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September 6, 2019

Via Electronic and U.S. Mail

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

Re: *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 State of Texas (Texas) and the United States respectfully submit this joint letter to request your direction on the briefing schedule and hearing for the State of New Mexico's Motion to Exclude the United States' Expert Testimony of Ian M. Ferguson and the State of New Mexico's Motion to Strike Texas's Expert Disclosures on Water Quality, filed and served in this matter on September 5, 2019 (New Mexico Motions).

Regarding the briefing schedule, Texas and the United States note that the parties did not define deadlines for opposition briefs responsive to motions in the Case Management Plan (CMP). The only rule we have identified that provides direction is Supreme Court Rule 21, which addresses motions filed directly with the Supreme Court. Section 4 provides: "Any response to a motion shall be filed as promptly as possible considering the nature of the relief sought and any asserted need for emergency action, and, in any event, within 10 days of receipt, unless the Court or a Justice, or the Clerk under Rule 30.4, orders otherwise." (U.S. Supreme Court Rule 21.4.)

In the past, you have specially set briefing schedules and hearing dates for motions in this case, without application of the time limitations set forth in Supreme Court Rule 21. As such, Texas and the United States respectfully request your direction on whether you will set a briefing schedule and hearing date for the New Mexico Motions, or whether the parties should proceed according to Supreme Court Rule 21.4.

Judge Michael J. Melloy
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We appreciate Your Honor's consideration of this request.

Very truly yours,

s/Stuart L. Somach

Stuart L. Somach
Counsel of Record
State of Texas

s/ Stephen M. Macfarlane

Stephen M. Macfarlane
Senior Attorney
United States Department of Justice

TCB:cmg

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

Texas v New Mexico & Colorado docket:

TxvNM141@ca8.uscourts.gov

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 6th day of September 2019, I caused a true and correct copy of **State of Texas and United States Letter Dated September 6, 2019 to Special Master Michael J. Melloy** 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: September 6, 2019


Yolanda De La Cruz

SERVICE LIST

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(Service via E-Mail and U.S. Mail)

Honorable Michael J. Melloy

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

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