

FIFTH JUDICIAL DISTRICT
COUNTY OF CHAVES
STATE OF NEW MEXICO

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DISTRICT CLERK

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

Hon. Harl D. Byrd
District Judge Pro Tempore

Carlsbad Irrigation
District Section

Membership Phase and
Project (Offer) Phase

ORDER

**Order Deferring the Time When the Court Will Consider and
Determine Language to Be Included in Offers or Amended
Offers of Judgment to Members of CID re Purpose of Use,
Priority and Amount of Water Permitted for Use in
Connection With Their Claimed Water Rights**

THIS MATTER comes on for consideration by the Court in connection with the comments and recommendations of counsel concerning language to be included in offers or amended offers of judgment of the State to members of the Carlsbad Irrigation District (CID) in the Membership Phase of these proceedings pertaining to elements of purpose of use, priority and the amount of water to which they are entitled .

The Court has reviewed the following in connection with this matter:

1. The Court's ORDER GRANTING IN PART THE STATE OF NEW MEXICO'S MOTION FOR EXTENSION OF TIME (Court's May 2001 Order) filed on May 25, 2001 which set June 15, 2001 as the date for the submission of comments and recommendations of counsel in response to those of counsel for the State concerning proposed language to be included in offers or amended offers of judgment of the State to members of CID. Court's May 2001 Order at paragraph 1, page 2.
2. A letter dated May 16, 2001 from counsel for the State to the Court captioned "Letter in response to requests of telephonic status conference of May 7, 2001".
3. The UNITED STATES' COMMENTS AND RECOMMENDATIONS REGARDING THE STATE'S PROPOSED LANGUAGE FOR INDIVIDUAL OFFERS OF JUDGMENT filed on June 15, 2001
4. Prior recommendations and supplemental recommendations of counsel for CID set forth in a submission of counsel for CID filed on June 18, 2001.
5. Letter dated June 15, 2001 to the Court from Jay F. Stein, Esq. on behalf of Pardue Limited, Co. in connection with OSE Subfile numbers 24.28.16-B, 24.28.16-D, 24.28.21-B, 24.28.21-C, 24.28.21-D, 24.28.22-A.

6. NEW MEXICO STATE UNIVERSITY'S COMMENTS REGARDING OFFER OF JUDGMENT LANGUAGE filed on June 15, 2001.

The Court being sufficiently advised in the premises finds that:

1. The language proposed by counsel for the State addresses issues which are included within the subject matter of the Court's Decision and Order filed on March 20, 2001 and the Court's Order dated April 6, 2001. Submissions and memorandum briefs are required to be submitted concerning all of these matters on or before August 1, 2001. Court's May 2001 Order, paragraph 6, page 3 and paragraph 7, page 4.

2. The submission of offers of judgment or amended offers of judgment by counsel for the State to members of CID containing language concerning the aforesaid elements in connection with their respective water rights claims which may have to be modified after the Court has reviewed and considered the submissions and memoranda briefs of counsel and entered its decisions and orders in connection with the Court's March 20 and April 6, 2001 Orders may create confusion and expectations which might not be fulfilled and would serve little, if any useful purpose.

IT IS THEREFORE ORDERED THAT:

1. The Court will defer ruling upon language at this time to be included in offers or amended offers of judgment tendered or to be tendered to members of CID by the State concerning the purpose of use, priority and the amount of water permitted for use by members of CID until the Court has reviewed the scheduled August 1, 2001 submissions and memoranda briefs of counsel and entered its decisions and orders in connection therewith.

2. Counsel for the State shall serve a copy of this order upon all parties appearing by

counsel or *pro se* in the Membership Phase and the Project (Offer) Phase of these proceedings and all depositories.



HARL D. BYRD
DISTRICT JUDGE *PRO TEMPORE*

Harl D. Byrd

June 27, 2001

Ms Trudy Hale
Deputy Clerk
Fifth Judicial District Court
P O Box 1776
Roswell, NM 88202-1776

**Re: State v. Lewis et al., Chaves County Cause No. 20294 and 22600
Consolidated, Carlsbad Irrigation District, Carlsbad Basin Section - Order
Deferring Time for Consideration OF Provisions to be Incorporated in
Offers of Judgment or Amended Offers of Judgment Re CID Member's
Claimed Water Rights**

Dear Ms. Hale:

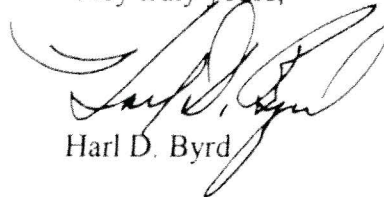
Enclosed are two (2) executed copies of the above-captioned Order for filing.

I am not certain how you intend to handle the filing of the order. I have executed two (2) copies of the order because I assume that you might want to file one in Membership Phase and one in the Project (Offer) Phase of these proceedings as indicated in the caption. Just a suggestion. Please advise of your preference and I will comply.

I have requested at paragraph 2, page 4 of the Order, that counsel for the State serve a copy of the order upon all parties appearing by counsel or *pro se* in the Membership Phase or the Project (Offer) Phase of these proceedings and all depositories. If there are changes resulting from your preference re filing, please coordinate with counsel for the State.

If counsel or any *pro se* party desires a conformed copy of the order they should make arrangements directly with you.

Very truly yours,



Harl D. Byrd

HDB/jes

cc w/enc.: Pierre Levy, Esq.