

No. 141, Original

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In the  
SUPREME COURT OF THE UNITED STATES

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STATE OF TEXAS,

Plaintiff,

v.

STATE OF NEW MEXICO and  
STATE OF COLORADO,

Defendants.

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**OFFICE OF THE SPECIAL MASTER**

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**DECLARATION OF RICHARD S. DEITCHMAN IN SUPPORT OF  
THE STATE OF TEXAS'S OBJECTION AND REQUEST TO STRIKE  
CUMULATIVE AND/OR DUPLICATIVE WITNESS TESTIMONY AND  
REQUEST FOR CONFIRMATION OF WITNESS LIST**

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STUART L. SOMACH, ESQ.\*  
ANDREW M. HITCHINGS, ESQ.  
ROBERT B. HOFFMAN, ESQ.  
FRANCIS M. GOLDSBERRY II, ESQ.  
THERESA C. BARFIELD, ESQ.  
SARAH A. KLAHN, ESQ.  
BRITTANY K. JOHNSON, ESQ.  
RICHARD S. DEITCHMAN, ESQ.  
SOMACH SIMMONS & DUNN, PC  
500 Capitol Mall, Suite 1000  
Sacramento, CA 95814  
Telephone: 916-446-7979  
[ssomach@somachlaw.com](mailto:ssomach@somachlaw.com)

*\*Counsel of Record*

October 15, 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** is a true and correct copy of New Mexico's Supplemental Rule 26(a)(1) Disclosures, August 19, 2020.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 15th day of October 2021, at Sacramento, California.



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Richard S. Deitchman

No. 141, Original

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In the  
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STATE OF TEXAS,

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STATE OF NEW MEXICO and  
STATE OF COLORADO,

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**OFFICE OF THE SPECIAL MASTER**

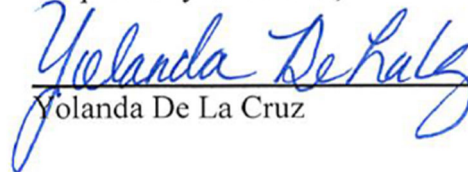
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**CERTIFICATE OF SERVICE**

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This is to certify that on this 15th day of October 2021, I caused a true and correct copy of **Declaration of Richard S. Deitchman on Support of the State of Texas's Objection and Request to Strike Cumulative and/or Duplicative Witness Testimony and Request for Confirmation of Witness List** 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,

  
Yolanda De La Cruz

Dated: October 15, 2021

**SERVICE LIST FOR ALL PARTIES AND AMICI CURIAE**



**SPECIAL MASTER**

<b>Special Master</b>	<b>Honorable Michael J. Melloy</b> <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	<a href="mailto:TXvNM141@ca8.uscourts.gov">TXvNM141@ca8.uscourts.gov</a> (319) 432-6080  <a href="mailto:TXvNM141@ca8.uscourts.gov">TXvNM141@ca8.uscourts.gov</a> (314) 244-2400
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**PARTIES**  
(Service via Electronic Mail)

**PARTIES<sup>1</sup>**

STATE	ATTORNEY & ADDRESS	PHONE & EMAIL
<b>Texas</b>	<p><b>STUART L. SOMACH*</b>  <b>ANDREW M. HITCHINGS</b>  <b>ROBERT B. HOFFMAN</b>  <b>FRANCIS M. GOLDSBERRY II</b>  <b>THERESA C. BARFIELD</b>  <b>SARAH A. KLAHN</b>  <b>BRITTANY K. JOHNSON</b>  <b>RICHARD S. DEITCHMAN</b>            SOMACH SIMMONS &amp; DUNN, PC            500 Capitol Mall, Suite 1000            Sacramento, CA 95814-2403</p> <p><b>KEN PAXTON</b>  <i>Attorney General of Texas</i>  <b>BRENT WEBSTER</b>  <i>First Assistant Attorney General</i>  <b>GRANT DORFMAN</b>  <i>Deputy First Assistant Attorney General</i>  <b>SHAWN COWLES</b>  <i>Deputy Attorney General for Civil Litigation</i>  <b>WILLIAM F. COLE</b>  <i>Assistant Solicitor General</i>  <b>BEAU CARTER</b>  <i>Assistant Solicitor General</i>  <b>PRISCILLA M. HUBENAK*</b>  <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  <a href="mailto:ssomach@somachlaw.com">ssomach@somachlaw.com</a>  <a href="mailto:ahitchings@somachlaw.com">ahitchings@somachlaw.com</a>  <a href="mailto:rhoffman@somachlaw.com">rhoffman@somachlaw.com</a>  <a href="mailto:mgoldsberry@somachlaw.com">mgoldsberry@somachlaw.com</a>  <a href="mailto:tbarfield@somachlaw.com">tbarfield@somachlaw.com</a>  <a href="mailto:sklahn@somachlaw.com">sklahn@somachlaw.com</a>  <a href="mailto:bjohnson@somachlaw.com">bjohnson@somachlaw.com</a>  <a href="mailto:rdeitchman@somachlaw.com">rdeitchman@somachlaw.com</a></p> <p>Secretary: Corene Rodder  <a href="mailto:crodder@somachlaw.com">crodder@somachlaw.com</a>            Secretary: Crystal Rivera  <a href="mailto:crivera@somachlaw.com">crivera@somachlaw.com</a>            Paralegal: Yolanda De La Cruz  <a href="mailto:ydelacruz@somachlaw.com">ydelacruz@somachlaw.com</a></p> <p>(512) 463-2012            (512) 457-4644 Fax</p> <p><a href="mailto:priscilla.hubenak@oag.texas.gov">priscilla.hubenak@oag.texas.gov</a></p>

<sup>1</sup> (\*) = *Counsel of Record*

**New Mexico**

**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

**Jennifer Van Wiel** - Paralegal

**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**-Firm Administrator

**Pauline Wayland** – Paralegal

**Bonnie DeWitt** – Paralegal

**BENNET W. RALEY**

**LISA M. THOMPSON**

**MICHAEL A. KOPP**

Special Assistant Attorneys General

TROUT RALEY

1120 Lincoln St., Suite 1600

Denver, CO 80203

**JEFFREY WECHSLER**

**SHELLY L. DALRYMPLE**

**KALEB W. BROOKS**

Special Assistant Attorney General

MONTGOMERY & ANDREWS

325 Paseo De Peralta

Santa Fe, NM 87501

**Diana Luna** - Paralegal

[hbalderas@nmag.gov](mailto:hbalderas@nmag.gov)

[tmaestas@nmag.gov](mailto:tmaestas@nmag.gov)

[ckhoury@nmag.gov](mailto:ckhoury@nmag.gov)

[zogaz@nmag.gov](mailto:zogaz@nmag.gov)

(505) 239-4672

[psalazar@nmag.gov](mailto:psalazar@nmag.gov)

[jvanwiel@nmag.gov](mailto:jvanwiel@nmag.gov)

(505) 239-4672

[marcus@roblesrael.com](mailto:marcus@roblesrael.com)

[luis@roblesrael.com](mailto:luis@roblesrael.com)

[susan@roblesrael.com](mailto:susan@roblesrael.com)

[chelsea@roblesrael.com](mailto:chelsea@roblesrael.com)

[pauline@roblesrael.com](mailto:pauline@roblesrael.com)

[bonnie@roblesrael.com](mailto:bonnie@roblesrael.com)

(505) 242-2228

[braley@troutlaw.com](mailto:braley@troutlaw.com)

[lthompson@troutlaw.com](mailto:lthompson@troutlaw.com)

[mkopp@troutlaw.com](mailto:mkopp@troutlaw.com)

(303) 861-1963

[jwechsler@montand.com](mailto:jwechsler@montand.com)

[sdalrymple@montand.com](mailto:sdalrymple@montand.com)

[kwbrooks@montand.com](mailto:kwbrooks@montand.com)

[dluna@montand.com](mailto:dluna@montand.com)

(505) 986-2637

	<b>JOHN DRAPER</b> <b>CORINNE ATTON</b> Special Assistant Attorney General DRAPER & DRAPER LLC 325 Paseo De Peralta Santa Fe, NM 87501 <b>Donna Ormerod</b> – Paralegal	<a href="mailto:john.draper@draperllc.com">john.draper@draperllc.com</a> <a href="mailto:corinne.atton@draperllc.com">corinne.atton@draperllc.com</a> <a href="mailto:donna.ormerod@draperllc.com">donna.ormerod@draperllc.com</a> (505) 570-4591
--	---	--

<b>Colorado</b>	<b>PHILIP J. WEISER</b> Colorado Attorney General <b>ERIC R. OLSON</b> Colorado Solicitor General <b>LAIN LEONIAK</b> Acting First Asst. Attorney General <b>CHAD M. WALLACE*</b> Senior Assistant Attorney General <b>PRESTON V. HARTMAN</b> Assistant Attorney General  COLORADO DEPARTMENT OF LAW Ralph Carr Judicial Center 7th Floor 1300 Broadway Denver, CO 80203 <b>Nan Edwards</b> – Paralegal II	<a href="mailto:eric.olson@coag.gov">eric.olson@coag.gov</a>  <a href="mailto:chad.wallace@coag.gov">chad.wallace@coag.gov</a> (720) 508-6281 (direct) <a href="mailto:preston.hartman@coag.gov">preston.hartman@coag.gov</a> (720) 508-6257 (direct)  <a href="mailto:nan.edwards@coag.gov">nan.edwards@coag.gov</a>

<p><b>United States</b></p>	<p><b>BRIAN H. FLETCHER*</b> Acting Solicitor General</p> <p><b>TODD KIM</b> Assistant Attorney General</p> <p><b>EDWIN S. KNEEDLER</b> Deputy Solicitor General</p> <p><b>FREDERICK LIU</b> Assistant to the Solicitor General U.S. DEPT. OF JUSTICE 950 Pennsylvania Ave, NW Washington, DC 20530-0001</p> <p><b>JAMES J. DUBOIS*</b></p> <p><b>R. LEE LEININGER</b> U.S. DEPT. OF JUSTICE Environment &amp; Natural Resources Div. 999 18th Street South Terrace – Suite 370 Denver, CO 80202</p> <p><b>Seth C. Allison, Paralegal</b></p> <p><b>JUDITH E. COLEMAN</b></p> <p><b>JENNIFER A. NAJJAR</b> U.S. DEPT. OF JUSTICE Environment &amp; Natural Resources Div. P.O. Box 7611 Washington, DC 20044-7611</p>	<p><a href="mailto:supremectbriefs@usdoj.gov">supremectbriefs@usdoj.gov</a> (202) 514-2217</p> <p><a href="mailto:james.dubois@usdoj.gov">james.dubois@usdoj.gov</a> (303) 844-1375</p> <p><a href="mailto:lee.leininger@usdoj.gov">lee.leininger@usdoj.gov</a> (303) 844-1364</p> <p><a href="mailto:seth.allison@usdoj.gov">seth.allison@usdoj.gov</a> (303) 844-7917</p> <p><a href="mailto:judith.coleman@usdoj.gov">judith.coleman@usdoj.gov</a> (202) 514-3553</p> <p><a href="mailto:jennifer.najjar@usdoj.gov">jennifer.najjar@usdoj.gov</a> (202) 305-0476</p>



**AMICI**

AMICI	ATTORNEY AND ADDRESS	PHONE & EMAIL
<p><b>Albuquerque Bernalillo County Water Utility Authority</b></p>	<p><b>JAMES C. BROCKMANN*</b>  <b>JAY F. STEIN</b>            STEIN &amp; BROCKMANN, P.A.            P.O. Box 2067            Santa Fe, NM 87504  <b>Administrative Copy</b></p> <p><b>CHARLES W. KOLBERG</b>            Albuquerque Bernalillo County Water Utility Authority            P.O. Box 568            Albuquerque, NM 87103-0568</p>	<p><a href="mailto:jbrockmann@newmexicowaterlaw.com">jbrockmann@newmexicowaterlaw.com</a>  <a href="mailto:jfstein@newmexicowaterlaw.com">jfstein@newmexicowaterlaw.com</a>            (505) 983-3880</p> <p><a href="mailto:administrator@newmexicowaterlaw.com">administrator@newmexicowaterlaw.com</a></p> <p><a href="mailto:ckolberg@abcwua.org">ckolberg@abcwua.org</a>            (505) 289-3092</p>
<p><b>City of El Paso</b></p>	<p><b>DOUGLAS G. CAROOM*</b>  <b>SUSAN M. MAXWELL</b>            BICKERSTAFF HEATH DELGADO ACOSTA LLP            3711 S. MoPac Expressway            Building One, Suite 300            Austin, TX 78746</p>	<p><a href="mailto:dcaroom@bickerstaff.com">dcaroom@bickerstaff.com</a>  <a href="mailto:smaxwell@bickerstaff.com">smaxwell@bickerstaff.com</a>            (512) 472-8021</p>
<p><b>City of Las Cruces</b></p>	<p><b>JAY F. STEIN*</b>  <b>JAMES C. BROCKMANN</b>            STEIN &amp; BROCKMANN, P.A.            P.O. Box 2067            Santa Fe, NM 87504  <b>Administrative Copy</b></p> <p><b>JENNIFER VEGA-BROWN</b>  <b>ROBERT CABELLO</b>            LAS CRUCES CITY ATTORNEY'S OFFICE            P.O. Box 20000            Las Cruces, NM 88004</p>	<p><a href="mailto:jfstein@newmexicowaterlaw.com">jfstein@newmexicowaterlaw.com</a>  <a href="mailto:jbrockmann@newmexicowaterlaw.com">jbrockmann@newmexicowaterlaw.com</a>            (505) 983-3880</p> <p><a href="mailto:administrator@newmexicowaterlaw.com">administrator@newmexicowaterlaw.com</a></p> <p><a href="mailto:jvega-brown@las-cruces.org">jvega-brown@las-cruces.org</a>  <a href="mailto:rcabello@las-cruces.org">rcabello@las-cruces.org</a>            (575) 541-2128</p>

<p><b>El Paso County Water Improvement District No. 1</b></p>	<p><b>MARIA O'BRIEN*</b>  <b>SARAH STEVENSON</b>  MODRALL, SPERLING, ROEHL,  HARRIS &amp; SISK, P.A.  500 Fourth Street N.W., Suite 1000  Albuquerque, NM 87103-2168  <b>Charlie Padilla – Legal Assistant</b></p> <p><b>RENEA HICKS</b>  LAW OFFICE OF MAX RENEA HICKS  P.O. Box 303187  Austin, TX 78703-0504</p>	<p><a href="mailto:mobrien@modrall.com">mobrien@modrall.com</a>  <a href="mailto:sarah.stevenson@modrall.com">sarah.stevenson@modrall.com</a>  (505) 848-1803 (direct)</p> <p><a href="mailto:CharlieP@modrall.com">CharlieP@modrall.com</a></p> <p><a href="mailto:rhicks@renea-hicks.com">rhicks@renea-hicks.com</a>  (512) 480-8231</p>
<p><b>Elephant Butte Irrigation District</b></p>	<p><b>SAMANTHA R. BARNCASTLE*</b>  BARNCASTLE LAW FIRM, LLC  1100 South Main, Suite 20 (88005)  P.O. Box 1556  Las Cruces, NM 88004  <b>Janet Correll - Paralegal</b></p>	<p><a href="mailto:samantha@h2o-legal.com">samantha@h2o-legal.com</a>  (575) 636-2377  Fax: (575) 636-2688</p> <p><a href="mailto:janet@h2o-legal.com">janet@h2o-legal.com</a></p>
<p><b>Hudspeth County Conservation and Reclamation District No. 1</b></p>	<p><b>ANDREW S. "DREW" MILLER*</b>  KEMP SMITH LLP  919 Congress Ave., Suite 1305  Austin, TX 78701</p>	<p><a href="mailto:dmiller@kempsmith.com">dmiller@kempsmith.com</a>  (512) 320-5466</p>
<p><b>New Mexico Pecan Growers</b></p>	<p><b>TESSA T. DAVIDSON*</b>  DAVIDSON LAW FIRM, LLC  4206 Corrales Rd.  P.O. Box 2240  Corrales, NM 87048  <b>Jo Harden - Paralegal</b></p>	<p><a href="mailto:ttd@tessadavidson.com">ttd@tessadavidson.com</a>  (505) 792-3636</p> <p><a href="mailto:jo@tessadavidson.com">jo@tessadavidson.com</a></p>

<p><b>New Mexico State University</b></p>	<p><b>JOHN W. UTTON*</b>  UTTON &amp; 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><a href="mailto:john@uttkery.com">john@uttkery.com</a>  (505) 699-1445</p> <p><a href="mailto:gencounsel@nmsu.edu">gencounsel@nmsu.edu</a>  (575) 646-2446</p>
<p><b>State of Kansas</b></p>	<p><b>DEREK SCHMIDT</b>  Attorney General of Kansas  <b>JEFFREY A. CHANAY</b>  Chief Deputy Attorney General  <b>TOBY CROUSE*</b>  Solicitor General of Kansas  <b>BRYAN C. CLARK</b>  Assistant Solicitor General  <b>DWIGHT R. CARSWELL</b>  Assistant Solicitor General  120 S.W. 10th Ave., 2nd Floor  Topeka, KS 66612</p>	<p><a href="mailto:toby.crouse@ag.ks.gov">toby.crouse@ag.ks.gov</a>  (785) 296-2215  <a href="mailto:bryan.clark@ag.ks.gov">bryan.clark@ag.ks.gov</a></p>
<p><b>Southern Rio Grande Diversified Crop Farmers Association</b></p>	<p><b>ARNOLD J. OLSEN*</b>  HENNIGHAUSEN OLSEN &amp;  McCREA, L.L.P.  P. O. Box 1415  Roswell, NM 88202-1415</p> <p><b>Malina Kauai – Paralegal</b>  <b>Rochelle Bartlett – Legal Assistant</b></p>	<p><a href="mailto:ajolsen@h2olawyers.com">ajolsen@h2olawyers.com</a>  (575) 624-2463</p> <p><a href="mailto:mkauai@h2olawyers.com">mkauai@h2olawyers.com</a>  <a href="mailto:rbartlett@h2olawyers.com">rbartlett@h2olawyers.com</a></p>

# **EXHIBIT A**

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STATE OF TEXAS,  
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**OFFICE OF THE SPECIAL MASTER**

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**STATE OF NEW MEXICO'S SUPPLEMENTAL  
RULE 26(a)(1) DISCLOSURES**

---

HECTOR H. BALDERAS  
Attorney General of New Mexico  
TANIA MAESTAS  
Chief Deputy Attorney General  
CHOLLA KHOURY  
Assistant Attorney General  
MARCUS J. RAEL, JR.\*  
Special Assistant Attorney General  
STATE OF NEW MEXICO  
P.O. Drawer 1508  
Santa Fe, New Mexico 87501  
505-239-4672

\*Counsel of Record

COMES NOW the State of New Mexico (“New Mexico”), pursuant to the Case Management Plan adopted September 6, 2018, as amended (“CMP”) and Section III of the State of New Mexico’s Initial Disclosures dated August 30, 2018, and provides the following Supplemental Rule 26(a)(1) Disclosures (“Supplemental 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 Supplemental Disclosures, incorporated herein by this reference, lists additional individuals “likely to have discoverable information relevant to disputed facts alleged with particularity in the pleadings.” CMP § 6.2.1.2.

**II. Supplementation:**

These Supplemental 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 further amend or supplement its Rule 26(a)(1) Disclosures, including by identifying other potential witnesses or documents and by disclosing other pertinent information. New Mexico therefore reserves the right to supplement its Rule 26(a)(1) Disclosures.

By providing these Supplemental 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 Supplemental 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 Supplemental Disclosures on any grounds, including competency, privilege, relevancy, materiality, hearsay, undue burden, confidentiality, or any other appropriate grounds. Furthermore, these Supplemental 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 Supplemental Disclosures do not include the names of experts retained by New Mexico for this litigation.

Dated August 19, 2020 and respectfully submitted,

HECTOR H. BALDERAS  
Attorney General of New Mexico  
TANIA MAESTAS  
Chief Deputy Attorney General  
CHOLLA KHOURY  
Assistant Attorney General  
STATE OF NEW MEXICO  
P.O. Drawer 1508  
Santa Fe, New Mexico 87501  
505-239-4672

JEFFREY WECHSLER  
Special Assistant Attorney General  
MONTGOMERY & ANDREWS  
325 Paseo de Peralta  
Santa Fe, New Mexico 87501  
505-986-2637

JOHN DRAPER  
Special Assistant Attorney General  
DRAPER & DRAPER LLC  
325 Paseo de Peralta  
Santa Fe, New Mexico 87501  
505-570-4591

MARCUS J. RAEL, JR.\*  
LUIS ROBLES  
Special Assistant Attorneys General  
ROBLES, RAEL & ANAYA, P.C.  
500 Marquette Avenue NW,  
Suite 700  
Albuquerque, New Mexico 87102  
505-242-2228  
[marcus@roblesrael.com](mailto:marcus@roblesrael.com)  
*\*Counsel of Record*

BENNETT W. RALEY  
LISA M. THOMPSON  
MICHAEL A. KOPP  
Special Assistant Attorneys General  
TROUT RALEY  
1120 Lincoln Street, Suite 1600  
Denver, Colorado 80203  
303-861-1963

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◆  
\_\_\_\_\_  
**OFFICE OF THE SPECIAL MASTER**

◆  
\_\_\_\_\_  
**STATE OF NEW MEXICO'S CERTIFICATE OF SERVICE**

◆  
\_\_\_\_\_

This is to certify that on the 19th of August, 2020, I caused a true and correct copy of the **State of New Mexico's Supplemental Rule 26(a)(1) Disclosures** to be served by e-mail upon all counsel of record and interested parties on the Service List, attached hereto.

Respectfully submitted this 19th day of August, 2020.

*/s/ Michael A. Kopp*

\_\_\_\_\_  
Michael A. Kopp

Attorney

TROUT RALEY

1120 Lincoln Street, Suite 1600

Denver, Colorado 80203

(303) 861-1963



**UNITED STATES**

**NOEL J. FRANCISCO\***

*Solicitor General*

**JEAN E. WILLIAMS**

*Deputy Assistant Attorney General*

**FREDERICK LIU**

*Assistant to the Solicitor General*

U.S. DEPARTMENT OF JUSTICE

950 Pennsylvania Avenue, NW

Washington, DC 20530-0001

[supremectbriefs@usdoj.gov](mailto:supremectbriefs@usdoj.gov)

(202)514-2217

**JAMES J. DUBOIS\***

**R. LEE LEININGER**

**THOMAS K. SNODGRASS**

**DAVID W. GEHLERT**

U.S. DEPARTMENT OF JUSTICE

Environment & Natural Resources Division

999 18th Street

South Terrace – Suite 370

Denver, Colorado 80202

**SETH C. ALLISON, Paralegal**

[james.dubois@usdoj.gov](mailto:james.dubois@usdoj.gov)

(303) 844-1375

[Lee.leininger@usdoj.gov](mailto:Lee.leininger@usdoj.gov)

(303)844-1364

[Thomas.snodgrass@usdoj.gov](mailto:Thomas.snodgrass@usdoj.gov)

(303)844-7233

[david.gehlert@usdoj.gov](mailto:david.gehlert@usdoj.gov)

(303)844-1386

[Seth.allison@usdoj.gov](mailto:Seth.allison@usdoj.gov)

(303)844-7917

**STEPHEN M. MACFARLANE**

U.S. DEPARTMENT OF JUSTICE

Environment & Natural Resources Division

501 I Street, Suite 9-700

Sacramento, CA 95814

[stephen.macfarlane@usdoj.gov](mailto:stephen.macfarlane@usdoj.gov)

(916) 930-2204

**JUDITH E. COLEMAN**

**JOHN P. TUSTIN**

U.S. DEPARTMENT OF JUSTICE

Environment & Natural Resources Division

P.O. Box 7611

Washington, D.C. 20044-7611

[Judith.coleman@usdoj.gov](mailto:Judith.coleman@usdoj.gov)

[john.tustin@usdoj.gov](mailto:john.tustin@usdoj.gov)

(202) 514-3553

(202) 305-3022

**STATE OF NEW MEXICO**

**HECTOR H. BALDERAS**

*New Mexico Attorney General*

**TANIA MAESTAS**

*Chief Deputy Attorney General*

**CHOLLA KHOURY**

[hbalderas@nmag.gov](mailto:hbalderas@nmag.gov)

[tmaestas@nmag.gov](mailto:tmaestas@nmag.gov)

[ckhoury@nmag.gov](mailto:ckhoury@nmag.gov)

[psalazar@nmag.gov](mailto:psalazar@nmag.gov)

(505) 239-4672

*Assistant Attorney General*  
STATE OF NEW MEXICO  
P.O. Drawer 1508  
Santa Fe, New Mexico 87501  
**PATRICIA SALAZAR** - Assistant

**MARCUS J. RAEL, JR.\***  
**LUIS ROBLES**  
*Special Assistant Attorneys General*  
ROBLES, RAEL & ANAYA, P.C.  
500 Marquette Avenue NW, Suite 700  
Albuquerque, New Mexico 87102  
**CHELSEA SANDOVAL** - Paralegal  
**PAULINE WAYLAND** – Paralegal  
**BONNIE DEWITT** – Paralegal

[marcus@roblesrael.com](mailto:marcus@roblesrael.com)  
[luis@roblesrael.com](mailto:luis@roblesrael.com)  
[chelsea@roblesrael.com](mailto:chelsea@roblesrael.com)  
[pauline@roblesrael.com](mailto:pauline@roblesrael.com)  
[bonnie@roblesrael.com](mailto:bonnie@roblesrael.com)  
(505) 242-2228

**BENNETT W. RALEY**  
**LISA M. THOMPSON**  
**MICHAEL A. KOPP**  
*Special Assistant Attorneys General*  
TROUT RALEY  
1120 Lincoln Street, Suite 1600  
Denver, Colorado 80203

[braley@troutlaw.com](mailto:braley@troutlaw.com)  
[lthompson@troutlaw.com](mailto:lthompson@troutlaw.com)  
[mkopp@troutlaw.com](mailto:mkopp@troutlaw.com)  
(303) 861-1963

**JEFFREY WECHSLER**  
*Special Assistant Attorney General*  
MONTGOMERY & ANDREWS  
325 Paseo De Peralta  
Santa Fe, NM 87501  
**DIANA LUNA** – Paralegal

[jwechsler@montand.com](mailto:jwechsler@montand.com)  
(505) 986-2637

**JOHN DRAPER**  
*Special Assistant Attorney General*  
DRAPER & DRAPER LLC  
325 Paseo De Peralta  
Santa Fe, NM 87501  
**DONNA ORMEROD** – Paralegal

[john.draper@draperllc.com](mailto:john.draper@draperllc.com)  
(505) 570-4591

[donna.ormerod@draperllc.com](mailto:donna.ormerod@draperllc.com)

## STATE OF COLORADO

**PHILIP J. WEISER**  
*Attorney General of Colorado*  
**ERIC R. OLSON**  
*Solicitor General*

[eric.olson@coag.gov](mailto:eric.olson@coag.gov)  
(720) 508-6281 (Direct)

**LAIN LEONIAK**

*Acting First Assistant Attorney General*

**CHAD M. WALLACE\***

*Senior Assistant Attorney General*

**PRESTON V. HARTMAN**

*Assistant Attorney General*

COLORADO DEPARTMENT OF LAW

Ralph Carr Judicial Center

7<sup>th</sup> Floor

1300 Broadway

Denver, CO 80203

**NAN EDWARDS**, Paralegal II

[chad.wallace@coag.gov](mailto:chad.wallace@coag.gov)

[preston.hartman@coag.gov](mailto:preston.hartman@coag.gov)

[nan.edwards@coag.gov](mailto:nan.edwards@coag.gov)

**STATE OF TEXAS**

**STUART 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 Capital Mall, Suite 1000

Sacramento, CA 95814

**CORENE RODDER - Secretary**

**CRYSTAL RIVERA - Secretary**

**CHRISTINA GARRO – Paralegal**

**YOLANDA DE LA CRUZ - Paralegal**

[ssomach@somachlaw.com](mailto:ssomach@somachlaw.com)

[ahitchings@somachlaw.com](mailto:ahitchings@somachlaw.com)

[rhoffman@somachlaw.com](mailto:rhoffman@somachlaw.com)

[mgoldsberry@somachlaw.com](mailto:mgoldsberry@somachlaw.com)

[tbarfield@somachlaw.com](mailto:tbarfield@somachlaw.com)

[sklahn@somachlaw.com](mailto:sklahn@somachlaw.com)

[bjohnson@somachlaw.com](mailto:bjohnson@somachlaw.com)

[rdeitchman@somachlaw.com](mailto:rdeitchman@somachlaw.com)

(916) 446-7979

(916) 803- 4561 (cell)

[crodder@somachlaw.com](mailto:crodder@somachlaw.com)

[crivera@somachlaw.com](mailto:crivera@somachlaw.com)

[cgarro@somachlaw.com](mailto:cgarro@somachlaw.com)

[ydelacruz@somachlaw.com](mailto:ydelacruz@somachlaw.com)

**KEN PAXTON**

*Attorney General*

**JEFFREY C. MATEER**

*First Assistant Attorney General*

**DARREN L. McCARTY**

*Deputy Attorney General for Civil Litigation*

**PRISCILLA M. HUBENAK**

*Chief, Environmental Protection Division*

OFFICE OF ATTORNEY GENERAL

OF TEXAS

P.O. Box 12548

Austin, TX 78711-2548

(512) 463-2012

(512) 457-4644 Fax

[Priscilla.Hubenak@oag.texas.gov](mailto:Priscilla.Hubenak@oag.texas.gov)

**AMICI / FOR INFORMATIONAL PURPOSES ONLY**

**ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY**

**JAMES C. BROCKMANN\***

(505) 983-3880

**JAY F. STEIN**

[jcbrockmann@newmexicowaterlaw.com](mailto:jcbrockmann@newmexicowaterlaw.com)

STEIN & BROCKMANN, P.A.

[jfstein@newmexicowaterlaw.com](mailto:jfstein@newmexicowaterlaw.com)

P.O. Box 2067

[administrator@newmexicowaterlaw.com](mailto:administrator@newmexicowaterlaw.com)

Santé Fe, New Mexico 87504

**Administrative Copy**

**PETER AUH**

(505) 289-3092

ALBUQUERQUE BERNALILLO COUNTY

[pauh@abcwua.org](mailto:pauh@abcwua.org)

WATER UTILITY AUTHORITY

P.O. Box 568

Albuquerque, NM 87103-0568

**CITY OF EL PASO**

**DOUGLAS G. CAROOM\***

(512) 472-8021

**SUSAN M. MAXWELL**

[dcaroom@bickerstaff.com](mailto:dcaroom@bickerstaff.com)

BICKERSTAFF HEATH DELGADO

[smaxwell@bickerstaff.com](mailto:smaxwell@bickerstaff.com)

ACOSTA, LLP

2711 S. MoPac Expressway

Building One, Suite 300

Austin, TX 78746

**CITY OF LAS CRUCES**

**JAY F. STEIN \***

(505) 983-3880

**JAMES C. BROCKMANN**

[jcbrockmann@newmexicowaterlaw.com](mailto:jcbrockmann@newmexicowaterlaw.com)

STEIN & BROCKMANN, P.A.

[jfstein@newmexicowaterlaw.com](mailto:jfstein@newmexicowaterlaw.com)

P.O. Box 2067

[administrator@newmexicowaterlaw.com](mailto:administrator@newmexicowaterlaw.com)

Santé Fe, New Mexico 87504

**Administrative Copy**

**JENNIFER VEGA-BROWN**

(575) 541-2128

**MARCIA B. DRIGGERS**

[jvega-brown@las-cruces.org](mailto:jvega-brown@las-cruces.org)

LAW CRUCES CITY ATTORNEY'S OFFICE

[marcyd@las-cruces.org](mailto:marcyd@las-cruces.org)

P.O. Box 20000

Las Cruces, New Mexico 88004

**ELEPHANT BUTTE IRRIGATION DISTRICT**

**SAMANTHA R. BARNCastle\***  
BARNCastle LAW FIRM, LLC  
1100 South Main, Suite 20  
P.O. Box 1556  
Las Cruces, NM 88004  
**JANET CORRELL – Paralegal**

(575) 636-2377  
(575) 636-2688 (fax)  
[samantha@h2o-legal.com](mailto:samantha@h2o-legal.com)

[janet@h2o-legal.com](mailto:janet@h2o-legal.com)

**EL PASO COUNTY WATER IMPROVEMENT DISTRICT NO. 1**

**MARIA O'BRIEN\***  
**SARAH M. STEVENSON**  
MODRALL, SPERLING, ROEHL, HARRIS  
& SISK, PA  
500 Fourth Street N.W., Suite 1000  
Albuquerque, New Mexico 87103-2168  
**SHANNON GIFFORD – Legal Assistant**

(505) 848-1803 (direct)  
[mobrien@modrall.com](mailto:mobrien@modrall.com)  
[sarah.stevenson@modrall.com](mailto:sarah.stevenson@modrall.com)

[shannong@modrall.com](mailto:shannong@modrall.com)

**RENEA HICKS**  
LAW OFFICE OF MAX RENE HICKS  
P.O.Box 303187  
Austin, TX 78703-0504

[rhicks@renea-hicks.com](mailto:rhicks@renea-hicks.com)  
(512)480-8231

**HUDSPETH COUNTY CONSERVATION AND RECLAMATION DISTRICT NO. 1**

**ANDREW S. "DREW" MILLER\***  
KEMP SMITH LLP  
919 Congress Avenue, Suite 1305  
Austin, TX 78701

(512) 320-5466  
[dmiller@kempsmith.com](mailto:dmiller@kempsmith.com)

**STATE OF KANSAS**

**DEREK SCHMIDT**  
*Attorney General of Kansas*  
**JEFFREY A. CHANAY**  
*Chief Deputy Attorney General*  
**TOBY CROUSE\***  
*Solicitor General of Kansas*  
**BRYAN C. CLARK**  
*Assistant Solicitor General*  
**DWIGHT R. CARSWELL**  
*Assistant Attorney General*  
120 S. W. 10th Ave., 2nd Floor  
Topeka, KS 66612

(785) 296-2215  
[toby.crouse@ag.ks.gov](mailto:toby.crouse@ag.ks.gov)  
[bryan.clark@ag.ks.gov](mailto:bryan.clark@ag.ks.gov)

**NEW MEXICO PECAN GROWERS**

**TESSA T. DAVIDSON\***  
DAVIDSON LAW FIRM, LLC  
4206 Corrales Road  
P.O. Box 2240  
Corrales, NM 87048  
**JO HARDEN – Paralegal**

[ttd@tessadavidson.com](mailto:ttd@tessadavidson.com)  
(505) 792-3636

[jo@tessadavidson.com](mailto:jo@tessadavidson.com)

**NEW MEXICO STATE UNIVERSITY**

**JOHN W. UTTON\***  
UTTUN & KERY, P.A.  
P.O. Box 2386  
Santa Fe, New Mexico 87504

(505) 699-1445

[john@uttkery.com](mailto:john@uttkery.com)

*General Counsel*  
New Mexico State University  
Hadley Hall Room 132  
2850 Weddell Road  
Las Cruces, NM 88003

[gencounsel@nmsu.edu](mailto:gencounsel@nmsu.edu)  
(575) 646-2446

## Appendix A

### Individuals and Entities Likely to Have Discoverable Information

This appendix lists individuals, in addition to those individuals, state, local, or federal agencies, organizations, political subdivisions, and other entities listed in the State of New Mexico's Initial Disclosures, dated August 30, 2018, likely to have discoverable information relevant to disputed facts alleged with particularity in the pleadings." 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 Jeffrey Wechsler  
Montgomery & Andrews  
325 Paseo de Peralta  
Santa Fe, New Mexico 87501  
Email: [jwechsler@montand.com](mailto:jwechsler@montand.com)  
Phone: 505-986-2637

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](mailto:lthompson@troutlaw.com), [mkopp@troutlaw.com](mailto: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.

<b>Individuals Likely to Have Discoverable Information</b>	<b>Subjects of the Information for Individual</b>
Donald Hackey 1000 Kit Carson Road Rincon, NM 87940	Sources of irrigation water, impacts of 2008 OA, farming operations, EBID operations, interaction with OSE, economics of LRG agriculture
Sally Stahmann-Solis Stahmanns Inc. P. O. Box 70 San Miguel, NM 88058	Sources of irrigation water, impacts of 2008 OA, farming operations, EBID operations, interaction with OSE, economics of LRG agriculture
David Salopek 1985 Salopek Road Las Cruces, NM 88005	Sources of irrigation water, impacts of 2008 OA, farming operations, EBID operations, interaction with OSE, economics of LRG agriculture
Shane Franzoy 2552 Calle De Vista Las Cruces, NM 88007	Sources of irrigation water, impacts of 2008 OA, farming operations, EBID operations, interaction with OSE, economics of LRG agriculture
Randy Guaray 13636 NM-187 Arrey, NM 87930	Sources of irrigation water, impacts of 2008 OA, farming operations, EBID operations, interaction with OSE, economics of LRG agriculture
Mike Greene Project Manager, Water Resources PNM Resources 414 Silver Ave. SW Albuquerque, NM 87102-3289	Overview of Afton plant operations, customer base and economic impact of electric utility throughout region, financial investments, sources of water for electric utility operations, acquisition process and ownership of water rights, historic water use, water operations and planning
Scott Eschenbrenner Special Assistant to the President, New Mexico State University MSC 3UGC; P. O. Box 30001 Las Cruces, NM 88003-8001	Overview of NMSU mission and status as land grant university and economic impact, use of water for university and research purposes, water sources, water rights, and water operations, historic water use, impacts of 2008 OA on surface supply.
Brent Westmoreland CRRUA Executive Director	Overview of CRRUA service area and customer base, sources of water, water



Gadsden Administrative Complex (GAC) 4950 McNutt Rd. Sunland Park, NM 88063	available for offsets, water rights, and water operations, economic impact of services, historic water use.
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Along with all Individuals and Entities Likely to Have Discovery Information as identified by Colorado, Texas, and the United States in their Initial Disclosures filed August 30, 2018; any individual called to testify at trial by Colorado, Texas, or the United States; any rebuttal witnesses necessary for trial.