

FIFTH JUDICIAL DISTRICT COURT
COUNTY OF CHAVES
STATE OF NEW MEXICO

FIFTH JUDICIAL DISTRICT
CHAVES COUNTY NM
FILED IN CLERK'S OFFICE

02 MAY 20 PM 2:49

BEE J. CLEM
DISTRICT COURT 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.)

Nos. 20294 & 22300 (Consolidated)

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

Carlsbad Irrigation
District Section

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 ^{22,}~~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.

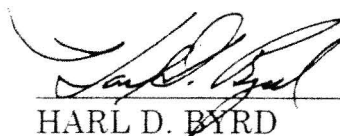
2. At the same time, the State shall send a Notice to landowners within the Carlsbad Irrigation District who were joined in the Carlsbad Irrigation District Section proceedings after entry of the February 26, 1996 Pretrial Order, providing them an opportunity to participate in the Offer Phase under the 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

a form upon which recipients may designate whether they 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. The Notice will remind the recipients that, if they choose not to participate in the Offer Phase by filing briefs or other pleadings, or presenting argument and evidence, they may review pleadings filed by others at the designated public repositories. The form shall indicate that it must be returned to the State within thirty (30) days of receipt or be deemed a response that the landowner does not or no longer wishes to participate and may be removed from the service list for the Offer Phase.

IT IS SO ORDERED.

DATE: 05-15-2002



HARL D. BYRD
DISTRICT JUDGE *PRO TEMPORE*

Submitted by:



Christopher Bulman
Special Assistant Attorney General

Approved as to form:

approved by e-mail 4/25/02

David W. Gehlert, Esq.

U.S. Dept. of Justice

telephonically approved 4/26/02

Stuart D. Shanor, Esq., and Eric Biggs, Esq.

PVACD

no objections received

W.T. Martin, Esq.

Eddy, Tracey and Brantley interests

telephonically approved

Beverly J. Singleman, Esq.

Carlsbad Irrigation District

not participating

Jay F. Stein, Esq.

Carlsbad Water Defense Assoc., Inc.

no objections received

Susan C. Kery, Esq.

NMSU

EXHIBIT A

A.T. Austin
HCR 68 Box 10
Santa Rosa, NM 88435

Walter G. Barr & Joni L. Barr
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
Marion K. Crothers
c/o A.J. Olsen
P.O. Box 1415
Roswell, NM 88202-1415

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

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 88221-2168

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

Aubrey V. Evans
c/o A.J. Olsen
P.O. Box 1415
Roswell, NM 88202-1415

Felix Farms/Arthur Casarez
c/o Frederick H. Hennighausen
P.O. Box 1415
Roswell, NM 88202

Norman R. Fenimore
c/o A.J. Olsen
P.O. Box 1415
Roswell, NM 88202-1415

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

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

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

H. & R. Gorzeman Dairy
c/o A.J. Olsen
P.O. Box 1415
Roswell, NM 88202-1415

Ron & Charlene Beth Gorzeman
c/o A.J. Olsen
P.O. Box 1415
Roswell, NM 88202-1415

James & Bonnie Grassie
c/o A.J. Olsen
P.O. Box 1415
Roswell, NM 88202-1415

Guadalupe County Courthouse
420 Parker, 2nd Floor
Santa Rosa, NM 88435

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

Henrietta W. Hurd, Peter W. Hurd
& Michael Hurd
c/o A.J. Olsen
P.O. Box 1415
Roswell, NM 88202-1415

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

Dr. Emmit Jennings
c/o A.J. Olsen
P.O. Box 1415
Roswell, NM 88202-1415

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

Randy & Vicky Jennings
c/o A.J. Olsen
P.O. Box 1415
Roswell, NM 88202-1415

Kerr Farms
Ben & Colleen Kerr
c/o A.J. Olsen
P.O. Box 1415
Roswell, NM 88202-1415

Ollie & Patti King
c/o A.J. Olsen
P.O. Box 1415
Roswell, NM 88202-1415

George Krasowsky, Jr.
Kustom Kare
c/o A.J. Olsen
P.O. Box 1415
Roswell, NM 88202-1415

George Krasowsky, Sr.
c/o Phil Brewer
P.O. Box 298
Roswell, NM 88202-0298

John Krasowsky
c/o Phil Brewer
P.O. Box 298
Roswell, NM 88202-0298

Leprino Foods Company
c/o A.J. Olsen
P.O. Box 1415
Roswell, NM 88202-1415

LIMNOS of New Mexico
c/o A.J. Olsen
P.O. Box 1415
Roswell, NM 88202-1415

Charlene G. Maestas
c/o James M. Curry IV
1717 Carlisle NE
Albuquerque, NM 87110

Fred J. Maestas
c/o James M. Curry IV
1717 Carlisle NE
Albuquerque, NM 87110

Betty and William A. McAlpine Jr.
c/o Marion J. Craig III
P.O. Box 1436
Roswell, NM 88202-1436

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

Marin Mier
Rt. 6 Box 13
Santa Fe, NM 87501

Alice M. Morgan
2112 Kirby NE
Albuquerque, NM 87112

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

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 Perry
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, Baca
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

Harl D. Byrd

May 17, 2002

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 Regarding Service and Participation Issues For The Project (Offer) Phase**

Dear Ms. Hale:

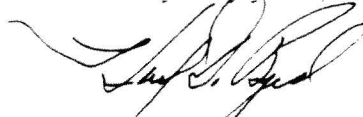
Enclosed please find the above-captioned order for filing in the Project (Offer) Phase of these proceedings.

Counsel for the State is requested to serve copies of the order upon all interested counsel, parties appearing *pro se* and repositories.

If any party desires a conformed copy of the order, they should make arrangements directly with you.

Thank you for your cooperation and assistance.

Very truly yours,



Harl D. Byrd

HDB/jes

cc w/o enc.

Eric Biggs, Esq.
Fred H. Hennighausen, Esq.
Steven L. Hernandez, Esq.
David Gehlert, Esq.
Susan C. Kery, Esq.
W. T. Martin, Esq.
Stuart D. Shanor, Esq.
Richard A. Simms, Esq.
Jay F. Stein, Esq.

Cc w enc

Christopher Bulman, Esq.
Christopher G. Schatzman