

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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**REQUEST TO PARTICIPATE IN ORAL ARGUMENT BY  
AMICUS CURIAE CITY OF LAS CRUCES**

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COMES NOW the City of Las Cruces (“City” or “Las Cruces”) and respectfully requests to participate in oral argument on the State of New Mexico’s Motion to Dismiss Texas’ Complaint and the United States’ Complaint-in-Intervention (“Motion to Dismiss”), on the basis of its *Amicus Curiae* Brief in Support of New Mexico’s Motion to Dismiss, and as grounds therefor states as follows:

1. The State of New Mexico filed a Motion to Dismiss on April 30, 2014.
2. The City, as *amicus curiae*, filed a brief in support of that motion on April 30, 2014, pursuant to Sup.Ct.R.37.4, which is of record.
3. Las Cruces is New Mexico’s second largest city, and one of the fastest growing cities in the western United States, with a population expected to exceed 150,000 by 2050.

4. As set forth in Las Cruces' *amicus curiae* brief, the City's municipal water supply is based on groundwater in the Lower Rio Grande Underground Water Basin, and is directly affected by Texas' assertion that post-1938 groundwater use in New Mexico is in violation of the Rio Grande Compact, Act of May 31, 1939, ch.155, 53 Stat.785, because it has an equivalent depletive effect on surface flows of the Rio Grande. *See, e.g.,* Texas' Complaint at ¶18.

5. The City's brief in support of New Mexico's Motion to Dismiss raises issues that pertain specifically to Las Cruces' municipal water supply that are not addressed by any other party, and which address the pending stream system adjudication in New Mexico in which the interrelated water rights in the Lower Rio Grande are being determined. *See* Las Cruces' *Amicus Curiae* Brief at Point II.

6. Because the City's *Amicus Curiae* Brief in Support of Motion to Dismiss is of record, the concern raised by counsel for the State of Texas during the status conference of April 23, 2015, *i.e.*, that issues not of record in pleadings will be argued, does not apply to Las Cruces.

7. Statements made by counsel for El Paso County Water Improvement District No. 1 at the April 23, 2015, status conference that this case concerns two irrigation districts who are the real parties so interest, ignores the City of Las Cruces' municipal water supply, and issues raised in Las Cruces' *amicus curiae* brief in support of New Mexico's Motion to Dismiss.

8. Practice in other original actions has allowed *amici* to participate in oral argument on the basis of their pleadings. *See Nebraska v. Wyoming*, Original No. 108.

9. Las Cruces' participation in oral argument will assist the Special Master in deciding New Mexico's Motion to Dismiss in two respects:

- First, municipal water supply issues in New Mexico in relation to Texas' Complaint will be addressed;

- Second, the general stream system adjudication in New Mexico will be further explained as a basis for dismissal.

WHEREFORE, the City of Las Cruces respectfully requests to be allowed to participate in oral argument on the basis of its *amicus curiae* brief in support of New Mexico's Motion to Dismiss for a time of no more than fifteen (15) minutes.

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

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I hereby certify that a true and correct copy of the *Request to Participate in Oral Argument by Amicus Curiae City of Las Cruces*, was served upon counsel by electronic mail and/or first class mail, on the 23<sup>rd</sup> day of April, 2015.

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