

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

**Response of State of Texas in Opposition to
Elephant Butte Irrigation District's Proposal
to the Special Master Regarding the Hearing on
Its Motion to Intervene**

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April 30, 2015

This responds to a letter the Elephant Butte Irrigation District's (EBID) sent to the Special Master on April 27, 2015. In that letter EBID offers to submit its motion to intervene without oral argument and also requests that the Special Master give expedited consideration to its motion so that it can participate in the oral argument associated with New Mexico's motion to dismiss. The State of Texas has concerns about EBID's request to submit its motion without oral argument. The State of Texas does not want to preclude the Special Master from hearing oral argument on the EBID motion to intervene, particularly if it would be helpful in order to respond to or otherwise address the new contentions first raised by EBID in its March 20, 2015 reply to the various briefs opposing its motion.

The State of Texas opposes EBID's untimely request to participate in any manner in the oral argument associated with New Mexico's motion to dismiss. The State of New Mexico filed its motion to dismiss on April 30, 2014. The State of Texas, the United States of America, and various *amici* filed oppositions and responses to the motion to dismiss in June 2014. New Mexico filed its reply brief on July 1, 2014. EBID did not file an *amicus* or a motion to intervene in the case during the period between Texas' filing of the complaint in January 2013 and completion of the briefing process for New Mexico's motion to dismiss in July 2014. EBID delayed filing its motion to intervene until December 2014, more than five months after New Mexico's reply brief on its motion to dismiss, and nearly two years after the State of Texas filed its complaint. EBID has waived its opportunity to participate in the motion to dismiss proceedings. EBID's motion to intervene is not a substitute for proper and timely briefing (as *amicus* or otherwise) on New Mexico's motion to dismiss. EBID's dilatory request is simply unreasonable and adversely prejudices the interest of the State of Texas. EBID's request lacks merit and should be denied.

Dated: April 30, 2015

Respectfully submitted,

s/ Stuart L. Somach

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served upon Special Master and the Parties' Counsel of Record, as noted by the asterisk, by electronic mail and first class mail, unless otherwise specified, on the 30th day of April 2015.

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