

August 26, 2021

Via email transmission

Honorable Michael J. Melloy
Special Master
United States Circuit Judge
111 Seventh Avenue, S.E., Box 22
Cedar Rapids, IA 52401

Re: Original No. 141 – *Texas v. New Mexico and Colorado*; State of Texas’s Motion for Continuance of Trial Setting

Dear Special Master Melloy:

Pursuant to your Order dated August 19, 2021, the undersigned counsel for *amicus curiae* the City of El Paso and El Paso Water Utilities Public Service Board (“El Paso”) submits this letter response on behalf of El Paso, in support of the State of Texas’s Motion for Continuance of Trial Setting.

This is a complex and highly technical case, in which the water supplies for major Rio Grande Basin stakeholders including El Paso are at stake. El Paso shares the interest of its fellow Texas citizens and political subdivisions in proceeding to decide the equities of this Rio Grande Compact dispute, but after years of preparation of this case that interest is only truly protected with Texas being able to proceed to trial with the full benefit of the participation and leadership of its lead counsel, Mr. Somach. El Paso respectfully submits that Texas has established compelling cause for the limited continuance it seeks, based on the unfortunate family health emergency which prevents in the short term Mr. Somach’s participation at trial. This six-month continuance is necessary to prevent unfair disadvantage to Texas and her citizens, and would not prejudice New Mexico or the other parties. Therefore, El Paso joins with the State of Texas and the other Texas-based *amici* in requesting that the Special Master in his discretion grant the continuance as requested.

Further, El Paso concurs with the additional practical benefits that would result from this continuance of the current trial setting. First and foremost, with the current and apparently deteriorating conditions of the Covid-19 pandemic both regionally and nationally, additional time will hopefully allow for improved conditions for proceeding with the in-person trial and participation therein, with fewer restrictions and health concerns for all involved, and a lesser risk of interrupting the trial once begun. Second, depending upon the Special Master’s approach on the Supreme Court’s guidance on Texas’s Motion for Leave to File a Supplemental Complaint, the additional time before commencement of trial could facilitate resolution of that related motion.

For the reasons stated above, El Paso requests that the Special Master grant Texas's motion for continuance.

Thank you for your consideration of this matter.

Sincerely,

A handwritten signature in black ink that reads "Susan M. Maxwell". The signature is written in a cursive style with a large, prominent "S" at the beginning.

Susan M. Maxwell

cc: Service List (via email)

SERVICE LIST FOR ALL PARTIES

**In The Supreme Court of the United States, Original No. 141
STATE OF TEXAS v. STATE OF NEW MEXICO and STATE OF COLORADO**

PARTIES¹

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></p> <p>BRENT WEBSTER <i>First Assistant Attorney General</i></p> <p>GRANT DORFMAN <i>Deputy First Assistant Attorney General</i></p> <p>SHAWN COWLES <i>Deputy Attorney General for Civil Litigation</i></p> <p>WILLIAM F. COLE <i>Assistant Solicitor General</i></p> <p>BEAU CARTER <i>Assistant Solicitor General</i></p> <p>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*

<p>New Mexico</p>	<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 - Paralegal 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 tmaestas@nmag.gov ckhoury@nmag.gov zogaz@nmag.gov psalazar@nmag.gov (505)239-4672</p> <p>marcus@roblesrael.com luis@roblesrael.com susan@roblesrael.com chelsea@roblesrael.com pauline@roblesrael.com bonnie@roblesrael.com (505) 242-2228</p> <p>braley@troutlaw.com lthompson@troutlaw.com mkopp@troutlaw.com (303) 861-1963</p> <p>jwechsler@montand.com dluna@montand.com (505)986-2637</p> <p>john.draper@draperllc.com donna.ormerod@draperllc.com (505)570-4591</p>

Colorado	<p> 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 </p>	<p> eric.olson@coag.gov chad.wallace@coag.gov (720)508-6281 (direct) preston.hartman@coag.gov (720)508-6257 (direct) nan.edwards@coag.gov </p>

<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. DEPARTMENT OF JUSTICE 950 Pennsylvania Ave, NW Washington, DC 20530-0001</p> <p>JAMES J. DUBOIS* R. LEE LEININGER U.S. DEPARTMENT OF JUSTICE Environment & Natural Resources Div 999 18th Street South Terrace – Suite 370 Denver, CO 80202 Seth Allison - Paralegal</p> <p>JUDITH E. COLEMAN JENNIFER A. NAJJAR U.S. DEPARTMENT 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
Albuquerque Bernalillo County Water Utility Authority	<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>(505) 983-3880 jfstein@newmexicowaterlaw.com jcbrockmann@newmexicowaterlaw.com</p> <p>administrator@newmexicowaterlaw.com</p> <p>(505) 289-3092 pauh@abcwua.org</p>
City of El Paso	<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>(512) 472-8021 dcaroom@bickerstaff.com smaxwell@bickerstaff.com</p>
City of Las Cruces	<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>(505) 983-3880 jfstein@newmexicowaterlaw.com jcbrockmann@newmexicowaterlaw.com</p> <p>administrator@newmexicowaterlaw.com</p> <p>(575) 541-2128 jvega-brown@las-cruces.org rcabello@las-cruces.org</p>

<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 RENE HICKS P.O. Box 303187 Austin, TX 78703-0504</p>	<p>(505) 848-1803 (direct) mobrien@modrall.com sarah.stevenson@modrall.com</p> <p>CharlieP@modrall.com</p> <p>(512)480-8231 rhicks@renea-hicks.com</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>(575)636-2377 Fax: (575) 636-2688 samantha@h2o-legal.com</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>(512) 320-5466 dmiller@kempsmith.com</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>(505) 792-3636 ttd@tessadavidson.com</p> <p>jo@tessadavidson.com</p>

<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>(505) 699-1445 john@uttonkery.com</p> <p>(575) 646-2446 gencounsel@nmsu.edu</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>(575) 624-2463 ajolsen@h2olawyers.com</p> <p>mkauai@h2olawyers.com rbartlett@h2olawyers.com</p>
<p>State of Kansas</p>	<p>DEREK SCHMIDT Attorney General of Kansas</p> <p>JEFFREY A. CHANAY Chief Deputy Attorney General</p> <p>TOBY CROUSE* Solicitor General of Kansas</p> <p>BRYAN C. CLARK Assistant Solicitor General</p> <p>DWIGHT R. CARSWELL Assistant Solicitor General 120 S.W. 10th Ave., 2nd Floor Topeka, KS 66612</p>	<p>(785) 296-2215</p> <p>toby.crouse@ag.ks.gov bryan.clark@ag.ks.gov</p>

SPECIAL MASTER

Special Master	<p>Honorable Michael J. Melloy <i>Special Master</i> United States Circuit Judge 111 Seventh Avenue, S.E., Box 22 Cedar Rapids, IA 52401</p> <p>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</p>	<p>(319) 432-6080 TXvNM141@ca8.uscourts.gov</p> <p>(314)244-2400 TxvNM141@ca8.uscourts.gov</p>