

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

**DECLARATION OF RICHARD S. DEITCHMAN IN SUPPORT OF THE
STATE OF TEXAS'S REPLY IN SUPPORT OF
MOTIONS IN LIMINE**

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August 12, 2021

I, Richard S. Deitchman, declare as follows:

I am an attorney admitted to practice before the United States Supreme Court and am a shareholder with the law firm of Somach Simmons & Dunn, attorneys for the State of Texas in this matter. The following matters are within my personal knowledge and, if called as a witness, I can competently testify thereto.

1. Attached hereto as **Exhibit A** are true and correct copies of excerpts from Dr. Dana Hoag's Expert Report, dated October 31, 2019, Rebuttal Report, dated June 15, 2020, Supplemental Rebuttal Report, dated July 17, 2020, and Second Supplemental Rebuttal Report, dated September 15, 2020.

2. Attached hereto as **Exhibit B** is a true and correct copy of the State of New Mexico's Initial Disclosures dated August 3, 2018.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 12th day of August 2021, at Sacramento, California.



Richard S. Deitchman

EXHIBIT A

STATE OF TEXAS vs STATE OF NEW MEXICO AND STATE OF COLORADO,
No. 141 ORIGINAL.

Expert Report of Dr. Dana LK Hoag

October 31, 2019

Prepared for:
State of New Mexico

Prepared by:



Dr. Dana LK Hoag

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I. INTRODUCTION

My name is Dr. Dana Hoag. Detailed information about my career can be found in my curriculum vitae in Appendix C. I received my Bachelor's degree in Farm and Ranch Management and Master's degree in Agricultural Economics from Colorado State University in 1980 and 1981, respectively; I received my Ph.D. in Agricultural Economics from Washington State University in 1984. My first position was as an Assistant Professor, followed by Associate Professor, at North Carolina State University, with a 50-50 split between research and agricultural extension. I wrote my Dissertation about soil conservation economics and focused my career on resource issues related to farms, mostly soil, water, and wildlife. I moved on to a research-teaching position at Colorado State University after 9 years in North Carolina. I later added a policy dimension to my skill set, as policy issues were increasingly a factor in the work I do on natural resource issues related to production agriculture. I teach, or have taught, undergraduate and graduate level courses in policy, production, risk management, farm management, and environmental/resource economics.

Being an Extension Economics Specialist in North Carolina had an important influence on my career and opinions offered in this expert rebuttal report. Extension Specialists are responsible for helping county agents build educational programs. North Carolina State University had a large and experienced staff of Extension Economists. I learned a lot of practical, real-world lessons from these experts, and by working directly with farmers, about understanding farm economics, which I apply in the courses I instruct, research I conduct and in the opinions reflected herein.

I have now been a Professor in Agricultural Economics for over 30 years. I have been involved with a number of projects requiring analyses similar to those needed for this project. In 1989, I was invited to spend a year helping the U.S. Environmental Protection Agency, Office of Policy Analysis, with issues relating to how the "Farm Bill" effects the environment. I helped them analyze and understand how various parts of the Bill could be leveraged to enhance environmental quality, especially soil and water. During that time, I moderated a Congressional Policy Workshop on potential for agricultural chemical contamination in groundwater and was an invited speaker about sustainable agriculture for The Joint Economic Committee. I have been included in projects involving ground and surface water management and/or contamination, agricultural sustainability, livestock waste management, wildlife conflicts with farmers, soil conservation, conservation easements on farms and ranches, and agricultural policy.

I have worked on several regional water quantity/quality projects. For example, in Colorado I worked for many years with the Agricultural Research Service on projects involving water use and quality and on developing computer assisted decision aids that could be used to evaluate on-farm tradeoffs between pollution (e.g. groundwater contamination from nutrients or chemicals) and crop production. I worked on a similar, but much larger scale, project on nutrient management focused on the South Platte and Poudre river basins in Colorado to establish a center called CLEAN (<https://erams.com/clean>). The center develops educational programming and technologies to help farmers make environmentally friendly decisions related to nutrients (nitrogen and phosphorus). In another project, I worked in the Lower Arkansas River Basin (LARV) to help local water users resolve conflicts between water use and nitrogen and selenium contamination. I supervised a Ph.D. and Masters student that did their research on evaluating and solving tradeoffs in the LARV (e.g.

Orlando, 2017 and Sharp, 2017). We produced journal and Extension articles. One of those publications, which is most closely related to the technical economic issues in this project, was entitled "The Economics of Irrigation in Colorado's Lower Arkansas River Valley" (Osborn et. al, 2017). The LARV project concluded with two local full-day workshops on the economics of irrigation. All of our activities were coordinated with a local stakeholder group called the Arkansas River Management Action Committee, which provided me with advice and direction from local growers and water advisors.

My experience has resulted in multiple awards in teaching, research and extension. I have published over 120 refereed journal articles, 5 books, and over 170 other publications. I have been invited to present my ideas or findings over 75 times, and presented in professional settings over 275 times.

I am being compensated \$200/hr for my services, which is not dependent upon the outcome of this case. I have not provided deposition or court testimony within the last four (4) years.

II. ASSIGNMENT

Counsel for the State of New Mexico asked me to evaluate and comment on the economic analysis, findings and report prepared for the State of Texas in *Texas v. New Mexico and Colorado* No. 141, Original, which was prepared and submitted by Dr. David Sunding. Dr. Sunding's Expert Report provides estimates of alleged economic injury to Texas for the period of 1985 through 2016. My objective is to evaluate the veracity of these estimates. I formulate my rebuttal opinions, in part, upon information provided by Dr. Sunding, and other experts for the state of New Mexico, including Dr. Lewis Munk and Mr. Greg Sullivan of Spronk Water Engineers. Furthermore, I applied learnings from the District IV Rio Grande Water Master Ryan Serrano and farmers in the Rincon and Mesilla Basins in formulating my opinions on the alleged agricultural damages by Dr. Sunding. The Expert Report provided by Dr. Sunding examines farms in the El Paso County Water Improvement District Number 1 (EPCWID), Hudspeth County Conservation & Reclamation District 1 (HCCRD), and urban water consumers in the El Paso Municipal Utility (EPWU).

III. REBUTTAL OPINIONS

It was important for me to reproduce Dr. Sunding's key damage estimates in order to evaluate the veracity of relevant data, assumptions, and calculations. Some information about his data and calculations can be found in his report, but additional information is required. That information was found in Excel and other supplemental files that Dr. Sunding provided, which further relied on R files (a popular statistical package). I extracted information from R files that showed how key calculations in Sunding's Tables 1-6 were made, then adapted and annotated two Excel files that Dr. Sunding provided ("Tables in Report" and "cropchoice_results"), to create two supplemental Excel files that I provide as part of my report, "Economic Damage Analysis" and "R Table 6," respectively. A complete description of this process and detailed explanations of variables used and calculations that are made in Sunding-Tables 1-6 can be found in "Appendix A: Detailed Guide to Sunding Data and Calculations."

Dr. Sunding sums up crop damages in two main scenarios. The first scenario applies to crop yields

for historically irrigated acreage in EPCWID and HCCRD and presumes that damages are based on alleged elevated salt levels applied to crops that result from blending groundwater with surface water from the Rio Grande, with the presumption that groundwater pumped from the aquifers in the El Paso Valley are more saline than surface waters. The second scenario allows for the acreage in each major crop type to shift from presumed low economic value crops to high economic value crops in response to reduced salinity levels predicted if New Mexico reduces groundwater pumping by 60%. The hypothetical reduction of groundwater pumping in New Mexico by 60% was a prescribed amount provided by Dr. Hutchison to Dr. Sunding, without additional or independent analysis (Sunding, paragraph 3). Dr. Sunding also estimates damages to urban water consumers in the EPWU due to the elevated salts as the utility pumps more groundwater to offset alleged surface water losses.

Since actual damages cannot be observed, Dr. Sunding must estimate a hypothetical crop portfolio that might exist if New Mexico had reduced groundwater pumping by 60%. This requires him to develop estimates that are based on hypothetical data and assumptions. As I show throughout this report, and as documented and argued by other experts representing the State of New Mexico, the scope and accuracy of the data available, and assumptions and methods used, are insufficient to develop incontrovertible damage estimates, especially at the sub-regional scale.

The remainder of my opinions given below address the impact of critical data and/or assumptions on agricultural and urban damage estimates in Dr. Sunding's report. Since damages are highly dependent on presumed data and assumptions, I reserve the right to make additional computations at a later date if additional or subsequent findings in this case influence the basic assumptions of the Texas economic analysis.

Opinion 1 - Inaccurate assumptions about blending groundwater with surface water to meet irrigation demand

Dr. Sunding's damage estimates are based on a hypothetical increase in groundwater pumping in Texas to offset the claimed reduction in surface water from New Mexico. For agriculture, Dr. Sunding makes the assumption that all farmers in EPCWID and HCCRD mix ground and surface water at a constant rate over the entire growing season (paragraph 72). This conclusion conflicts with the actual practice of conjunctive surface and groundwater management applied by farmers in the Rincon, Mesilla and El Paso Valleys, as well as the general practice used by farmers in semi-arid areas in the western United States. Surface water is used when available in sufficient quantity and timing to meet irrigation demands. Groundwater is a supplemental water source, typically used when surface supplies are insufficient (in quantity or timing) for current needs because the cost of power and delivery is more expensive than surface water. Specifically, farmers in the El Paso Valley use supplemental groundwater to enable them to irrigate outside of the typical delivery season for surface water (e.g. March-September). For example, cotton farmers apply a "pre-irrigation," which occurs before surface water is delivered (e.g. see cotton enterprise budget in CARE, 2019). Ryan Serrano also explained that farmers will sometimes irrigate in the winter to drive down salts. Thus, mixing all groundwater and surface water in the region in a constant and consistent manner as described by Dr. Sunding is an exaggerated claim that overstates the adverse impacts of reduced crop yields in the El Paso Valley.

STATE OF TEXAS vs STATE OF NEW MEXICO and STATE OF COLORADO

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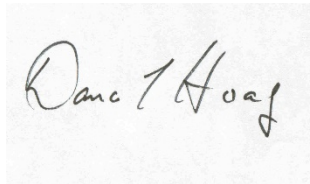
U.S. SUPREME COURT

REBUTTAL EXPERT REPORT

June 15, 2020

Prepared for:
State of New Mexico

by:

A handwritten signature in black ink, reading "Dana LK Hoag". The signature is written in a cursive, flowing style. The first name "Dana" is written in a larger, more prominent script, followed by "LK" and then "Hoag". The signature is centered within a rectangular box.

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No. 141 ORIGINAL,

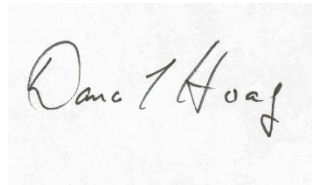
U.S. SUPREME COURT

SUPPLEMENTAL REBUTTAL EXPERT REPORT

July 17, 2020

Prepared for:
State of New Mexico

by:

A handwritten signature in black ink, reading "Dana LK Hoag". The signature is written in a cursive, flowing style. The first name "Dana" is written in a larger, more prominent script, followed by "LK" and then "Hoag". The signature is centered horizontally within the block.

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STATE OF TEXAS vs STATE OF NEW MEXICO and STATE OF COLORADO

No. 141 ORIGINAL,

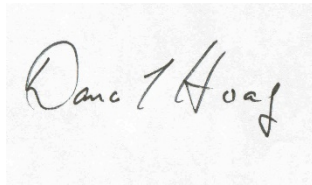
U.S. SUPREME COURT

SECOND SUPPLEMENTAL REBUTTAL REPORT

September 15, 2020

Prepared for:
State of New Mexico

by:

A handwritten signature in black ink, reading "Dana LK Hoag". The signature is written in a cursive style with a large, looped 'D' and a stylized 'H'.

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EXHIBIT B

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.

STATE OF NEW MEXICO'S INITIAL DISCLOSURES

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COMES NOW the State of New Mexico (“New Mexico”), pursuant to the Case Management Plan adopted April 24, 2018, as amended (“CMP”), and provides the following Initial Disclosures (“Disclosures”).

I. CMP Section 6.2.1.2 Disclosures: Rule 26(a)(1) Disclosure of Individuals or Entities Likely to have Discoverable Information and Subject of Information:

Appendix A to these Disclosures, incorporated herein by this reference, provides “the name, address, and telephone number of each individual, state, local, or federal agency, organization, political subdivision, or other entity likely to have discoverable information relevant to disputed facts alleged with particularity in the pleadings.” CMP § 6.2.1.2.

II. CMP Section 6.2.1.3 Disclosures: Rule 26(a)(1) Disclosure of Description by Category and Location of Documents, Data, etc:

Appendix B to these Disclosures, incorporated herein by this reference, provides “a description by category and location of all documents, data compilations, and tangible things in [New Mexico’s] possession, custody, or control that are relevant to disputed facts.” CMP § 6.2.1.3.

III. Supplementation:

These Disclosures are based on information presently known and reasonably available to New Mexico and which New Mexico reasonably believes may be relevant to disputed facts alleged with particularity in the pleadings. Continuing investigation and discovery may cause New Mexico to amend or supplement these Disclosures, including by identifying other potential witnesses or documents and by disclosing other pertinent information. New Mexico therefore reserves the right to supplement these Disclosures.

By providing these Disclosures, New Mexico does not represent that it is identifying every document, tangible thing, or individual with discoverable information possibly relevant to this action. In addition, these Disclosures do not constitute a waiver of any work product protection or privilege and are made without New Mexico in any way waiving its right to object to any discovery request or proceeding involving or relating to the subject matter of these Disclosures on any grounds, including competency, privilege, relevancy, materiality, hearsay, undue burden, confidentiality, or any other appropriate grounds. Furthermore, these Disclosures are not an admission by New Mexico regarding any matter. Each and every disclosure set forth herein is subject to the above qualifications and limitations.

These Disclosures do not include the names of experts retained by New Mexico for this litigation. New Mexico will provide information relating to experts pursuant to the Case Management Plan at the times provided therein.

Dated August 30, 2018 and respectfully submitted,

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Appendix A

Individuals and Entities Likely to Have Discoverable Information

This appendix contains “the name, address, and telephone number of each individual, state, local, or federal agency, organization, political subdivision, or other entity likely to have discoverable information relevant to disputed facts alleged with particularity in the pleadings, identifying separately the subjects of the information as to each person and entity listed.” Case Management Plan § 6.2.1.2.

Each and every one of the individuals, agencies, organizations, political subdivisions, and entities associated with the State of New Mexico should be contacted through New Mexico’s counsel:

c/o Marcus J. Rael, Jr., David Roman
Robles, Rael & Anaya P.C.
500 Marquette Avenue NW, Suite 700
Albuquerque, New Mexico 87102
Email: marcus@roblesrael.com, droman@roblesrael.com
Phone: 505-242-2228

With a copy to:

c/o Lisa M. Thompson, Michael A. Kopp
Trout Raley
1120 Lincoln Street, Suite 1600
Denver, Colorado 80203
Email: lthompson@troutlaw.com, mkopp@troutlaw.com
Phone: 303-861-1963

Individuals, agencies, organizations, political subdivisions, and entities not associated with the State of New Mexico should be contacted via the agency, organization, political subdivision, or entity with whom such individual, agency, organization, political subdivision or entity is affiliated, as provided herein or in the entry for that individual, agency, organization, political subdivision, or entity:

City of Las Cruces
700 North Main
Las Cruces, New Mexico 88001
Phone: 575-541-2000

Elephant Butte Irrigation District
530 South Melendres Street
Las Cruces, New Mexico 88005
Phone: 575-526-6671

United States Bureau of Reclamation
Albuquerque Area Office
555 Broadway Boulevard N.E., #100
Albuquerque, New Mexico 87102
Phone: 505-462-3540

United States Bureau of Reclamation
El Paso Field Office
10737 Gateway West, Suite 350
El Paso, Texas 79935
Phone: 915-534-6300

U.S. Section, International Boundary and Water Commission
4171 North Mesa, Suite C-100
El Paso, Texas 79902
Phone: 800-262-8857

Individuals Likely to Have Discoverable Information	Subjects of the Information for Individual
Barroll, Peggy Former Senior Hydrologist, Water Resource Allocation Program Technical Division New Mexico Office of the State Engineer	LRG hydrology, modeling, Project history, water rights and administration, 2008 Operating Agreement
Blaine, Tom State Engineer, New Mexico Office of the State Engineer	LRG water rights and administration, 2008 Operating Agreement
D'Antonio, John Former State Engineer, New Mexico Office of the State Engineer	LRG water rights and administration, 2008 Operating Agreement
Doremus, Dale Former LRG Project Manager, Rio Grande Bureau, New Mexico Interstate Stream Commission	LRG hydrology
Dorman, Sheldon Former LRG Water Master, Water Resource Allocation Program Water Rights Division, New Mexico Office of the State Engineer (Cimarron)	Well metering in the LRG, water rights and administration
Flanigan, Kevin Former Assistant for New Mexico Rio Grande Compact Engineer Adviser, Interstate Stream Commission	Interstate compact administration and accounting
Hall, Em Professor Emeritus, University of New Mexico Law School 1117 Stanford Drive N.E. MSC11 6070 1 University of New Mexico Albuquerque, New Mexico 87131 Phone: 505-277-2146	Compact history, LRG history
Hangen, James LRG Hydrographic Survey Manager, Litigation and Adjudication Program, New Mexico Office of the State Engineer (Las Cruces)	Water rights mapping, irrigated land delineation, LRG Hydrographic Survey
Hawley, John Principal at Hawley Geomatters (retired) Formerly New Mexico Bureau of Geology and Mineral Resources 1000 Vassar Drive N.E. Albuquerque, New Mexico 87106 Phone: 505-255-4847	LRG geology, LRG hydrogeology

Lewis, Greg Former LRG Basin Manager, New Mexico Interstate Stream Commission	Monitoring wells, data collection and calculation, EBID relationship, well metering in LRG, Texas communications
Littlefield, Douglas R. Littlefield Historical Research 6207 Snake Road Oakland, California 94611 Phone: 510-339-1017	LRG history, Project history
Longworth, John Executive Director, New Mexico Interstate Stream Commission New Mexico Rio Grande Compact Engineer Adviser	Interstate compact administration and accounting, Consumptive irrigation requirement/evapotranspiration, LRG adjudication, LRG water use, 2008 Operating Agreement
Lopez, Estevan Former Executive Director, New Mexico Interstate Stream Commission, Former Commissioner, Bureau of Reclamation	Interstate compact administration and accounting
Magnuson, Molly Water Use and Conservation Bureau Chief, Water Resource Allocation Program Technical Division, New Mexico Office of the State Engineer	Consumptive irrigation requirement/evapotranspiration, crop survey
Mendoza, Andrea District IV Manager, Water Resource Allocation Program Water Rights Division, New Mexico Office of the State Engineer (Las Cruces)	Water rights and administration
Musharrafieh, Ghassan, Hydrology Bureau Chief, Water Resource Allocation Program Technical Division, New Mexico Office of the State Engineer	LRG hydrology
Romero, John Water Resource Allocation Program Water Rights Division Director, New Mexico Office of the State Engineer	Water rights and administration, WATERS Database
Schmidt-Petersen, Rolf Former Compact Engineer Adviser and Rio Grande River Bureau Chief, Current Colorado River Program Manager, New Mexico Interstate Stream Commission	Interstate compact administration and accounting, credit water releases, compact history, Project history and operations, 2008 Operating Agreement

Serrano, Ryan LRG Water Master, Water Resource Allocation Program Water Rights Division, New Mexico Office of the State Engineer (Las Cruces)	Well metering, data collection and computation, water rights and administration, LRG water use
Shafike, Nabil Former Rio Grande Bureau Technical Lead, New Mexico Interstate Stream Commission, Currently with U.S. Army Corps of Engineers	Interstate compact administration and accounting, LRG modeling, Project operations, Project allocations, 2008 Operating Agreement
Stageman, Christopher Compact Administration and Accounting Lead New Mexico Interstate Stream Commission	Compact administration, Compact accounting
Stokes, Cindy GIS Project Manager, Rio Grande Bureau, New Mexico Interstate Stream Commission (Albuquerque)	GIS mapping, water rights mapping, data collection and computation, LRG Crop Survey
Thacker, Cheryl, LRG Basin Supervisor, Water Resource Allocation Program Water Rights Division, New Mexico Office of the State Engineer (Las Cruces)	Water rights and administration
Verhines, Scott Former State Engineer, New Mexico Office of the State Engineer	Water resource management, water rights and administration
Esslinger, Gary Treasurer-Manager, Elephant Butte Irrigation District	EBID operations
Faubion, Robert McNamee, Mike Franzoy, Jerry Salopek, Sam Salopek, James Kuykendall, Bob Lack, Joe Paul Daviet, Geg Sloan, Robert Board Members, Elephant Butte Irrigation District	EBID operations
Fuchs, Erek Groundwater Resource Manager Elephant Butte Irrigation District	EBID groundwater management, LRG hydrology

King, Phil Consulting Engineer Elephant Butte Irrigation District	2008 Operating Agreement, EBID operations, EBID groundwater
Narrez, James Hydrologist Elephant Butte Irrigation District	2008 Operating Agreement, EBID operations
Farmers, to be identified Elephant Butte Irrigation District	2008 Operating Agreement, EBID operations, farming practices
Garcia, Jorge Directory of Utilities, City of Las Cruces	Las Cruces water use and planning
Cortez, Filiberto Bureau of Reclamation	LRG modeling, Project reservoir operations, Project allocations, 2008 Operating Agreement, credit water release
Donnelly, Carolyn Bureau of Reclamation	Interstate compact administration and accounting, credit water release
Estrada-Lopez, Michelle Bureau of Reclamation	LRG modeling, Project operations, Project allocations, 2008 Operating Agreement, credit water release
Faler, Jennifer Bureau of Reclamation	Interstate compact administration and accounting, LRG modeling, Project operations, Project allocations, 2008 Operating Agreement, credit water release
Ferguson, Ian Bureau of Reclamation	LRG modeling, Project operations, Project allocations, 2008 Operating Agreement, credit water release
Hamman, Mike Director, Middle Rio Grande Conservancy District Former Albuquerque Area Manager, Bureau of Reclamation	2008 Operating Agreement, Credit water release
Treers, Wayne Bureau of Reclamation	Project operations
Woodruff, Leann Bureau of Reclamation	Interstate compact administration and accounting, credit water release
Drusina, Edward Former Commissioner, U.S. Section, International Boundary and Water Commission	Deliveries to Mexico, Canalization Project, sedimentation
Finn, William Supervisory Hydrologist U.S. Section, International Boundary and Water Commission	Mexico water use and operations, river gaging

Peña, Carlos Principal Engineer - Operations U.S. Section, International Boundary and Water Commission	Canalization Project, sedimentation
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Entities Likely to Have Discoverable Information	Subjects of Information for Entity
New Mexico Office of the State Engineer	Data collection and calculation, LRG adjudication, LRG hydrology, water resource management, water rights and administration, water rights mapping, water user relationships, well metering in LRG
New Mexico Interstate Stream Commission	LRG hydrology, Engineering Advising, 2008 Operating Agreement, Compact accounting, Compact administration, Compact history, data collection and calculation, interstate compact administration, interstate compact disputes, Texas negotiations
City of Las Cruces, New Mexico	Las Cruces water use and planning
New Mexico Pecan Growers Association	Farming practices, irrigation efficiency, pecan cultivation
Southern Rio Grande Diversified Crop Farmers Association	Farming practices, irrigation efficiency
New Mexico State University	Data collection and calculation, farm practices, irrigation efficiency, LRG geology, LRG hydrology, LRG water use, water resource management
Elephant Butte Irrigation District	EBID groundwater, EBID operations, farming practices, irrigation wells, irrigation efficiency, LRG water use, Project allocations, Project history, Project operations
Rio Grande Compact Commission	Compact accounting, Compact administration, Compact history, credit water releases
Third Judicial District Court of New Mexico	LRG adjudication, water rights and administration

Along with the following:

1. Individuals, agencies, organizations, political subdivisions, or other entities located in or under the control of the State of Texas.

2. Individuals, agencies, organizations, political subdivisions, or other entities located in or under the control of the State of Colorado.
3. Individuals, agencies, organizations, political subdivisions, or other entities under the control of the United States government.

Appendix B

Categories of Discoverable Information

This appendix contains “a description by category and location of all documents, data compilations, and tangible things in [New Mexico’s] possession, custody, or control that are relevant to disputed facts.” Case Management Plan § 6.2.1.3.

Each and every one of the individuals, agencies, organizations, political subdivisions, and entities associated with the State of New Mexico, and any associated document requests, should be contacted through New Mexico counsel:

c/o Marcus J. Rael, Jr., David Roman
Robles, Rael & Anaya P.C.
500 Marquette Avenue NW, Suite 700
Albuquerque, New Mexico 87102
Email: marcus@roblesrael.com, droman@roblesrael.com
Phone: 505-242-2228

With a copy to:

c/o Lisa M. Thompson, Michael A. Kopp
Trout Raley
1120 Lincoln Street, Suite 1600
Denver, Colorado 80203
Email: lthompson@troutlaw.com, mkopp@troutlaw.com
Phone: 303-861-1963

Note: As used herein, “LRG Compact Area” means the Rio Grande Basin from Elephant Butte Reservoir to Fort Quitman, Texas.

Category of Relevant Information in New Mexico’s Control	Locations
Rio Grande Compact: accounting, credit water, history, gaging station information, negotiation, operations	<p>New Mexico Interstate Stream Commission Bataan Memorial Building 407 Galisteo Street Suite 101 Santa Fe, NM 87501</p> <p>New Mexico Office of the State Engineer 130 South Capitol Street Concha Ortiz y Pino Building Santa Fe, NM 87504</p> <p>New Mexico Office of the State Engineer 5550 San Antonio Drive NE Albuquerque, NM 87109</p>
Rio Grande Project: accounting, allocations, construction, contracts, history, infrastructure, operations (reservoir data, distribution records), records	<p>New Mexico Interstate Stream Commission Bataan Memorial Building 407 Galisteo Street Suite 101 Santa Fe, NM 87501</p>
2008 Operating Agreement: background, communications, carryover, drafts	<p>New Mexico Interstate Stream Commission Bataan Memorial Building 407 Galisteo Street Suite 101 Santa Fe, NM 87501</p>
Well data – LRG Compact Area: casing, depth, elevation, inspection reports, location, meter readings, pumping records, permits, permit applications	<p>New Mexico Interstate Stream Commission Bataan Memorial Building 407 Galisteo Street Suite 101 Santa Fe, NM 87501</p> <p>New Mexico Office of the State Engineer 130 South Capitol Street Concha Ortiz y Pino Building Santa Fe, NM 87504</p> <p>New Mexico Office of the State Engineer 5550 San Antonio Drive NE Albuquerque, NM 87109</p>

	<p>New Mexico Office of the State Engineer – Water Rights Division District IV 1680 Hickory Loop – Suite J Las Cruces, NM 88005</p>
City of El Paso: contracts with, water use	<p>New Mexico Interstate Stream Commission Bataan Memorial Building 407 Galisteo Street Suite 101 Santa Fe, NM 87501</p>
Cropping data (New Mexico): crop types, crop surveys, consumptive irrigation requirement/evapotranspiration	<p>New Mexico Interstate Stream Commission Bataan Memorial Building 407 Galisteo Street Suite 101 Santa Fe, NM 87501</p> <p>New Mexico Office of the State Engineer 130 South Capitol Street Concha Ortiz y Pino Building Santa Fe, NM 87504</p> <p>New Mexico Office of the State Engineer 5550 San Antonio Drive NE Albuquerque, NM 87109</p> <p>New Mexico Office of the State Engineer – Water Rights Division District IV 1680 Hickory Loop – Suite J Las Cruces, NM 88005</p>
Elephant Butte Irrigation District: history, reports, correspondence with, contracts with	<p>New Mexico Interstate Stream Commission Bataan Memorial Building 407 Galisteo Street Suite 101 Santa Fe, NM 87501</p> <p>Elephant Butte Irrigation District 530 South Melendres Street Las Cruces, NM 88005</p> <p>New Mexico Office of the State Engineer – Water Rights Division District IV 1680 Hickory Loop – Suite J Las Cruces, NM 88005</p>
El Paso County Water Improvement District No. 1: history, reports, correspondence with, contracts with	<p>New Mexico Interstate Stream Commission Bataan Memorial Building 407 Galisteo Street Suite 101</p>

	Santa Fe, NM 87501
Hudspeth County Conservation and Reclamation District: contracts, correspondence, history	New Mexico Interstate Stream Commission Bataan Memorial Building 407 Galisteo Street Suite 101 Santa Fe, NM 87501
LRG Compact Area - Physical Data: Climate data, hydrogeology, land surface elevations, maps, riparian vegetation data	New Mexico Interstate Stream Commission Bataan Memorial Building 407 Galisteo Street Suite 101 Santa Fe, NM 87501
Irrigation system information – LRG Compact Area: canals, laterals, wasteways, drains; elevations; flow records; diversion records; seepage losses; lining information	<p>New Mexico Interstate Stream Commission Bataan Memorial Building 407 Galisteo Street Suite 101 Santa Fe, NM 87501</p> <p>New Mexico Office of the State Engineer 130 South Capitol Street Concha Ortiz y Pino Building Santa Fe, NM 87504</p> <p>New Mexico Office of the State Engineer 5550 San Antonio Drive NE Albuquerque, NM 87109</p> <p>New Mexico Office of the State Engineer – Water Rights Division District IV 1680 Hickory Loop – Suite J Las Cruces, NM 88005</p>
Mexico: 1906 Treaty history, Project deliveries to	New Mexico Interstate Stream Commission Bataan Memorial Building 407 Galisteo Street Suite 101 Santa Fe, NM 87501
Photographs – LRG Compact Area: aerial, orthophotography	New Mexico Interstate Stream Commission Bataan Memorial Building 407 Galisteo Street Suite 101 Santa Fe, NM 87501
Rio Grande Compact Commission: correspondence, reports and minutes, pre-Compact proceedings, resolutions	New Mexico Interstate Stream Commission Bataan Memorial Building 407 Galisteo Street Suite 101

	Santa Fe, NM 87501
Rio Grande Joint Investigation: background, history	New Mexico Interstate Stream Commission Bataan Memorial Building 407 Galisteo Street Suite 101 Santa Fe, NM 87501
Rio Grande mainstem data – LRG Compact Area: geospatial information, elevations, diversion records, flow records, seepage losses	New Mexico Interstate Stream Commission Bataan Memorial Building 407 Galisteo Street Suite 101 Santa Fe, NM 87501 New Mexico Office of the State Engineer 130 South Capitol Street Concha Ortiz y Pino Building Santa Fe, NM 87504 New Mexico Office of the State Engineer 5550 San Antonio Drive NE Albuquerque, NM 87109 New Mexico Office of the State Engineer – Water Rights Division District IV 1680 Hickory Loop – Suite J Las Cruces, NM 88005
Stream Gages: locations and records	New Mexico Interstate Stream Commission Bataan Memorial Building 407 Galisteo Street Suite 101 Santa Fe, NM 87501
Wastewater data – LRG Compact Area	New Mexico Interstate Stream Commission Bataan Memorial Building 407 Galisteo Street Suite 101 Santa Fe, NM
Wasteway data – LRG Compact Area	New Mexico Interstate Stream Commission Bataan Memorial Building 407 Galisteo Street Suite 101 Santa Fe, NM 87501
Water rights (New Mexico): adjudication documents, administration, applications, hydrographic surveys, maps, meter records, tabulations	New Mexico Interstate Stream Commission Bataan Memorial Building 407 Galisteo Street Suite 101 Santa Fe, NM 87501

	<p>New Mexico Office of the State Engineer 130 South Capitol Street Concha Ortiz y Pino Building Santa Fe, NM 87504</p> <p>New Mexico Office of the State Engineer 5550 San Antonio Drive NE Albuquerque, NM 87109</p> <p>New Mexico Office of the State Engineer – Water Rights Division District IV 1680 Hickory Loop – Suite J Las Cruces, NM 88005</p> <p>Third Judicial District Court 201 West Picacho Avenue Las Cruces, NM 88005</p>
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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

CERTIFICATE OF SERVICE

This is to certify that on this 12th day of August 2021, I caused a true and correct copy of **Declaration of Richard S. Deitchman on Support of The State of Texas's Reply in Support of Motions in Limine** to be served upon all parties and *amici curiae*, by and through the attorneys of record and/or designated representatives for each party and *amicus curiae* in this original action. As permitted by order of the Special Master, and agreement among the parties, service was effected by electronic mail to those individuals listed on the attached service list, which reflects all updates and revisions through the current date.

Respectfully submitted,

Dated: August 12, 2021


Corene E. Rodder

SERVICE LIST FOR ALL PARTIES AND AMICI CURIAE

SPECIAL MASTER

Special Master	Honorable Michael J. Melloy <i>Special Master</i> United States Circuit Judge 111 Seventh Avenue, S.E. Box 22 Cedar Rapids, IA 52401 Michael E. Gans, Clerk of 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 (319) 432-6080 TXvNM141@ca8.uscourts.gov (314) 244-2400

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