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March 10, 2021

Via Electronic Mail

Special Master Michael J. Melloy
United States Courthouse
111 Seventh Avenue, S.E.
P.O. Box 22
Cedar Rapids, IA 52401
Email: TxvNM141@ca8.uscourts.gov

Re: *State of Texas v. State of New Mexico and State of Colorado*
United States Supreme Court, Original Jurisdiction No. 141

Dear Special Master Melloy:

On behalf of the State of Texas (Texas), we are writing to formally object to the State of New Mexico's (New Mexico) PowerPoint Presentation that was circulated to Your Honor and all counsel on March 9, 2021 at 9:47 a.m. CST in advance of the 10:30 a.m. CST hearing on motions for summary judgment (hereinafter "NM PP"). New Mexico did not provide the Parties with a reasonable advance opportunity to review and object to New Mexico's proposed use of the NM PP and/or its contents. Further, New Mexico did not have leave of the Special Master to utilize demonstrative evidence at the hearing. The NM PP and its contents represent an untimely and prejudicial introduction of new and/or otherwise objectionable evidence in support of New Mexico's summary judgment briefing and should be stricken in its entirety.

In addition to comments made on the record yesterday to preserve Texas's objection, we hereby formally object to admitting the NM PP, and/or any individual slide components, into evidence in support of, or in opposition to, the pending motions for summary judgment. The NM PP contains information and graphic illustrations that are evidentiary in nature, many of which are subject to objections already pending before the Court. Further, New Mexico ultimately presented the NM PP in its native format, within the PowerPoint software platform, as opposed to utilizing the pdf version of the NM PP provided to Your Honor and the Parties, such that certain slides were interactive and animated, further prejudicing Texas and the interests of other Parties and/or *amici*.

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We appreciate Your Honor's consideration of Texas's request.

Very truly yours,

s/ Stuart L. Somach
Stuart L. Somach
Somach Simmons & Dunn
Counsel of Record for the State of Texas

TCB:cer
cc: All counsel for parties and amici
(see attached service list)
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SERVICE LIST FOR ALL PARTIES AND AMICI CURIAE

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