

NO. 141 Original

In The
SUPREME COURT OF THE UNITED STATES

STATE OF TEXAS
v.
STATE OF NEW MEXICO and
STATE OF COLORADO

TRANSCRIPT OF JANUARY 30, 2023, REMOTE
HEARING BEFORE HONORABLE MICHAEL A. MELLOY, SPECIAL
MASTER, UNITED STATES CIRCUIT JUDGE, 111 SEVENTH
AVENUE, SE, CEDAR RAPIDS, IOWA 52401, beginning at
11:00 a.m.

R E M O T E A P P E A R A N C E S

FOR THE STATE OF TEXAS:

Mr. Stuart L. Somach
Ms. Theresa C. Barfield
Mr. Robert B. Hoffman
Mr. Francis Goldsberry II
SOMACH SIMMONS & DUNN
500 Capitol Mall, Suite 1000
Sacramento, California 95814
(916) 446-7979
ssomach@somachlaw.com
tbarfield@somachlaw.com
rhoffman@somachlaw.com
mgoldsberry@somachlaw.com

-and-

Ms. Sarah A. Klahn
SOMACH SIMMONS & DUNN
2701 Lawrence Street, Suite 113
Denver, Colorado 80205
(720) 279-7868
sklahn@somachlaw.com

-and-

Ms. Priscilla M. Hubenak
STATE OF TEXAS ATTORNEY GENERAL'S OFFICE
Post Office Box 12548
Austin, Texas 78711
(512) 463-2012
priscilla.hubenak@oag.texas.gov

FOR THE STATE OF NEW MEXICO:

Mr. Jeffrey Wechsler
MONTGOMERY & ANDREWS
325 Paseo De Peralta
Santa Fe, New Mexico 87501
(505) 986-2637
jwechsler@montand.com

-and-

1 Ms. Lisa M. Thompson
Mr. Michael A. Kopp
2 TROUT RALEY
1120 Lincoln Street, Suite 1600
3 Denver, Colorado 80203
(303) 861-1963
4 lthompson@troutlaw.com
mkopp@troutlaw.com

5 -and-

6
7 Mr. John Draper
Ms. Corinne Atton
DRAPER & DRAPER, LLC
8 325 Paseo De Peralta
Santa Fe, New Mexico 87501
9 (505) 570-4591
john.draper@draperllc.com

10 -and-

11
12 Ms. Cholla Khoury
Mr. Zachary E. Ogaz
NEW MEXICO ATTORNEY GENERAL'S OFFICE
13 Post Office Drawer 1508
Santa Fe, New Mexico 87501
14 (505) 329-4672
ckhoury@nmag.gov
15 zogaz@nmag.gov

16 FOR THE STATE OF COLORADO:

17
18 Mr. Chad Wallace
Mr. Preston V. Hartman
COLORADO DEPARTMENT OF LAW
19 1300 Broadway, 7th Floor
Denver, Colorado 80203
20 (720) 508-6281
chad.wallace@coag.gov
21 preston.hartman@coag.gov
22
23
24
25

1 FOR THE UNITED STATES:

2 Mr. R. Lee Leininger
3 U.S. DEPARTMENT OF JUSTICE
4 999 18th Street, Suite 370
5 Denver, Colorado 80202
6 (303) 844-1375
7 lee.leininger@usdoj.gov

8 -and-

9 Ms. Judith E. Coleman
10 Ms. Jennifer A. Najjar
11 U.S. Department of Justice
12 Post Office Box 7611
13 Washington, DC 20044
14 (202) 514-3553
15 judith.coleman@usdoj.gov
16 jennifer.najjar@usdoj.gov

17 -and-

18 Ms. Shelly Randel
19 U.S. DEPARTMENT OF THE INTERIOR
20 1849 C Street NW
21 Washington, DC 20240
22 (202) 208-5432
23 shelly.randel@sol.doi.gov

24 -and-

25 Mr. Christopher B. Rich
U.S. DEPARTMENT OF THE INTERIOR
125 South State Street, Suite 6201
Salt Lake City, Utah 84138
(801) 524-5677

FOR THE EL PASO COUNTY WATER AND IMPROVEMENT DISTRICT
NO. 1:

Ms. Maria O'Brien
MODRALL SPERLING ROEHL HARRIS & SISK, P.A.
500 Fourth Street N.W.
Albuquerque, New Mexico 87103
(505) 848-1800
mobrien@modrall.com

-and-

1 Mr. Renea Hicks
LAW OFFICE OF MAX RENEA HICKS
2 Post Office Box 303187
Austin, Texas 78703
3 (512) 480-8231
rhicks@renea-hicks.com

4
5 FOR THE ELEPHANT BUTTE IRRIGATION DISTRICT:

6 Ms. Samantha R. Barncastle
BARNCASTLE LAW FIRM, LLC
7 1100 South Main, Suite 20
Las Cruces, New Mexico 88005
8 (575) 636-2377
samantha@h2o-legal.com

9
10 FOR THE ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY
AUTHORITY AND THE CITY OF LAS CRUCES:

11
12 Mr. James C. Brockmann
STEIN & BROCKMANN, P.A.
Post Office Box 2067
13 Santa Fe, New Mexico 87504
(505) 983-3880
14 jcbrockmann@newmexicowaterlaw.com

15
16 FOR THE CITY OF EL PASO:

17 Mr. Douglas G. Caroom
Ms. Susan Maxwell
BICKERSTAFF HEATH DELGADO ACOSTA, LLP
18 3711 S. MoPac Expressway Building One, Suite 300
Austin, Texas 78746
19 (512) 472-8021
dcaroom@bickerstaff.com

20
21 FOR THE CITY OF LAS CRUCES:

22 Mr. Jay F. Stein
STEIN & BROCKMAN, P.A.
23 Post Office Box 2067
Santa Fe, New Mexico 87504
24 (505) 983-3880
jfstein@newmexicowaterlaw.com

25

1 FOR THE NEW MEXICO PECAN GROWERS:

2 Ms. Tessa T. Davidson
3 DAVIDSON LAW FIRM, LLC
4 4206 Corrales Road
5 Post Office Box 2240
6 Corrales, New Mexico 87048
(505) 792-3636
ttd@tessadavidson.com

7 FOR THE NEW MEXICO STATE UNIVERSITY:

8 Mr. John W. Utton
9 UTTON & KERY, P.A.
10 Post Office Box 2386
11 Santa Fe, New Mexico 87504
(505) 699-1445
john@uttkery.com

12 FOR HUDSPETH COUNTY CONSERVATION AND RECLAMATION
13 DISTRICT:

14 Mr. Andrew S. "Drew" Miller
15 KEMP SMITH, LLP
16 816 Congress Avenue, Suite 1260
17 Austin, Texas 78701
18 (512) 320-5466
dmiller@kempsmith.com

19 FOR THE SOUTHERN RIO GRANDE DIVERSIFIED CROP FARMERS
20 ASSOCIATION AND THE NEW MEXICO PECAN GROWERS:

21 Mr. A.J. Olsen
22 HENNIGHAUSEN OLSEN & MCREA
23 604 North Richardson Avenue
24 Roswell, New Mexico 88202
25 (575) 624-2463
ajolsen@h2olawyers.com

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2
3
4
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COURT REPORTER:

Ms. Heather L. Garza

WORLDWIDE COURT REPORTERS

12621 Featherwood Drive, Suite 290

Houston, Texas 77034

(800) 745-1101

heather_garza@ymail.com

P R O C E E D I N G S

1
2 **JUDGE MELLOY:** Good morning, everyone.
3 We're here this morning in connection with State of
4 Texas versus State of New Mexico, State of Colorado,
5 and the United States as intervenor, United States
6 Supreme Court Original No. 141. I -- I don't think
7 this will take too long, but I just wanted to have
8 this discussion this morning for purposes of
9 determining if there's any logistical issues we need
10 to hammer out before the hearing next Monday, and I am
11 going to ask the -- each of the parties to enter their
12 appearance, but as you do so, one of the things we'd
13 like to have some idea about is how many people plan
14 to be here if we -- I think we have plenty of room in
15 the court -- courtroom. But in case there's more than
16 I'm anticipating, I'd like to get a head's up.

17 So as I go through, I'd like to start
18 with you, Mr. Somach. Enter your appearances and also
19 tell me how many people you think you'll have in the
20 courtroom with you next week. So let's start with
21 Texas.

22 **MR. SOMACH:** Yes, Your Honor. My name
23 is Stuart Somach, counsel of record for the State of
24 Texas. With me in terms of appearances are Theresa
25 Barfield, Sarah Klahn, Francis Goldsberry, Robert

1 Hoffman, all from my office. Also on the phone is
2 Priscilla Hubenak from the State Attorney General's
3 Office and Bobby Skov, the Rio Grande Commissioner.
4 In terms of how many people we will have, right now,
5 it looks to me like we will have -- and let me just do
6 a quick count here, one, two, three, four, five, six,
7 seven, eight, nine at the most. That would be the
8 maximum amount I'm anticipating. Ten, including
9 myself. Sorry.

10 **JUDGE MELLOY:** All right. And that
11 includes any non attorneys who might be --

12 **MR. SOMACH:** Yes, it does.

13 **JUDGE MELLOY:** Okay. All right.

14 Mr. Wechsler?

15 **MR. WECHSLER:** Good morning, Your Honor.
16 Jeff Wechsler on behalf of the State of New Mexico.
17 We have Cholla Khoury, the chief deputy for the New
18 Mexico Attorney General's Office; Zach Ogaz from the
19 Attorney General's Office; Lisa Thompson and Michael
20 Kopp from Trout Raley; John Draper from Draper &
21 Draper; Corinne Atton from Draper & Draper; the State
22 Engineer and Rio Grande Compact Commissioner, Mike
23 Hamman; Rolf Schmidt-Petersen, the Director of the New
24 Mexico Interstate Stream Commission; and Nat Chakeres,
25 the general counsel for the Office of the State

1 Engineer.

2 I'll just alert you. We are intending
3 to file a new certificate of service. You had asked
4 about the new attorney general. We'll be filing that
5 shortly. As to the number of people at the hearing,
6 we anticipate nine, and that includes non-attorneys.
7 In fact, I'd say the majority of those are
8 non-attorneys who will not be at counsel table. I
9 think there will be three to four attorneys.

10 **JUDGE MELLOY:** All right. Then for
11 Colorado, Mr. Wallace?

12 **MR. WALLACE:** Good morning, Your Honor.
13 This is Chad Wallace for the State of Colorado. I'm
14 joined this morning by Preston Hartman, also from our
15 office at the Attorney General's Office. We also have
16 joining, Kevin Rein, the State Engineer and Rio Grande
17 Compact Commissioner, and Mike Sullivan, the Deputy
18 State Engineer. Colorado plans on bringing two people
19 to the hearing next week.

20 **JUDGE MELLOY:** Okay. For the United
21 States, Mr. Leininger? I think you're muted.
22 Mr. Leininger, we're not able to hear you, at least
23 I'm not able to.

24 **MR. LEININGER:** Can you hear me now?

25 **JUDGE MELLOY:** Yes.

1 **MR. LEININGER:** Okay. My apologies. We
2 received new laptop computers, and we have to adjust
3 the settings.

4 **JUDGE MELLOY:** I appreciate your pain.
5 We got all -- our system was updated over the last
6 week or so, so I was -- we had to -- we did two test
7 sessions to see if I could even get on this morning.
8 So nothing like a software update to make your Monday
9 morning go smoothly. Go ahead.

10 **MR. LEININGER:** Yes, Your Honor. This
11 morning for the United States appearing, Lee
12 Leininger, Judy Coleman, Department of Justice,
13 Jennifer Najjar, Department of Justice, and Department
14 of Interior, Chris Rich from the solicitor's office,
15 Shelly Randel, solicitor's office, Michelle
16 Estrada-Lopez, Bureau of Reclamation, and I believe
17 Jennifer Faler, also with Reclamation.

18 And then next week, Your Honor, we
19 anticipate five, between DOJ and Department of
20 Interior.

21 **JUDGE MELLOY:** Okay. Then the
22 Albuquerque Bernalillo County Water Utility Authority?

23 **MR. BROCKMANN:** Good morning, Your
24 Honor. This is Jim Brockmann for the Albuquerque
25 Bernalillo County Water Utility Authority, and I will

1 be in attendance next week, and I may be joined by one
2 representative from the Water Authority. I'm not sure
3 whether there will be one or two of us.

4 **JUDGE MELLOY:** Okay. City of El Paso?

5 **MR. CAROOM:** Good morning, Your Honor.
6 Doug Caroom and Susan Maxwell for the City of El Paso,
7 and we anticipate only one person at the hearing next
8 week.

9 **JUDGE MELLOY:** Okay. City of Las
10 Cruces?

11 **MR. STEIN:** Good morning, Your Honor.
12 This is Jay Stein for the City of Las Cruces. I'm
13 joined by Adrienne Widmer, the executive director of
14 Las Cruces Joint Utilities, Jocelyn Garrison, the
15 acting city attorney, and Brad Douglas from the city
16 attorney's office. I will be joined next week by Ms.
17 Widmer, the executive director of Las Cruces Joint
18 Utilities.

19 **JUDGE MELLOY:** Okay. El Paso County
20 Water Improvement District No. 1, Ms. O'Brien?

21 **MS. O'BRIEN:** Good morning, Your Honor.
22 Maria O'Brien for El Paso County Water Improvement
23 District No. 1, and on today, as well, is Renea Hicks,
24 counsel for EP1. We anticipate having three people at
25 the hearing next week.

1 **JUDGE MELLOY:** Okay. Elephant Butte
2 Irrigation District?

3 **MS. BARNCASTLE:** Good morning, Your
4 Honor. Samantha Barncastle for EBID, and at this time
5 we're still trying to nail down travel plans so there
6 will be anywhere from one to three of us next week.

7 **JUDGE MELLOY:** Okay. Hudspeth County
8 Conservation Reclamation District?

9 **MR. MILLER:** Good morning, Your Honor.
10 This is Drew Miller on behalf of the Hudspeth
11 District, and I would like to observe by -- remotely,
12 if possible.

13 **JUDGE MELLOY:** That's fine. We'll talk
14 about that in a minute. All right. New Mexico pecan
15 growers?

16 **MS. DAVIDSON:** Good morning, Your Honor.
17 Tessa Davidson on behalf of pecan growers, and I will
18 be the only one attending next week.

19 **JUDGE MELLOY:** New Mexico State
20 University?

21 **MR. UTTON:** Good morning, Your Honor.
22 This is John Utton on behalf of University. Also
23 joining us today on -- on this meeting is Scott Field
24 from the general counsel's office, and Scott
25 Eschenbrenner, special assistant to the president --

1 from the president's office. Next week, I will be the
2 only one attending in person, although I know there
3 are a number of people that do wish to observe
4 remotely.

5 **JUDGE MELLOY:** Okay. And then Southern
6 Rio Grande Diversified Crop Farmers Association?

7 **MR. OLSEN:** Good morning, Your Honor.
8 A.J. Olsen on behalf of the crop farmers. I'll be --
9 due to family medical issue, I will not be able to
10 attend, Your Honor. Ms. Davidson -- I would like to
11 attend virtually, if possible, but Ms. Davidson will
12 present -- make any presentations also on behalf of
13 the crop farmers.

14 **JUDGE MELLOY:** Okay. All right. So if
15 my count is correct here, we're not likely to have
16 more than 40 or so people in attendance, and that
17 should be no problem. We may have problems getting
18 all the attorneys at counsel tables. We're going to
19 set up tables to get as many people at the table as
20 possible, we may have to have some chairs along the
21 rail, and I anticipate that we'll be putting some of
22 the lawyers in the jury box who -- so anyway, we'll --
23 we'll figure it out, but we should have plenty of room
24 for everybody.

25 Couple of just quick logistical issues,

1 the only party that's indicated that they're going to
2 be using any kind of evidence presentation equipment
3 is the State of Texas, which indicates they're going
4 to be using a PowerPoint presentation. Is --
5 Mr. Leininger, are you going to be using anything or
6 is -- or is it all going to be just an oral
7 presentation?

8 **MR. LEININGER:** Just an oral
9 presentation, Your Honor, although if Colorado is
10 going to be having some sort of demonstrative, we
11 would appreciate having that available prior to the
12 hearing for our review.

13 **JUDGE MELLOY:** I was going to -- I was
14 going to talk about that in a second. I -- I don't --
15 if I said Colorado, I misspoke. I thought it's Texas
16 that was going to be with the PowerPoint, but you're
17 not doing anything separately, are you, Mr. Wallace?

18 **MR. WALLACE:** No, Your Honor.

19 **JUDGE MELLOY:** So --

20 **MR. SOMACH:** Your Honor, let me clarify.
21 We're not certain that we're going to do a PowerPoint.
22 We know that if we are going to do a PowerPoint, we
23 will need to be there at 8:00 early to make sure
24 everything is set up and works properly. The
25 PowerPoint, if we use it, will be on behalf of the

1 Compacting states, not just Texas, and, you know,
2 we're finishing up our briefing now. We are talking
3 about how we want to do the oral argument. The
4 PowerPoint would be an aid of the oral argument. I
5 don't actually think there will be any evidence, so to
6 speak, demonstrative or otherwise, in the PowerPoint,
7 but certainly if we -- if we have that type of
8 evidence, we'll provide it to the United States in
9 advance. But I -- I don't want to leave the
10 impression that we've finally decided that we're going
11 to use a PowerPoint because the three states are still
12 working trying to put together a organized and
13 cohesive and comprehensive oral presentation. We're
14 not -- not entirely certain at this point in time what
15 that will look like.

16 **JUDGE MELLOY:** Okay. Well, just -- just
17 so we're clear, though, if you do use one, you'll get
18 it to the United States by no later than Friday?

19 **MR. SOMACH:** We -- we will endeavor to
20 --

21 **JUDGE MELLOY:** Or over the weekend?

22 **MR. SOMACH:** We -- you know, we're
23 finalizing the brief, and -- and it'll be done, thank
24 goodness. I looked at the -- the next draft, and, you
25 know, it's in good shape. But given what we've got to

1 do between now and travel, we will try our hardest.
2 We certainly won't surprise anybody and -- and I don't
3 think anything we would present would be of any
4 particular problem because it would just simply
5 reflect or mirror what we're going to verbally say,
6 but we'll -- we'll endeavor to get it to the United
7 States just as quickly as we can.

8 **JUDGE MELLOY:** And you mentioned --
9 well, just to follow up on -- close the loop on that,
10 so as of now, looks like the only presentation is a
11 possible PowerPoint by the Compacting states; no one
12 else is planning to use any type of demonstrative or
13 evidence presentations; am I correct?

14 (No response.)

15 **JUDGE MELLOY:** All right. And you had
16 mentioned being here by 8:00. Actually, they're going
17 to open up the security at 7:30, in part because of
18 the large number of people coming for this hearing,
19 and unfortunately apparently the district court has a
20 pretty big jury trial starting Monday, as well, so
21 we're going to be intermingled with a very large pool
22 of jurors, so -- so they're going to open up the
23 security half an hour earlier. So if you want to get
24 here before 8:00, it's going to be open at 7:30. I
25 don't think it's really necessary if it's just going

1 to be an oral presentation. The only thing I would
2 say, again, is if you do want to do a PowerPoint, be
3 here certainly no later than 8:00 to make sure that
4 it's -- we can get the technologies working.

5 Let me ask from the amici standpoint,
6 who is -- who's going to speak for the amici? Has
7 there been any decision made about that yet?

8 **MR. STEIN:** Your Honor, may I make --
9 this is Jay Stein. May I ask one question with
10 respect to the amici participation?

11 **JUDGE MELLOY:** Sure.

12 **MR. STEIN:** Your Honor has reserved one
13 hour for the amici to address Your Honor. A half hour
14 will be used by those who are opposing the consent
15 decree. That leaves a half hour for six of us who are
16 in favor of it, and that's not a sufficient amount of
17 time, Your Honor, so the amici who are in favor of the
18 -- of the consent decree would request that we be
19 given 45 minutes.

20 **JUDGE MELLOY:** How many of you are going
21 to speak? Are all six of you going to speak?

22 **MR. STEIN:** I'm speaking for the City of
23 Las Cruces.

24 **JUDGE MELLOY:** Is -- you're going to
25 have a pretty much -- I don't want to have six people

1 saying the same thing over and over again. Is it --
2 is it possible to have some type of joint presentation
3 by the proponents?

4 **MR. STEIN:** Your Honor, let me make one
5 point. Three of the -- the three states are in favor
6 of the consent decree, also the three cities, although
7 there is a caveat on the part of the City of El Paso
8 that Mr. Caroom can address better than I, but their
9 -- their position is not exactly the same as the
10 irrigators that are in favor of the consent decree.

11 **JUDGE MELLOY:** So who -- who -- you said
12 there's six parties on the side of the proponents, so
13 that's El Paso -- well, El Paso with a caveat, Las
14 Cruces, Albuquerque, and who else?

15 **MR. STEIN:** Pecan growers, diverse
16 croppers, and New Mexico State University.

17 **JUDGE MELLOY:** Okay. Do all six of you
18 want to speak, I guess, is the question?

19 **MS. DAVIDSON:** Your Honor, this is Tessa
20 Davidson. A.J. will not be attending, so I'll be
21 speaking for both pecan growers and diverse crop
22 farmers.

23 **JUDGE MELLOY:** Well, when we have
24 appellate arguments, we always say that dividing time
25 is not always the most efficient thing, but I -- I

1 guess five people dividing up 45 minutes, you're not
2 going to have a lot of time, but -- but I don't have a
3 problem with that. I'll give you 45 minutes. I'll
4 give Ms. Barncastle and Ms. O'Brien the same amount of
5 time then, but I -- that's fine. I'll give you an
6 extra 15 minutes, but I really hope we don't keep
7 plowing the same ground over and over again is the
8 only concern.

9 **MR. STEIN:** Thank you, Your Honor.

10 **JUDGE MELLOY:** Then let's talk a minute
11 about the remote access. What I would suggest we do
12 in that regard -- is Pete on from Worldwide?

13 **THE REPORTER:** Your Honor, Pete is not
14 on this morning. It's just me, Heather, the court
15 reporter.

16 **JUDGE MELLOY:** Okay. All right. Well,
17 I should have asked Pete to be here, but that's --
18 that's fine. What -- what I would suggest we do is
19 essentially the same as we did for the -- for the
20 trial, that is anybody who has registered with -- with
21 Worldwide will be given access. We can start with the
22 list that we had previously, and if you want to add
23 anybody to it, certainly advise Worldwide, but we'll
24 have Pete let people in as they come on board, and, of
25 course, they will be -- they'll be let in on the basis

1 that they can observe and listen only. They cannot --
2 the camera will not be active, and they will be muted
3 so they cannot ask questions or present evidence or --
4 or argument or anything. So -- but I will -- we'll
5 talk to Pete this afternoon and get something out to
6 make sure that there's no misunderstanding about that.
7 But anybody who previously registered for the trial, I
8 think we can just go ahead, assuming -- I assume they
9 still have that list, and you don't have to
10 reregister, unless you have to update an e-mail
11 address or something like that. If there's anybody
12 new or additional, we'll have to get them registered.
13 I expect there will be at least a couple members of
14 the media, which I don't have any problem with, but,
15 again, they'll also have to register. Is there any --

16 **MR. WALLACE:** I'm sorry for
17 interrupting. I just want to make sure. I had a
18 number of constituents ask if they can view that have
19 not been previously involved in the case before. They
20 just have an interest. I just want to confirm with
21 you that it's all right to give out this link and
22 register members of the public who approach me and
23 want to view the trial -- or the hearing.

24 **JUDGE MELLOY:** Well, I wasn't going to
25 open it up to the general public because if I open it

1 up to your folks, then I have to do it for everybody
2 else, and I -- I would just as soon not. If it's a
3 party, if it's an expert, if it's a party
4 representative, I don't have a problem with that, but
5 I'm not -- I don't think I want to open it up to the
6 general public at this point.

7 **MR. WALLACE:** That's fine. That's why I
8 asked, just to make sure what your opinion was. Thank
9 you.

10 **JUDGE MELLOY:** Anybody else have any
11 questions about that or any concerns?

12 (No response.)

13 **JUDGE MELLOY:** All right.

14 **MR. LEININGER:** Your Honor?

15 **JUDGE MELLOY:** Yes.

16 **MR. LEININGER:** Mr. Leininger. One
17 response to Mr. Somach's statement about the
18 PowerPoint, and generally the reply briefing, which is
19 due this Friday, so it is two days before our 9:00
20 start on Monday morning for oral argument so we'll be
21 traveling -- actually, counsel will be traveling --
22 counsel and Interior personnel will be traveling from
23 three different states on Saturday, so we request that
24 the Compacting states submit -- file their replies no
25 later than noon Eastern time on Friday, which would

1 give us an opportunity to review -- adequate
2 opportunity, I suppose, to review their replies. This
3 is assuming we're not going to receive additional
4 declaration attachments, but we are going to need
5 sufficient time to prepare it.

6 **JUDGE MELLOY:** Well, actually, that was
7 a point I had on my list here, Mr. Leininger. Would
8 that be -- could you do that, Mr. Somach? Can you --
9 can you do a noon filing?

10 **MR. SOMACH:** Well, we -- we can try.
11 Remember, noon is unfortunately a relative time. The
12 State of Texas is in the process and will be compiling
13 and filing the final draft, but we're on the west
14 coast, so noon is actually 3:00 east coast time. It
15 does put us under a bind. I mean, we'll try the
16 hardest we can to get it in as early as we can, but I
17 -- I -- you know, it's -- that -- they -- their brief
18 was large and extensive. In addition to that, EP No.
19 1 and -- and EBID filed fairly lengthy briefs, also,
20 and we have to respond to all of that and so we're
21 trying very hard to do that. We will do our best to
22 get it to -- to folks by noon, maybe noon California
23 time as opposed to noon Washington DC time, but that's
24 -- I mean, you know, that's the best we can do in
25 light of what we receive from the United States and

1 amici and when we receive it.

2 **JUDGE MELLOY:** All right.

3 **MR. LEININGER:** Your Honor, we -- Your
4 Honor, I'm sorry, but we -- we have to take these to
5 our clients, to the SG's office, discuss these
6 replies. I don't think it's unreasonable to ask that
7 the replies be submitted by noon Eastern time on
8 Friday.

9 **MR. SOMACH:** That's 9:00 California
10 time. That -- you know, that's -- that's just not
11 reasonable given the fact that we, in theory, have no
12 time limit on Friday. We'll try to accommodate and
13 get it in as early as possible, but 9:00 is -- is --
14 you know, that's -- that's cutting a whole day out of
15 our ability to respond.

16 **JUDGE MELLOY:** All right. Well, I'm not
17 going to -- all I'm going to do is -- is ask that you
18 get it in as soon as possible. I'm not going to set a
19 deadline. Get it in as early as possible.

20 Is any -- from what I understood,
21 Mr. Leininger, from what you said earlier, nobody from
22 the SG's office is going to be here, right?

23 **MR. LEININGER:** There may be remote
24 attendants, but no, not in the courtroom, no.

25 **JUDGE MELLOY:** And I guess I started --

1 we started to talk a little bit about the amici
2 presentation, and so as I understand it from the side
3 of the proponents of the settlement, we may have as
4 many as five people speaking, is that what you're
5 saying, Mr. Stein?

6 **MR. STEIN:** Yes, Your Honor.

7 **JUDGE MELLOY:** So you divide 45 minutes
8 between five people, you know, that's eight or nine
9 minutes each. I -- I would encourage you to try to
10 coordinate, to some extent, to avoid duplication, but
11 in any event, that's fine. What about -- what about
12 the opponents? Ms. Barncastle and Ms. O'Brien, are
13 both of you going to speak?

14 **MS. O'BRIEN:** Yes, Your Honor. I'm
15 sorry.

16 **JUDGE MELLOY:** Go ahead. Are you both
17 going to speak?

18 **MS. BARNCASTLE:** Yes, Your Honor. We
19 coordinated fairly well on the issues raised by the
20 irrigation districts. Our briefs are different. They
21 touch on different issues both equally important.

22 **JUDGE MELLOY:** Okay. Is -- all right.
23 Let me see. I think --

24 **MR. LEININGER:** Your Honor, could I --
25 I'm sorry, Your Honor. Could I ask for one more point

1 of clarification? Just confirmation from the states
2 that we will not be seeing additional declarations?

3 **MR. SOMACH:** No, that -- there will be
4 additional declarations in response to the
5 declarations that you filed.

6 **MR. LEININGER:** Well, Your Honor, this
7 -- this puts us at a significant disadvantage if we're
8 going to be looking, not only at additional -- at
9 their reply arguments, but also additional
10 declarations. You know, again, Your Honor, if --

11 **JUDGE MELLOY:** Well, let me say this,
12 Mr. Leininger: If something comes up in the
13 declarations that you feel is a surprise or that you
14 need to file a response to, I'll certainly be open to
15 keeping the record open for some short period of time
16 after the hearing if you need to file a counter
17 declaration. We don't have to close -- we don't have
18 to close it at 5:00 Monday afternoon. I could keep --
19 if -- if there's something you need to respond to.

20 **MR. LEININGER:** Your Honor, we raised
21 this at the last status conference, but it was a
22 possibility of having this hearing on the week of the
23 13th, and in light of these -- what apparently is
24 going to be extensive replies with declarations, would
25 the Court be interested in reconsidering an additional

1 one week for the start of this oral argument?

2 **JUDGE MELLOY:** Well, it -- it doesn't
3 make a lot of difference to me, but what -- what's the
4 response -- how do the other parties feel about that,
5 to have an extra week to get ready?

6 **MR. SOMACH:** I think -- I think we
7 expressed our view the last time the United States
8 made this point. You know, this is the normal
9 briefing. We've known this schedule for months now.
10 All we get from the United States is more and more
11 delay, more obfuscation of trying to get to this
12 hearing. At this point, we've made all of our hotel
13 arrangements. We've made all of our travel
14 arrangements. We have coordinated to meet the
15 schedule that the Court set. We absolutely oppose any
16 movement of this to the 13th. We need to have this
17 hearing on the 6th. I think you've been generous in
18 leaving the record open, so there's no prejudice
19 whatsoever to the United States.

20 **MR. LEININGER:** Your Honor, I only bring
21 this up because I'm surprised to hear that we're now
22 going to have new declarations that we may have to
23 respond to substantively and may have to do -- in
24 fact, have countervailing declarations, so -- or some
25 other type of certified request, and it just doesn't

1 give us enough time.

2 **JUDGE MELLOY:** Well, I understand that,
3 Mr. Leininger, but we -- part of the problem was you
4 had asked for additional time for briefing initially,
5 and I gave it to you, and it ended up being this
6 schedule. So we're just going to leave it the way it
7 is, and I can tell you, if you think there's something
8 that you need to respond to, I'll leave the record
9 open, and I'll give you time to do it. But beyond
10 that, I think -- I assume everybody has pretty much
11 made all their arrangements travel wise and other
12 professional commitments to be available next week, so
13 I'm going to -- we're going to leave the hearing
14 scheduled as it is.

15 The only other thing I want to mention
16 is -- it doesn't have anything to do directly with the
17 hearing next week, but my judicial assistant told me
18 that she went to Box.com, and none of the exhibits are
19 on Box.com, or at least we don't have access to them.
20 Does anybody know what happened to all of the exhibits
21 and why -- why they're not there? And, also, it's my
22 understanding that at the end of the last proceeding
23 at the trial, all the admitted exhibits were to be
24 transferred from the exhibits that were originally
25 filed on Box.com into a separate file that was for

1 admitted exhibits only, and for the most part, that's
2 been done or was done, but now, it's gone. And as I
3 understand it, all Texas' have been transferred over,
4 all the United States' have been transferred over, all
5 the New Mexico exhibits, with the exception of your
6 demonstrative exhibits, Mr. Wechsler, were transferred
7 over, but none of the Colorado exhibits were, which I
8 think there's only a couple of them. But apparently
9 if -- if you go on Box.com, they're not there now, and
10 so I -- I bring that up to ask that you take a look at
11 it and try to figure out what happened to it and what
12 -- what we need to do to make sure that we have a
13 complete record for transmittal to the Supreme Court.
14 I don't know if anybody has any response to that or if
15 anybody has looked at -- and maybe it's our access. I
16 don't know if anybody -- has anybody looked at Box.com
17 in the last few months?

18 **MR. WECHSLER:** We have not, Your Honor.
19 We will look into it, and we'll get our demonstratives
20 moved over, as well.

21 **JUDGE MELLOY:** Yeah. So -- but anyway,
22 and maybe it has something to do with our access to
23 it, as well, but in any event, you need to make sure
24 that those are all there.

25 That pretty much covers the list of

1 things I have. Anything else that we need to talk
2 about before next -- next Monday?

3 **MR. SOMACH:** I don't have anything, Your
4 Honor.

5 **JUDGE MELLOY:** Very good. Well, thank
6 you, everyone, and we'll see you in a week. Thank
7 you.

8 (The proceedings adjourned at 11:31 a.m.)
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CERTIFICATE

I, HEATHER L. GARZA, a Certified Shorthand Reporter in and for the State of Texas, do hereby certify that the facts as stated by me in the caption hereto are true; that the foregoing pages comprise a true, complete and correct transcript of the proceedings had at the time of the status hearing.

I further certify that I am not, in any capacity, a regular employee of any of the parties in whose behalf this status hearing is taken, nor in the regular employ of any of the attorneys; and I certify that I am not interested in the cause, nor of kin or counsel to any of the parties.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, on this, the 18th day of May, 2023.



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A	and- 2:10,14,24 3:5,10 4:5,11 4:15,25 Andrew 6:13 ANDREWS 2:21 anticipate 10:6 11:19 12:7,24 14:21 anticipating 8:16 9:8 anybody 17:2 20:20,23 21:7 21:11 22:10 28:20 29:14,15 29:16,16 anyway 14:22 29:21 apologies 11:1 apparently 17:19 26:23 29:8 appearance 8:12 appearances 8:18,24 appearing 11:11 appellate 19:24 appreciate 11:4 15:11 approach 21:22 argument 16:3,4 21:4 22:20 27:1 arguments 19:24 26:9 arrangements 27:13,14 28:11 asked 10:3 20:17 22:8 28:4 assistant 13:25 28:17 Association 6:17 14:6 assume 21:8 28:10 assuming 21:8	23:3 attachments 23:4 attend 14:10,11 attendance 12:1 14:16 attendants 24:24 attending 13:18 14:2 19:20 Atton 3:7 9:21 attorney 2:16 3:12 9:2,18,19 10:4,15 12:15 attorney's 12:16 attorneys 9:11 10:9 14:18 31:12 Austin 2:17 5:2 5:18 6:14 Authority 5:10 11:22,25 12:2 available 15:11 28:12 Avenue 1:15 6:14,19 avoid 25:10	BICKERSTA... 5:17 big 17:20 bind 23:15 bit 25:1 board 20:24 Bobby 9:3 box 2:16 4:8 5:2 5:12,23 6:3,8 14:22 Box.com 28:18 28:19,25 29:9 29:16 Brad 12:15 brief 16:23 23:17 briefing 16:2 22:18 27:9 28:4 briefs 23:19 25:20 bring 27:20 29:10 bringing 10:18 Broadway 3:19 BROCKMAN 5:22 Brockmann 5:11,12 11:23 11:24 Building 5:18 Bureau 11:16 Butte 5:5 13:1	caveat 19:7,13 CEDAR 1:15 certain 15:21 16:14 certainly 16:7 17:2 18:3 20:23 26:14 certificate 10:3 31:1 Certification 31:20 certified 27:25 31:3 certify 31:5,9,12 Chad 3:17 10:13 chad.wallace... 3:20 chairs 14:20 Chakeres 9:24 chief 9:17 Cholla 3:11 9:17 Chris 11:14 Christopher 4:16 CIRCUIT 1:14 cities 19:6 city 4:18 5:10,15 5:21 12:4,6,9 12:12,15,15 18:22 19:7 ckhoury@nm... 3:14 clarification 26:1 clarify 15:20 clear 16:17 clients 24:5 close 17:9 26:17 26:18 coast 23:14,14 cohesive 16:13 Coleman 4:6 11:12 Colorado 1:10 2:12 3:3,16,18 3:19 4:3 8:4 10:11,13,18		
	and- 2:10,14,24 3:5,10 4:5,11 4:15,25 Andrew 6:13 ANDREWS 2:21 anticipate 10:6 11:19 12:7,24 14:21 anticipating 8:16 9:8 anybody 17:2 20:20,23 21:7 21:11 22:10 28:20 29:14,15 29:16,16 anyway 14:22 29:21 apologies 11:1 apparently 17:19 26:23 29:8 appearance 8:12 appearances 8:18,24 appearing 11:11 appellate 19:24 appreciate 11:4 15:11 approach 21:22 argument 16:3,4 21:4 22:20 27:1 arguments 19:24 26:9 arrangements 27:13,14 28:11 asked 10:3 20:17 22:8 28:4 assistant 13:25 28:17 Association 6:17 14:6 assume 21:8 28:10 assuming 21:8	23:3 attachments 23:4 attend 14:10,11 attendance 12:1 14:16 attendants 24:24 attending 13:18 14:2 19:20 Atton 3:7 9:21 attorney 2:16 3:12 9:2,18,19 10:4,15 12:15 attorney's 12:16 attorneys 9:11 10:9 14:18 31:12 Austin 2:17 5:2 5:18 6:14 Authority 5:10 11:22,25 12:2 available 15:11 28:12 Avenue 1:15 6:14,19 avoid 25:10	B B 2:4 4:16 Barfield 2:4 8:25 Barncastle 5:6,6 13:3,4 20:4 25:12,18 basis 20:25 beginning 1:15 behalf 9:16 13:10,17,22 14:8,12 15:25 31:11 believe 11:16 Bernalillo 5:10 11:22,25 best 23:21,24 better 19:8 beyond 28:9	BICKERSTA... 5:17 big 17:20 bind 23:15 bit 25:1 board 20:24 Bobby 9:3 box 2:16 4:8 5:2 5:12,23 6:3,8 14:22 Box.com 28:18 28:19,25 29:9 29:16 Brad 12:15 brief 16:23 23:17 briefing 16:2 22:18 27:9 28:4 briefs 23:19 25:20 bring 27:20 29:10 bringing 10:18 Broadway 3:19 BROCKMAN 5:22 Brockmann 5:11,12 11:23 11:24 Building 5:18 Bureau 11:16 Butte 5:5 13:1	C C 2:1,4 4:13 5:11 8:1 California 2:6 23:22 24:9 camera 21:2 capacity 31:10 Capitol 2:6 caption 31:6 Caroom 5:16 12:5,6 19:8 case 8:15 21:19 cause 31:13	caveat 19:7,13 CEDAR 1:15 certain 15:21 16:14 certainly 16:7 17:2 18:3 20:23 26:14 certificate 10:3 31:1 Certification 31:20 certified 27:25 31:3 certify 31:5,9,12 Chad 3:17 10:13 chad.wallace... 3:20 chairs 14:20 Chakeres 9:24 chief 9:17 Cholla 3:11 9:17 Chris 11:14 Christopher 4:16 CIRCUIT 1:14 cities 19:6 city 4:18 5:10,15 5:21 12:4,6,9 12:12,15,15 18:22 19:7 ckhoury@nm... 3:14 clarification 26:1 clarify 15:20 clear 16:17 clients 24:5 close 17:9 26:17 26:18 coast 23:14,14 cohesive 16:13 Coleman 4:6 11:12 Colorado 1:10 2:12 3:3,16,18 3:19 4:3 8:4 10:11,13,18

15:9,15 29:7 come 20:24 comes 26:12 coming 17:18 Commission 9:24 Commissioner 9:3,22 10:17 commitments 28:12 Compact 9:22 10:17 Compacting 16:1 17:11 22:24 compiling 23:12 complete 29:13 31:7 comprehensive 16:13 comprise 31:7 computers 11:2 concern 20:8 concerns 22:11 conference 26:21 confirm 21:20 confirmation 26:1 Congress 6:14 connection 8:3 consent 18:14 18:18 19:6,10 Conservation 6:11 13:8 constituents 21:18 coordinate 25:10 coordinated 25:19 27:14 Corinne 3:7 9:21 Corrales 6:3,4 correct 14:15 17:13 31:7 counsel 8:23	9:25 10:8 12:24 14:18 22:21,22 31:14 counsel's 13:24 count 9:6 14:15 counter 26:16 countervailing 27:24 County 4:20 5:10 6:11 11:22,25 12:19 12:22 13:7 couple 14:25 21:13 29:8 course 20:25 court 1:5 7:1,2 8:6,15 17:19 20:14 26:25 27:15 29:13 31:23 courtroom 8:15 8:20 24:24 covers 29:25 crop 6:17 14:6,8 14:13 19:21 croppers 19:16 CRR 31:19 Cruces 5:7,10 5:21 12:10,12 12:14,17 18:23 19:14 CSR 31:19 cutting 24:14	decided 16:10 decision 18:7 declaration 23:4 26:17 declarations 26:2,4,5,10,13 26:24 27:22,24 decree 18:15,18 19:6,10 delay 27:11 DELGADO 5:17 demonstrative 15:10 16:6 17:12 29:6 demonstratives 29:19 Denver 2:12 3:3 3:19 4:3 Department 3:18 4:2,7,12 4:17 11:12,13 11:13,19 deputy 9:17 10:17 determining 8:9 difference 27:3 different 22:23 25:20,21 directly 28:16 director 9:23 12:13,17 disadvantage 26:7 discuss 24:5 discussion 8:8 district 4:20 5:5 6:12 12:20,23 13:2,8,11 17:19 districts 25:20 diverse 19:15,21 Diversified 6:17 14:6 divide 25:7 dividing 19:24 20:1	dmiller@kem... 6:15 doing 15:17 DOJ 11:19 Doug 12:6 Douglas 5:16 12:15 draft 16:24 23:13 Draper 3:6,7,7 9:20,20,21,21 9:21 Drawer 3:13 Drew 6:13 13:10 Drive 7:3 31:24 due 14:9 22:19 DUNN 2:5,11 duplication 25:10	10:1,16,18 enter 8:11,18 entirely 16:14 EP 23:18 EP1 12:24 equally 25:21 equipment 15:2 Eschenbrenner 13:25 essentially 20:19 Estrada-Lopez 11:16 event 25:11 29:23 everybody 14:24 22:1 28:10 evidence 15:2 16:5,8 17:13 21:3 exactly 19:9 exception 29:5 executive 12:13 12:17 exhibits 28:18 28:20,23,24 29:1,5,6,7 expect 21:13 expert 22:3 Expiration 31:20 expressed 27:7 Expressway 5:18 extensive 23:18 26:24 extent 25:10 extra 20:6 27:5
	<hr/> D <hr/> D 8:1 Date 31:20 Davidson 6:2,2 13:16,17 14:10 14:11 19:19,20 day 24:14 31:17 days 22:19 DC 4:8,13 23:23 dcaroom@bic... 5:19 De 2:21 3:8 deadline 24:19	<hr/> E <hr/> E 2:1,1,1,1 3:12 4:6 8:1,1 e-mail 21:10 earlier 17:23 24:21 early 15:23 23:16 24:13,19 east 23:14 Eastern 22:25 24:7 EBID 13:4 23:19 efficient 19:25 eight 9:7 25:8 EI 4:20 5:15 12:4,6,19,22 19:7,13,13 Elephant 5:5 13:1 employ 31:12 employee 31:10 encourage 25:9 endeavor 16:19 17:6 ended 28:5 Engineer 9:22	<hr/> F <hr/> F 5:22 fact 10:7 24:11 27:24 facts 31:5 fairly 23:19 25:19 Faler 11:17 family 14:9	

farmers 6:17 14:6,8,13 19:22	general 9:25 10:4 13:24 21:25 22:6	guess 19:18 20:1 24:25	22:14 24:3,4 25:6,14,18,24 25:25 26:6,10 26:20 27:20 29:18 30:4	13:2 25:20
favor 18:16,17 19:5,10	General's 2:16 3:12 9:2,18,19 10:15	<hr/> H <hr/>	HONORABLE 1:14	irrigators 19:10
Fe 2:22 3:8,13 5:13,23 6:9	generally 22:18	half 17:23 18:13 18:15	hope 20:6	issue 14:9
Featherwood 7:3 31:24	generous 27:17	Hamman 9:23	hotel 27:12	issues 8:9 14:25 25:19,21
feel 26:13 27:4	getting 14:17	HAND 31:16	hour 17:23 18:13,13,15	it'll 16:23
Field 13:23	give 20:3,4,5 21:21 23:1 28:1,9	happened 28:20 29:11	Houston 7:3 31:24	<hr/> J <hr/>
figure 14:23 29:11	given 16:25 18:19 20:21 24:11 31:16	hard 23:21	Hubenak 2:15 9:2	James 5:11
file 10:3 22:24 26:14,16 28:25	going 8:11 14:18 15:1,3,5,6,10 15:13,14,16,21 15:22 16:10 17:5,16,21,22 17:24,25 18:6 18:20,21,24 20:2 21:24 23:3,4 24:17 24:17,18,22 25:13,17 26:8 26:24 27:22 28:6,13,13	hardest 17:1 23:16	Hudspeth 6:11 13:7,10	JANUARY 1:13
filed 23:19 26:5 28:25	go 8:17 11:9,9 21:8 25:16 29:9	HARRIS 4:22	<hr/> I <hr/>	Jay 5:22 12:12 18:9
filing 10:4 23:9 23:13	going 8:11 14:18 15:1,3,5,6,10 15:13,14,16,21 15:22 16:10 17:5,16,21,22 17:24,25 18:6 18:20,21,24 20:2 21:24 23:3,4 24:17 24:17,18,22 25:13,17 26:8 26:24 27:22 28:6,13,13	Hartman 3:18 10:14	idea 8:13	jbrockmann... 5:14
final 23:13	Goldsberry 2:5 8:25	head's 8:16	II 2:5	Jeff 9:16
finalizing 16:23	good 8:2 9:15 10:12 11:23 12:5,11,21 13:3,9,16,21 14:7 16:25 30:5	hear 10:22,24 27:21	important 25:21	Jeffrey 2:20
finally 16:10	goodness 16:24	hearing 1:14 8:10 10:5,19 12:7,25 15:12 17:18 21:23 26:16,22 27:12 27:17 28:13,17 31:8,11	impression 16:10	Jennifer 4:7 11:13,17
fine 13:13 20:5 20:18 22:7 25:11	Grande 6:17 9:3 9:22 10:16 14:6	HEATH 5:17	Improvement 4:20 12:20,22	jennifer.najja... 4:10
finishing 16:2	ground 20:7	Heather 7:2 20:14 31:3,19	includes 9:11 10:6	jfstein@newm... 5:24
Firm 5:6 6:2 31:23	growers 6:1,17 13:15,17 19:15 19:21	heather_garza... 7:4	including 9:8	Jim 11:24
five 9:6 11:19 20:1 25:4,8		HEATHER 5:17	indicated 15:1	Jocelyn 12:14
Floor 3:19		hereto 31:6	indicates 15:3	John 3:6 6:7 9:20 13:22
folks 22:1 23:22		Hicks 5:1,1 12:23	initially 28:4	john.draper@... 3:9
follow 17:9		Hoffman 2:4 9:1	intending 10:2	john@uttonke... 6:10
foregoing 31:6		Honor 8:22 9:15 10:12 11:10,18 11:24 12:5,11 12:21 13:4,9 13:16,21 14:7 14:10 15:9,18 15:20 18:8,12 18:13,17 19:4 19:19 20:9,13	interest 21:20	joined 10:14 12:1,13,16
four 9:6 10:9			interested 26:25 31:13	joining 10:16 13:23
Fourth 4:22			Interior 4:12,17 11:14,20 22:22	joint 12:14,17 19:2
Francis 2:5 8:25			intermingled 17:21	JUDGE 1:14 8:2 9:10,13 10:10 10:20,25 11:4 11:21 12:4,9 12:19 13:1,7 13:13,19 14:5 14:14 15:13,19 16:16,21 17:8 17:15 18:11,20 18:24 19:11,17 19:23 20:10,16
Friday 16:18 22:19,25 24:8 24:12			interrupting 21:17	
further 31:9			Interstate 9:24	
<hr/> G <hr/>			intervenor 8:5	
G 5:16 8:1			involved 21:19	
Garrison 12:14			IOWA 1:15	
Garza 7:2 31:3 31:19			irrigation 5:5	

21:24 22:10,13 22:15 23:6 24:2,16,25 25:7,16,22 26:11 27:2 28:2 29:21 30:5 judicial 28:17 Judith 4:6 judith.colema... 4:9 Judy 11:12 jurors 17:22 jury 14:22 17:20 Justice 4:2,7 11:12,13 jwechsler@m... 2:23	12:9,12,14,17 18:23 19:13 LAW 3:18 5:1,6 6:2 Lawrence 2:12 lawyers 14:22 leave 16:9 28:6,8 28:13 leaves 18:15 leaving 27:18 Lee 4:2 11:11 lee.leininger@... 4:4 Leininger 4:2 10:21,22,24 11:1,10,12 15:5,8 22:14 22:16,16 23:7 24:3,21,23 25:24 26:6,12 26:20 27:20 28:3 lengthy 23:19 let's 8:20 20:10 light 23:25 26:23 limit 24:12 Lincoln 3:2 link 21:21 Lisa 3:1 9:19 list 20:22 21:9 23:7 29:25 listen 21:1 little 25:1 LLC 3:7 5:6 6:2 LLP 5:17 6:13 logistical 8:9 14:25 long 8:7 look 16:15 29:10 29:19 looked 16:24 29:15,16 looking 26:8 looks 9:5 17:10 loop 17:9 lot 20:2 27:3	lthompson@t... 3:4 <hr/> M <hr/> M 2:1,15 3:1 Main 5:7 majority 10:7 Mall 2:6 Maria 4:21 12:22 MASTER 1:14 MAX 5:1 maximum 9:8 Maxwell 5:17 12:6 MCREA 6:19 mean 23:15,24 media 21:14 medical 14:9 meet 27:14 meeting 13:23 MELLOY 1:14 8:2 9:10,13 10:10,20,25 11:4,21 12:4,9 12:19 13:1,7 13:13,19 14:5 14:14 15:13,19 16:16,21 17:8 17:15 18:11,20 18:24 19:11,17 19:23 20:10,16 21:24 22:10,13 22:15 23:6 24:2,16,25 25:7,16,22 26:11 27:2 28:2 29:21 30:5 members 21:13 21:22 mention 28:15 mentioned 17:8 17:16 Mexico 1:10 2:19,22 3:8,12 3:13 4:23 5:7	5:13,23 6:1,4,6 6:9,17,20 8:4 9:16,18,24 13:14,19 19:16 29:5 mgoldsberry... 2:9 Michael 1:14 3:1 9:19 Michelle 11:15 Mike 9:22 10:17 Miller 6:13 13:9 13:10 minute 13:14 20:10 minutes 18:19 20:1,3,6 25:7,9 mirror 17:5 misspoke 15:15 misunderstan... 21:6 mkopp@trout... 3:4 mobrien@mo... 4:24 MODRALL 4:22 Monday 8:10 11:8 17:20 22:20 26:18 30:2 MONTGOM... 2:21 months 27:9 29:17 MoPac 5:18 morning 8:2,3,8 9:15 10:12,14 11:7,9,11,23 12:5,11,21 13:3,9,16,21 14:7 20:14 22:20 moved 29:20 movement 27:16 muted 10:21 21:2	<hr/> N <hr/> N 2:1 8:1 N.W 4:22 nail 13:5 Najjar 4:7 11:13 name 8:22 Nat 9:24 necessary 17:25 need 8:9 15:23 23:4 26:14,16 26:19 27:16 28:8 29:12,23 30:1 new 1:10 2:19 2:22 3:8,12,13 4:23 5:7,13,23 6:1,4,6,9,17,20 8:4 9:16,17,23 10:3,4 11:2 13:14,19 19:16 21:12 27:22 29:5 nine 9:7 10:6 25:8 non 9:11 non-attorneys 10:6,8 noon 22:25 23:9 23:11,14,22,22 23:23 24:7 normal 27:8 North 6:19 number 10:5 14:3 17:18 21:18 NW 4:13 <hr/> O <hr/> O 2:1 8:1 O'Brien 4:21 12:20,21,22 20:4 25:12,14 obfuscation 27:11 observe 13:11 14:3 21:1 office 2:16,16
21:24 22:10,13 22:15 23:6 24:2,16,25 25:7,16,22 26:11 27:2 28:2 29:21 30:5 judicial 28:17 Judith 4:6 judith.colema... 4:9 Judy 11:12 jurors 17:22 jury 14:22 17:20 Justice 4:2,7 11:12,13 jwechsler@m... 2:23 <hr/> K <hr/> keep 20:6 26:18 keeping 26:15 KEMP 6:13 KERY 6:8 Kevin 10:16 Khoury 3:11 9:17 kin 31:13 kind 15:2 Klahn 2:11 8:25 know 14:2 15:22 16:1,22,25 23:17,24 24:10 24:14 25:8 26:10 27:8 28:20 29:14,16 known 27:9 Kopp 3:1 9:20 <hr/> L <hr/> L 2:3 7:2 31:3 31:19 Lake 4:18 laptop 11:2 large 17:18,21 23:18 Las 5:7,10,21	12:9,12,14,17 18:23 19:13 LAW 3:18 5:1,6 6:2 Lawrence 2:12 lawyers 14:22 leave 16:9 28:6,8 28:13 leaves 18:15 leaving 27:18 Lee 4:2 11:11 lee.leininger@... 4:4 Leininger 4:2 10:21,22,24 11:1,10,12 15:5,8 22:14 22:16,16 23:7 24:3,21,23 25:24 26:6,12 26:20 27:20 28:3 lengthy 23:19 let's 8:20 20:10 light 23:25 26:23 limit 24:12 Lincoln 3:2 link 21:21 Lisa 3:1 9:19 list 20:22 21:9 23:7 29:25 listen 21:1 little 25:1 LLC 3:7 5:6 6:2 LLP 5:17 6:13 logistical 8:9 14:25 long 8:7 look 16:15 29:10 29:19 looked 16:24 29:15,16 looking 26:8 looks 9:5 17:10 loop 17:9 lot 20:2 27:3	lthompson@t... 3:4 <hr/> M <hr/> M 2:1,15 3:1 Main 5:7 majority 10:7 Mall 2:6 Maria 4:21 12:22 MASTER 1:14 MAX 5:1 maximum 9:8 Maxwell 5:17 12:6 MCREA 6:19 mean 23:15,24 media 21:14 medical 14:9 meet 27:14 meeting 13:23 MELLOY 1:14 8:2 9:10,13 10:10,20,25 11:4,21 12:4,9 12:19 13:1,7 13:13,19 14:5 14:14 15:13,19 16:16,21 17:8 17:15 18:11,20 18:24 19:11,17 19:23 20:10,16 21:24 22:10,13 22:15 23:6 24:2,16,25 25:7,16,22 26:11 27:2 28:2 29:21 30:5 members 21:13 21:22 mention 28:15 mentioned 17:8 17:16 Mexico 1:10 2:19,22 3:8,12 3:13 4:23 5:7	5:13,23 6:1,4,6 6:9,17,20 8:4 9:16,18,24 13:14,19 19:16 29:5 mgoldsberry... 2:9 Michael 1:14 3:1 9:19 Michelle 11:15 Mike 9:22 10:17 Miller 6:13 13:9 13:10 minute 13:14 20:10 minutes 18:19 20:1,3,6 25:7,9 mirror 17:5 misspoke 15:15 misunderstan... 21:6 mkopp@trout... 3:4 mobrien@mo... 4:24 MODRALL 4:22 Monday 8:10 11:8 17:20 22:20 26:18 30:2 MONTGOM... 2:21 months 27:9 29:17 MoPac 5:18 morning 8:2,3,8 9:15 10:12,14 11:7,9,11,23 12:5,11,21 13:3,9,16,21 14:7 20:14 22:20 moved 29:20 movement 27:16 muted 10:21 21:2	<hr/> N <hr/> N 2:1 8:1 N.W 4:22 nail 13:5 Najjar 4:7 11:13 name 8:22 Nat 9:24 necessary 17:25 need 8:9 15:23 23:4 26:14,16 26:19 27:16 28:8 29:12,23 30:1 new 1:10 2:19 2:22 3:8,12,13 4:23 5:7,13,23 6:1,4,6,9,17,20 8:4 9:16,17,23 10:3,4 11:2 13:14,19 19:16 21:12 27:22 29:5 nine 9:7 10:6 25:8 non 9:11 non-attorneys 10:6,8 noon 22:25 23:9 23:11,14,22,22 23:23 24:7 normal 27:8 North 6:19 number 10:5 14:3 17:18 21:18 NW 4:13 <hr/> O <hr/> O 2:1 8:1 O'Brien 4:21 12:20,21,22 20:4 25:12,14 obfuscation 27:11 observe 13:11 14:3 21:1 office 2:16,16

3:12,13 4:8 5:1 5:2,12,23 6:3,8 9:1,3,18,19,25 10:15,15 11:14 11:15 12:16 13:24 14:1 24:5,22 31:16 Ogaz 3:12 9:18 Okay 9:13 10:20 11:1,21 12:4,9 12:19 13:1,7 14:5,14 16:16 19:17 20:16 25:22 Olsen 6:18,19 14:7,8 open 17:17,22 17:24 21:25,25 22:5 26:14,15 27:18 28:9 opinion 22:8 opponents 25:12 opportunity 23:1,2 oppose 27:15 opposed 23:23 opposing 18:14 oral 15:6,8 16:3 16:4,13 18:1 22:20 27:1 organized 16:12 Original 1:2 8:6 originally 28:24	31:10,14 party 15:1 22:3 22:3 Paseo 2:21 3:8 Paso 4:20 5:15 12:4,6,19,22 19:7,13,13 pecan 6:1,17 13:14,17 19:15 19:21 people 8:13,19 9:4 10:5,18 12:24 14:3,16 14:19 17:18 18:25 20:1,24 25:4,8 Peralta 2:21 3:8 period 26:15 person 12:7 14:2 personnel 22:22 Pete 20:12,13,17 20:24 21:5 phone 9:1 plan 8:13 planning 17:12 plans 10:18 13:5 plenty 8:14 14:23 plowing 20:7 point 16:14 19:5 22:6 23:7 25:25 27:8,12 pool 17:21 position 19:9 possibility 26:22 possible 13:12 14:11,20 17:11 19:2 24:13,18 24:19 Post 2:16 3:13 4:8 5:2,12,23 6:3,8 PowerPoint 15:4,16,21,22 15:25 16:4,6 16:11 17:11 18:2 22:18	prejudice 27:18 prepare 23:5 present 14:12 17:3 21:3 presentation 15:2,4,7,9 16:13 17:10 18:1 19:2 25:2 presentations 14:12 17:13 president 13:25 president's 14:1 Preston 3:18 10:14 preston.hartm... 3:21 pretty 17:20 18:25 28:10 29:25 previously 20:22 21:7,19 prior 15:11 Priscilla 2:15 9:2 priscilla.hube... 2:18 problem 14:17 17:4 20:3 21:14 22:4 28:3 problems 14:17 proceeding 28:22 proceedings 30:8 31:8 process 23:12 professional 28:12 properly 15:24 proponents 19:3 19:12 25:3 provide 16:8 public 21:22,25 22:6 purposes 8:8 put 16:12 23:15 puts 26:7	putting 14:21 <hr/> Q <hr/> question 18:9 19:18 questions 21:3 22:11 quick 9:6 14:25 quickly 17:7 <hr/> R <hr/> R 2:1,1 4:2 5:6 8:1 rail 14:21 raised 25:19 26:20 Raley 3:2 9:20 Randel 4:12 11:15 RAPIDS 1:15 ready 27:5 really 17:25 20:6 reasonable 24:11 receive 23:3,25 24:1 received 11:2 Reclamation 6:11 11:16,17 13:8 reconsidering 26:25 record 8:23 26:15 27:18 28:8 29:13 reflect 17:5 regard 20:12 register 21:15 21:22 registered 20:20 21:7,12 Registration 31:23 regular 31:10,12 Rein 10:16 relative 23:11	Remember 23:11 remote 1:13 20:11 24:23 remotely 13:11 14:4 Renea 5:1,1 12:23 replies 22:24 23:2 24:6,7 26:24 reply 22:18 26:9 reporter 7:1 20:13,15 31:4 Reporters 7:2 31:23 representative 12:2 22:4 request 18:18 22:23 27:25 reregister 21:10 reserved 18:12 respect 18:10 respond 23:20 24:15 26:19 27:23 28:8 response 17:14 22:12,17 26:4 26:14 27:4 29:14 review 15:12 23:1,2 rhicks@renea... 5:3 rhoffman@so... 2:8 Rich 4:16 11:14 Richardson 6:19 right 9:4,10,13 10:10 13:14 14:14 17:15 20:16 21:21 22:13 24:2,16 24:22 25:22 Rio 6:17 9:3,22 10:16 14:6 Road 6:3
---	--	--	--	--

Robert 2:4 8:25	shape 16:25	ssomach@so...	4:3,17 5:7,18	theory 24:11
ROEHL 4:22	Shelly 4:12	2:7	6:14 7:3 31:24	Theresa 2:4
Rolf 9:23	11:15	standpoint 18:5	Sullivan 10:17	8:24
room 8:14 14:23	shelly.randel...	start 8:17,20	suppose 23:2	thing 18:1 19:1
Roswell 6:20	4:14	20:21 22:20	Supreme 1:5 8:6	19:25 28:15
RPR 31:19	short 26:15	27:1	29:13	things 8:12 30:1
S	Shorthand 31:4	started 24:25	sure 12:2 15:23	think 8:6,14,19
S 2:1 5:18 6:13	shortly 10:5	25:1	18:3,11 21:6	10:9,21 16:5
8:1	side 19:12 25:2	starting 17:20	21:17 22:8	17:3,25 21:8
Sacramento 2:6	significant 26:7	State 1:8,10,10	29:12,23	22:5 24:6
Salt 4:18	SIMMONS 2:5	2:2,16,19 3:16	surprise 17:2	25:23 27:6,6
Samantha 5:6	2:11	4:17 6:6 8:3,4	26:13	27:17 28:7,10
13:4	simply 17:4	8:4,23 9:2,16	surprised 27:21	29:8
samantha@h2...	SISK 4:22	9:21,25 10:13	Susan 5:17 12:6	Thompson 3:1
5:8	six 9:6 18:15,21	10:16,18 13:19	system 11:5	9:19
Santa 2:22 3:8	18:25 19:12,17	15:3 19:16	T	thought 15:15
3:13 5:13,23	sklahn@soma...	23:12 31:4	T 2:1 6:2	three 9:6 10:9
6:9	2:13	stated 31:5	table 10:8 14:19	12:24 13:6
Sarah 2:11 8:25	Skov 9:3	statement 22:17	tables 14:18,19	16:11 19:5,5,6
Saturday 22:23	SMITH 6:13	states 1:5,14 4:1	take 8:7 24:4	22:23
saying 19:1 25:5	smoothly 11:9	8:5,5 10:21	29:10	time 13:4 16:14
schedule 27:9,15	software 11:8	11:11 16:1,8	taken 31:11	18:17 19:24
28:6	solicitor's 11:14	16:11,18 17:7	talk 13:13 15:14	20:2,5 22:25
scheduled 28:14	11:15	17:11 19:5	20:10 21:5	23:5,11,14,23
Schmidt-Peter...	Somach 2:3,5,11	22:23,24 23:25	25:1 30:1	23:23 24:7,10
9:23	8:18,22,23	26:1 27:7,10	talking 16:2	24:12 26:15
Scott 13:23,24	9:12 15:20	27:19	tbarfield@so...	27:7 28:1,4,9
SE 1:15	16:19,22 23:8	States' 29:4	2:8	31:8
SEAL 31:16	23:10 24:9	status 26:21	technologies	today 12:23
second 15:14	26:3 27:6 30:3	31:8,11	18:4	13:23
security 17:17	Somach's 22:17	Stein 5:12,22,22	tell 8:19 28:7	told 28:17
17:23	soon 22:2 24:18	12:11,12 18:8	Ten 9:8	touch 25:21
see 11:7 25:23	sorry 9:9 21:16	18:9,12,22	terms 8:24 9:4	transcript 1:13
30:6	24:4 25:15,25	19:4,15 20:9	Tessa 6:2 13:17	31:7
seeing 26:2	sort 15:10	25:5,6	19:19	transferred
separate 28:25	South 4:17 5:7	Stream 9:24	test 11:6	28:24 29:3,4,6
separately 15:17	Southern 6:17	Street 2:12 3:2	Texas 1:8 2:2,16	transmittal
service 10:3	14:5	4:3,13,17,22	2:17 5:2,18	29:13
sessions 11:7	speak 16:6 18:6	Stuart 2:3 8:23	6:14 7:3 8:4,21	travel 13:5 17:1
set 14:19 15:24	18:21,21 19:18	submit 22:24	8:24 15:3,15	27:13 28:11
24:18 27:15	25:13,17	submitted 24:7	16:1 23:12	traveling 22:21
settings 11:3	speaking 18:22	substantively	31:4	22:21,22
settlement 25:3	19:21 25:4	27:23	Texas' 29:3	trial 17:20 20:20
seven 9:7	special 1:14	sufficient 18:16	thank 16:23	21:7,23 28:23
SEVENTH 1:14	13:25	23:5	20:9 22:8 30:5	Trout 3:2 9:20
SG's 24:5,22	SPERLING	suggest 20:11,18	30:6	true 31:6,7
	4:22	Suite 2:6,12 3:2		try 17:1 23:10

23:15 24:12 25:9 29:11 trying 13:5 16:12 23:21 27:11 ttd@tessadavi... 6:5 two 9:6 10:18 11:6 12:3 22:19 TX 31:24 type 16:7 17:12 19:2 27:25	<hr/> V <hr/> v 1:9 3:18 verbally 17:5 versus 8:4 view 21:18,23 27:7 virtually 14:11 <hr/> W <hr/> W 6:7 Wallace 3:17 10:11,12,13 15:17,18 21:16 22:7 want 16:3,9 17:23 18:2,25 19:18 20:22 21:17,20,23 22:5 28:15 wanted 8:7 Washington 4:8 4:13 23:23 wasn't 21:24 Water 4:20 5:10 11:22,25 12:2 12:20,22 way 28:6 we'll 10:4 13:13 14:21,22,23 16:8 17:6,6 20:23 21:4,12 22:20 23:15 24:12 29:19 30:6 we're 8:3 10:22 13:5 14:15,18 15:21,21 16:2 16:10,13,17,22 17:5,21 23:3 23:13,20 26:7 27:21 28:6,13 we've 16:10,25 27:9,12,13 Wechsler 2:20 9:14,15,16 29:6,18 week 8:20 10:19	11:6,18 12:1,8 12:16,25 13:6 13:18 14:1 26:22 27:1,5 28:12,17 30:6 weekend 16:21 went 28:18 west 23:13 whatsoever 27:19 Widmer 12:13 12:17 wise 28:11 wish 14:3 working 16:12 18:4 works 15:24 Worldwide 7:2 20:12,21,23 31:23	12621 7:3 31:24 1300 3:19 13th 26:23 27:16 141 1:2 8:6 15 20:6 1508 3:13 1600 3:2 1849 4:13 18th 4:3 31:17 <hr/> 2 <hr/> 20 5:7 20044 4:8 202 4:9,14 2023 1:13 31:17 20240 4:13 2067 5:12,23 208-5432 4:14 223 31:23 2240 6:3 2386 6:8 2701 2:12 279-7868 2:13 290 7:3 31:24 <hr/> 3 <hr/> 3:00 23:14 30 1:13 300 5:18 303 3:3 4:4 303187 5:2 320-5466 6:15 325 2:21 3:8 329-4672 3:14 370 4:3 3711 5:18 <hr/> 4 <hr/> 40 14:16 4206 6:3 446-7979 2:7 45 18:19 20:1,3 25:7 463-2012 2:17 472-8021 5:19 480-8231 5:3	<hr/> 5 <hr/> 5:00 26:18 500 2:6 4:22 505 2:22 3:9,14 4:23 5:13,24 6:4,9 508-6281 3:20 512 2:17 5:3,19 6:15 514-3553 4:9 524-5677 4:18 52401 1:15 570-4591 3:9 575 5:8 6:20 <hr/> 6 <hr/> 604 6:19 6201 4:17 624-2463 6:20 636-2377 5:8 699-1445 6:9 6th 27:17 <hr/> 7 <hr/> 7:30 17:17,24 720 2:13 3:20 745-1101 7:4 7611 4:8 77034 7:3 31:24 78701 6:14 78703 5:2 78711 2:17 78746 5:18 792-3636 6:4 7th 3:19 <hr/> 8 <hr/> 8:00 15:23 17:16 17:24 18:3 800 7:4 800-745-1101 31:25 801 4:18 80202 4:3 80203 3:3,19 80205 2:12 816 6:14
--	---	---	---	---

8262 31:20
84138 4:18
844-1375 4:4
848-1800 4:23
861-1963 3:3
87048 6:4
87103 4:23
87501 2:22 3:8
3:13
87504 5:13,23
6:9
88005 5:7
88202 6:20

9

9:00 22:19 24:9
24:13
916 2:7
95814 2:6
983-3880 5:13
5:24
986-2637 2:22
999 4:3