., R. 27 E., Sections 1, 2, 3, 9, 10, 11, 12, 13, 14, 15, 24, 25; T. 23 S., R. 28 E., Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34, 35, 36; T. 23 S., R. 29 E., Sections 30, 31; T. 24 S., R. 27 E., Sections 12, 13; T. 24 S., R. 28 E., Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24; T. 24 S., R. 29 E., Sections 18, 19; N.M.P.M.; as shown on attached Exhibit A entitled Plat of the Carlsbad Irrigation District, Eddy County, New Mexico, filed for record April 16, 1993, in the records of Eddy County, New Mexico, and as described in the State Engineer Hydrographic Survey Report of the Pecos River Stream System, Carlsbad Irrigation District Section (1987). The boundaries of the Carlsbad Irrigation District may be changed pursuant to and as authorized by state law.

6. Allowable annual diversion:
As specified in paragraph I.C. of this Stipulated Offer of Judgment.
7. Priorities:
For an amount of water diverted from the Pecos River under paragraph I.C. of this Stipulated Offer of Judgment not exceeding 4.15 percent of the

allowable annual diversion, July 1887; for an amount of water diverted from the Pecos River under paragraph I.C. of this Stipulated Offer of Judgment not exceeding 95.85 percent of the allowable annual diversion, July 1888; all subject to such superior rights of the Fort Sumner Irrigation District and the Storrie Project Water Users Association described in and established by the Final Decree in United States of America v. Hope Community Ditch, U.S. District Court Cause NO. 712 Equity (1933).

B. Black River

1. State Engineer File Number:
6
2. Purposes:
For irrigation, and for domestic and livestock watering uses incidental to irrigation use.
3. Source:
Surface waters of the Black River.
4. Point of diversion:
The junction at which the Carlsbad Irrigation District Black River Canal intersects the Black River in NW $\frac{1}{4}$ SE $\frac{1}{4}$, Sec. 12, T. 24 S., R. 27 E., N.M.P.M.
5. Place of use:
An irrigable area not exceeding 700.00 acres, all located in the north one-half of T. 24 S., R. 28 E., N.M.P.M., within the boundaries of the Carlsbad Irrigation District, and all a part of the irrigable area not exceeding 25055.00 acres described in paragraph I.A.5. of this Stipulated Offer of Judgment.
6. Allowable annual diversion:
As specified in paragraph I.C. of this Stipulated Offer of Judgment.
7. Priority:
For the amount of water diverted from the Black River under paragraph I.C.1.a. of this Stipulated Offer of Judgment, 1889.

C. Allowable annual diversion.

1. Subject to the conditions which follow in this paragraph I.C., for the irrigable area within the Carlsbad Irrigation District described in paragraph

I.A.5. of this Stipulated Offer of Judgment, the combined annual diversion of water at the diversion points described in paragraphs I.A.4. and I.B.4. of this Stipulated Offer of Judgment shall not exceed (a) 125,200 acre-feet or (b) the quantity of water necessary to supply an annual depletion of 55,572 acre-feet, whichever of (a) or (b) is less.

a. The amount of water diverted at the point of diversion described in paragraph I.B.4 of this Stipulated Offer of Judgment shall not exceed 2,800 acre-feet per year, such diversion to be governed by the State Engineer Findings and Order dated June 10, 1964.

b. For any transfer, conversion, or change of a water right, allotment, or entitlement that is within, part of, or diverted through the project water right described herein for (1) a purpose inside the Carlsbad Irrigation District other than that described in paragraphs I.A.2. and I.B.2. of this Stipulated Offer of Judgment or for (2) any place or purpose of use outside the boundaries of the Carlsbad Irrigation District described in paragraph I.A.5. of this Stipulated Offer of Judgment, said water right, allotment, or entitlement shall, for each irrigable acre per year, incorporate and be based on a diversion of 4.997 acre-feet, a farm delivery of 3.697 acre-feet, and a consumptive irrigation requirement of 2.218 acre-feet. For each irrigable acre affected by such transfer, conversion, or change, the combined annual diversion of water described in paragraph I.C.1 of this Stipulated Offer of Judgment shall be reduced by 4.997 acre-feet of water and the total annual depletion of water described in paragraph I.C.1 of this Stipulated Offer of Judgment shall be reduced by 2.218 acre-feet of water.

2. The allowable annual diversion of water described in paragraph I.C.1. of this Stipulated Offer of Judgment incorporates an off-farm conveyance efficiency of 74 percent and an on-farm irrigation efficiency of 60 percent. The off-farm diversion or the farm delivery amounts may be adjusted downward by the court to compensate for improved efficiencies.

II. Divert, impound, and store public surface waters of the Pecos River stream system, as follows:

A. Lake Avalon

1. State Engineer File Number:
6
2. Purposes:
For irrigation, and for domestic and livestock watering uses incidental to irrigation use in the irrigable area described in paragraph I.A.5 of this Stipulated Offer of Judgment.
3. Source:
Surface waters of the Pecos River.
4. Place:
Lake Avalon on the Pecos River in Eddy County, the headwall at the Avalon Dam outlet gate being at lat. 32° 29' 27", long. 104° 15' 05" in NW¼SW¼, Sec. 12, T. 21 S., R. 26 E., N.M.P.M.
5. Amount of water:
In the amount of total reservoir capacity available, but not more than 7,000 acre-feet, with the right to fill and refill as often as waters are available.
6. Priority:
1889

B. Brantley Lake

1. State Engineer File Number:
6
2. Purposes:
For irrigation, and for domestic and livestock watering uses incidental to irrigation use in the irrigable area described in paragraph I.A.5 of this Stipulated Offer of Judgment.
3. Source:
Surface waters of the Pecos River.
4. Place:
Brantley Lake on the Pecos River in Eddy County, the control tower at Brantley Dam being at lat. 32° 32' 48", long. 104° 22' 43" in NE¼SE¼NE¼, Sec. 28, T. 20 S., R. 26 E., N.M.P.M.

5. Amount of water:
In an amount not to exceed 40,000 acre-feet, with the right to fill and refill as waters are available, said 40,000 acre-feet to include the quantity of water in bank storage which returns to and is available for release from Brantley Lake, said returned and available bank storage to be determined by the State Engineer based on a joint investigation by the State Engineer, the United States through the United States Bureau of Reclamation, and the Carlsbad Irrigation District. The joint investigation shall evaluate the volume of bank storage returned and available for release from Brantley Lake at each water surface elevation based on the records of the Carlsbad Irrigation District's Brantley operations. The surface area-capacity curve of Brantley Lake shall be combined with the bank storage elevation-volume relationship for purposes of administration and the combined conservation storage shall be limited to 40,000 acre-feet. The quantity of bank storage shall be jointly investigated periodically by the State Engineer, the United States through the United States Bureau of Reclamation, and the Carlsbad Irrigation District and shall be adjusted by the State Engineer as required.

6. Priority:
1893

C. Lake Sumner (formerly known as Alamogordo Reservoir)

1. State Engineer File Number:
6

2. Purposes:
For irrigation, and for domestic and livestock watering uses incidental to irrigation use in the irrigable area described in paragraph I.A.5. of this Stipulated Offer of Judgment.

3. Source:
Surface waters of the Pecos River.

4. Place:
Lake Sumner on the Pecos River in DeBaca and Guadalupe Counties, the center of Sumner Dam being near lat. 34° 36' 30", long. 104° 23' 04" in SE¼SW¼, Sec. 34, T. 5 N., R. 24 E., N.M.P.M.

5. Amount of water:
In the amount of total reservoir capacity in acre-

feet available at elevation 4,261 feet above sea level, provided that the elevation of 4,261 feet above sea level may be exceeded during the period from October 1 of each year to April 30 of the following year so long as the water level is reduced to an elevation not exceeding 4,261 feet above sea level by April 30 of each year and, provided further, that such impoundment and storage shall never be less than 20,000 acre-feet so long as the storage capacity at any elevation is 20,000 acre-feet or more.

6. Priority:
February 2, 1906.

D. Santa Rosa Lake (formerly known as Los Esteros Reservoir)

1. State Engineer File Number:
6
2. Purposes:
For irrigation, and for domestic and livestock watering uses incidental to irrigation use in the irrigable area described in paragraph I.A.5. of this Stipulated Offer of Judgment.
3. Source:
Surface waters of the Pecos River.
4. Place:
Santa Rosa Lake on the Pecos River in Guadalupe County, the outlet gates at Santa Rosa Dam being near lat. 35° 01' 47", long. 104° 41' 30" in the Jose Perea Grant.
5. Amount of water:
In an amount not to exceed 176,500 acre-feet less the total reservoir capacity in acre-feet available for the storage of water for release for use by the Carlsbad Irrigation District in Lake Avalon, Brantley Lake, and Lake Sumner (or any replacement or additional lake or reservoir that may be constructed to impound and store water for use by the Carlsbad Irrigation District) as determined from current sediment surveys of those lakes, or by determining reservoir capacity by estimating sediment deposition by the use of generally accepted techniques for those years when actual sediment surveys are not available, and the contract between the United States Department of Interior, Bureau of Reclamation, and the Carlsbad Irrigation District dated September 8, 1971.

6. Priority:
February 2, 1906.

E. With the permission of the State Engineer in each instance, water may be stored in Brantley Lake and Santa Rosa Lake in addition to the amount defined above, provided that such additional water is "unappropriated flood water" as the term is defined in Article II(i) of the Pecos River Compact, 63 Stat. 161 (1949), and provided further that the total combined storage of water for release for use by the Carlsbad Irrigation District in Sumner Lake and Santa Rosa Lake shall not exceed 300,000 acre feet.

F. The diversion, impoundment, and storage right described herein incorporates and is subject to the State Engineer Findings and Order dated September 22, 1972, permit dated January 8, 1982, and order dated August 13, 1986.

III. Other diversion, impoundment, and storage rights:

None.

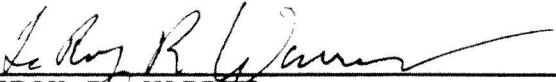
The defendants United States of America and the Carlsbad Irrigation District agree that this Stipulated Offer of Judgment contains all rights of the defendants to divert, impound, and store the public waters of and from the Pecos River stream system and stipulate that an Order may be entered in accordance with this Stipulated Offer of Judgment. The right to divert, impound, and store public waters of and from the Pecos River stream system described above is for the beneficial consumptive use of water by land holders in the Carlsbad Irrigation District.

IV. Failure to execute, absence of admission.

This Stipulated Offer of Judgment is made solely for the purpose of settling the disputed diversion, impoundment, and storage claims of the defendants to the public surface waters of the Pecos River Stream System and, if it is not accepted and executed by all defendants hereto, does not constitute an admission

by the plaintiff of the validity of those claims and shall not be admissible to prove the validity or amount of those claims.


State of New Mexico ex rel.
State Engineer



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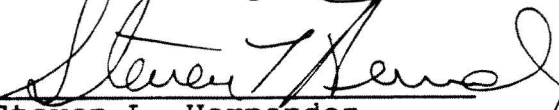
Accepted:

United States of America

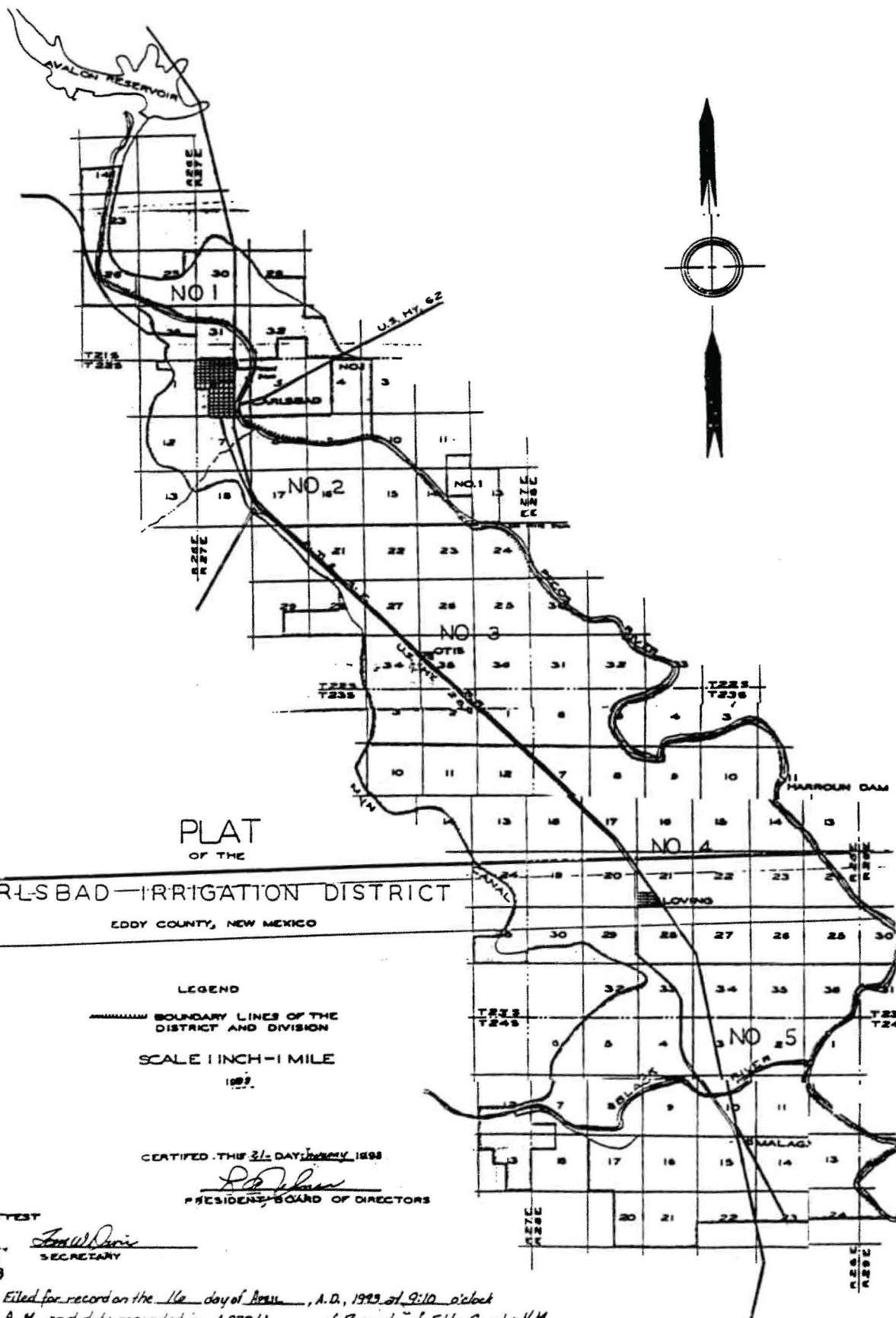


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PLAT
OF THE
CARLSBAD IRRIGATION DISTRICT
EDDY COUNTY, NEW MEXICO

LEGEND

BOUNDARY LINES OF THE DISTRICT AND DIVISION

SCALE 1 INCH = 1 MILE
1899

CERTIFIED THIS 31st DAY OF DECEMBER 1898

[Signature]
PRESIDENT, BOARD OF DIRECTORS

ATTEST
[Signature]
SECRETARY

RECEPTION
12/19/1898

Filed for record on the 16th day of April, A.D., 1903 at 9:10 o'clock
A.M., and duly recorded in A 270/1 of Records of Eddy County, N.M.

[Signature]
County Clerk
By *[Signature]*
Deputy