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July 22, 2020

Via Electronic Mail Only

Special Master Michael J. Melloy
United States Courthouse
111 Seventh Avenue, S.E.
P.O. Box 22
Cedar Rapids, IA 52401
Email: TXvNM141@ca8.uscourts.gov

Re: Status Conference Report
State of Texas v. State of New Mexico and State of Colorado
United States Supreme Court, Original Jurisdiction No. 141

Dear Special Master Melloy:

The following are matters that the State of Texas would like to discuss during Friday's Status Conference:

1. As you are aware, the Parties have been engaged in extensive and comprehensive discovery. Consistent with the CMP and Special Master Orders, New Mexico disclosed sur-rebuttal expert reports on June 15, 2020, and on July 15, 2020. The July 15, 2020 sur-rebuttal reports dealt with hydrological modeling, but New Mexico also included additional expert reports that supplemented reports that had previously been filed on June 15, 2020.

The July 15, 2020 sur-rebuttal materials were extensive and included ten reports and the disclosure of one new expert witness. In addition, the background data produced was voluminous, including, among other data, two computer hard drives with about 14 TB of data.

The Texas experts and attorneys are in the process of reviewing these materials and at this point have been unable to determine if these materials include new information or other information that would require Texas to disclose Supplemental Reports. We are working to make this determination within the next two weeks. In the event that we determine that Supplemental Reports are necessary and the length of time needed to complete those reports, we would like to discuss the process that you would like us to follow in disclosing these Supplemental Reports. We assume, of course, if Supplemental Reports are filed, that the

other Parties to this litigation would have the opportunity to depose the relevant expert on the limited issues dealt with in the Supplemental Reports. I emphasize that at this point we are uncertain if the filing of Supplemental Reports by Texas will be necessary.

It is our understanding that New Mexico may file a motion on this matter.

2. The second subject that we would like to discuss during the Status Conference is qualitatively different than the first: Texas has proceeded with discovery under the assumption that those involved would act ethically. In some depositions, there have been over 30 participants in attendance from Parties and amici, both lawyers and non-lawyers. During Texas Rio Grande Compact Commissioner Gordon's deposition, one of the participants videotaped, with their telephone, Mr. Gordon's response to a specific question, out of context, and then disseminated the pirated video broadly within the Elephant Butte Irrigation District (EBID). This dissemination was clearly intended to sway the policy of EBID related to this litigation. While Parties are free to argue any policy points to whomever they wish, it is inappropriate to abuse one's status as a participant in a deposition to embarrass or attempt to embarrass a deponent. Texas would like to address this issue during the Friday Status Conference.

Respectfully submitted,



Stuart L. Somach
Counsel of Record
State of Texas

cc: Attached service list
SLS:cr

SERVICE LIST FOR ALL PARTIES AND AMICI CURIAE

—◆—
(Service via Electronic Mail)

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