

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 MOTION TO FILE DOCUMENTS UNDER SEAL**

HECTOR H. BALDERAS  
New Mexico Attorney General  
TANIA MAESTAS  
Deputy Attorney General  
CHOLLA KHOURY  
ZACHARY OGAZ  
Assistant Attorney General  
P.O. Drawer 1508  
Santa Fe, New Mexico 87501  
505-239-4672

MARCUS J. RAEL, JR.\*  
LUIS ROBLES  
SUSAN BARELA  
Special Assistant Attorneys General  
Robles Rael & Anaya  
500 Marquette Ave NW #700  
Albuquerque, NM 87102  
[marcus@roblesrael.com](mailto:marcus@roblesrael.com)  
505-242-2228

*\*Counsel of Record*

July 20, 2021

COMES NOW the State of New Mexico (“New Mexico”) and respectfully moves pursuant to Section 11 of the Case Management Plan (Sept. 6, 2018), as amended, to file under seal the Motion *in Limine* to Exclude Opinions Offered by Dr. Joel Kimmelshue and Mica Heilmann (Filed Under Seal) and all exhibits thereto (“NM Motion”). An unredacted version of the NM Motion and its exhibits is attached hereto as Exhibit 1. A redacted version of the NM Motion and its exhibits is attached hereto as Exhibit 2. As grounds therefore, and pursuant to Section 11.2.1 of the Case Management Plan, New Mexico proposes the following findings as to the need for sealing and the duration of sealing:

1. The NM Motion seeks a ruling concerning a methodology and materials that Texas experts Joel Kimmelshue and Mica Heilmann, of Land IQ, have asserted is a confidential and proprietary trade secret (“Land IQ Methodology”).
2. On October 9, 2019, the Special Master entered a Stipulated Protective Order, dkt. 289 (“Protective Order”), that governs certain materials subsequently disclosed to New Mexico by Texas related to the Land IQ Methodology, as well as materials, including deposition testimony and expert reports, that discuss the Land IQ Methodology, defined as “Protected Information/Protected Material” pursuant to the Protective Order and herein.
3. Pursuant to the Protective Order, only individuals who have signed the “Acknowledgment and Agreement to be Bound,” attached as Appendix A to the Protective Order, can receive copies of or view Protected Information/Protected Material.
4. Several documents that qualify as Protected Information/Protected Material pursuant to the Protective Order are attached as exhibits to the NM Motion. The NM Motion also quotes and discusses Protected Information/Protected Material.

5. For New Mexico to comply with its obligations pursuant to the Protective Order and Acknowledgment and Agreement to be Bound, the NM Motion and its exhibits must be filed under seal and distributed only to individuals who have executed the Acknowledgment and Agreement to be Bound. The NM Motion and its exhibits cannot be distributed to any other individuals or placed on the Special Master's public docket without violating the terms of the Protective Order.
6. The NM Motion and its exhibits are ordered sealed in their entirety. The NM Motion and its exhibits may be distributed only to individuals who have executed the Acknowledgment and Agreement to be Bound and submitted signed copies of same to counsel for the State of Texas.
7. Pursuant to Section 11.2.1 of the Case Management Plan, New Mexico asserts that the Parties have previously agreed to entry of the Protective Order, which stipulates that Protected Information/Protected Material is confidential and can be distributed only to individuals who have executed the Acknowledgment and Agreement to be Bound. New Mexico has advised the Parties that the NM Motion contains Protected Information/Protected Material, that New Mexico is moving to file the NM Motion under seal, and that New Mexico will distribute the NM Motion only to individuals who have executed the Acknowledgment and Agreement to be Bound.
8. Pursuant to Paragraph 9 of the Protective Order, Protected Information/Protected Material remains confidential and may not be used for any purpose not expressly authorized in the Protective Order "until Land IQ agrees otherwise in writing or as otherwise ordered by a Court of competent jurisdiction." Therefore, the NM Motion and its exhibits shall remain

sealed until Land IQ agrees in writing that they may be unsealed, or until a court of competent jurisdiction orders them unsealed.

Respectfully submitted,

/s/ Jeffrey J. Wechsler

HECTOR H. BALDERAS  
New Mexico Attorney General  
TANIA MAESTAS  
Deputy Attorney General  
CHOLLA KHOURY  
Assistant Attorney General  
ZACHARY E. OGAZ  
Assistant Attorney General  
P.O. Drawer 1508  
Santa Fe, New Mexico 87501  
505-239-4672

JEFFREY J. WECHSLER  
Special Assistant Attorney General  
KALEB W. BROOKS  
MONTGOMERY & ANDREWS, P.A.  
325 Paseo de Peralta  
Santa Fe, NM 87501  
[jwechsler@montand.com](mailto:jwechsler@montand.com)

JOHN B. DRAPER  
Special Assistant Attorney General  
CORINNE E. ATTON  
DRAPER & DRAPER LLC  
325 Paseo de Peralta  
Santa Fe, NM 87501  
[john.draper@draperllc.com](mailto:john.draper@draperllc.com)  
505-570-4591

MARCUS J. RAEL, JR.\*  
LUIS ROBLES  
SUSAN BARELA  
Special Assistant Attorneys General  
Robles Rael & Anaya  
500 Marquette Ave NW #700  
Albuquerque, NM 87102  
[marcus@roblesrael.com](mailto:marcus@roblesrael.com)  
505-242-2228

*\*Counsel of Record*

BENNETT W. RALEY  
LISA M. THOMPSON  
MICHAEL A. KOPP  
Special Assistant Attorneys General  
TROUT RALEY  
1120 Lincoln Street, Suite 1600  
Denver, Colorado 80203  
303-861-1963

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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 July 20, 2021, I caused a true and correct copy of the **State of New Mexico's Motion to File Documents Under Seal** to be served by e-mail and U.S. Mail upon the Special Master and by e-mail upon all counsel of record and interested parties on the Service List, attached hereto, who have signed the Acknowledgment and Agreement to Be Bound attached as Appendix A to the Stipulated Protective Order (Oct. 9, 2019), dkt. 289.

Respectfully submitted this 20th day of July, 2021.

*/s/ Michael A. Kopp*

\_\_\_\_\_  
Michael A. Kopp  
Special Assistant Attorney General  
TROUT RALEY  
1120 Lincoln Street, Suite 1600  
Denver, Colorado 80203  
(303) 861-1963

**SPECIAL MASTER**

**HONORABLE MICHAEL J. MELLOY**

*Special Master*

United States Circuit Judge  
111 Seventh Avenue, S.E., Box 22  
Cedar Rapids, IA 52401-2101

[TXvNM141@ca8.uscourts.gov](mailto:TXvNM141@ca8.uscourts.gov)  
(319) 432-6080  
(service via email and U.S. Mail)

**MICHAEL E. GANS**

*Clerk of the Court*

United States Court of Appeals - Eighth Circuit  
Thomas F. Eagleton United States Courthouse  
111 South 10th Street, Suite 24.329  
St. Louis, MO 63102

[TXvNM141@ca8.uscourts.gov](mailto:TXvNM141@ca8.uscourts.gov)  
(314) 244-2400

**MEDIATOR**

**HON. OLIVER W. WANGER (USDJ RET.)**

WANGER JONES HELSLEY PC  
265 E. River Park Circle, Suite 310  
Fresno, California 93720

[owanger@wjhattorneys.com](mailto:owanger@wjhattorneys.com)  
(559) 233-4800 Ext. 203

**DEBORAH L. PELL (Paralegal)**

[dpell@whjattorneys.com](mailto:dpell@whjattorneys.com)

**UNITED STATES**

**ELIZABETH B. PRELOGAR\***

*Acting Solicitor General*

**EDWIN S KNEEDLER**

*Deputy Solicitor General*

**JEAN E. WILLIAMS**

*Deputy Assistant Attorney General*

**FREDERICK LIU**

*Assistant to the Solicitor General*

U.S. DEPARTMENT OF JUSTICE  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

[supremectbriefs@usdoj.gov](mailto:supremectbriefs@usdoj.gov)  
(202)514-2217

**JAMES J. DUBOIS\***

**R. LEE LEININGER**

U.S. DEPARTMENT OF JUSTICE  
Environment & Natural Resources Division  
999 18th Street

[james.dubois@usdoj.gov](mailto:james.dubois@usdoj.gov)  
(303) 844-1375  
[lee.leininger@usdoj.gov](mailto:lee.leininger@usdoj.gov)  
(303) 844-1364

South Terrace – Suite 370  
Denver, Colorado 80202  
**SETH C. ALLISON, Paralegal**

[Seth.allison@usdoj.gov](mailto:Seth.allison@usdoj.gov)  
(303)844-7917

**JUDITH E. COLEMAN**  
**JENNIFER A. NAJJAR**  
U.S. DEPARTMENT OF JUSTICE  
Environment & Natural Resources Division  
P.O. Box 7611  
Washington, D.C. 20044-7611

[Judith.coleman@usdoj.gov](mailto:Judith.coleman@usdoj.gov)  
(202) 514-3553  
[jennifer.najjar@usdoj.gov](mailto:jennifer.najjar@usdoj.gov)  
(202) 305-0476

## STATE OF NEW MEXICO

**HECTOR H. BALDERAS**  
*New Mexico Attorney General*  
**TANIA MAESTAS**  
*Chief Deputy Attorney General*  
**CHOLLA KHOURY**  
*Assistant Attorney General*  
**ZACHARY E. OGAZ**

[hbalderas@nmag.gov](mailto:hbalderas@nmag.gov)  
[tmaestas@nmag.gov](mailto:tmaestas@nmag.gov)  
[ckhoury@nmag.gov](mailto:ckhoury@nmag.gov)  
[zogaz@nmag.gov](mailto:zogaz@nmag.gov)  
[psalazar@nmag.gov](mailto:psalazar@nmag.gov)  
(505) 239-4672

*Assistant Attorney General*  
STATE OF NEW MEXICO  
P.O. Drawer 1508  
Santa Fe, New Mexico 87501  
**PATRICIA SALAZAR** - Assistant

**MARCUS J. RAEL, JR.\***  
**LUIS ROBLES**  
**SUSAN BARELA**  
*Special Assistant Attorneys General*  
ROBLES, RAEL & ANAYA, P.C.  
500 Marquette Avenue NW, Suite 700  
Albuquerque, New Mexico 87102  
**CHELSEA SANDOVAL** - Paralegal  
**PAULINE WAYLAND** – Paralegal  
**BONNIE DEWITT** – Paralegal

[marcus@roblesrael.com](mailto:marcus@roblesrael.com)  
[luis@roblesrael.com](mailto:luis@roblesrael.com)  
[susan@roblesrael.com](mailto:susan@roblesrael.com)  
[chelsea@roblesrael.com](mailto:chelsea@roblesrael.com)  
[pauline@roblesrael.com](mailto:pauline@roblesrael.com)  
[bonnie@roblesrael.com](mailto:bonnie@roblesrael.com)  
(505) 242-2228

**BENNETT W. RALEY**  
**LISA M. THOMPSON**  
**MICHAEL A. KOPP**  
*Special Assistant Attorneys General*

[braley@troutlaw.com](mailto:braley@troutlaw.com)  
[lthompson@troutlaw.com](mailto:lthompson@troutlaw.com)  
[mkopp@troutlaw.com](mailto:mkopp@troutlaw.com)  
(303) 861-1963



TROUT RALEY  
1120 Lincoln Street, Suite 1600  
Denver, Colorado 80203

**JEFFREY WECHSLER**  
*Special Assistant Attorney General*  
MONTGOMERY & ANDREWS  
325 Paseo De Peralta  
Santa Fe, NM 87501  
**DIANA LUNA** – Paralegal

[jwechsler@montand.com](mailto:jwechsler@montand.com)  
(505) 986-2637

[dluna@montand.com](mailto:dluna@montand.com)

**JOHN DRAPER**  
*Special Assistant Attorney General*  
DRAPER & DRAPER LLC  
325 Paseo De Peralta  
Santa Fe, NM 87501  
**DONNA ORMEROD** – Paralegal

[john.draper@draperllc.com](mailto:john.draper@draperllc.com)  
(505) 570-4591

[donna.ormerod@draperllc.com](mailto:donna.ormerod@draperllc.com)

#### STATE OF COLORADO

**PHILIP J. WEISER**  
*Attorney General of Colorado*  
**ERIC R. OLSON**  
*Solicitor General*  
**LAIN LEONIAK**  
*Acting First Assistant Attorney General*  
**CHAD M. WALLACE\***  
*Senior Assistant Attorney General*  
**PRESTON V. HARTMAN**  
*Assistant Attorney General*  
COLORADO DEPARTMENT OF LAW  
Ralph Carr Judicial Center  
7<sup>th</sup> Floor  
1300 Broadway  
Denver, CO 80203  
**NAN EDWARDS**, Paralegal II

[eric.olson@coag.gov](mailto:eric.olson@coag.gov)

[chad.wallace@coag.gov](mailto:chad.wallace@coag.gov)  
(720) 508-6281 (direct)

[preston.hartman@coag.gov](mailto:preston.hartman@coag.gov)  
(720) 508-6257 (direct)

[nan.edwards@coag.gov](mailto:nan.edwards@coag.gov)

#### STATE OF TEXAS

**STUART SOMACH\***  
**ANDREW M. HITCHINGS**  
**ROBERT B. HOFFMAN**  
**FRANCIS M. GOLDSBERRY II**

[ssomach@somachlaw.com](mailto:ssomach@somachlaw.com)  
[ahitchings@somachlaw.com](mailto:ahitchings@somachlaw.com)  
[rhoffman@somachlaw.com](mailto:rhoffman@somachlaw.com)  
[mgoldsberry@somachlaw.com](mailto:mgoldsberry@somachlaw.com)

**THERESA C. BARFIELD**  
**SARAH A. KLAHN**  
**BRITTANY K. JOHNSON**  
**RICHARD S. DEITCHMAN**  
SOMACH SIMMONS & DUNN, PC  
500 Capital Mall, Suite 1000  
Sacramento, CA 95814-2403  
**CORENE RODDER - Secretary**  
**CRYSTAL RIVERA - Secretary**  
**CHRISTINA GARRO – Paralegal**  
**YOLANDA DE LA CRUZ - Paralegal**

[tbarfield@somachlaw.com](mailto:tbarfield@somachlaw.com)  
[sklahn@somachlaw.com](mailto:sklahn@somachlaw.com)  
[bjohnson@somachlaw.com](mailto:bjohnson@somachlaw.com)  
[rdeitchman@somachlaw.com](mailto:rdeitchman@somachlaw.com)  
(916) 446-7979  
(916) 803- 4561 (cell)  
  
[crodder@somachlaw.com](mailto:crodder@somachlaw.com)  
[crivera@somachlaw.com](mailto:crivera@somachlaw.com)  
[cgarro@somachlaw.com](mailto:cgarro@somachlaw.com)  
[ydelacruz@somachlaw.com](mailto:ydelacruz@somachlaw.com)

**KEN PAXTON**  
*Attorney General*  
**JEFFREY C. MATEER**  
*First Assistant Attorney General*  
**DARREN L. McCARTY**  
*Deputy Attorney General for Civil Litigation*  
**PRISCILLA M. HUBENAK**  
*Chief, Environmental Protection Division*  
OFFICE OF ATTORNEY GENERAL  
OF TEXAS  
P.O. Box 12548  
Austin, TX 78711-2548

(512) 463-2012  
(512) 457-4644 Fax

[Priscilla.Hubenak@oag.texas.gov](mailto:Priscilla.Hubenak@oag.texas.gov)

**AMICI / FOR INFORMATIONAL PURPOSES ONLY**

**ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY**

**JAMES C. BROCKMANN\***  
**JAY F. STEIN**  
STEIN & BROCKMANN, P.A.  
P.O. Box 2067  
Santé Fe, New Mexico 87504  
**Administrative Copy**

(505) 983-3880  
[jcbrockmann@newmexicowaterlaw.com](mailto:jcbrockmann@newmexicowaterlaw.com)  
[jfstein@newmexicowaterlaw.com](mailto:jfstein@newmexicowaterlaw.com)  
[administrator@newmexicowaterlaw.com](mailto:administrator@newmexicowaterlaw.com)

**PETER AUH**  
ALBUQUERQUE BERNALILLO COUNTY  
WATER UTILITY AUTHORITY  
P.O. Box 568  
Albuquerque, NM 87103-0568

(505) 289-3092  
[pauh@abcwua.org](mailto:pauh@abcwua.org)

**CITY OF EL PASO**

**DOUGLAS G. CAROOM\***  
**SUSAN M. MAXWELL**  
BICKERSTAFF HEATH DELGADO  
ACOSTA, LLP  
2711 S. MoPac Expressway  
Building One, Suite 300  
Austin, TX 78746

(512) 472-8021  
[dcaroom@bickerstaff.com](mailto:dcaroom@bickerstaff.com)  
[smaxwell@bickerstaff.com](mailto:smaxwell@bickerstaff.com)

**CITY OF LAS CRUCES**

**JAY F. STEIN \***  
**JAMES C. BROCKMANN**  
STEIN & BROCKMANN, P.A.  
P.O. Box 2067  
Santé Fe, New Mexico 87504  
**Administrative Copy**

(505) 983-3880  
[jcbrockmann@newmexicowaterlaw.com](mailto:jcbrockmann@newmexicowaterlaw.com)  
[jfstein@newmexicowaterlaw.com](mailto:jfstein@newmexicowaterlaw.com)  
[administrator@newmexicowaterlaw.com](mailto:administrator@newmexicowaterlaw.com)

**JENNIFER VEGA-BROWN**  
**ROBERT CABELLO**  
LAW CRUCES CITY ATTORNEY'S OFFICE  
P.O. Box 20000  
Las Cruces, New Mexico 88004

(575) 541-2128  
[jvega-brown@las-cruces.org](mailto:jvega-brown@las-cruces.org)  
[rcabello@las-cruces.org](mailto:rcabello@las-cruces.org)

**ELEPHANT BUTTE IRRIGATION DISTRICT**

**SAMANTHA R. BARNCastle\***  
BARNCastle LAW FIRM, LLC  
1100 South Main, Suite 20 (88005)  
P.O. Box 1556  
Las Cruces, NM 88004

(575) 636-2377  
(575) 636-2688 (fax)  
[samantha@h2o-legal.com](mailto:samantha@h2o-legal.com)

**JANET CORRELL – Paralegal**

[janet@h2o-legal.com](mailto:janet@h2o-legal.com)

**EL PASO COUNTY WATER IMPROVEMENT DISTRICT NO. 1**

**MARIA O'BRIEN\***  
**SARAH M. STEVENSON**  
MODRALL, SPERLING, ROEHL, HARRIS  
& SISK, PA  
500 Fourth Street N.W., Suite 1000

(505) 848-1803 (direct)  
[mobrien@modrall.com](mailto:mobrien@modrall.com)  
[sarah.stevenson@modrall.com](mailto:sarah.stevenson@modrall.com)

Albuquerque, New Mexico 87103-2168  
**CHARLIE PADILLA – Legal Assistant**

[charliep@modrall.com](mailto:charliep@modrall.com)

**RENEA HICKS**  
LAW OFFICE OF MAX RENEA HICKS  
P.O.Box 303187  
Austin, TX 78703-0504

[rhicks@renea-hicks.com](mailto:rhicks@renea-hicks.com)  
(512)480-8231

**HUDSPETH COUNTY CONSERVATION AND RECLAMATION DISTRICT NO. 1**

**ANDREW S. “DREW” MILLER\***  
KEMP SMITH LLP  
919 Congress Avenue, Suite 1305  
Austin, TX 78701

(512) 320-5466  
[dmiller@kempsmith.com](mailto:dmiller@kempsmith.com)

**STATE OF KANSAS**

**DEREK SCHMIDT**  
*Attorney General of Kansas*  
**JEFFREY A. CHANAY**  
*Chief Deputy Attorney General*  
**TOBY CROUSE\***  
*Solicitor General of Kansas*  
**BRYAN C. CLARK**  
*Assistant Solicitor General*  
**DWIGHT R. CARSWELL**  
*Assistant Attorney General*  
120 S. W. 10th Ave., 2nd Floor  
Topeka, KS 66612

(785) 296-2215  
[toby.crouse@ag.ks.gov](mailto:toby.crouse@ag.ks.gov)  
[bryan.clark@ag.ks.gov](mailto:bryan.clark@ag.ks.gov)

**NEW MEXICO PECAN GROWERS**

**TESSA T. DAVIDSON\***  
DAVIDSON LAW FIRM, LLC  
4206 Corrales Road  
P.O. Box 2240  
Corrales, NM 87048  
**JO HARDEN – Paralegal**

[ttd@tessadavidson.com](mailto:ttd@tessadavidson.com)  
(505) 792-3636

[jo@tessadavidson.com](mailto:jo@tessadavidson.com)

**NEW MEXICO STATE UNIVERSITY**

**JOHN W. UTTON\***  
UTTON & KERY, P.A.  
P.O. Box 2386  
Santa Fe, New Mexico 87504

(505) 699-1445  
[john@uttonkery.com](mailto:john@uttonkery.com)

*General Counsel*  
New Mexico State University  
Hadley Hall Room 132  
2850 Weddell Road  
Las Cruces, NM 88003

[gencounsel@nmsu.edu](mailto:gencounsel@nmsu.edu)  
(575) 646-2446

**SOUTHERN RIO GRANDE DIVERSIFIED CROP FARMERS ASSOCIATION**

**ARNOLD J. OLSEN\***  
HENNIGHAUSEN OLSEN & MCCREA, L.L.P.  
P.O. Box 1415  
Roswell, NM 88202-1415  
**Malina Kauai, Paralegal**  
**Rochelle Bartlett, Legal Assistant**

(575) 624-2463  
[ajolsen@h2olawyers.com](mailto:ajolsen@h2olawyers.com)  
[mkauai@h2olawyers.com](mailto:mkauai@h2olawyers.com)  
[rbartlett@h2olawyers.com](mailto:rbartlett@h2olawyers.com)