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*file CANC  
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JUDITH M. ESPINOSA  
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**TRANSMITTAL MEMORANDUM**

TO: Barbara Hoditschek, Program Manager, Hazardous &  
Radioactive Material Bureau

DATE: October 5, 1992

RE: Regents of the University of California v. The EID of the  
NMHED, et al., No. 12190 and United States of America v.  
State of NM; and HED, EID, No. 12233

The following documents are enclosed: **Copy of Joint Status Report  
in the above-referenced case.**

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Thank you very much,

*Linda M. Romero*  
per GINI NELSON  
Assistant General Counsel

lmr

Enclosure



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IN THE COURT OF APPEALS  
OF THE STATE OF NEW MEXICO

REGENTS OF THE UNIVERSITY OF CALIFORNIA,  
Appellant,  
v.  
THE ENVIRONMENTAL IMPROVEMENT DIVISION OF THE NEW MEXICO HEALTH AND ENVIRONMENT DEPT. et al.,  
UNITED STATES OF AMERICA,  
Appellant,  
v.  
STATE OF NEW MEXICO; and HEALTH AND ENVIRONMENT DEPARTMENT, Environmental Improvement Division,  
Appellees.

No. 12190

COURT OF APPEALS OF NEW MEXICO

FILED

OCT 1 1992

*Patricia C. Mangano*

No. 12233

JOINT STATUS REPORT

Appellants, United States of America and the Regents of the University of California, in accordance with the Court's Order, dated September 17, 1990, hereby file the following status report:

1. On September 17, 1990, this Court stayed the appeals in No. 12233 and No. 12190, pending resolution of the United States' complaint against the State of New

Mexico and Health and Environment Department,  
Environmental Improvement Division, in the United States  
District Court for the District of New Mexico, United  
States v. New Mexico, CIV 90-0276 SC. This Court further  
directed appellants to file monthly reports on the status  
of the federal district court proceeding.

2. The United States filed its federal district  
court complaint against the state defendants on March 19,  
1990. A motion by the State of New Mexico to dismiss the  
complaint was denied by the United States District Court by  
Order dated March 22, 1991. By that same Order, the Court  
joined the Regents of the University of California  
("University") as a plaintiff in the federal action.

3. On October 4, 1990, the United States filed  
a motion for summary judgment on its complaint in the  
federal district court. On April 26, 1991, New Mexico  
filed its opposition and cross-motion for summary  
judgment. The United States and the University opposed New  
Mexico's cross-motion for summary judgment.

4. A joint initial pre-trial report was filed by  
the parties on July 10, 1991 and trial was scheduled for  
April 6, 1992 by Order of Court dated July 18, 1991.

5. On October 4, 1991, the parties filed a  
Stipulated Motion to Amend the Pre-Trial Report and Vacate

Trial Setting. By Order dated February 11, 1992, the district court amended the pre-trial report providing a moratorium on all deadlines until 90 days after a ruling on the pending motions for summary judgment and vacating the April 6, 1992 trial setting.

6. On December 6, 1991, the University filed an involuntary complaint in the federal district court proceeding raising issues of federal and state law. The parties stipulated that the state defendants may have an extension of time until after the pending motions for summary judgment have been decided to answer or otherwise respond to the state law issues alleged in the involuntary complaint. The stipulation and joint motion to extend the time in which the state defendants may have to answer the state law claims were filed on December 26, 1991 and an Order granting the joint motion was entered on January 2, 1992.

7. The state defendants filed an answer to the federal law issue raised in the involuntary complaint on December 26, 1991.

8. By Order dated August 13, 1992, the Court denied the United States' motion for summary judgment and granted the state defendants' cross motion for summary judgment. A Declaratory Judgment in favor of the state defendants will be entered in the federal district court ✓

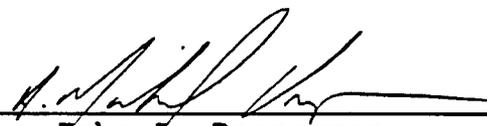
proceeding and counsels for the state defendants have been directed to submit a proposed form of judgment.

9. The United States and the University are considering an appeal.

Dated: October 1, 1992.

Respectfully submitted,

SUTIN, THAYER & BROWNE  
A Professional Corporation

By 

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CERTIFICATE OF SERVICE

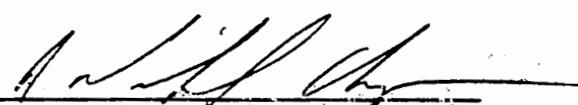
I hereby certify that one copy of the foregoing Joint Status Report was served this 1st day of October 1992, by first class mail, postage pre-paid, on the following:

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