

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

UNITED STATES OF AMERICA'S DECEMBER 2018 STATUS REPORT

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The United States respectfully submits its December 2018 status report to the Special Master pursuant to paragraph 5 of the Case Management Plan dated September 6, 2018 (“CMP”).

I. The United States’ Production of Documents

Pursuant to the CMP and Rule 26(a)(1) of the Federal Rules of Civil Procedure, the State of Texas, the State of New Mexico, the State of Colorado and the United States uploaded their respective initial document productions to the Veritext Vault document storage system through mutually agreed-upon means. As described in prior Status Reports, the United States uploads its documents to the Box.com file-sharing site, and Veritext transfers the documents to the Veritext Vaults. On September 28, 2018, the parties were notified of the United States’ initial production of 16,021 documents, comprising 58,919 pages. These documents were produced from the files of federal agencies including the Bureau of Reclamation (“Reclamation”), the United States Section of the International Boundary and Water Commission (“IBWC”), the State Department, the Bureau of Prisons, the United States Army, and the Department of Justice. In addition, the United States gave notice to the Parties that the United States Geological Survey (“USGS”) has published online and made publicly available a model that simulates, among other things, groundwater-surface water interactions in the Rio Grande Project area. This model is called the Rio Grande Transboundary Integrated Hydrologic Model (“RGTIHM”). Because the RGTIHM, including the data files noted above, is now publicly available, the United States has not uploaded it to the Box.com site, but nevertheless considers the model and its associated documentation to be part of the United States’ September 28, 2018, production of documents.

Due to the voluminous agency records and the time it takes to compile, scan, upload, review, and produce all documents, data compilations, and tangible things from the federal agencies that are relevant to disputed facts, the United States continues to make supplemental productions of documents. In addition to the computer model, the United States has produced 37,726 documents

totaling 189,745 pages to date. On October 12, 2018, the United States notified the parties of the uploading of a first supplement of 1,933 documents, comprising 15,236 pages. On October 31, 2018, the United States notified the parties of the uploading of a second supplement of 14,949 documents, comprising 90,186 pages. On December 6, 2018, the United States notified the parties of the uploading of a third supplement of 4,823 documents, comprising 25,407 pages. The United States is continuing to review potentially discoverable documents and intends to supplement its production of documents as responsive documents are identified and become available for production.

II. Production of Electronically Stored Information (“ESI”)

The United States has participated in negotiation of the Stipulation for the production of ESI entered into by the parties and filed with the Special Master on October 14, 2018. The parties are currently negotiating agreed-upon search terms for their initial sweep of computer systems for email and other ESI. The parties are currently attempting to test and refine the search terms in order to limit over-broad terms which can result in the identification and collection of tens of thousands of documents irrelevant to the facts and issues of this case.

III. Index of Documents

The Parties are also discussing the creation of an index system for documents produced in this case, as provided in Section 7.2.2 of the CMP. The United States anticipates that the system will also address the handling of ESI.

IV. Further Discovery

Fact discovery commenced in this case on September 1, 2018. Depositions of fact witnesses have commenced, and are scheduled to continue into January. Written discovery has been propounded on New Mexico by Texas, and on Amici by New Mexico. The United States anticipates that additional written discovery will be propounded in the near future. In addition, the Parties have agreed to hold conference calls every two weeks to discuss discovery matters.

V. Motions on Pleadings and Motions for Partial Judgment regarding “law of the case” matters.

The November 21, 2018 Amendment to the Case Management Plan adopted modified deadlines for future proceedings, including a December 24, 2018 deadline for the filing of Motions for Judgment on the Pleadings and Motions for Partial Judgment regarding “law of the case” matters previously decided.

Respectfully submitted this 7th day of December, 2018,

/s/ James J. DuBois
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United States Department of Justice

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CERTIFICATE OF SERVICE

This is to certify that on the 7th day of December, 2018, I caused a true and correct copy of **UNITED STATES OF AMERICA'S DECEMBER 2018 STATUS REPORT** to be served upon the Special Master via electronic and U.S. Mail, as indicated below:

Special Master

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[Judge Michael Melloy@ca8.uscourts.gov](mailto:Judge_Michael_Melloy@ca8.uscourts.gov)
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On the 7th day of December, 2018, **UNITED STATES OF AMERICA’S DECEMBER 2018 STATUS REPORT** was served via electronic mail and/or U.S. Mail as indicated, upon those individuals listed on the Service List, attached hereto.

Respectfully submitted,

/s/ D. Zachary Wall
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PAE Contract Law Clerk

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