

No. 141, Original

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IN THE  
SUPREME COURT OF THE UNITED STATES

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STATE OF TEXAS,

*Plaintiff,*

v.

STATE OF NEW MEXICO AND  
STATE OF COLORADO,

*Defendants.*

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**OFFICE OF THE SPECIAL MASTER**

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**STATE OF TEXAS'S MARCH 2020 STATUS REPORT**

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*\*Counsel of Record*

March 6, 2020

COMES NOW the State of Texas (Texas) and provides the following status report to the Special Master pursuant to paragraph 5 of the September 6, 2018 Case Management Plan (CMP), as amended.

Since the filing of Texas's February 2020 Status Report, Texas has continued reviewing documents produced by the parties and district *amici*.

Pursuant to the CMP, and amendments thereto, Texas and the United States served initial expert witness designations, reports, and disclosures on May 31, 2019. New Mexico served its initial expert witness designations, reports, and disclosures on October 31, 2019. Texas and United States served rebuttal expert witness designations, reports, and disclosures on December 30, 2019. New Mexico's deadline to serve its rebuttal expert witness designations, reports, and disclosures is March 27, 2020. There have been various supplemental disclosures of expert witness information and supporting materials by the parties in accordance with the CMP and Federal Rules of Civil Procedure, Rule 26(e) (Rule 26e). Discovery closes on May 1, 2020.

Depositions of party, percipient, and expert witnesses are ongoing and approaching conclusion. The parties have conferred such that the deposition schedule from now through the May 1, 2020 close of the discovery has been substantially agreed upon between the parties. To that end, there are thirteen (13) depositions currently confirmed to occur prior to the close of discovery, with formally served notices and subpoenas. Texas has conferred with the parties regarding availability for one additional witness (Estevan Lopez), and will timely notice the deposition for a date prior to the close of discovery. Texas has also advised New Mexico that it will take depositions of any New Mexico rebuttal experts disclosed on or about March 27, 2020 prior to the close of discovery, to the extent that any expert disclosed on that date is not already on the current schedule.

Additionally, New Mexico previously noticed via subpoena the deposition of Al Blair, the district engineer with El Paso County Water Improvement District No. 1 (EPCWID), who is also a designated non-retained expert by Texas and the United States. New Mexico recently withdrew the subpoena, and the parties are conferring to arrange an alternative date.

New Mexico also indicated that it intends to resume the deposition of Texas's rebuttal expert Shane Coors of Precision Water Resources Engineering in the event that he discloses a supplemental report pursuant to Rule 26(e). Texas advised New Mexico that if Texas supplements Mr. Coors' expert report, Texas stipulates that a supplemental deposition of Shane Coors may occur at any time prior to pretrial disclosures (subject to meeting and conferring on witness/attorney availability), under the parameters set forth in Appendix C, Section 10 of the CMP. To that end, Texas further advised New Mexico that it would agree to submit such a stipulation to the Special Master for approval, in lieu of the formal motion otherwise required by Appendix C, Section 10 of the CMP.

Other than the deposition issues discussed above, there have been no other requests for any additional depositions, by any party. Texas anticipates and looks forward to the timely close of discovery on May 1, 2020.

The United States filed a motion for judgment on the pleadings against New Mexico's counterclaims 2, 3, 5, 6, 7, 8, and 9 on December 21, 2018. On December 26, 2018, Texas filed (1) a request for a judicial declaration to confirm the legal issues previously decided and motion in limine to exclude the introduction of evidence thereon, and (2) a motion to strike or for partial judgment regarding New Mexico's counterclaims and affirmative defenses, under Federal Rules of Civil Procedure 12(c) and 56. On December 26, 2018, New Mexico filed a motion for partial judgment on matters previously

decided. The Special Master held an in-person oral argument on these motions on April 2, 2019, in Denver.

The parties will attend an in-person status conference before the Special Master in Cedar Rapids, Iowa on March 31, 2020.

Dated: March 6, 2020

Respectfully submitted,

*s/ Stuart L. Somach*

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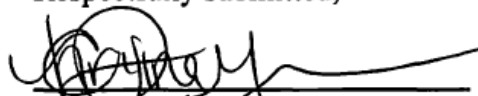
CERTIFICATE OF SERVICE

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This is to certify that on this 6th day of March 2020, I caused a true and correct copy of **The State of Texas's March 2020 Status Report** to be served upon all parties and *amici curiae*, by and through the attorneys of record and/or designated representatives for each party and *amicus curiae* in this original action. As permitted by order of the Special Master, and agreement among the parties, service was effected by electronic mail to those individuals listed on the attached service list, which reflects all updates and revisions through the current date.

Dated: March 6, 2020

Respectfully submitted,

  
Christina Garro

**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**

**PARTIES<sup>1</sup>**

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## SPECIAL MASTER

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