

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

DECLARATION OF RICHARD S. DEITCHMAN IN SUPPORT OF THE STATE OF TEXAS'S RESPONSE TO THE STATE OF NEW MEXICO'S OBJECTIONS TO AND MOTION TO STRIKE TEXAS'S LATE-FILED EXPERT OPINIONS

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March 23, 2021

I, Richard S. Deitchman, declare as follows:

1. I am an attorney admitted to practice before the United States Supreme Court and am a shareholder with the law firm of Somach Simmons & Dunn, attorneys for the State of Texas (Texas) in this matter. The following matters are within my personal knowledge and, if called as a witness, I can competently testify thereto.

2. Attached hereto as **Exhibit 1** is a true and correct copy of excerpts of the October 22, 2020, deposition of Gregory K. Sullivan.

3. Attached hereto as **Exhibit 2** is a true and correct copy of the Declaration of Dr. William R. Hutchison, Ph.D., P.E., P.G., in Support of the Texas MSJ and Attachment 4, thereto, filed on November 5, 2020. TX_MSJ_000657-669, TX_MSJ_000693-695.

4. Attached hereto as **Exhibit 3** is a true and correct copy of excerpts of the May 28, 2020, deposition of Dr. William R. Hutchison, Ph.D., P.E., P.G.

5. Attached hereto as **Exhibit 4** is a copy of the native Excel file (filename: Ferguson Rebuttal revised 9-15-20 v116.xlsx) disclosed on September 15, 2020 as part of the New Mexico's Twenty-Fourth Supplemental Expert Disclosures as backup data corresponding to the Spronk Water Engineers September 15, 2020 Rebuttal Report, available for download using the following link: <https://somachlaw.sharefile.com/d-s4ed0013d8b774caba78ff657bf030395>.

6. Attached hereto as **Exhibit 5** is a true and correct copy of the Declaration of Gregory Sullivan, P.E. in Support of State of New Mexico's Partial Summary Judgment Motions filed on December 22, 2020, NM_EX-012.

7. Attached hereto as **Exhibit 6** is a true and correct copy of the Expert Report of William R. Hutchison, Ph.D., P.E., P.G disclosed on May 31, 2019, with relevant portions highlighted.

8. Attached hereto as **Exhibit 7** is a true and correct copy of the Declaration of Dr. Robert J. Brandes, P.E., Ph.D., in Support of the Texas MSJ filed on November 5, 2020. TX_MSJ_007312-007329.

9. Attached hereto as **Exhibit 8** is a true and correct copy of the Declaration of Dr. Robert J. Brandes, P.E., Ph.D., in Support of the State of Texas's Opposition to NM MPSJ filed on December 22, 2020. TX_MSJ_007312- 007329

10. Attached hereto as **Exhibit 9** is a true and correct copy of the Expert Report of Dr. Robert J. Brandes, P.E., Ph.D. disclosed on May 31, 2019, with relevant portions highlighted.

11. Attached hereto as **Exhibit 10** is a true and correct copy of excerpts of the September 24, 2019, deposition of Dr. Robert J. Brandes, P.E., Ph.D.

12. Attached hereto as **Exhibit 11** is a true and correct copy of excerpts of the September 19, 2020 Federal Rule of Civil Procedure, Rule 30(b)(6) deposition of Estevan Lopez.

13. Attached hereto as **Exhibit 12** is a true and correct copy of excerpts from Texas's October 26, 2020 Supplemental Responses to New Mexico's Interrogatories.

14. Attached hereto as **Exhibit 13** is a true and correct copy of the Declaration of Dr. Scott A. Miltenberger, Ph.D., in Support of the State of Texas's Motion for Partial Summary Judgement (Texas MSJ) filed on November 5, 2020. TX_MSJ_007371-007450.

15. Attached hereto as **Exhibit 14** is a true and correct copy of the Declaration of Dr. Scott A. Miltenberger, Ph.D., in Support of the State of Texas's Opposition to the State of New Mexico's Motion for Partial Summary Judgement (NM MPSJ) filed on December 22, 2020. TX_MSJ_007371- 007566

16. Attached hereto as **Exhibit 15** is a true and correct copy of the Expert Report of Scott A. Miltenberger, Ph.D. disclosed on May 31, 2019, with relevant portions highlighted.

17. Attached hereto as **Exhibit 16** is a true and correct copy of excerpts of the June 8, 2020, deposition of Dr. Scott A. Miltenberger, Ph.D.

18. Attached hereto as **Exhibit 17** is a true and correct copy of excerpts of the October 2, 2019, deposition of Dr. Scott A. Miltenberger, Ph.D.

19. Attached hereto as **Exhibit 18** is a true and correct highlighted copy of the Expert Report of Dr. Nicolai Kryloff of Historical Research Associates, Inc. disclosed on May 31, 2019.

20. Attached hereto as **Exhibit 19** is a true and correct copy of the Expert Rebuttal / Supplemental Report of Scott A. Miltenberger, Ph.D. disclosed on December 30, 2019, with relevant portions highlighted.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 23rd day of March at Sacramento, California.



Richard S. Deitchman

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OFFICE OF THE SPECIAL MASTER

CERTIFICATE OF SERVICE

This is to certify that on this 23rd day of March, 2021, I caused a true and correct copy of the **Declaration of Richard S. Deitchman in Support of the State of Texas’s Response to the State of New Mexico’s Objections to and Motion to Strike Texas’s Late-Filed Expert Opinions** 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.

Respectfully submitted,



Christina M. Garro

Dated: 3/23/2021

SERVICE LIST FOR ALL PARTIES AND AMICI CURIAE

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(Service via Electronic Mail)

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