

July 15, 2021

Via Electronic Mail

Honorable Michael J. Melloy
Special Master, U.S. Circuit Judge
United States Courthouse
111 Seventh Avenue, S.E.
P.O. Box 22
Cedar Rapids, IA 52401
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
Response to Special Master's Questions Regarding Texas's Supplemental Complaint

Dear Special Master Melloy:

On June 24, 2021, the State of Texas (Texas) filed its Motion for Leave to File Supplemental Complaint, the Supplemental Complaint, and the Brief in Support of Motion for Leave to File the Supplemental Complaint. As Texas indicated during the July 1, 2021 Status Conference, Texas intends to pursue its Supplemental Complaint regardless of whether it is done through the motion now pending before the Special Master or through a direct Petition to the Supreme Court. Because the claims in the original and supplemental complaint are intertwined, the most efficient course would be for the Special Master to consider the claims rather than requiring Texas to petition the Supreme Court.

In any event, the Special Master has asked the Parties and amici to file a "response" limited to the issue of how the proposed amendment would affect the current lawsuit, whether new parties, new amici, new discovery, etc., would be required. Following is Texas's views on these questions:

First, the proposed Supplemental Complaint would add additional issues to the current lawsuit. Those issues, however, are directly related to the current lawsuit and are premised on the same basic theory as the original complaint. Therefore, the Supplemental Complaint would have only a limited effect on the lawsuit. In this regard, the Supplemental Complaint need not affect the current trial date and trial already scheduled in this lawsuit. The current evidentiary issues have already been bifurcated with a second trial on damages and remedy needed after the initial evidentiary trial is conducted starting on September 13, 2021. Texas assumes that the issues raised in the Supplemental Complaint could be heard either before or

Honorable Michael J. Melloy

RE: *State of Texas v. State of New Mexico and State of Colorado*

July 15, 2021

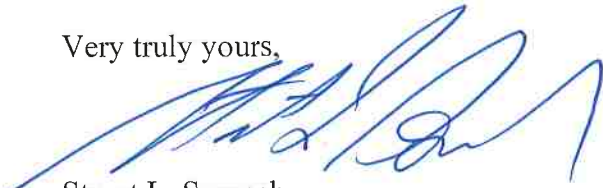
Page 2

as part of the evidentiary trial on remedies and damages. Additionally, Texas believes that the issues raised in the Supplemental Complaint could best be dealt with through summary judgment.

Second, no new Parties would be involved in the lawsuit. All Parties that would be involved in the trial on issues raised in the Supplemental Complaint are already involved in the lawsuit. Those Parties are the Compacting States and the United States. No new Parties would be permitted in this Original Action. The case already involves numerous amici and one would assume that all of those amici would also be involved in addressing the Supplemental Complaint. Additional Colorado amici might also want to be involved as well as additional Middle Rio Grande interests. Whether those additional interests are allowed amici status is at the discretion of the Court and Special Master.

Third, as noted above, Texas believes that the “trial” addressing the issues raised in the Supplemental Complaint could be dealt with through summary judgment. The dispute revolves primarily on Compact interpretation and that interpretation involves unambiguous provisions of the Compact. The factual issues upon which the dispute revolves are largely if not entirely undisputed. Nonetheless, New Mexico and/or Colorado may wish to undertake discovery on these issues. One would assume that this would occur during discovery on remedies and damages.

Very truly yours,



Stuart L. Somach
Counsel of Record
State of Texas

cc: All counsel for parties and amici (see attached service list)

Texas v. New Mexico & Colorado docket:

TxvNM141@ca8.uscourts.gov

SLS:cr

PARTIES¹
 (Service via Electronic Mail)

STATE	ATTORNEY & ADDRESS	PHONE & EMAIL
Texas	<p>STUART L. SOMACH* ANDREW M. HITCHINGS ROBERT B. HOFFMAN FRANCIS M. GOLDSBERRY II THERESA C. BARFIELD SARAH A. KLAHN BRITTANY K. JOHNSON RICHARD S. DEITCHMAN SOMACH SIMMONS & DUNN, PC 500 Capitol Mall, Suite 1000 Sacramento, CA 95814-2403</p> <p>KEN PAXTON <i>Attorney General of Texas</i> BRENT WEBSTER <i>First Assistant Attorney General</i> GRANT DORFMAN <i>Deputy First Assistant Attorney General</i> SHAWN COWLES <i>Deputy Attorney General for Civil Litigation</i> PRISCILLA M. HUBENAK* <i>Chief, Environmental Protection Div.</i> OFFICE OF THE ATTORNEY GENERAL OF TEXAS P.O. Box 12548 Austin, TX 78711-2548</p>	<p>(916) 446-7979 ssomach@somachlaw.com ahitchings@somachlaw.com rhoffman@somachlaw.com mgoldsberry@somachlaw.com tbarfield@somachlaw.com sklahn@somachlaw.com bjohnson@somachlaw.com rdeitchman@somachlaw.com</p> <p>Secretary: Corene Rodder crodder@somachlaw.com Secretary: Crystal Rivera crivera@somachlaw.com Paralegal: Yolanda De La Cruz ydelacruz@somachlaw.com</p> <p>(512) 463-2012 (512) 457-4644 Fax</p> <p>priscilla.hubenak@oag.texas.gov</p>

¹ (*) = *Counsel of Record*

In the Supreme Court of the United States, Original No. 141
State of Texas v. State of New Mexico and State of Colorado

New Mexico	<p>HECTOR H. BALDERAS New Mexico Attorney General TANIA MAESTAS Chief Deputy Attorney General CHOLLA KHOURY Assistant Attorney General ZACHARY E. OGAZ Assistant Attorney General STATE OF NEW MEXICO P.O. Drawer 1508 Santa Fe, NM 87501 Patricia Salazar – Assistant</p> <p>MARCUS J. RAEL, JR. * LUIS ROBLES SUSAN BARELA Special Assistant Attorneys General ROBLES, RAEL & ANAYA, P.C. 500 Marquette Ave. NW, Suite 700 Albuquerque, NM 87102 Chelsea Sandoval-Firm Administrator Pauline Wayland – Paralegal Bonnie DeWitt – Paralegal</p> <p>BENNET W. RALEY LISA M. THOMPSON MICHAEL A. KOPP Special Assistant Attorneys General TROUT RALEY 1120 Lincoln St., Suite 1600 Denver, CO 80203</p> <p>JEFFREY WECHSLER Special Assistant Attorney General MONTGOMERY & ANDREWS 325 Paseo De Peralta Santa Fe, NM 87501 Diana Luna - Paralegal</p> <p>JOHN DRAPER Special Assistant Attorney General DRAPER & DRAPER LLC 325 Paseo De Peralta Santa Fe, NM 87501 Donna Ormerod – Paralegal</p>	<p>hbalderas@nmag.gov</p> <p>tmaestas@nmag.gov</p> <p>ckhoury@nmag.gov</p> <p>zogaz@nmag.gov (505) 239-4672</p> <p>psalazar@nmag.gov</p> <p>marcus@roblesrael.com luis@roblesrael.com susan@roblesrael.com (505) 242-2228</p> <p>chelsea@roblesrael.com pauline@roblesrael.com bonnie@roblesrael.com</p> <p>braley@troutlaw.com lthompson@troutlaw.com mkopp@troutlaw.com (303) 861-1963</p> <p>jwechsler@montand.com (505) 986-2637</p> <p>dluna@montand.com</p> <p>john.draper@draperllc.com (505) 570-4591</p> <p>donna.ormerod@draperllc.com</p>
------------	---	---

In the Supreme Court of the United States, Original No. 141
State of Texas v. State of New Mexico and State of Colorado

Colorado	PHILIP J. WEISER Colorado Attorney General ERIC R. OLSON Colorado Solicitor General LAIN LEONIAK Acting First Asst. Attorney General CHAD M. WALLACE* Senior Assistant Attorney General PRESTON V. HARTMAN Assistant Attorney General COLORADO DEPARTMENT OF LAW Ralph Carr Judicial Center 7th Floor 1300 Broadway Denver, CO 80203 Nan Edwards – Paralegal II	eric.olson@coag.gov chad.wallace@coag.gov (720) 508-6281 (direct) preston.hartman@coag.gov (720) 508-6257 (direct) nan.edwards@coag.gov
-----------------	--	--

In the Supreme Court of the United States, Original No. 141
State of Texas v. State of New Mexico and State of Colorado

<p>United States</p>	<p>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. DEPT. OF JUSTICE 950 Pennsylvania Ave, NW Washington, DC 20530-0001</p> <p>JAMES J. DUBOIS* R. LEE LEININGER U.S. DEPT. OF JUSTICE Environment & Natural Resources Div. 999 18th Street South Terrace – Suite 370 Denver, CO 80202 Seth C. Allison, Paralegal</p> <p>JUDITH E. COLEMAN JENNIFER A. NAJJAR U.S. DEPT. OF JUSTICE Environment & Natural Resources Div. P.O. Box 7611 Washington, DC 20044-7611</p>	<p>supremectbriefs@usdoj.gov (202) 514-2217</p> <p>james.dubois@usdoj.gov (303) 844-1375 lee.leininger@usdoj.gov (303) 844-1364</p> <p>seth.allison@usdoj.gov (303) 844-7917</p> <p>judith.coleman@usdoj.gov (202) 514-3553 jennifer.najjar@usdoj.gov (202) 305-0476</p>
-----------------------------	---	---

AMICI

AMICI	ATTORNEY AND ADDRESS	PHONE & EMAIL
<p>Albuquerque Bernalillo County Water Utility Authority</p>	<p>JAY F. STEIN JAMES C. BROCKMANN* STEIN & BROCKMANN, P.A. P.O. Box 2067 Santa Fe, NM 87504 Administrative Copy</p> <p>PETER AUH Albuquerque Bernalillo County Water Utility Authority P.O. Box 568 Albuquerque, NM 87103-0568</p>	<p>jfstein@newmexicowaterlaw.com jcbrockmann@newmexicowaterlaw.com (505) 983-3880</p> <p>administrator@newmexicowaterlaw.com</p> <p>pauh@abcwua.org (505) 289-3092</p>
<p>City of El Paso</p>	<p>DOUGLAS G. CAROOM* SUSAN M. MAXWELL BICKERSTAFF HEATH DELGADO ACOSTA LLP 3711 S. MoPac Expressway Building One, Suite 300 Austin, TX 78746</p>	<p>dcaroom@bickerstaff.com smaxwell@bickerstaff.com (512) 472-8021</p>
<p>City of Las Cruces</p>	<p>JAY F. STEIN* JAMES C. BROCKMANN STEIN & BROCKMANN, P.A. P.O. Box 2067 Santa Fe, NM 87504 Administrative Copy</p> <p>JENNIFER VEGA-BROWN ROBERT CABELLO LAS CRUCES CITY ATTORNEY'S OFFICE P.O. Box 20000 Las Cruces, NM 88004</p>	<p>jfstein@newmexicowaterlaw.com jcbrockmann@newmexicowaterlaw.com (505) 983-3880</p> <p>administrator@newmexicowaterlaw.com</p> <p>jvega-brown@las-cruces.org rcabello@las-cruces.org (575) 541-2128</p>

In the Supreme Court of the United States, Original No. 141
State of Texas v. State of New Mexico and State of Colorado

<p>El Paso County Water Improvement District No. 1</p>	<p>MARIA O'BRIEN* SARAH STEVENSON MODRALL, SPERLING, ROEHL, HARRIS & SISK, P.A. 500 Fourth Street N.W., Suite 1000 Albuquerque, NM 87103-2168 Charlie Padilla – Legal Assistant</p> <p>RENEA HICKS LAW OFFICE OF MAX RENEA HICKS P.O. Box 303187 Austin, TX 78703-0504</p>	<p>mobrien@modrall.com sarah.stevenson@modrall.com (505) 848-1803 (direct)</p> <p>CharlieP@modrall.com</p> <p>rhicks@renea-hicks.com (512) 480-8231</p>
<p>Elephant Butte Irrigation District</p>	<p>SAMANTHA R. BARNCASTLE* BARNCASTLE LAW FIRM, LLC 1100 South Main, Suite 20 (88005) P.O. Box 1556 Las Cruces, NM 88004 Janet Correll - Paralegal</p>	<p>samantha@h2o-legal.com (575) 636-2377 Fax: (575) 636-2688</p> <p>janet@h2o-legal.com</p>
<p>Hudspeth County Conservation and Reclamation District No. 1</p>	<p>ANDREW S. "DREW" MILLER* KEMP SMITH LLP 919 Congress Ave., Suite 1305 Austin, TX 78701</p>	<p>dmiller@kempsmith.com (512) 320-5466</p>
<p>New Mexico Pecan Growers</p>	<p>TESSA T. DAVIDSON* DAVIDSON LAW FIRM, LLC 4206 Corrales Rd. P.O. Box 2240 Corrales, NM 87048 Jo Harden - Paralegal</p>	<p>ttd@tessadavidson.com (505) 792-3636</p> <p>jo@tessadavidson.com</p>

In the Supreme Court of the United States, Original No. 141
State of Texas v. State of New Mexico and State of Colorado

<p>New Mexico State University</p>	<p>JOHN W. UTTON* UTTON & KERY, P.A. P.O. Box 2386 Santa Fe, NM 87504</p> <p>General Counsel Hadley Hall Room 132 2850 Weddell Road Las Cruces, NM 88003</p>	<p>john@uttonkery.com (505) 699-1445</p> <p>gencounsel@nmsu.edu (575) 646-2446</p>
<p>State of Kansas</p>	<p>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 Solicitor General 120 S.W. 10th Ave., 2nd Floor Topeka, KS 66612</p>	<p>toby.crouse@ag.ks.gov (785) 296-2215 bryan.clark@ag.ks.gov</p>
<p>Southern Rio Grande Diversified Crop Farmers Association</p>	<p>ARNOLD J. OLSEN* HENNIGHAUSEN OLSEN & McCREA, L.L.P. P. O. Box 1415 Roswell, NM 88202-1415</p> <p>Malina Kauai – Paralegal Rochelle Bartlett – Legal Assistant</p>	<p>ajolsen@h2olawyers.com (575) 624-2463</p> <p>mkauai@h2olawyers.com rbartlett@h2olawyers.com</p>