

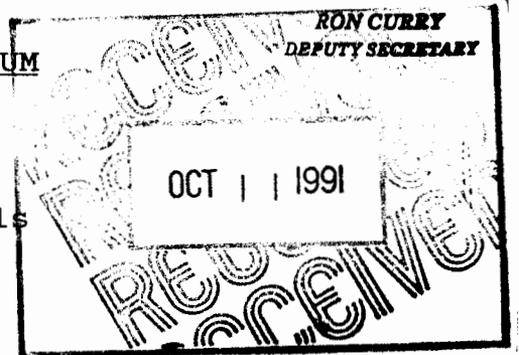


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GOVERNOR

State of New Mexico
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1190 St. Francis Drive, P.O. Box 26110
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JUDITH M. ESPINOSA
SECRETARY

TRANSMITTAL MEMORANDUM



TO: Elizabeth Gordon
Hazardous & Radioactive Materials
Bureau
Marquez Plaza
525 Camino de Los Marquez
Santa Fe, NM

DATE: October 10, 1991

RE: United States of America and the Regents of the
University of California v. State of New Mexico; and New
Mexico Department of Environment, No. CIV 90-0276SC

The following documents are enclosed: Copy of Stipulated Motion to Amend Pre-Trial Report and Vacate Trial Setting; and copy of Order Amending Initial Pre-Trial Report and Vacating Trial Setting in the above-referenced case.

PLEASE:

File

Record

Serve, complete Return of Service and return to us

Per your request

For your information

Approve and sign

Return conformed copies

Check for \$ _____ enclosed for proper fee

Self-addressed, stamped envelope(s) enclosed

Other: The Judge has not yet ruled on this motion.

Thank you very much,

Linda M. Romero
Legal Assistant

Enclosure



15159

APPROVED BY:

Telephonically Approved 9/30/91

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IN THE UNITED STATES DISTRICT COURT **FILED**
FOR THE DISTRICT OF NEW MEXICO UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

91 OCT -4 PM 4:29

UNITED STATES OF AMERICA)
and THE REGENTS OF THE)
UNIVERSITY OF CALIFORNIA,)
)
Plaintiff,)
)
v.)
)
STATE OF NEW MEXICO; and)
NEW MEXICO DEPARTMENT OF)
ENVIRONMENT)
)
Defendants.)
_____)

Robert M. ...
CLERK-SANTA FE

NO. CIV 90-0276SC

STIPULATED MOTION TO AMEND
PRE-TRIAL REPORT AND VACATE TRIAL SETTING

The parties, having stipulated to this motion, move the Court for an order amending the Initial Pre-Trial Report, filed with the Court on July 18, 1991, and vacating the trial setting on April 6, 1992. As grounds, the parties state:

1. On October 3, 1990, plaintiff United States of America ("United States") filed a motion for summary judgment on its complaint.
2. On April 29, 1991, defendants State of New Mexico and New Mexico Department of Environment (NMED) ("Defendants"), filed an opposition to the United States'

motion for summary judgment and a cross-motion for summary judgment.

3. On March 21, 1991, the Court ordered that the University of California be joined as a plaintiff in the action.

4. The Regents of the University of California ("University") concur in the United States' motion for summary judgment and oppose the Defendants' cross-motion for summary judgment.

5. The United States' motion for summary judgment and the Defendants' cross-motion for summary judgment are currently pending before the Court.

6. On July 18, 1991, an Initial Pre-Trial Report was filed with the Court.

7. On July 18, 1991, the Court set the case for non-jury trial on April 6, 1992.

8. The parties contend that the issues presented in this case are purely legal and can be resolved on motion for summary judgment. The parties believe that the Court's ruling on the pending motions for summary judgment will either be dispositive or will significantly narrow the issues of the case and thereby determine the direction of discovery.

9. Judicial economy and the preservation of the Court's resources will be served by the granting of an

extension of time on all pending deadlines set forth in the Initial Pre-Trial Report and the vacating of trial setting on April 6, 1992.

WHEREFORE the parties move the Court for an order:

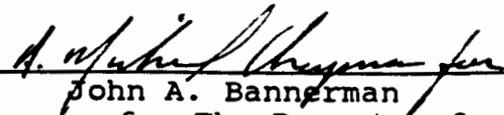
1. Amending the July 18, 1991 Initial Pre-Trial Report to provide a moratorium on all deadlines until 90 days after the Court rules on the pending motions for summary judgment;

2. Providing that on the 90th day following the Court's ruling on the motions for summary judgment, the deadlines will begin to run in the same sequence and with the same intervals between deadlines as set forth in the Initial Pre-Trial Report; and

3. Vacating the trial setting on April 6, 1992, to be rescheduled on or after 90 days following the last deadline set forth in the Initial Pre-Trial Report, as amended.

Respectfully submitted,

SUTIN, THAYER & BROWNE
A Professional Corporation

By 
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA)
and THE REGENTS OF THE)
UNIVERSITY OF CALIFORNIA,)

Plaintiff,)

v.)

NO. CIV 90-0276SC)

STATE OF NEW MEXICO; and)
NEW MEXICO DEPARTMENT OF)
ENVIRONMENT)

Defendants.)

ORDER AMENDING INITIAL
PRE-TRIAL REPORT AND VACATING TRIAL SETTING

This matter came before the Court on the parties' Stipulated Motion to Amend Initial Pre-Trial Report and Vacate Trial Setting. The Court, having reviewed the motion and being otherwise fully advised in the matter finds the motion is well taken.

IT IS THEREFORE ORDERED:

1. That the July 18, 1991 Initial Pre-Trial Report is hereby amended to provide a moratorium on all deadlines until 90 days after the Court rules on the pending motions for summary judgment.

2. That on the 90th day following the Court's ruling on the motions for summary judgment, the deadlines will begin to run in the same sequence and with the same intervals between deadlines as set forth in the Initial Pre-Trial Report.

3. That the non-jury trial setting on April 6, 1992 is hereby vacated. The trial will be rescheduled on or after 90 days following the last deadline set forth in the Initial Pre-Trial Report, as amended.

UNITED STATES DISTRICT JUDGE

SUBMITTED BY:

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By *John A. Bannerman*
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