

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

UNITED STATES OF AMERICA'S MAY 2019 STATUS REPORT

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The United States respectfully submits its May 2019 status report to the Special Master pursuant to paragraph 5 of the Case Management Plan dated September 6, 2018 (“CMP”).

I. The United States’ Production of Documents

Pursuant to the CMP and Rule 26(a)(1) of the Federal Rules of Civil Procedure, the State of Texas, the State of New Mexico, the State of Colorado and the United States uploaded their respective initial document productions to the Veritext Vault document storage system through mutually agreed-upon means. As described in prior Status Reports, the United States uploads its documents to the Box.com file-sharing site, and Veritext transfers the documents to the Veritext Vaults. The United States has currently produced 47,033 documents, comprising of 248,674 pages. These documents were produced from the files of federal agencies including the Bureau of Reclamation (“Reclamation”), the United States Section of the International Boundary and Water Commission (“IBWC”), the State Department, the Bureau of Prisons, and the United States Army. The United States continues to review potentially discoverable documents and supplement its production of documents as responsive documents are identified and become available for production.

II. Production of Electronically Stored Information (“ESI”)

The United States has participated in negotiation of the Stipulation for the production of ESI entered into by the parties and filed with the Special Master on November 14, 2018. The parties are negotiating agreed upon search terms for their initial sweep of computer, email and electronic systems for ESI. The parties are currently attempting to test and refine the search terms in order to limit the use of terms that result in over-broad collection of tens of thousands of documents irrelevant to the facts and issues of this case.

III. Index of Documents

The Parties continue to discuss the creation of an index system for documents produced in this case, as provided in Section 7.2.2 of the CMP. The United States anticipates that the system will also address the handling of ESI.

IV. Further Discovery

Fact discovery commenced in this case on September 1, 2018. Depositions of fact witnesses have commenced. The United States participated in depositions of fact witnesses in Las Cruces, N.M. on April 16-19, 24, and 30, 2019 and will be attending depositions on May 1, 3, 7, 16, 17, 29, and 30, 2019. Written discovery has been propounded on New Mexico by Texas, and on Amici by New Mexico. The United States anticipates that additional written discovery will be propounded in the near future. The United States participated in a regularly scheduled discovery call among the parties on April 26, 2019, and the next call is set for May 10, 2019.

V. Motions on Pleadings and Motions for Partial Judgment

Under the amended case management plan, 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, 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, New Mexico filed a motion for partial judgment on matters previously decided and brief in support. The Special Master held an in-person oral argument on these motions on April 2, 2019, in Denver.

Respectfully submitted this 3rd day of May, 2019.

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CERTIFICATE OF SERVICE

This is to certify that on the 3rd day of May, 2019, the **UNITED STATES OF AMERICA'S MAY 2019 STATUS REPORT** was served via electronic mail and/or U.S. mail as indicated, upon the individuals listed on the Service List, attached hereto.

Respectfully submitted,

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