

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

**STATE OF NEW MEXICO'S NOTICE OF EXHIBIT
DISCLOSURES AND OBJECTIONS**

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October 18, 2021

In response to the Special Master's September 16, 2021 Order Regarding Remote Trial Protocols, the State of New Mexico provides the following exhibit disclosures and objections for Dr. Jennifer Stevens. As of this filing, the parties anticipate that Dr. Stevens is expected to testify on October 19 and October 20, 2021. Accordingly, the State of New Mexico provides the following:

Attachment 1: The Jennifer Stevens direct-examination exhibit index, which identifies the States of Texas's and Colorado's and the United States of America's objections.

Attachment 2: The Jennifer Stevens cross-examination exhibit index, which identifies the State of New Mexico's objections.

All exhibits, indexes, and related exhibits have been uploaded to Box.com and are available for the parties to access and download. In an effort to resolve these objections, the parties have met and conferred in good faith.

Dated: October 18, 2021

Respectfully submitted,

By: /s/ Jeffrey J. Wechsler
Jeffrey J. Wechsler

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STATE OF NEW MEXICO'S CERTIFICATE OF SERVICE

This is to certify that on this 18th day of October, 2021, I caused a true and correct copy of **THE STATE OF NEW MEXICO'S NOTICE OF EXHIBIT DISCLOSURES AND OBJECTIONS** 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: October 18, 2021

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HONORABLE MICHAEL J. MELLOY

Special Master

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Texas and United States Objections to New Mexico Direct Examination Exhibits for Dr. Jennifer Stevens

Trialexno	Date	Subject/Title	Category (A, B, C)	Category B Objections (Cite Fed. R. Evid.)	Category C Objections
CO-0004	12/23/1937	1938 THE RIO GRANDE JOINT INVESTIGATION IN THE UPPER RIO GRANDE BASIN	A		
JT-0218	12/31/1953	Rio Grande Project History 1953 2 of 6.pdf	Admitted		
JT-0426	2/16/1938	1938 Downstream Contract	A		
JT-0430; US-0472	11/1/1919	Report to Bureau of Reclamation: Rio Grande Project, Report on Water Supply and Project Area High Line Canal Construction Power Development and City Water Supplies	Admitted		
JT-0444	9/1/1947	Conover, Clyde S. Preliminary Memorandum on Ground-Water Supplies for Elephant Butte Irrigation District, September 1947	A		
JT-0446	4/1/1903	Pumping for Irrigation from Wells	C		CO Objects - beyond scope of expertise FRE 702
NM-0435	2/19/1951	Water Announcements from Rio Grande Project Histories 1951-1957	A		
NM-0445; US-0477	9/29/1938	TX Compact apportionment and role of Project	A		
NM-0499	1/1/1954	Ground-Water Conditions in the Rincon and Mesilla Valleys and Adjacent Areas in New Mexico. Geological Survey Water-Supply Paper 1230, prepared in cooperation with the Elephant Butte Irrigation District	C		CO Objects - beyond scope of expertise FRE 702
NM-0502	11/1/1961	Groundwater Conditions in the Elephant Butte Irrigation District	C		CO Objects - beyond scope of expertise FRE 702
NM-0899	6/12/1951	Newspaper Article - El Paso Herald Post Jun 12 1951	B,C	TX Objects - Relevance, Confusing (Fed. R. Evid. 401, 403)	TX Objects - Foundation (Fed. R. Evid. 602); Authenticity (Fed. R. Evid. 901)
NM-1035	8/27/1946	Water Announcements from Rio Grande Project Histories 1946-1950	A		
NM-1419	3/26/1938	Frank B. Clayton, Rio Grande Compact Commissioner for Texas, to Hon. F.S. Robertson, Secretary, Water Conservation Association	A		
NM-1508	6/8/2021	Curriculum Vitae, Jennifer Stevens, Ph.D.	C		CO Objects -Hearsay FRE 801
NM-1546	1/1/1963	Ground-Water Resources of the Lower Mesilla Valley, Texas and New Mexico	C		CO Objects -Beyond scope of expertise FRE 702
NM-1657	9/30/1950	Department of the Interior, United States Geological Survey, Press Release, Ground-Water Pumping to Temper Effects of Droughts in Elephant Butte District, N. Mex, October 30, 1950	C		CO Objects -Beyond scope of expertise FRE 702

Texas and United States Objections to New Mexico Direct Examination Exhibits for Dr. Jennifer Stevens

Trialexno	Date	Subject/Title	Category (A, B, C)	Category B Objections (Cite Fed. R. Evid.)	Category C Objections
NM-2097	10/28/2019	The History of Interstate Water Use on the Rio Grande: 1890-1955 by Jennifer Stevens dated 10/28/2019	C		CO Objects -Hearsay FRE 801
NM-2098	6/15/2020	Rebuttal Expert Report of Jennifer Stevens	C		CO Objects -Hearsay FRE 801
NM-2119; US-0461; TX_0479	10/4/1938	TX apportionment and role of Project	A		
NM-2302; TX_0542	1/27/1936	Letter from Raymond A. Hill, Engineer Advisor, State of Texas, to Frank B. Clayton, Rio Grande Compact Commissioner, State of Texas	A		
NM-2303	2/1/1936	Frank B. Clayton, Rio Grande Compact Commissioner for Texas, to National Resource Committee - Reference Memorandum of January 10, 1936	Admitted		
NM-3000	8/6/2020	Nicolai Kryloff Deposition Designations	A		
NM-DEMO-STEVENSON		Jennifer Stevens Demonstrative (001-015)	C		CO Objects -Hearsay FRE 801, leading
TX-0513	1/23/1906	1906 and 1908 Letter of Appropriation for Rio Grande Project	A		
US-0456	12/2/1935	RGCC Meeting Minutes held in Santa Fe, New Mexico Dec 2-3, 1935	See Note	Texas and the United States have no objections. Colorado did not provide its objections, if any, before the deadline.	
US-0656	7/1/1956	July 1956 RECONNAISSANCE REPORT on WATER CONSERVATION PLANS for RIO GRANDE PROJECT NEW MEXICO - TEXAS	A		

New Mexico's Objections to Texas and the United States' Designation of Cross Examination Exhibits for Dr. Jennifer Stevens

Trialexno	Date	Subject/Title	Category	Category B Objections	Category C Objections
JT-0199	12/31/1950	Rio Grande Project History 1950 2 of 7.pdf	A		
JT-0205	12/31/1951	Rio Grande Project History 1951 1 of 6.pdf	A		
JT-0206	12/31/1951	Rio Grande Project History 1951 2 of 6.pdf	Admitted		
JT-0211	12/31/1952	Rio Grande Project History 1952 1 of 6.pdf	A		
JT-0212	12/31/1952	Rio Grande Project History 1952 2 of 6.pdf	A		
JT-0218	12/31/1953	Rio Grande Project History 1953 2 of 6.pdf	A		
JT-0227	12/31/1954	Rio Grande Project History 1954 5 of 6.pdf	A		
JT-0232	12/31/1955	Rio Grande Project History 1955 4 of 5.pdf	A		
JT-0234	12/31/1956	Project History, Rio Grande Project - 1956	A		
JT-0236	12/31/1956	Rio Grande Project History 1956 3 of 4.pdf	A		
JT-0245	12/31/1958	Rio Grande Project History 1958 3 of 5.pdf	A		
JT-0246	12/31/1958	Rio Grande Project History 1958 4 of 5.pdf	A		
JT-0255	12/31/1960	Rio Grande Project History 1960 3 of 4.pdf	A		
JT-0259	12/31/1961	Rio Grande Project History 1961 3 of 4.pdf	A		
JT-0268	12/31/1964	Rio Grande Project History 1964 3 of 4.pdf	A		
JT-0363	3/28/1974	1973 - Thirty-Fifth Annual Report of the Rio Grande Compact Commission	Admitted		
JT-0391	3/21/2002	2001 - Sixty-Third Annual Report of the Rio Grande Compact Commission	Admitted		
JT-0395	3/23/2006	2005 - Sixty-Seventh Annual Report of the Rio Grande Compact Commission	Admitted		
JT-0444	9/1/1947	Conover, Clyde S. Preliminary Memorandum on Ground-Water Supplies for Elephant Butte Irrigation District, September 1947	Admitted		
JT-0462	7/1/1952	River Loss Caballo Dam to El Paso and Irrigation Wells	A		
JT-0468	9/17/1982	State Engineer Order #135: In the Matter of State Engineer Special Order No. 135 Declaring an Extension of the Lower Rio Grande Underground Water Basin in Dona Ana, Grant and Sierra Counties	A		
NM-0045; TX-0607	10/8/1968	Development of the Rio Grande Compact of 1938	A		
NM-0175	6/27/1933	Minutes of the Regular Meeting of the Board of Directors of IBID Held July 3, 1933	Admitted		

New Mexico's Objections to Texas and the United States' Designation of Cross Examination Exhibits for Dr. Jennifer Stevens

Trialexno	Date	Subject/Title	Category	Category B Objections	Category C Objections
NM-0176	1/3/1950	EBID Board Meeting Minutes 1950 - 1958	Admitted		
NM-0435	2/19/1951	Water Announcements from Rio Grande Project Histories 1951-1957	A		
NM-0619	4/4/1952	Letter Enclosing Application to United States for Permission to Convey Water Pumped From Drains or Farms Wells Through Project Canals and Laterals	A		
NM-1035	8/27/1946	Water Announcements from Rio Grande Project Histories 1946-1950	A		
NM-1439	9/10/1947	Chas. V. Theis, District Geologist, to Mr. A. N. Sayre, Geologist in Charge, Division of Groundwater	A		
NM-1446	4/7/1952	Rio Grande Project -- New Mexico-Texas, Water Announcement. April 7, 1952	A		
NM-1461	6/1/1919	Water Supply for and Possible Development of Irrigation and Drainage Projects on Rio Grande River, Above El Paso, Texas	A		
NM-1508	6/8/2021	Curriculum Vitae, Jennifer Stevens, Ph.D.	A		
NM-1541	9/23/1947	Chas. V. Theis, District Geologist, to Mr. John H. Bliss, State Engineer of New Mexico	A		
NM-1548	12/31/1913	Twelfth Annual Report of the Reclamation Service, 1912-1913	A		
NM-1554	12/31/1911	Tenth Annual Report of the Reclamation Service, 1910-1911	A		
NM-2097	10/28/2019	The History of Interstate Water Use on the Rio Grande: 1890-1955 by Jennifer Stevens dated 10/28/2019	A		
NM-2098	6/15/2020	Rebuttal Expert Report of Jennifer Stevens	A		
NM-2098	6/15/2020	Rebuttal Expert Report of Jennifer Stevens			
TX-0008	5/31/2019	Expert Report of Scott A. Miltenberger, Ph.D., JRP	A		
TX-0029	12/30/2019	Expert Rebuttal / Supplemental Report of: Scott A. Miltenberger, Ph.D.	A		
TX-0288	6/29/2020	Schmidt-Peterson, Rolf Exhibit from Deposition Testimony, Vol. 1EXHIBIT NO. 1: Rio Grande Compact	A		

New Mexico's Objections to Texas and the United States' Designation of Cross Examination Exhibits for Dr. Jennifer Stevens

Trialexno	Date	Subject/Title	Category	Category B Objections	Category C Objections
TX-0543	3/21/2002	Memorandum of Understanding between the Rio Grande Compact Commission and the United States Bureau of Reclamation	A		
TX-0601	11/2/2020	Declaration of Scott Miltenberger, Ph.D. in Support of the State of Texas's Motion for Partial Summary Judgment; Memorandum of Points and Authorities in Support Thereof FRCP 56	B	Hearsay. Fed. R. Evid. 803, Irrelevant. Fed. R. Evid. 402, Other (Use Objection Notes)	
TX-0606	12/22/2020	Declaration of Scott Miltenberger	B	Hearsay. Fed. R. Evid. 803, Irrelevant. Fed. R. Evid. 402, Other (Use Objection Notes)	
TX-0608	11/4/2020	C.J. Kuiper authentication (April 5, 1976) and RA Hill - Development of the Rio Grande Compact of 1938 (October 8, 1968)	A		
TX-0622	12/15/1951	1951-12-15 JH Bliss Affidavit attached as Exhibit C to TX v NM Return of Defs to Rule to Show Cause (TX_MSJ_005677-5698)	A		
TX-0623	12/4/1938	No. 29, Original, TX and NM vs. CO, Deposition of: Raymond A. Hill	B	Cumulative. Fed. R. Evid. 403, Other (Use Objection Notes), Rule of Completeness Fed. R. Evid. 106	
TX-0642	1/22/1906	Territorial Irrigation Engineer, Jan. 23,1906.	B	Other (Use Objection Notes), Requirement of the Original. Fed. R. Evid. 1002, Unfair Prejudice. Fed. R. Evid. 403	
TX-0669	1/6/1911	United States Congress, House of Representatives, Fund for Reclamation of Arid Lands: Message from the President of the United States, Transmitting a Report of the Board of Army Engineers in Relation to the Reclamation Fund, H. Doc. No. 1262, 61st Cong. 3d sess. (1911-12).	A		

New Mexico's Objections to Texas and the United States' Designation of Cross Examination Exhibits for Dr. Jennifer Stevens

Trialexno	Date	Subject/Title	Category	Category B Objections	Category C Objections
TX-0677; CO-0004	12/23/1937	1938 THE RIO GRANDE JOINT INVESTIGATION IN THE UPPER RIO GRANDE BASIN	A		
TX-0683	4/14/1908	1908-04-14, Sup Eng to Sullivan re RG water notice	A		
TX-0695	1/9/1926	Letter NMSU-EBID 02-G-001-07	A		
TX-0698	1/1/1954	Ground-Water Conditions in the Rincon and Mesilla Valleys and Adjacent Areas in New Mexico, Geological Survey Water-Supply Paper 1230, Prepared in cooperation with the Elephant Butte Irrigation District, Department of the Interior (GPO, 1954)	A		
TX-0702	1/1/1982	Office of the New Mexico State Engineer, Rio Grande, Elephant Butte Dam to El Paso, Texas (1982), 1. Folder 11 Correspondence and data concerning Mesilla Valley pumping. 1982., Box 1, MS 555 Joseph F. Friedkin Papers, C.L. Sonnichsen Special Collections Department, University of Texas at El Paso.	B/C	Hearsay. Fed. R. Evid. 803, Other (Use Objection Notes), Unfair Prejudice. Fed. R. Evid. 403	Cannot be Authenticated At Trial. Fed. R. Evid. 901(A)
TX-DEMO- STEVENS- 01	10/15/2021	Texas Steven's Demonstrative 01	A		
TX-DEMO- STEVENS- 02	10/15/2021	Notice of Deposition and Subpoena Jennifer Stevens PhD and RFPD	A		
US-0307	11/15/2016	Memorandum re: Expert Historical Opinion on Provenance of document "Rio Grande, Elephant Butte Dam to El Paso, Texas"	B/C	Confusing the Issues. Fed. R. Evid. 403, Hearsay. Fed. R. Evid. 803, Inaccurate Summary to Prove Content. Fed. R. Evid. 1006, Other (Use Objection Notes)	Cannot be Authenticated At Trial. Fed. R. Evid. 901(A)
US-0370	9/13/1935	Report of Rio Grande Board of Review	B	Other (Use Objection Notes), Requirement of the Original. Fed. R. Evid. 1002, Unfair Prejudice. Fed. R. Evid. 403	

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Trialexno	Date	Subject/Title	Category	Category B Objections	Category C Objections
US-0371	3/17/1938	Bureau of Reclamation Project Correspondence File 1930-1945	B	Other (Use Objection Notes), Requirement of the Original. Fed. R. Evid. 1002, Unfair Prejudice. Fed. R. Evid. 403	
US-0372	7/9/1904	Letter dated July 9, 1904	A		
US-0373	1/1/1907	Water Resources of the Rio Grande Valley in New Mexico and Their Development by Willis T. Lee	A		
US-0374	2/1/1917	Report on Mesilla and El Paso Valley Drainage Rio Grande Project February 1917	A		
US-0375	6/18/1919	Conking Report dated June 18, 1919	B	Other (Use Objection Notes), Requirement of the Original. Fed. R. Evid. 1002, Unfair Prejudice. Fed. R. Evid. 403	
US-0376	9/29/1947	Minutes of a Regular Meeting of the Board of Directors of the EBID held on October 7, 1947	B	Other (Use Objection Notes), Requirement of the Original. Fed. R. Evid. 1002, Unfair Prejudice. Fed. R. Evid. 403	
US-0377	10/30/1950	Ground-Water Pumping to Temper Effects of Droughts in EBID	A		
US-0378	6/6/2006	Study: Region could have water problems by 2025	B	Hearsay. Fed. R. Evid. 803	
US-0509	7/1/1956	Reconnaissance Report on Water Conservation Plans for Rio Grande Project Appendices A- Hydrology; B- Engineering and C-Agriculture Economics July 1956	A		
US-0613	4/16/1927	Findings re: NMOSE approval of the Application for Water Right Permit of Wm. Roche	B	Other (Use Objection Notes), Requirement of the Original. Fed. R. Evid. 1002, Unfair Prejudice. Fed. R. Evid. 403	
US-0623	11/11/1936	L.R. Flock Direct Examination by Frank Clayton	A		

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Trialexno	Date	Subject/Title	Category	Category B Objections	Category C Objections
US-0656	7/1/1956	July 1956 RECONNAISSANCE REPORT on WATER CONSERVATION PLANS for RIO GRANDE PROJECT NEW MEXICO - TEXAS	A		