

NO. 141, ORIGINAL
IN THE SUPREME COURT OF THE UNITED STATES

STATE OF TEXAS, PLAINTIFF,

v.

STATE OF NEW MEXICO

AND

STATE OF COLORADO,

DEFENDANTS.

OFFICE OF THE SPECIAL MASTER

APPENDIX OF EVIDENCE
IN SUPPORT OF *AMICUS CURIAE* CITY OF EL PASO'S
RESPONSE BRIEF TO THE STATE OF NEW MEXICO'S
MOTIONS FOR PARTIAL SUMMARY JUDGMENT

January 6, 2021

DOUGLAS G. CAROOM
Counsel of Record
SUSAN M. MAXWELL
BICKERSTAFF HEATH
DELGADO ACOSTA LLP
3711 S. MoPac Expressway
Building One, Suite 300
Austin, Texas 78746
(512) 472-8021
dcaroom@bickerstaff.com
smaxwell@bickerstaff.com

*Counsel for Amicus Curiae the City of
El Paso, and for El Paso Water
Utilities Public Service Board*

APPENDIX OF EVIDENCE

The following Exhibits are submitted in support of the City of El Paso’s Response Brief to the State of New Mexico’s Motions for Partial Summary Judgment, filed on January 6, 2021. El Paso has included in this Appendix items that are cited in its Response Brief, but not already included in the summary judgment record as part of the parties’ briefing and appendices. In the chart below, all such items are indexed, with Bates numbers provided where applicable, such as for documents that were deposition exhibits or were produced during discovery. For ease of access, electronic copies of the items indexed in El Paso’s Appendix are available at the following Sharefile site:

<https://bickerstaff.sharefile.com/d-s153b3622b145426eb843bce95e9682f3>

Index No.	Description	Bates Beginning	Bates Ending	Page/Line References
1	Excerpt of 30(b)(6) deposition of USBR (F. Cortez) (August 20, 2020)			68:1-69:18
2	Excerpts of Deposition of Filiberto Cortez, Vol. 1 (July 30, 2020)			24:5-26:17 46:13-20 100:7-101:6 166:12-167:18 169:23-170:20
3	Excerpts of Deposition of Filiberto Cortez, Vol. 2 (July 31, 2020)			268:9-270:5
4	Cortez Deposition Exhibit 20, “Evaluation of Annual Operational Allocations and Deliveries, Rio Grande Project and the Republic of Mexico,” 1951- 1978	US0553555	US0553688	
5	Cortez Deposition Exhibit 21, 1985 Operating Agreement	NM_00237424	NM_00237487	
6	Herman Settemeyer Deposition Exhibit 13, Report of the Rio Grande Compact Commission, 2001	NM_00005438	NM_00005493	
7	Cortez Deposition Exhibit 7, 1998 Statement of Garry Rowe, Area Manager for USBR	EBID135222	EBID135260	
8	Cortez Deposition Exhibit 40, Letter to William A. Paddock (2002)	CO-001428	CO-001432	

9	Excerpt of Deposition of Gary Esslinger, Vol. 1 (August 17, 2020)			66:1-16
10	Excerpt of Deposition of Phillip King, Vol. 1 (May 18, 2020)			98:5-16
11	<i>EBID: Litigation on the Lower Rio Grande</i> , Presented to the House Agriculture & Natural Resources Committee (PowerPoint presentation), Feb. 5, 2014, EBID175717			2, 5
12	Letter from James Salopek, EBID Board President, to Pat Gordon (April 29, 2011)	EBID159477	EBID159479	
13	Excerpts of Deposition of Patrick R. Gordon, Vol. 1 (July 14, 2020)			27:19-28-:13 161:17-167:11 174:17-175:10 186:9-187:6
14	Excerpts of Deposition of Patrick R. Gordon, Vol. 2 (July 15, 2020)			13:1-21 43:25-44:8 45:23-46:20 47:13-48:1 65:2-8 119:20-120:10 137:8-23 138:25-139:7
15	Declaration of Patrick R. Gordon			TX_MSJ_ 007269-007274
16	Statement of Louis A. Scott, former Rio Grande Compact Commissioner for Texas, TCEQ 170385			2
17	Office of New Mexico Attorney General, legislative update on Compact litigation	US0104447	US0104449	

Dated: January 6, 2021

Respectfully submitted,

/s/ Douglas G. Caroom

DOUGLAS G. CAROOM

Counsel of Record

SUSAN M. MAXWELL

BICKERSTAFF HEATH

DELGADO ACOSTA LLP

3711 S. MoPac Expressway

Building One, Suite 300

Austin, Texas 78746

(512) 472-8021

dcaroom@bickerstaff.com

smaxwell@bickerstaff.com

*Counsel for Amicus Curiae the City of
El Paso, and for El Paso Water
Utilities Public Service Board*

NO. 141 ORIGINAL

IN THE SUPREME COURT OF THE UNITED STATES

STATE OF TEXAS, PLAINTIFF,

v.

STATE OF NEW MEXICO

AND

STATE OF COLORADO,

DEFENDANTS.

OFFICE OF THE SPECIAL MASTER

CITY OF EL PASO'S CERTIFICATE OF SERVICE

This is to certify that on the 6th day of January, 2021, I caused a true and correct copy of the **Response Brief of Amicus Curiae City of El Paso to the State of New Mexico's Motions for Partial Summary Judgment** and of the accompanying **Appendix of Evidence** to be served by e-mail upon all counsel of record and interested parties on the Service List in this matter, attached hereto.

Respectfully submitted,

/s/ Susan M. Maxwell

DOUGLAS G. CAROOM

Counsel of Record

SUSAN M. MAXWELL

BICKERSTAFF HEATH DELGADO ACOSTA LLP

3711 S. MoPac Expressway

Building One, Suite 300

Austin, Texas 78746

(512) 472-8021

dcaroom@bickerstaff.com

smaxwell@bickerstaff.com

*Counsel for Amicus Curiae the City of
El Paso, and for El Paso Water
Utilities Public Service Board*

SPECIAL MASTER

Special Master	<p>Honorable Michael J. Melloy <i>Special Master</i> United States Circuit Judge 111 Seventh Avenue, S.E., Box 22 Cedar Rapids, IA 52401</p> <p>Michael E. Gans, Clerk of Court United States Court of Appeals – Eighth Circuit Thomas F. Eagleton United States Courthouse 111 South 10th Street, Suite 24.329 St. Louis, MO 63102</p>	<p>(319) 432-6080 TXvNM141@ca8.uscourts.gov</p> <p>(314)244-2400 TxvNM141@ca8.uscourts.gov</p>

SERVICE LIST FOR ALL PARTIES

**In The Supreme Court of the United States, Original No. 141
STATE OF TEXAS v. STATE OF NEW MEXICO and STATE OF COLORADO**

PARTIES¹

STATE	ATTORNEY & ADDRESS	PHONE & EMAIL
Texas	<p>STUART L. SOMACH* ANDREW M. HITCHINGS ROBERT B. HOFFMAN FRANCIS M. GOLDSBERRY II THERESA C. BARFIELD SARAH A. KLAHN BRITTANY K. JOHNSON RICHARD S. DEITCHMAN SOMACH SIMMONS & DUNN, PC 500 Capitol Mall, Suite 1000 Sacramento, CA 95814-2403</p> <p>KEN PAXTON <i>Attorney General</i> JEFFREY C. MATEER <i>First Assistant Attorney General</i> DARREN L. McCARTY <i>Deputy Attorney General for Civil Litigation</i> PRISCILLA M. HUBENAK* <i>Chief, Environmental Protection Div.</i> OFFICE OF THE ATTORNEY GENERAL OF TEXAS P.O. Box 12548 Austin, TX 78711-2548</p>	<p>(916) 446-7979 ssomach@somachlaw.com ahitchings@somachlaw.com rhoffman@somachlaw.com mgoldsberry@somachlaw.com tbarfield@somachlaw.com sklahn@somachlaw.com bjohnson@somachlaw.com rdeitchman@somachlaw.com</p> <p>Secretary: Corene Rodder crodder@somachlaw.com Secretary: Crystal Rivera crivera@somachlaw.com Paralegal: Christina M. Garro cgarro@somachlaw.com Paralegal: Yolanda De La Cruz ydelacruz@somachlaw.com</p> <p>(512) 463-2012 (512) 457-4644 Fax</p> <p>priscilla.hubenak@oag.texas.gov</p>

¹ (*) = *Counsel of Record*

<p>New Mexico</p>	<p>HECTOR H. BALDERAS New Mexico Attorney General TANIA MAESTAS Chief Deputy Attorney General CHOLLA KHOURY Assistant Attorney General ZACHARY E. OGAZ Assistant Attorney General STATE OF NEW MEXICO P.O. Drawer 1508 Santa Fe, NM 87501 Patricia Salazar – Assistant</p> <p>MARCUS J. RAEL, JR. * LUIS ROBLES SUSAN BARELA Special Assistant Attorneys General ROBLES, RAEL & ANAYA, P.C. 500 Marquette Ave. NW, Suite 700 Albuquerque, NM 87102 Chelsea Sandoval - Paralegal Pauline Wayland – Paralegal Bonnie DeWitt - Paralegal</p> <p>BENNET W. RALEY LISA M. THOMPSON MICHAEL A. KOPP Special Assistant Attorneys General TROUT RALEY 1120 Lincoln St., Suite 1600 Denver, CO 80203</p> <p>JEFFREY WECHSLER Special Assistant Attorney General MONTGOMERY & ANDREWS 325 Paseo De Peralta Santa Fe, NM 87501 Diana Luna - Paralegal</p> <p>JOHN DRAPER Special Assistant Attorney General DRAPER & DRAPER LLC 325 Paseo De Peralta Santa Fe, NM 87501 Donna Ormerod - Paralegal</p>	<p>hbalderas@nmag.gov tmaestas@nmag.gov ckhoury@nmag.gov zogaz@nmag.gov psalazar@nmag.gov (505)239-4672</p> <p>marcus@roblesrael.com luis@roblesrael.com susan@roblesrael.com chelsea@roblesrael.com pauline@roblesrael.com bonnie@roblesrael.com (505) 242-2228</p> <p>braley@troutlaw.com lthompson@troutlaw.com mkopp@troutlaw.com (303) 861-1963</p> <p>jwechsler@montand.com dluna@montand.com (505)986-2637</p> <p>john.draper@draperllc.com donna.ormerod@draperllc.com (505)570-4591</p>

<p>Colorado</p>	<p>PHILIP J. WEISER Colorado Attorney General ERIC R. OLSON Colorado Solicitor General LAIN LEONIAK Acting First Asst. Attorney General CHAD M. WALLACE* Senior Assistant Attorney General PRESTON V. HARTMAN Assistant Attorney General</p> <p>COLORADO DEPARTMENT OF LAW Ralph Carr Judicial Center 7th Floor 1300 Broadway Denver, CO 80203 Nan Edwards – Paralegal II</p>	<p>eric.olson@coag.gov</p> <p>chad.wallace@coag.gov (720)508-6281 (direct)</p> <p>preston.hartman@coag.gov (720)508-6257 (direct)</p> <p>nan.edwards@coag.gov</p>

<p>United States</p>	<p>JEFFREY WALL * Acting Solicitor General</p> <p>JEAN E. WILLIAMS Deputy Assistant Attorney General</p> <p>FREDERICK LIU Assistant to the Solicitor General U.S. DEPARTMENT OF JUSTICE 950 Pennsylvania Ave, NW Washington, DC 20530-0001</p> <p>JAMES J. DUBOIS* R. LEE LEININGER U.S. DEPT. OF JUSTICE Environment & Natural Resources Div 999 18th Street South Terrace – Suite 370 Denver, CO 80202 Seth Allison - Paralegal</p> <p>JUDITH E. COLEMAN JOHN P. TUSTIN JENNIFER A. NAJJAR U.S. DEPARTMENT OF JUSTICE Environment & Natural Resources Div P. O. Box 7611 Washington, DC 20044-7611</p>	<p>supremectbriefs@usdoj.gov (202) 514-2217</p> <p>james.dubois@usdoj.gov (303) 844-1375</p> <p>lee.leininger@usdoj.gov (303) 844-1364</p> <p>seth.allison@usdoj.gov (303)844-7917</p> <p>judith.coleman@usdoj.gov (202) 514-3553</p> <p>john.tustin@usdoj.gov (202)305-3022</p> <p>jennifer.najjar@usdoj.gov (202)305-0476</p>

AMICI

AMICI	ATTORNEY AND ADDRESS	PHONE & EMAIL
<p>Albuquerque Bernalillo County Water Utility Authority</p>	<p>JAY F. STEIN JAMES C. BROCKMANN* STEIN & BROCKMANN, P.A. P.O. Box 2067 Santa Fe, NM 87504 Administrative Copy</p> <p>PETER AUH Albuquerque Bernalillo County Water Utility Authority P.O. Box 568 Albuquerque, NM 87103-0568</p>	<p>(505) 983-3880 jfstein@newmexicowaterlaw.com jcbrockmann@newmexicowaterlaw.com</p> <p>administrator@newmexicowaterlaw.com</p> <p>(505) 289-3092 pauh@abcwua.org</p>
<p>City of El Paso</p>	<p>DOUGLAS G. CAROOM* SUSAN M. MAXWELL BICKERSTAFF HEATH DELGADO ACOSTA LLP 3711 S. MoPac Expressway Building One, Suite 300 Austin, TX 78746</p>	<p>(512) 472-8021 dcaroom@bickerstaff.com smaxwell@bickerstaff.com</p>
<p>City of Las Cruces</p>	<p>JAY F. STEIN* JAMES C. BROCKMANN STEIN & BROCKMANN, P.A. P.O. Box 2067 Santa Fe, NM 87504 Administrative Copy</p> <p>JENNIFER VEGA-BROWN MARCIA B. DRIGGERS LAS CRUCES CITY ATTORNEY'S OFFICE P.O. Box 20000 Las Cruces, NM 88004</p>	<p>(505) 983-3880 jfstein@newmexicowaterlaw.com jcbrockmann@newmexicowaterlaw.com</p> <p>administrator@newmexicowaterlaw.com</p> <p>(575) 541-2128 jvega-brown@las-cruces.org marcyd@las-cruces.org</p>

<p>El Paso County Water Improvement District No. 1</p>	<p>MARIA O'BRIEN* SARAH STEVENSON MODRALL, SPERLING, ROEHL, HARRIS & SISK, P.A. 500 Fourth Street N.W., Suite 1000 Albuquerque, NM 87103-2168 Shannon Gifford – Legal Assistant</p> <p>RENEA HICKS LAW OFFICE OF MAX RENE HICKS P.O. Box 303187 Austin, TX 78703-0504</p>	<p>(505) 848-1803 (direct)</p> <p>mobrien@modrall.com sarah.stevenson@modrall.com</p> <p>shannong@modrall.com</p> <p>(512)480-8231</p> <p>rhicks@renea-hicks.com</p>
<p>Elephant Butte Irrigation District</p>	<p>SAMANTHA R. BARNCASTLE* BARNCASTLE LAW FIRM, LLC 1100 South Main, Suite 20 (88005) P.O. Box 1556 Las Cruces, NM 88004 Janet Correll - Paralegal</p>	<p>(575)636-2377 Fax: (575) 636-2688 samantha@h2o-legal.com</p> <p>janet@h2o-legal.com</p>
<p>Hudspeth County Conservation and Reclamation District No. 1</p>	<p>ANDREW S. "DREW" MILLER* KEMP SMITH LLP 919 Congress Ave., Suite 1305 Austin, TX 78701</p>	<p>(512) 320-5466 dmiller@kempsmith.com</p>
<p>New Mexico Pecan Growers</p>	<p>TESSA T. DAVIDSON* DAVIDSON LAW FIRM, LLC 4206 Corrales Rd. P.O. Box 2240 Corrales, NM 87048 Jo Harden - Paralegal</p>	<p>(505) 792-3636 ttd@tessadavidson.com</p> <p>jo@tessadavidson.com</p>

New Mexico State University	JOHN W. UTTON* UTTON & KERY, P.A. P.O. Box 2386 Santa Fe, NM 87504 General Counsel Hadley Hall Room 132 2850 Weddell Road Las Cruces, NM 88003	(505) 699-1445 john@uttonkery.com (575) 646-2446 gencounsel@nmsu.edu
State of Kansas	DEREK SCHMIDT Attorney General of Kansas JEFFREY A. CHANAY Chief Deputy Attorney General TOBY CROUSE* Solicitor General of Kansas BRYAN C. CLARK Assistant Solicitor General DWIGHT R. CARSWELL Assistant Solicitor General 120 S.W. 10th Ave., 2nd Floor Topeka, KS 66612	(785) 296-2215 toby.crouse@ag.ks.gov bryan.clark@ag.ks.gov

MEDIATOR

Mediator	Hon. Oliver W. Wanger (U.S.D.J. Ret.) WANGER JONES HELSLEY PC 265 E. River Park Circle Suite 310 Fresno, CA 93720	owanger@wjhattorneys.com dpell@wjhattorneys.com
-----------------	--	--