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**THIRD JUDICIAL DISTRICT COURT
COUNTY OF DOÑA ANA
STATE OF NEW MEXICO**

STATE OF NEW MEXICO *ex rel.*
Office of the State Engineer,

Plaintiff,

vs.

ELEPHANT BUTTE IRRIGATION DISTRICT,)
et al.,)

Defendants.)

JUDICIAL COURT
DOÑA ANA COUNTY, NM
MADINE SANCHEZ

No. CV 96-888
Hon. Jerald A. Valentine

Lower Rio Grande
Northern Mesilla Valley Section

Subfile No.: LRN-28-014-0001
Case No. 307-NM-9706547

SUBFILE ORDER

The Court, having considered plaintiff State of New Mexico's Offer of Judgment which has been accepted by the Defendant:

NEW MEXICO STATE UNIVERSITY

finds:

1. The Court has jurisdiction over the parties and the subject matter.
2. The right of the Defendant New Mexico State University ("NMSU") to divert and use the public waters from the Lower Rio Grande stream system and the Lower Rio Grande

Underground Water Basin is as set forth below:

UNDERGROUND WATER ONLY

- A. Office of the State Engineer File No(s): LRG-00035
- (1) Priority: April 30, 1890
 - (2) Source of Water: Underground waters of the Lower Rio Grande
Underground Water Basin
 - (3) Purpose of Use: University purposes and related, consistent with the teaching, research and public service mission and historic uses of NMSU, including supply to the City of Las Cruces.

(4) Points of Diversion for this right¹:

Well No.: LRG-00035	Location: X=1,484,629	Y= 466,070	Map: LRN-14
Well No.: LRG-00035-POD22	Location: X= 1,489,612	Y= 466,673	Map:LRN-14 ²
Well No.: LRG-00035-S	Location: X=1,483,260	Y= 465,535	Map: LRN-14
Well No.: LRG-00035-S-11	Location: X=1,483,969	Y= 466,138	Map: LRN-14
Well No.: LRG-00035-S-12	Location: X=1,483,960	Y= 466,147	Map: LRN-14
Well No.: LRG-00035-S-2	Location: X=1,487,151	Y= 467,151	Map: LRN-14
Well No.: LRG-00035-S-3	Location: X=1,482,911	Y= 467,061	Map: LRN-14
Well No.: LRG-00035-S-4	Location: X= 1,482,104	Y= 466,282	Map: LRN-14
Well No.: LRG-00035-S-5	Location: X=1,484,525	Y= 464,051	Map: LRN-14
Well No.: LRG-00035-S-6	Location: X=1,483,246	Y= 464,723	Map: LRN-14
Well No.: LRG-00035-S-8	Location: X=1,486,080	Y= 463,660	Map: LRN-14
Well No.:LRG-00035-S-9	Location: X=1,484,599	Y= 463,906	Map: LRN-14

on the New Mexico State Plane Coordinate System, Central Zone, 1983 N.A.D.

(5) Place of Use: Contiguous and noncontiguous New Mexico State University campus and properties within the Lower Rio Grande Underground Water Basin, as said campus and properties may be modified or changed from time to time pursuant to law, and use within the City of Las Cruces municipal boundaries of water supplied to the City of Las Cruces pursuant to paragraph (A)(3). The current boundaries of the New Mexico State University campus and properties are as shown on the Hydrographic Survey Maps attached to the Offer of Judgment for Subfile No. LRN-28-014-0001.

(6) Amount of Water: Diversion and consumptive use of 2,890 acre-feet per annum, this being the total amount of water placed to beneficial use as of December 31, 2003 under State Engineer Permit No. LRG-00035, which provides for a total amount of groundwater of 11,454 acre-feet per annum. NMSU may place to beneficial use up to an additional 8,564 acre-feet per annum (11,454 less 2,890 acre-feet per annum), subject to the following conditions, in addition to existing conditions set forth in State Engineer Permit No. LRG-00035:

- (a) Proof of beneficial use must be submitted to the State Engineer no later than September 11, 2020. After that date, the amount of water that NMSU may continue to divert shall be limited to that amount put to beneficial use, as determined by License issued by the State Engineer,**

¹ Attachment A to the Offer of Judgment for this subfile specifically incorporates State Engineer permit conditions requiring metering of diversions from the points of diversion referenced above and designating maximum diversion amounts from certain LRG-00035 series wells.

² Pursuant to the State Engineer's Emergency Authorization to Drill and Use a Replacement Well, issued on April 26, 2006, the right to divert from well LRG-00035-POD 22 expires on April 30, 2008, or upon action by the State Engineer on the pending application to change the location of the S-7 well, whichever occurs first, or as may be further extended by the State Engineer.

and the right, if any, under this Order to divert any additional amount shall terminate.

- (b) Subject to an agreement entered into and in effect between NMSU and the City of Las Cruces, during periods of drought which, for purposes of this Order, are defined as years when the annual *pro rata* share of the Rio Grande Project water available to acreage supplied with such water within the Elephant Butte Irrigation District falls below two (2.0) acre-feet per acre, treated effluent derived from LRG-00035 series wells listed in paragraph (A)(4) shall not be consumptively used and instead shall be returned to the stream system. If the preceding year ended with an annual *pro rata* share of less than two (2.0) acre-feet per acre, the system remains in drought until the annual *pro rata* share is greater than or equal to two (2.0) acre-feet per acre. The maximum amount of return flow required to be returned to the stream system under this paragraph is the lesser of the following amounts, as measured or calculated by a method approved by the State Engineer: (a) all treated effluent derived from LRG-00035 series wells listed in paragraph (A)(4); and (b) 1,000 acre-feet per year.

UNDERGROUND WATER AND SURFACE WATER COMBINED

B. Office of the State Engineer File No(s): 8, LRG-00035

- (1) Priority: April 30, 1890 Groundwater
January 25, 1906 Surface Water
- (2) Source of Water: Surface waters of the Rio Grande through the Leasburg Canal and underground waters of the Lower Rio Grande Underground Water Basin
- (3) Purpose of Use: Irrigation for University purposes and related, consistent with the teaching, research and public service mission and historic uses of NMSU
- (4) Points of Diversion for this right:

Well No.: LRG-00035-S-10 Location: X= 1,482,609 Y= 466,274 Map: LRN-14

Ditch Name: Leasburg Canal Location: X=1,433,117 Y=545,239
Map: LRN-1

on the New Mexico State Plane Coordinate System, Central Zone, 1983 N.A.D.

- (5) **Location and Amount of Irrigated Acreage:**
Township 23S, Range 02E, Section 29, N.M.P.M.
 Pt. NW¼ 41.71
 Pt. NE¼ 10.30
 Total 52.01 acres

As shown on the attached Hydrographic Survey Map for Subfile No. LRN-28-014-0001

- (6) **Amount of Water:** Reserved for future determination by May 24, 1999 Order of the Court. Provided, however, total combined diversion of groundwater under paragraphs (A)(6) and (B)(6) shall not exceed 11,454 acre-feet per annum.

UNDERGROUND WATER AND SURFACE WATER COMBINED

C. Office of the State Engineer File No(s): 8, LRG-00033

- (1) **Priority:** September 24, 1905 Groundwater
January 25, 1906 Surface Water
- (2) **Source of Water:** Surface waters of the Rio Grande through the Leasburg Canal and underground waters of the Lower Rio Grande Underground Water Basin
- (3) **Purpose of Use:** Irrigation at the New Mexico State University Fabian Garcia Science Center for University purposes and related, consistent with the teaching, research and public service mission and historic uses of NMSU
- (4) **Points of Diversion for this right:**

Well No.: LRG-00033 Location: X= 1,478,193 Y= 466,295 Map: LRN-14

Ditch Name: Leasburg Canal Location: X=1,433,117 Y=545,239
Map: LRN-1

on the New Mexico State Plane Coordinate System, Central Zone, 1983 N.A.D.

- (5) **Location and Amount of Irrigated Acreage:**
Township 23S, Range 02E, Section 30, N.M.P.M.
 Pt. NE¼ 24.15
 Pt. SE¼ 5.30
 Total 29.45 acres

As shown on the attached Hydrographic Survey Map for Subfile No. LRN-28-014-0001.

- (6) **Amount of Water:** Reserved for future determination by May 24, 1999 Order of the Court.

UNDERGROUND WATER ONLY

D. **Office of the State Engineer File No(s):** LRG-01856

- (1) **Priority:** December 31, 1929 Groundwater
- (2) **Source of Water:** Underground waters of the Lower Rio Grande Underground Water Basin
- (3) **Purpose of Use:** University Domestic and Related Uses at the New Mexico State University Fabian Garcia Science Center for University purposes and related, consistent with the teaching, research and public service mission and historic uses of NMSU.
- (4) **Point of Diversion for this right:**

Well No.: LRG-01856 **Location:** X= 1,478,635 Y= 465,630 Map: LRN-14

on the New Mexico State Plane Coordinate System, Central Zone, 1983 N.A.D.

- (5) **Place of Use:** New Mexico State University Fabian Garcia Science Center.
- (6) **Amount of Water:** Not to exceed 3.0 acre-feet per annum or historical beneficial use, whichever is less.

UNDERGROUND WATER AND SURFACE WATER COMBINED

E. **Office of the State Engineer File No(s):** 8, LRG-01860

- (1) **Priority:** December 31, 1946 Groundwater
January 25, 1906 Surface Water
- (2) **Source of Water:** Surface waters of the Rio Grande through the Leasburg Canal and underground waters of the Lower Rio Grande Underground Water Basin
- (3) **Purpose of Use:** Irrigation at the New Mexico State University Horse Center for University purposes and related, consistent with the teaching, research and public service mission and historic uses of NMSU

(4) **Points of Diversion for this right:**

Well No.: LRG-01860 Location: X= 1,479,182 Y= 463,018 Map: LRN-14

Ditch Name: Leasburg Canal Location: X=1,433,117 Y=545,239
 Map: LRN-1

on the New Mexico State Plane Coordinate System, Central Zone, 1983 N.A.D.

(5) **Location and Amount of Irrigated Acreage:**

<u>Township 23S, Range 02E, Section 30, N.M.P.M.</u>	
Pt. SE¼	1.46
<u>Township 23S, Range 02E, Section 31, N.M.P.M.</u>	
Pt. NE¼	34.37
<u>Township 23S, Range 02E, Section 32, N.M.P.M.</u>	
Pt. NW¼	<u>3.07</u>
Total	38.90 acres

As shown on the attached Hydrographic Survey Map for Subfile LRN-28-014-0001.

(6) **Amount of Water:** Reserved for future determination by May 24, 1999
 Order of the Court.

UNDERGROUND WATER ONLY

F. **Office of the State Engineer File No(s):** LRG-01857

- (1) **Priority:** May 12, 1934 Groundwater
- (2) **Source of Water:** Underground waters of the Lower Rio Grande
 Underground Water Basin
- (3) **Purpose of Use:** University Domestic and Related Uses at the New Mexico
 State University Horse Center for University purposes and
 related, consistent with the teaching, research and public
 service mission and historic uses of NMSU

(4) **Points of Diversion for this right:**

Well No.: LRG-01857 Location: X= 1,479,732 Y= 463,190 Map: LRN-14

on the New Mexico State Plane Coordinate System, Central Zone, 1983 N.A.D.

- (5) **Place of Use:** New Mexico State University Horse Center.
- (6) **Amount of Water:** Not to exceed 3.0 acre-feet per annum or historical beneficial use, whichever is less.

UNDERGROUND WATER ONLY

G. Office of the State Engineer File No(s): LRG-00035

- (1) **Priority:** February 29, 1996 Groundwater
- (2) **Source of Water:** Underground waters of the Lower Rio Grande Underground Water Basin
- (3) **Purpose of Use:** Groundwater Monitoring Well
- (4) **Point of Diversion for this right:**

Well No.: LRG-00035-S-6 OLD Location: X= 1,481,897 Y= 466,377 Map: LRN-14

on the New Mexico State Plane Coordinate System, Central Zone, 1983 N.A.D.

- (5) **Place of Use:** New Mexico State University campus and property. To be used for monitoring purposes only, as required by the State Engineer's conditions of approval for application to change location of well LRG-00035-S-6 approved June 11, 1996.
- (6) **Amount of Water:** 0.00 acre-feet per annum.

UNDERGROUND WATER ONLY

H. Office of the State Engineer File No(s): LRG-00520

- (1) **Priority:** July 11, 1979 Groundwater
- (2) **Source of Water:** Underground waters of the Lower Rio Grande Underground Water Basin
- (3) **Purpose of Use:** Geothermal and Irrigation Uses for University purposes and related, consistent with the teaching, research and public service mission and historic uses of NMSU
- (4) **Points of Diversion for this right:**

Well No.: LRG-00520 Location: X= 1,492,763 Y= 467,193 Map: LRN-14

Well No.: LRG-00520-S Location: X= 1,495,306 Y= 467,371 Map: LRN-14

Well No.: LRG-00520-S-2 Location: X= 1,495,621 Y= 468,469 Map: LRN-14
Well No.: LRG-00520-S-3 Location: X= 1,496,269 Y= 469,018 Map: LRN-14

on the New Mexico State Plane Coordinate System, Central Zone, 1983 N.A.D.

- (5) Place of Use: New Mexico State University campus and properties as said campus and properties may be modified or changed from time to time pursuant to law.
- (6) Amount of Water: Diversion right: 615.00 acre-feet per annum.
Consumptive water use: 145.44 acre-feet per annum.

UNDERGROUND WATER ONLY

I. Office of the State Engineer File No(s): LRG-00520

- (1) Priority: August 10, 1982 Groundwater
- (2) Source of Water: Underground waters of the Lower Rio Grande
Underground Water Basin
- (3) Purpose of Use: Injection for disposal of geothermal water
- (4) Point of Diversion for this right:

Well No.: LRG-00520-INJ Location: X= 1,491,016 Y= 467,376 Map: LRN-14

on the New Mexico State Plane Coordinate System, Central Zone, 1983 N.A.D.

- (5) Place of Use: New Mexico State University campus and property.
 - (6) Amount of Water: 0.00 acre-feet per annum.
3. By signing the State of New Mexico's Offer of Judgment, the Defendant accepted all of the terms and conditions set forth or incorporated in the Offer of Judgment.
 4. All terms or conditions set forth or incorporated in the State of New Mexico's Offer of Judgment are incorporated into this Order.
 5. The Court enters this Order as a final judgment based on the acceptance by the Defendant of the State of New Mexico's Offer of Judgment, and therefore, pursuant to the Court's procedural orders addressing finality, this Order is final and not subject to appeal.

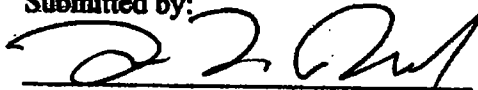
6. There is no just reason for delay of the entry of a final judgment as to the elements of the claims of the Defendant adjudicated by this Order.

IT IS THEREFORE ORDERED that the rights of the Defendant are as set forth above.

IT IS FURTHER ORDERED that the Defendant and all those in privity with the Defendant are enjoined from any diversion or use of the public surface and underground waters of the Lower Rio Grande stream system and the Lower Rio Grande Underground Water Basin except in strict accordance with the rights set forth hereinabove or in other Orders of the Court.


Gerald A. Valentine
DISTRICT JUDGE

Submitted by:



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Special Assistant Attorney General
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Counsel for Plaintiff State of New Mexico
ex rel. Office of the State Engineer

APPROVED:

REGENTS OF NEW MEXICO STATE UNIVERSITY

By: Bruce R. Kite, General Counsel
MSC 3UGC
P.O. Box 30001
Las Cruces, New Mexico 88003
(505) 646-2446

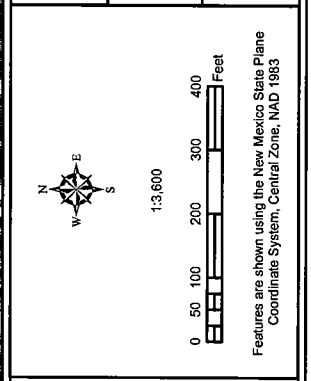
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STATE OF NEW MEXICO
 OFFICE OF THE STATE ENGINEER
 JOHN R. D'ANTONIO DE, STATE ENGINEER
 D.L. SANDERS, CHIEF COUNSEL

LITIGATION AND ADJUDICATION PROGRAM
 LOWER RIO GRANDE BASIN HYDROGRAPHIC SURVEY
 NORTHERN MESILLA VALLEY SECTION
 Prepared by -- James E. Hangen
 MARCH 9, 2007

New Mexico State University
 Dona Ana Community College
 Sunland Park Center
 LRN-28-014-0001

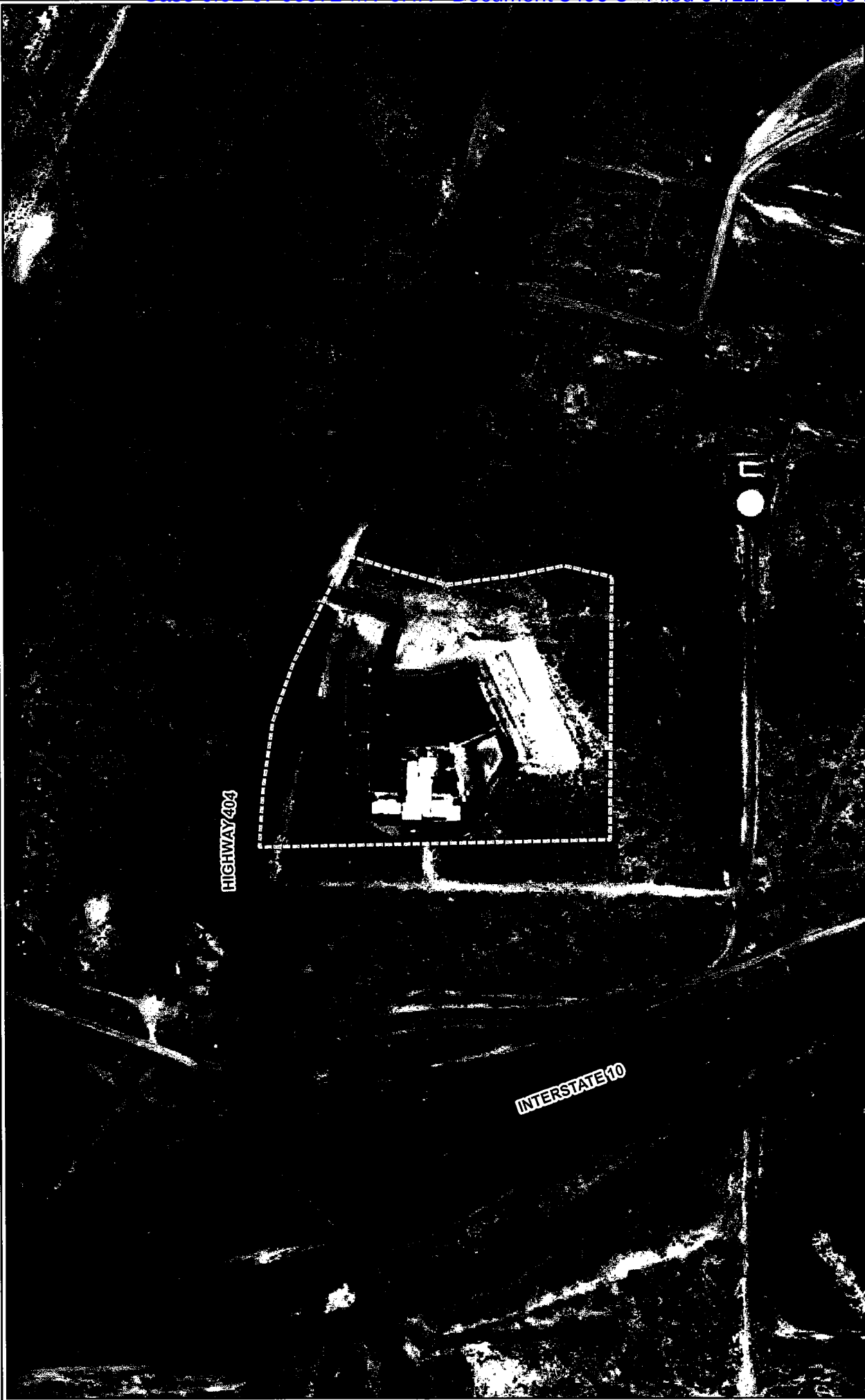


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Key to Features

— Roads

--- MMSU Dona Ana Community College Sunland Park Center Boundary



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DL SANDERS, CHIEF COUNSEL

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New Mexico State University
Dona Ana Community College
Gadsden Center
LRN-28-014-0001





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Features are shown using the New Mexico State Plane
Coordinate System, Central Zone, NAD 1983

Key to Features

-  Roads
-  NMSU Dona Ana Community College Gadsden Center Boundary

INTERSTATE 25

TRIVIZ DRIVE

ENTRADA DEL SOL


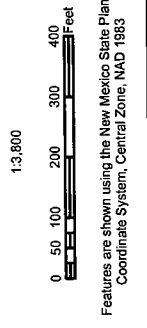
NEVADA AVENUE

WALNUT STREET

STATE OF NEW MEXICO
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 D.L. SANDERS, CHIEF COUNSEL

LITIGATION AND ADJUDICATION PROGRAM
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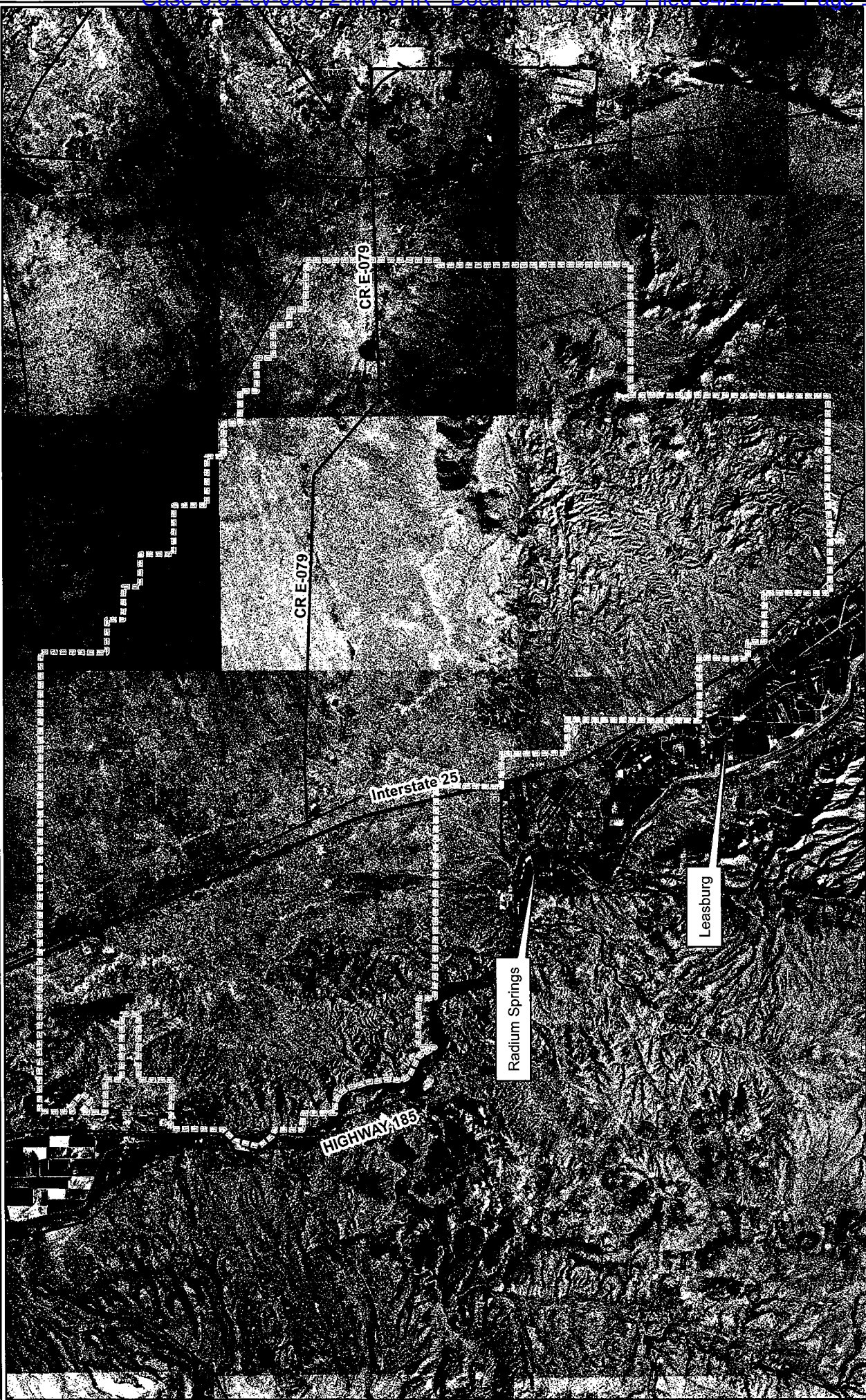
New Mexico State University
 Entrada del Sol Industrial Park
 LRN-28-014-0001

Key to Features

— Roads

— NIMSU Entrada del Sol Industrial Park Boundary



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Features are shown using the New Mexico State Plane Coordinate System, Central Zone, NAD 1983

Key to Features

- Roads
- NMSU Chihuahuan Desert Rangeland Research Center

STATE OF NEW MEXICO
OFFICE OF THE STATE ENGINEER
JOHN R. D'ANTONIO P.E., STATE ENGINEER
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LITIGATION AND ADJUDICATION PROGRAM
LOWER RIO GRANDE BASIN HYDROGRAPHIC SURVEY
NORTHERN MESILLA VALLEY SECTION
Prepared by - James E. Hangen
MARCH 9, 2007



New Mexico State University
Chihuahuan Desert Rangeland
Research Center
LRN-28-014-0001

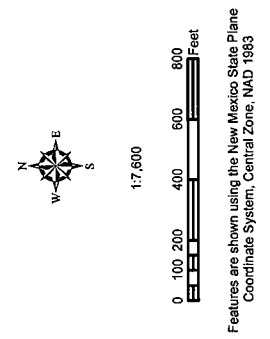


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LITIGATION AND ADJUDICATION PROGRAM
 LOWER RIO GRANDE BASIN HYDROGRAPHIC SURVEY
 NORTHERN MESILLA VALLEY SECTION
 Prepared by -- James E. Hangen

MARCH 9, 2007

New Mexico State University
 Foundation Farm
 LRN-28-014-0001



Key to Features

— Roads

--- NMSU Foundation Farm Boundary

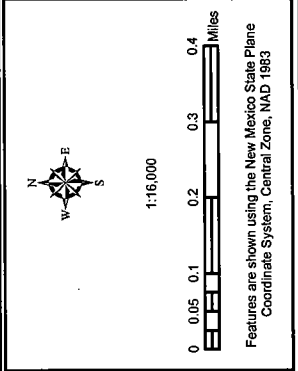


County Road D-012

STATE OF NEW MEXICO
 OFFICE OF THE STATE ENGINEER
 JOHN R. D'ANTONIO P.E., STATE ENGINEER
 D.L. SANDERS, CHIEF COUNSEL

LITIGATION AND ADJUDICATION PROGRAM
 LOWER RIO GRANDE BASIN HYDROGRAPHIC SURVEY
 NORTHERN MESILLA VALLEY SECTION
 Prepared by - James E. Hagen
 MARCH 9, 2007

New Mexico State University
 Magdalena Peak Property
 LRN-28-014-0001



Key to Features

- Roads
- LRG Hydrographic Survey Boundary
- NMSU Magdalena Peak Property Boundary

— Roads

--- LRG Hydrographic Survey Boundary

--- NMSU Magdalena Peak Property Boundary

**Please see file
for additional maps**