

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 TO COUNSEL

October 4, 2018

NOTICE TO COUNSEL

At the scheduling conference held in Denver at the end of August, I indicated that I would attempt to do monthly telephonic conferences to discuss discovery and other issues that may be relevant to moving this case towards a conclusion. Unless the parties indicate that more immediate action is required, it is my intent to hold a telephonic scheduling conference at the following date and time:

October 25, 2018, at 2:00 p.m. Central Daylight Time

The parties will be advised of the call-in number by separate notice.

If any party wishes to bring up an issue at the telephonic conference, they shall advise the undersigned and all parties by no later than the close of business on Monday, October 15, 2018. To the extent that any topic requires consideration of any documents, the relevant documents shall be served upon the Special Master and all parties by no later than October 15, 2018.

In addition to any topics the parties may identify, the undersigned anticipates discussing the following with counsel.

1. The Interim Stipulation Regarding Procedure for Use of Central Repository for Distribution and Service of Discovery, Productions of Documents and Data Responsive to Discovery.
2. The status of the exchange of documents pursuant to the previously entered Case Management Order and any discovery disputes or issues that may have arisen.
3. Dates for future telephonic and in-person conferences.
4. Procedure for adjudication of legal issues.

At the August 28, 2018, scheduling conference, there was a discussion concerning early adjudication of various legal issues (see generally pages 120-137 of the transcript). At the hearing there was an indication that I would attempt to frame the issues upon which the parties will be submitting briefs. This particularly relates to the question of what may have been decided by the United States Supreme Court in its opinion, beyond the ultimate disposition of allowing the United States to intervene. Upon further reflection I am not certain that it is appropriate for me to frame the issues. I believe the better practice would be for the

parties to advise the Special Master as to what they believe has, and has not, been decided by the Supreme Court and then, to the extent required, have appropriate motions filed to adjudicate those issues. I plan to discuss this issue further with counsel at the October 25 hearing. However, I would also request that counsel give the matter consideration and be prepared to discuss the best way forward on how to address those issues.

Dated: October 4, 2018.



Honorable Michael J. Melloy
Special Master
United States Circuit Judge
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