

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

**THE STATE OF TEXAS, THE STATE OF COLORADO, AND THE STATE OF NEW
MEXICO'S JOINT STATUS REPORT**

October 24, 2022

The States of Colorado, New Mexico, and Texas (hereinafter “Compacting States”) file this Joint Status Conference Report to assist the Special Master in preparing for the October 25, 2022 Status Conference, and to identify issues that the Compacting States would like to discuss.

At the September 27, 2022 Status Conference, the Parties reported that they had been close to a resolution but were ultimately unsuccessful in reaching a settlement. The Parties therefore requested that trial in this Original Action be set to continue on January 17, 2023. At the request of Judge Boylan, the Mediator in this case, the Court ordered the Parties to continue to discuss settlement notwithstanding the January trial date. Judge Boylan suggested the Parties meet in Washington D.C., to have better access to key decision makers within the Department of Justice. Unfortunately, that meeting could not be arranged.

Notwithstanding problems with scheduling the meeting involving the Solicitor General’s Office, the Compacting States continued to meet, and with the assistance of the Mediator, have reached a settlement in principle of the Compact issues that have been raised in this Original Action. The Compacting States will propose the filing of a motion requesting that the Special Master recommend that a proposed Decree be entered by the Court. The proposed Decree carves out the *interstate* Compact issues from *intrastate* issues associated with administration of the Rio Grande Project within New Mexico. No agreement on *intrastate* issues has been reached. However, the State of New Mexico remains willing and prepared to continue discussions with the United States related to Project operations and water rights administration within New Mexico.

The exact nature of the motion that will be filed is still being discussed among the Compacting States, but it will be constituted to fully resolve the Compact dispute among the Compacting States. The Compacting States propose that this motion be filed with the Special

Master on or about November 14, 2022. The Compacting States anticipate that the motion will focus on the legal issues associated with the entry of the Decree and will contain supporting materials including the proposed Decree and its appendices. The Compacting States would like to discuss a briefing schedule for this motion within a timeframe that has the briefing concluded by the end of 2022.

In addition to the legal briefing regarding the entry of a Decree, the Compacting States anticipate the need for an evidentiary hearing to explain and support the technical elements of the Decree. The Compacting States would like to discuss the nature of this hearing and whether the testimony and evidence associated with it could be provided through the filing of papers with the Special Master or whether the Special Master would prefer a more formal hearing process. In that event, the Compacting States would like to discuss the nature and procedure for a formal hearing process. The Compacting States believe that this process could be concluded in December of 2022 or January 2023.

On October 21, 2022, the Compacting States, without the Mediator, met remotely with the Solicitor General's Office. Immediately before that meeting the Compacting States provided the Department of Justice with the Compacting States' proposed Decree. The Compacting States and the United States had a full and open discussion about the Compacting States' proposal. Based upon that discussion, the Compacting States anticipate opposition to their joint motion. The Compacting States further anticipate that the United States' objection will be a focal point of the briefing related to the Compacting States' joint motion.

The Compacting States' will be prepared to jointly discuss their motion and proposed Decree at the Status Conference. A partial list of issues on which guidance would be helpful includes:

1. Whether the Special Master is willing to entertain a motion from the Compacting States to resolve the Compact issues and enter a Decree.
2. If so, what procedures should be adopted to address the Compacting States' motion?
 - a. What is the appropriate briefing schedule for the Compacting States' motion?
 - b. Will the Special Master allow the proposed evidentiary hearing to enable the Compacting States to present their proposed Decree?
 - c. If there is to be an evidentiary hearing on the Compacting States' motion, will opposing witnesses be allowed?

The Compacting States look forward to discussing these issues during the Status Conference.

Respectfully submitted,

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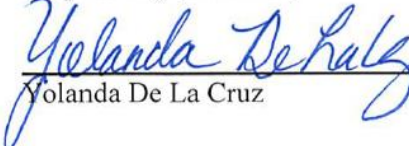
Defendants.

OFFICE OF THE SPECIAL MASTER

CERTIFICATE OF SERVICE

This is to certify that on this 24th day of October, 2022, I caused a true and correct copy of **State of Texas, The State of Colorado, and The State of New Mexico's Joint Status Report** 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.

Dated: October 24, 2022

Respectfully submitted,

Yolanda De La Cruz

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