

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

**STATE OF NEW MEXICO'S NOTICE OF
FILING OF EXPERT DESIGNATIONS**

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Pursuant to the Order of June 3, 2020, the State of New Mexico respectfully files its prior expert designations pursuant to Federal Rule of Civil Procedure 26(a)(2). A copy of New Mexico's Disclosure of Expert Witnesses (served October 31, 2020) is attached as Exhibit A. For each expert report, New Mexico identifies the authoring expert, specifies the total number of pages of the report, and provides a brief summary of the report below.

New Mexico continues to support the production of all expert reports to the Special Master to allow the Special Master to familiarize himself with the issues that separate the parties and to prepare for potential disputes. New Mexico has loaded its expert reports on a Sharefile site, and stands ready to provide the link to the Special Master.

New Mexico will supplement the following list after it files its rebuttal reports on June 15, 2020 and July 15, 2020.

SUMMARY OF NEW MEXICO EXPERT REPORTS

1. **Expert Report of Margaret Barroll, Ph.D.**

Authoring expert:

Margaret Barroll, Ph.D.
691 East Zia Road
Santa Fe, NM 87505
(505) 660-8079

Pages: 123
(238 pages of appendices)

Description:

Dr. Barroll's expert report discusses Rio Grande Project operations and accounting. Her analyses includes comparisons of historical operations, accounting, and distribution of water to the current operations, accounting, and distribution of water the Bureau of Reclamation ("Reclamation") employs under the 2008 Operating Agreement. Dr. Barroll's report and Estevan Lopez's report (discussed below) establish the foundation for New

Mexico's opinions on the Rio Grande Compact and its connection to the Rio Grande Project.

2. Expert Report of Estevan R. Lopez, P.E.

Authoring expert:

Estevan R. Lopez, P.E.
Estevan Lopez Consulting LLC
P.O. Box 302
Peñasco, NM 87553
(575) 770-0866

Pages: 92
(178 pages of appendices)

Description:

Mr. Lopez's expert report addresses issues of compact and Project administration and accounting generally, and the Rio Grande Compact, specifically. His report includes: Compact background; Compact accounting and the relationship of the Rio Grande Project to the Compact; the functions and the history of the Rio Grande Compact Commission; the impact of the 2008 Operating Agreement; the operational changes that resulted from the 2008 Operating Agreement; and the 2011 Compact Credit Water release and its impacts on Compact deliveries.

3. Expert Report of Jennifer Stevens, Ph.D.

Authoring expert:

Jennifer Stevens, Ph.D.
Stevens Historical Research Associates
445 West Main Street
Boise, ID 83702
(208) 426-0206

Pages: 95
(25 pages of appendices)

Description:

Dr. Stevens' expert report provides a history of water use within the Lower Rio Grande area from the 1890s forward. Her report details the history leading up to and including the formation of the Project, the role of the United States as the operator of the Project, the central role of the Project in

the 1938 Compact negotiations, the parties' goals during the Compact's lengthy negotiation process, and the Compact implementation in the years following ratification, including the water users' early recognition of the need for supplemental groundwater pumping to meet crop demands.

4. Expert Report of David Jordan, M.S., P.E.

Authoring expert:

David Jordan, M.S., P.E.
INTERA
6000 Uptown Boulevard NE
Suite 220
Albuquerque, NM 87110
(505) 246-1600

Pages: 193
(215 pages of appendices)

Description:

Mr. Jordan's expert report estimates the annual irrigated acres throughout the Lower Rio Grande basin from Caballo Reservoir to Fort Quitman, including within the Project boundaries of the Elephant Butte Irrigation District and El Paso County Water Improvement District No. 1, Hudspeth County Conservation and Reclamation District No. 1, and the Valle de Juarez Irrigation District (Mexico) for the period from 1936 to 2018.

5. Expert Report of Richard Allen, Ph.D., P.E.

Authoring expert:

Richard Allen, Ph.D., P.E.
Evapotranspiration Plus LLC
631 Saratoga Drive
Twin Falls, ID 83301
(208) 320-2837

Pages: 74
(443 pages of appendices)

Description:

Dr. Allen's expert report evaluates the evapotranspiration ("ET") from irrigated and riparian areas of the Rincon, Mesilla, El Paso, and Juarez Valleys ("LRG Study Area") by analyzing and processing Landsat satellite

imagery coupled with ground-based weather data for three selected years using a methodology known as METRIC. The ET data from these three years was used by Davids Engineering (Dr. Thoreson) to develop locally calibrated crop coefficients for crops in the study area suitable to estimate ET for all years since the Compact was adopted. Dr. Allen's report includes an overview of the METRIC analyses used to estimate ET by satellite-based remote sensing under conditions of actual water and crop management, weather, and crop types and varieties.

6. Expert Report of Bryan Thoreson, Ph.D., P.E. and Richard Allen, Ph.D., P.E.

Authoring experts:

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Davids Engineering, Inc.
1772 Picasso Avenue, Suite A
Davis, CA 95618

Richard Allen, Ph.D., P.E.
Evapotranspiration Plus LLC
631 Saratoga Drive
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(208) 320-2837

Pages: 173
(245 pages of appendices)

Description:

Dr. Thoreson's expert report, done in collaboration with Dr. Allen, presents monthly values for the historical consumptive use of irrigation water in the LRG Study Area by evaluating historical crop acreages, soil characteristics, weather conditions, irrigation practices, and development of locally calibrated crop coefficients. The historical consumptive use of irrigation water is a critical input to New Mexico's LRG modeling.

7. Expert Report of Gregory K. Sullivan, M.S., P.E. and Heidi Welsh, P.H.

Authoring experts:

Gregory K. Sullivan, M.S., P.E.
Heidi Welsh, P.H.
Spronk Water Engineers, Inc.
1000 Logan Street
Denver, CO 80203
(303) 861-9700

Pages: 339
(200 pages of appendices)

Description:

The expert report of Mr. Sullivan and Ms. Welsh presents analyses and expert opinions in the following areas: compilation and analysis of historical records of the hydrology and use of water in the LRG Study Area; development of canal and farm budget models for the major irrigation users between Elephant Butte Reservoir and Fort Quitman, Texas; coordination of the development of the Integrated LRG Model and use of the model to analyze historical Project operations, the impacts of groundwater pumping in New Mexico, Texas, and Mexico on Project operations, Rio Grande flows, and surface water deliveries to the major water users in the LRG Study Area. The model is also used to analyze the impacts of the 2008 Operating Agreement on deliveries to the major water users. The report also contains responses to several of the expert reports submitted by the hydrology and modeling experts for Texas and the United States.

8. Expert Report of John C. Carron and Steven T. Setzer

Authoring experts:

John C. Carron, Ph.D.
Steve T. Setzer, M.S., P.E.
Hydros Consulting, Inc.
1628 Walnut Street
Boulder, CO 80302
(303) 284-1837

Pages: 39
(86 pages of appendices)

Description:

The expert report by Dr. Carron and Mr. Setzer describes their development of a RiverWare model of the Lower Rio Grande basin from Elephant Butte Reservoir to Fort Quitman, Texas, which is linked to two groundwater models developed for the Rincon-Mesilla and Hueco-Bolson basins. The linked models are referred to as the Integrated LRG Model. The RiverWare model component of the Integrated LRG Model simulates historical Project operations, including allocation of water to EBID, EPCWID, and Mexico, as well as waste flows to Hudspeth County Conservation and Reclamation District No. 1; operation of Elephant Butte and Caballo Reservoirs; and releases to meet downstream demands for Project water. The Integrated

LRG Model comprehensively simulates the key hydrologic and operational aspects of the Rio Grande Project, as well as operations in the El Paso Valley and Juarez Valley down to Fort Quitman.

9. Expert Report of Gilbert Barth, Ph.D.

Authoring expert:

Gilbert Barth, Ph.D.
S.S. Papadopoulos & Associates, Inc.
3100 Arapahoe Ave., Suite 203
Boulder, CO 80303
(303) 939-8880

Pages: 144
(438 pages of appendices)

Description:

Dr. Barth's expert report addresses the development and application of the New Mexico Rincon-Mesilla Basin groundwater model ("NMR-M Model"). The report explains the development and calibration of the NMR-M Model and its role as a part of the linked models that form Integrated LRG Model. Dr. Barth's report also provides opinions on the Rincon-Mesilla Basin groundwater model developed by Texas ("Texas Model").

10. Expert Report of Charles P. Spalding, M.S., PG and Daniel J. Morrissey, M.S., RPG

Authoring experts:

Charles P. Spalding, M.S., PG
Daniel J. Morrissey, M.S., RPG
McDonald Morrissey Associates LLC
280 Pleasant Street
Concord, NH 03301
(603) 228-2280

Pages: 128
(530 pages of appendices)

Description:

The expert report prepared by Mr. Spalding and Mr. Morrissey addresses the development and application of New Mexico's ground water model of the Hueco Bolson ("Hueco Model"), which simulates groundwater

pumping in Texas and Mexico, generally between the City of El Paso and Fort Quitman, Texas. The report also explains the role of Hueco Model as a component of the Integrated LRG Model.

11. Expert Report of Daniel J. Morrissey, M.S., RPG

Authoring experts:

Daniel J. Morrissey, M.S., RPG
McDonald Morrissey Associates LLC
280 Pleasant Street
Concord, NH 03301
(603) 228-2280

Pages: 91
(9 pages of appendices)

Description:

The expert report of Mr. Morrissey provides an overview of groundwater hydrology, general groundwater modeling concepts, and a brief summary of the Integrated LRG Model developed by the New Mexico experts.

12. Expert Report of Lewis Munk, Ph.D.

Authoring expert:

Lewis Munk, Ph.D.
Munk Consulting, LLC
1074 Sugar Road
Rio Rancho, NM 87124
(505) 508-9040

Pages: 28
(3 pages of appendices)

Description:

Dr. Munk's expert report evaluates the Texas salinity analysis, including the claimed salinity of irrigation water, soil salinity and impacts to crops within the El Paso Valley. Dr. Munk specifically responds to the claims made in the Texas expert reports of Dr. Lydia Dorrance, Dr. Joel Kimmelshue, and Dr. David Sunding.

13. Expert Report of Dana L. K. Hoag, Ph.D.

Authoring expert:

Dana L. K. Hoag, Ph.D.
415 E. Laurel St
Fort Collins, CO 80524
(970) 217-3149

Pages: 22
(23 pages of appendices)

Description:

Dr. Hoag's expert report analyzes the economic analysis and opinions of alleged damages to Texas from New Mexico pumping during 1985-2016 that are described in the expert report submitted by Texas's economic expert, Dr. David Sunding.

Respectfully submitted,

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OFFICE OF THE SPECIAL MASTER

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STATE OF NEW MEXICO'S CERTIFICATE OF SERVICE

◆

This is to certify that on June 10th, 2020, I caused a true and correct copy of the **State of New Mexico's Notice of Filing of Expert Designations** to be served by e-mail upon the Special Master and all counsel of record and interested parties on the Service List, attached hereto.

Respectfully submitted this 10th day of June, 2020.

/s/ Michael A. Kopp

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October 31, 2019

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Pursuant to Federal Rule of Civil Procedure 26(a)(2) and the Case Management Plan adopted by the Honorable Michael J. Melloy, Special Master, on September 6, 2018, as amended (“CMP”), Defendant, State of New Mexico (“New Mexico”) hereby discloses the identities of the following retained experts:

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In accordance with Federal Rule of Civil Procedure 26(a)(2)(B) and the CMP, and agreement between the parties, written reports prepared and signed by the above-referenced retained experts are served concurrently herewith. With the exception of certain model data, which has been transmitted to the named parties via portable hard drives, all written reports and supporting data, files, and references are available to download using the following link:

<https://troutlaw.sharefile.com/d-sfc998081a5042d1a>

New Mexico is also transmitting all reports and other disclosures to the Veritext Vault, including model data, and will notify all parties and amici when they are available from Veritext.

New Mexico reserves the right to rely upon and use the testimony of any and all expert witnesses identified by all parties to this action and to present rebuttal testimony to any such witness through those listed here or other expert witnesses. New Mexico also reserves the right to amend or supplement this disclosure pursuant to Federal Rules of Civil Procedure 26(a)(2) and 26(e).

Respectfully submitted: October 31, 2019.

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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

◆

STATE OF NEW MEXICO'S CERTIFICATE OF SERVICE

◆

This is to certify that on the 31st of October, 2019, I caused a true and correct copy of the **State of New Mexico's Disclosure of Expert Witnesses** to be served by e-mail on all counsel of record and interested parties on the Service List, attached hereto.

Respectfully submitted this 31st day of October, 2019.

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