

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

**NOTICE OF JOINT MOTION AND
JOINT MOTION OF THE STATE OF TEXAS,
STATE OF NEW MEXICO, AND STATE OF COLORADO
TO ENTER CONSENT DECREE SUPPORTING
THE RIO GRANDE COMPACT**

November 14, 2022

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TO THE HONORABLE MICHAEL J. MELLOY, SPECIAL MASTER, AND
TO THE UNITED STATES AND ITS COUNSEL OF RECORD:

PLEASE TAKE NOTICE that the States of Texas, New Mexico, and Colorado (hereinafter “Compacting States”), each through their respective and undersigned counsel, hereby jointly move the Special Master to approve and recommend to the Supreme Court the Consent Decree Supporting the Rio Grande Compact (“Consent Decree” or “Decree”), which compromises and settles all claims among them arising from the Rio Grande Compact (Compact) in this proceeding (Joint Motion). Pursuant to the Special Master’s October 26, 2022 Order (10/26/22 Order), a “status conference and oral arguments on the motion will be held commencing on January 24, 2023, at a time and place to be noticed by future order.” The 10/26/22 Order sets forth a briefing schedule and filing instructions, as amended by the Special Master’s Order of November 9, 2022 (11/9/22 Order).

The Compacting States have settled their dispute in the above-referenced Original Action, and request that the Special Master recommend the Consent Decree to the Supreme Court over the objection of the United States. This request implicates three principal issues: (1) whether the Compacting States may enter into an agreement construing ambiguous provisions of the Compact; (2) whether the United States has a unique federal interest in the equitable apportionment of water sufficient to block the Consent Decree; and (3) whether a settlement among the Compacting States affects the Supreme Court’s jurisdiction in this action by resolving all interstate issues.

In support of the Joint Motion, the Compacting States file the following materials concurrently herewith, *and under seal*, pursuant to the 10/26/22 Order, as amended by the 11/9/22 Order:

1. Memorandum of Points and Authorities in support of the Compacting States’ Joint Motion to Enter Consent Decree Supporting the Rio Grande Compact;

2. Compendium of Exhibits in support of the Compacting States' Joint Motion to Enter Consent Decree Supporting the Rio Grande Compact, consisting of:
 - a. Exhibit 1: Consent Decree Supporting the Rio Grande Compact (with Appendices 1 and 2);
 - b. Exhibit 2: Declaration of Texas Rio Grande Compact Commissioner Robert Scott Skov in Support of Joint Motion of the State of Texas, State of New Mexico, and State of Colorado to Enter Consent Decree Supporting the Rio Grande Compact (with Exhibits A and B);
 - c. Exhibit 3: Declaration of Robert J. Brandes, Ph.D., in Support of Joint Motion of the State of Texas, State of New Mexico and State of Colorado to Enter Consent Decree Supporting the Rio Grande Compact (with Attachments 1 and 2);
 - d. Exhibit 4: Declaration of William R. Hutchison in Support of Joint Motion of the State of Texas, State of New Mexico and State of Colorado to Enter Consent Decree Supporting the Rio Grande Compact (with Attachments 1, 2 and 3);
 - e. Exhibit 5: Declaration of Michael A. Hamman, P.E. in Support of Joint Motion of the State of Texas, State of New Mexico, and State of Colorado to Enter Consent Decree Supporting the Rio Grande Compact;
 - f. Exhibit 6: Declaration of Margaret Barroll in Support of Joint Motion of the State of Texas, State of New Mexico and State of Colorado to Enter Consent Decree Supporting the Rio Grande Compact (with Attachment); and

- g. Exhibit 7: Declaration of Gregory K. Sullivan in Support of Joint Motion of the State of Texas, State of New Mexico and State of Colorado to Enter Consent Decree Supporting the Rio Grande Compact (with Attachment).


As demonstrated in detail in the above-referenced materials filed concurrently herewith in support of the Joint Motion, and as supported by applicable law, opposition by the United States cannot prevent entry of the Consent Decree. The United States has no Compact claims, independent of those of Texas, that will not be resolved by the Decree. Moreover, the United States is not prejudiced by entry of the Decree because any residual non-Compact issues it has can and should be litigated in other forums. Additionally, in an Original Action, non-state parties do not have standing to object to the entry of a Consent Decree, whether or not effected by the Decree.

Pursuant to the 10/26/22 Order, as amended by the 11/9/22 Order, amici that have complied with the confidentiality procedures ordered by Special Master may contact the Special Master's chambers to obtain copies of the materials filed under seal.

This Joint Motion is based upon this Notice, the materials filed concurrently herewith under seal as identified above, including any and all exhibits and documentary evidence in support of this Joint Motion, any and all reply briefs, all pleadings and

records on file herein, all matters of which this Court must and may take judicial notice and upon such oral argument, testimony, and documentary evidence that may be presented at the hearing of this Joint Motion.

Respectfully submitted,

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