

BARNCASTLE LAW FIRM, LLC

1100 South Main, Ste. 20
Las Cruces, NM 88005

Phone: (575) 636-2377
Fax: (575) 636-2688

P.O. Box 1556
Las Cruces, NM 88004

March 11, 2019

Honorable Michael J. Melloy, Special Master
U.S. Court of Appeals for the Eighth Circuit
United States Courthouse
111 Seventh Avenue S.E., Box 22
Cedar Rapids, Iowa 52401-2101
Judge_Michael_Melloy@ca8.uscourts.gov

Michael E. Gans, Clerk of Court
U.S. Court of Appeals – Eighth Circuit
Thomas F. Eagleton U.S. Courthouse
111 South 10th Street, Suite 24.329
St. Louis, MO 63102
TxvNM141@ca8.uscourts.gov

Re: *State of Texas & United States of America v. State of New Mexico and State of Colorado,
Original No. 141; Filing of Response by Elephant Butte Irrigation District.*

Dear Special Master Melloy and Clerk Gans,

Pursuant to Paragraph 2.2 of the September 2018 Case Management Plan, enclosed you will find a hard copy of Elephant Butte Irrigation District's Objections to State of New Mexico's First Request for Production of Documents. This document was also e-mailed to each of you this date.

Sincerely,

BARNCASTLE LAW FIRM

By 
Samantha R. Barncastle, Counsel for EBID

Enclosure

xc: Service List for All Parties Updated 11/16/18 (electronically)
SRB/jlc

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

**ELEPHANT BUTTE IRRIGATION DISTRICT'S OBJECTIONS TO
STATE OF NEW MEXICO'S FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS FROM
ELEPHANT BUTTE IRRIGATION DISTRICT**

SAMANTHA R. BARNCastle*
BARNCastle LAW FIRM, LLC
1100 SOUTH MAIN, SUITE 20 (88005)
P.O. BOX 1556
LAS CRUCES, NM 88004
(575) 636-2377
samantha@h2o-legal.com
**Counsel of Record*

Attorney for Elephant Butte Irrigation District

March 11, 2019

Pursuant to Paragraph 7.2 of the Case Management Plan (CMP) executed September 6, 2018, by the Honorable Michael J. Melloy, Special Master, Federal Rule of Civil Procedure 34, and Stipulation Regarding Procedure for Production of Documents and Electronically Stored Information (ESI) executed by the parties on November 13, 2018, the Elephant Butte Irrigation District (EBID) hereby objects to the State of New Mexico's (New Mexico) First Request for Production of Documents (Requests) from Elephant Butte Irrigation District.

GENERAL OBJECTIONS

EBID, the Responding Party, incorporates the following General Objections into its Responses to each and every Request for Production of Documents:

1. EBID's Responses are based on information presently available to EBID and are based on EBID's understanding of the Requests. EBID objects to the extent the definitions or requests purport to request information that may be unavailable to EBID, or that purport to require EBID to create documents that are not already in existence.

2. EBID objects to New Mexico's Requests, including the Definitions and Instructions contained therein, to the extent that they impose obligations on EBID that exceed the possible scope of discovery as set forth in the Federal Rules of Civil Procedure to the extent those rules have been made applicable to this proceeding by the Case Management Plan. EBID reserves all objections and rights to which it is entitled under the Federal Rules of Civil Procedure, the Case Management Plan, including all Amendments thereto, and applicable law.

3. EBID objects to New Mexico's use of the phrase "in EBID" to the extent it is ambiguous. EBID will construe such phrase to mean "within the geographic area served by EBID."

4. EBID objects to each and every instruction and request for production of documents to the extent that the instruction or request seeks information protected by the attorney-client privilege, the work product doctrine, or any other applicable privilege. EBID's responses are not intended to, nor should they be construed as, a waiver or relinquishment of any part of the protections afforded by the attorney-client privilege, the work product doctrine, or any other applicable privileges or immunities. The inadvertent production of any such privileged information or document(s) is not a waiver of EBID's right to assert any applicable privilege or doctrine relative to any such information or document(s), or any other information, document(s), or matter, pursuant to the terms of Paragraph 7.2.3 of the CMP.

5. EBID objects to each and every request for production of documents to the extent that the request seeks EBID's counsel's, or any other counsel's, legal reasoning, theory, or statutory basis supporting a factual conclusion.

6. EBID objects to each and every request for production of documents to the extent that they seek documents not within the possession or control of EBID, but instead are within the possession or control of non-testifying/consulting experts related to prior litigation.

7. EBID objects to New Mexico's Requests on the basis that they are cumulatively unduly burdensome and extensively costly to respond to because they include over 100 requests, including all sub-parts.

8. EBID objects to Instruction #6 on the basis that it is overbroad, not reasonably calculated to lead to admissible evidence, and places an undue burden on EBID to the extent it seeks information from over 100 years and from a time period that, in part, pre-dates EBID's existence.

9. EBID objects to the form of each and every request for production of documents on the grounds that it is not full and complete in and of itself, and instead relies on preface and instructions.

10. EBID objects to each and every request for production of documents on the grounds that many are duplicative and thereby unduly burdensome and oppressive.

11. EBID objects to each and every request for production of documents to the extent the request seeks documents and information that are not in the possession, custody, or control of EBID, its agents, or employees.

12. EBID's decision to provide information or documents, notwithstanding the objectionable nature of any of the discovery requests, should not be construed as a stipulation or admission that the information is relevant or admissible, a waiver of EBID's general or specific objections, or an agreement that requests for similar discovery will be treated in a similar manner.

13. To the extent EBID identifies documents as responsive to any of New Mexico's Requests, it does not constitute an admission that EBID agrees with any characterizations, disputed facts, or other information contained in the specific request.

14. EBID objects to each and every request for the production of documents on the grounds that the requests seek information relating to a geographic area alternatively defined as the Rio Grande Basin within Texas above Fort Quitman, Texas, or the Rio Grande Basin from San Marcial, New Mexico, to Fort Quitman, Texas, and that such a geographic description is vague. Notwithstanding these objections, and subject thereto, where applicable and where possible to respond to a request as phrased, EBID will respond based on those geographic features.

15. EBID objects to the definition of “Texas Compact Area” as incomplete, ambiguous, and factually and legally incorrect. EBID’s responses consistent with the definition provided by New Mexico shall not be construed as agreement that such definition is otherwise correct.

16. EBID objects to the use of the terms “groundwater” and “surface water” as vague and ambiguous and potentially calling for a legal conclusion insofar as those terms are undefined.

17. EBID objects to each and every request for the production of documents on the grounds that the requests seek information not proportional to the scope of this case.

DEFINITIONS OF SPECIFIC OBJECTIONS

As used in the specific responses below, the following terms include objections based upon their respective definitions:

A. “Vague and Ambiguous” is defined to mean: EBID objects on the basis that the request is vague, uncertain, unintelligible, compound, and ambiguous, or that it fails to describe items or categories with reasonable particularity and/or it requires EBID to resort to speculation to respond.

B. “Unduly burdensome and oppressive” is defined to mean: EBID objects on the basis that the request is so broad and uncertain that it creates an unreasonable and undue burden on EBID. Burdensome is also defined to mean that EBID objects to the request because the information sought is more readily obtainable through other, more convenient, less burdensome, and less expensive sources or discovery procedures. Those sources are sometimes noted, and sometimes they are not.

C. “Calls for irrelevant information” is defined to mean: EBID objects on the basis that the request relates in whole or in part, to information and documents irrelevant to the subject matter of this action, and it is not reasonably calculated to lead to the discovery of admissible evidence.

D. “Overbroad” is defined to mean: EBID objects on the basis that the request calls for information that is overbroad, oppressive, harassing, annoying, constitutes an abuse of discovery process or is an expansive potential production that is unreasonable in scope.

E. “Calls for privileged information” is defined to mean: EBID objects on the basis that the request seeks information or documents protected by the attorney-client privilege, work product privilege, common interest privilege, and/or which consist of trial preparation materials and documents containing mental impressions, conclusions, opinions, and legal theories of EBID or its counsel and/or which are otherwise protected under the Federal Rules of Civil Procedure and/or which are protected under any other valid privilege.

F. “Calls for a legal conclusion” is defined to mean: EBID objects on the basis that the request seeks an opinion or conclusion regarding a word, term, or phrase having a separate, distinct and specialized meaning in the law different from that present in the vernacular.

EBID’S OBJECTIONS TO NEW MEXICO’S REQUESTS FOR PRODUCTION

1. Please produce all Documents, including but not limited to records and tabulations, relating to groundwater rights in EBID.

OBJECTIONS TO REQUEST NO. 1: EBID objects to this Request on the grounds that it is unduly burdensome and oppressive in that all records “relating to groundwater rights” necessarily encompasses public records that are equally accessible to New Mexico via the New Mexico Office of the State Engineer, and the phrases “all Documents” and “relating to groundwater rights” are vague and ambiguous, overbroad and unduly burdensome and oppressive.

2. Please produce all Documents, including but not limited to permits or other authorizations, regarding wells within EBID located on land or rights of way owned by the United States.

OBJECTIONS TO REQUEST NO. 2: EBID objects to this Request on the grounds that it is unduly burdensome and oppressive in that “permits or other authorizations” necessarily encompasses public records that are equally accessible to New Mexico via the New Mexico Office of the State Engineer. EBID further objects on the basis that this Request is unduly burdensome and oppressive in that it seeks information about lands owned by the United States and should, therefore, be directed to the United States instead of EBID.

3. Please produce all Documents relating to communications, in whatever form, from the United States encouraging, authorizing, confirming, or acknowledging groundwater pumping by Project water users.

OBJECTIONS TO REQUEST NO. 3: EBID objects on the basis that the phrase “Documents relating to communications” is vague and ambiguous given the Definitions provided by New Mexico. EBID further objects to this Request on the grounds that it is unduly burdensome and oppressive to the extent it seeks information covering a time period of over 100 years and covers massive amounts of documents by and between EBID and the United States regarding Project function and operations, all of which should be available upon request to the United States. Depending upon the scope of the request as determined by the vague and ambiguous phrase, this Request may also be overbroad.

4. Please produce all Documents relating to communications, in whatever form, from the United States relating to the conjunctive use of groundwater and surface water within the Project.

OBJECTIONS TO REQUEST NO. 4: EBID objects on the basis that the phrase “Documents relating to communications” is vague and ambiguous given the Definitions provided by New Mexico. EBID further objects to this Request on the grounds that it is unduly burdensome and oppressive to the extent it seeks information covering a time period of over 100 years and covers massive amounts of documents by and between EBID and the United States regarding Project function and operations, all of which should be available upon request to the United States. Depending upon the scope of the request as determined by the vague and ambiguous phrase, this request may also be overbroad.

5. Please produce all Documents relating to supervisory control and data acquisition (“SCADA”) metering systems installed on wells in EBID for purposes of automatically reporting groundwater usage to EBID and/or the New Mexico Office of the State Engineer.

OBJECTIONS TO REQUEST NO. 5: EBID objects to this Request on the grounds that it is overbroad and calls for irrelevant information.

6. Please produce all Documents relating to power records and estimates of pumping for all wells in EBID prior to the State’s implementation of mandatory well metering and reporting requirements.

OBJECTIONS TO REQUEST NO. 6: EBID objects on the basis that this Request is unduly burdensome and oppressive in that this Request seeks information about other individuals or entities and should instead be directed to those individuals or entities. EBID further objects on the basis that this Request is overbroad.

7. Please produce all Documents relating to any well in EBID that pumps groundwater and discharges groundwater directly into the Rio Grande, canals, laterals, drains or wasteways.

OBJECTIONS TO REQUEST NO. 7: EBID objects to this Request on the grounds that it is unduly burdensome and oppressive in that it seeks information about other individuals or entities that should instead be directed to those individuals or entities, and it necessarily encompasses public records that are equally accessible to New Mexico via the New Mexico Office of the State Engineer. EBID further objects on the basis that the Request that seeks “all Documents relating to any well” is overbroad, unduly burdensome and oppressive, and calls for irrelevant information.

8. Please produce all Documents relating to measured or estimated surface flows in Rio Grande, canals, laterals, drains, or wasteways in EBID attributable to the pumped groundwater disclosed in paragraph 7 above.

OBJECTIONS TO REQUEST NO. 8: EBID objects to this Request on the grounds that it is unduly burdensome and oppressive and in large part it seeks information about other individuals or entities that should instead be directed to those individuals or entities. It also necessarily encompasses public records that are equally accessible to New Mexico via the

New Mexico Office of the State Engineer or via request to the United States. EBID further objects on the basis that the Request that seeks “all Documents relating to...surface flows” is overbroad, unduly burdensome and oppressive, and potentially calls for irrelevant information.

9. Please produce all Documents relating to the location, design, rating and calibration of stream, canal, wasteway, and drain gages measuring surface water flows or deliveries in EBID.

OBJECTIONS TO REQUEST NO. 9: EBID objects to this Request on the grounds that it is unduly burdensome and oppressive and in large part seeks information that should instead be requested from the United States. EBID further objects on the basis that the Request is overbroad and calls for irrelevant information.

10. Please produce all Documents, including maps, records, or other information, relating to irrigated acreage in EBID, including the sources of water, i.e., surface water or groundwater, for each farm or parcel in EBID and related to any changes in such irrigated acreage over time, including any changes to EBID’s boundaries.

OBJECTIONS TO REQUEST NO. 10: EBID objects to this Request on the grounds that it is vague and ambiguous, unduly burdensome and oppressive, and in large part seeks information that should instead be requested from the United States. EBID further objects on the basis that the request is overbroad. Finally, EBID objects on the basis that this Request

calls for irrelevant information and potentially calls for a legal conclusion regarding “sources of water”.

11. Please produce all Documents relating to economic data concerning the value of water in EBID.

OBJECTIONS TO REQUEST NO. 11: EBID objects to this Request on the grounds that it is vague and ambiguous and it calls for privileged information. EBID further objects to this Request on the basis that it is overbroad and calls for irrelevant information.

12. Please produce all Documents relating to crop types, crop distribution, and crop acreage in EBID.

OBJECTIONS TO REQUEST NO. 12: EBID objects to this Request on the grounds that it is unduly burdensome and oppressive and in large part it seeks information about other individuals or entities that should instead be directed to those individuals or entities.

13. Please produce all Documents relating to ground water uptake/subirrigation by irrigated crops in EBID.

OBJECTIONS TO REQUEST NO. 13: EBID objects to this Request on the grounds that it is vague and ambiguous, and depending upon the resolution of that objection, it is potentially overbroad and unduly burdensome and oppressive.

14. Please produce all Documents relating to analyses, summaries, or mapping of crop evapotranspiration and crop irrigation water requirements for all cropped areas in EBID.

OBJECTIONS TO REQUEST NO. 14: EBID objects to this Request on the grounds that it is vague and ambiguous insofar as “mapping” is not defined in this context. EBID further objects on the grounds that the Request is overbroad, unduly burdensome and oppressive, and calls for irrelevant information.

15. Please produce all Documents relating to annual yields of each crop type produced in EBID, including but not limited to the economic value of each crop type.

OBJECTIONS TO REQUEST NO. 15: EBID objects to this Request on the grounds that it is vague and ambiguous. EBID further objects to this Request on the grounds that it is unduly burdensome and oppressive because, in large part, it seeks information about other individuals or entities that should instead be directed to those individuals or entities. Finally, EBID objects insofar as it calls for irrelevant information.

16. Please produce all Documents, including manuals, notes, records or other information, relating to surface water distribution and administration procedures, policies, and maintenance applicable to EBID or to water uses within EBID.

OBJECTIONS TO REQUEST NO. 16: EBID objects to this Request on the grounds that it is vague and ambiguous. EBID further objects on the grounds that the Request is overbroad, unduly burdensome and oppressive, and calls for irrelevant information.

17. Please produce all Documents relating to any policy or practice of allowing water users within EBID who receive an allotment of Project surface water to assign all or a portion of their unused allotment to others.

OBJECTIONS TO REQUEST NO. 17: EBID objects to this Request on the grounds that it is vague and ambiguous. EBID further objects on the grounds that the Request is overbroad, unduly burdensome and oppressive, and calls for irrelevant information.

18. Please produce all Documents, including manuals, notes, records or other information, relating to ground water distribution and administration procedures, policies, and maintenance applicable to EBID or to water uses within EBID.

OBJECTIONS TO REQUEST NO. 18: EBID objects to this Request on the grounds that it is vague and ambiguous. EBID objects on the grounds that the Request is overbroad, unduly burdensome and oppressive and calls for irrelevant information.

19. Please produce all Documents relating to rules, regulations, guidelines or policies for groundwater well permitting requirements, appropriation and use of groundwater, and measurement requirements, including but not limited to required measurement devices, or groundwater withdrawals in EBID.

OBJECTIONS TO REQUEST NO. 19: : EBID objects to this Request on the grounds that it is unduly burdensome and oppressive in that it necessarily encompasses public records that are equally accessible to New Mexico via the New Mexico Office of the State Engineer.

EBID further objects on the basis that the Request is vague and ambiguous, is overbroad, unduly burdensome and oppressive, and potentially calls for irrelevant information.

20. Please produce all Documents relating to encouragement, complaints, comments, studies, or records from the United States of America or any agency or employee thereof regarding groundwater pumping in EBID, including but not limited to any requests that groundwater pumping be reduced, limited, or curtailed in EBID.

OBJECTIONS TO REQUEST NO. 20: EBID objects on the basis that the Request is vague and ambiguous, is unduly burdensome and oppressive, and the Request should be directed to the United States. EBID further objects insofar as the request calls for irrelevant information.

21. Please produce all Documents relating to any request, demand, or proposal by the United States of America that any Rio Grande Project water user in EBID execute contracts with the United States of America to pump groundwater in EBID.

OBJECTIONS TO REQUEST NO. 21: EBID objects on the basis that the Request is vague and ambiguous, and potentially calls for a legal conclusion. Depending upon resolution of the vagueness objection, this Request may also be unduly burdensome and oppressive.

22. Please produce all Documents relating to the development and/or application of the methodology for allotment or allocation of Project water known as the D1 and D2 curves.

OBJECTIONS TO REQUEST NO. 22: EBID objects on the basis that the Request is unduly burdensome and oppressive insofar as it should be directed to the United States.

23. Please produce all Documents relating to the development and/or application of the methodology for allotment or allocation of Project water known as the D3 curve.

OBJECTIONS TO REQUEST NO. 23: EBID objects on the basis that the Request is unduly burdensome and oppressive insofar as it should be directed to the United States. EBID further objects insofar as the Request seeks privileged information.

24. Please produce all Documents relating to communications, in whatever form, from the United States regarding the release of Compact Credit Water.

OBJECTIONS TO REQUEST NO. 24: EBID objects on the basis that the Request is vague and ambiguous, unduly burdensome and oppressive, and should be directed to the United States.

25. Please produce all Documents relating to the maintenance of Project infrastructure within EBID, including communications, in whatever form, to or from the United States and/or EPCWID related to maintenance of the channel of the Rio Grande and diversion dams on the Rio Grande.

OBJECTIONS TO REQUEST NO. 25: EBID objects on the basis that the Request is vague and ambiguous, overbroad, and unduly burdensome and oppressive. EBID further objects on the basis that this Request calls for irrelevant information.

26. Please produce all Documents relating to analyses or estimate of the loss of water within EBID to water-consuming vegetation and siltation of the channel of the Rio Grande.

OBJECTIONS TO REQUEST NO. 26: No objection beyond those noted in the General Objections section above.

27. Please produce all Documents, including records or other information, relating to estimated, observed, measured, or modeled groundwater level data in any monitoring or pumping well in EBID.

OBJECTIONS TO REQUEST NO. 27: EBID objects on the basis that this Request is unduly burdensome and oppressive in that this Request seeks information about other individuals or entities and should instead be directed to those individuals or entities.

28. Please produce all Documents relating to Project operations and water yield from the Project.

OBJECTIONS TO REQUEST NO. 28: EBID objects on the basis that the Request is vague and ambiguous, overbroad, and unduly burdensome and oppressive. EBID further objects on the basis that this Request calls for irrelevant information.

29. Please produce all Documents relating to estimates, measurements, studies, analysis, and water budgets relating to the amount of groundwater available for diversion and use within EBID.

OBJECTIONS TO REQUEST NO. 29: EBID objects on the basis that the Request is vague and ambiguous, overbroad, and unduly burdensome and oppressive. EBID further objects on the basis that this Request calls for irrelevant information and calls for a legal conclusion.

30. Please produce all Documents relating to estimates, measurements, studies, analysis, and water budgets related to surface water use in EBID.

OBJECTIONS TO REQUEST NO. 30: EBID objects on the basis that the Request is vague and ambiguous, overbroad, and unduly burdensome and oppressive. EBID further objects on the basis that this Request calls for irrelevant information and calls for a legal conclusion.

31. Please produce all Documents relating to water distribution and farm headgate deliveries of surface water and ground water in EBID.

OBJECTIONS TO REQUEST NO. 31: EBID objects on the basis that the Request is overbroad and unduly burdensome and oppressive.

32. Please produce all Documents relating to the Bureau of Reclamation Monthly Water Distribution reports, including records of river headgate diversions, total waste, operational spills, canal loss, transport losses, total loss, farm headgate deliveries, irrigated acres; and including all notes, backup data, and calculations.

OBJECTIONS TO REQUEST NO. 32: EBID objects on the basis that the Request is overbroad and unduly burdensome and oppressive.

33. Please produce all Documents relating to records, estimates, and analyses of tributary flows and arroyo flows in the areas tributary to the Rio Grande and canals between San Marcial and Fort Quitman.

OBJECTIONS TO REQUEST NO. 33: EBID objects on the basis that the Request is vague and ambiguous, overbroad, and unduly burdensome and oppressive.

34. Please produce all Documents relating to waste water treatment plants in EBID, and more specifically the effluent records, construction dates, and the area served by each plant.

OBJECTIONS TO REQUEST NO. 34: No objection beyond those noted in the General Objections section above.

35. Please produce all Documents relating to canal and lateral efficiency, seepage, and other losses from all canals, laterals, and drains in EBID.

OBJECTIONS TO REQUEST NO. 35: EBID objects on the basis that the Request is overbroad and unduly burdensome and oppressive.

36. Please produce all Documents relating to design specifications, dates of construction, mapping, elevations, and as-built schematics for all headgates, canals, laterals, drains and wasteways in EBID.

OBJECTIONS TO REQUEST NO. 36: EBID objects on the basis that the Request is overbroad and unduly burdensome and oppressive. EBID further objects on the basis that this Request calls for irrelevant information.

37. Please produce all Documents describing areas irrigated by each canal and lateral and information on the number of acres served by each canal or lateral in EBID.

OBJECTIONS TO REQUEST NO. 37: EBID objects on the basis that the Request is overbroad and unduly burdensome and oppressive insofar as this information is already within the State of New Mexico's possession via the Office of the State Engineer. EBID further objects on the basis that this Request calls for irrelevant information.

38. Please produce any and all aerial photographs, satellite imagery, schematic diagrams, or delineations showing headgate, canal, lateral, drain and wasteway locations in EBID.

OBJECTIONS TO REQUEST NO. 38: EBID objects on the basis that the Request is overbroad and unduly burdensome and oppressive. EBID further objects on the basis that this Request calls for irrelevant information.

39. Please produce all Documents relating to canal and lateral lining in EBID, including but not limited to whether each canal or lateral is lined and, if it is lined, when it was lined, the material it is lined with, and any estimates of lining permeability.

OBJECTIONS TO REQUEST NO. 39: EBID objects on the basis that the terms "lining" and "lined" in this Request are vague and ambiguous.

40. Please produce all Documents relating to any studies, estimates, measurements, proposals, or other information concerning groundwater recharge in EBID.

OBJECTIONS TO REQUEST NO. 40: EBID objects on the basis that the Request is vague and ambiguous and calls for a legal conclusion.

41. Please produce all Documents, including policies, reports, or other information, on the allocation of Project water to EBID and EPCWID prior to adoption of the 2008 Operating Agreement and the distribution of Project water within EBID.

OBJECTIONS TO REQUEST NO. 41: EBID objects on the basis that the Request is overbroad and unduly burdensome and oppressive. EBID further objects on the basis that this Request calls for irrelevant information. EBID further objects insofar as this Request purports to call for privileged information.

42. Please produce all Documents, including policies, reports, or other information, on the allocation of Project water to EBID and EPCWID since adoption of the 2008 Operating Agreement and the distribution of Project water within EBID.

OBJECTIONS TO REQUEST NO. 42: EBID objects on the basis that the Request is overbroad and unduly burdensome and oppressive. EBID further objects on the basis that this Request calls for irrelevant information. EBID further objects insofar as this Request purports to call for privileged information.

43. Please produce all Documents, including policies, report, or other information, relating to Project water supply forecasting and projections of future Project operations.

OBJECTIONS TO REQUEST NO. 43: No objection beyond those noted in the General Objections section above.

44. Please produce all Documents containing Project water accounting calculations and reports.

OBJECTIONS TO REQUEST NO. 44: No objection beyond those noted in the General Objections section above.

45. Please produce all Documents relating to credits against charges EBID claimed and/or received in Project water accounting calculations and procedures.

OBJECTIONS TO REQUEST NO. 45: No objection beyond those noted in the General Objections section above.

46. Please produce all Documents relating to credits against charges EPCWID claimed and/or receive in Project water accounting calculations and procedures.

OBJECTIONS TO REQUEST NO. 46: No objection beyond those noted in the General Objections section above.

47. Please produce all Documents on carryover accounting for Project water in Project storage.

OBJECTIONS TO REQUEST NO. 47: EBID objects on the basis that this Request calls for irrelevant information. EBID further objects insofar as this Request purports to call for privileged information.

48. Please produce all Documents on river transit losses in the Rio Grande below Elephant Butte, Project water delivery efficiency, and general Project efficiency from 1938 to the present, including but not limited to any studies, estimates reports, or calculations used to derive or support the diversion ratio in the 2008 Operating Agreement.

OBJECTIONS TO REQUEST NO. 48: EBID objects on the basis that this Request is unduly burdensome and oppressive in that this Request seeks information created and kept by other entities, namely, the United States Bureau of Reclamation, and should instead be directed to those entities. EBID further objects on the basis that this Request calls for irrelevant information. Finally, EBID objects on the basis that this Request calls for privileged information.

49. Please produce all Documents, including communications in whatever form, pertaining to the negotiation, drafting, or adoption of the 2008 Operating Agreement, including any proposed, prior or temporary operating agreements for the Project.

OBJECTIONS TO REQUEST NO. 49: EBID objects on the basis that this Request calls for irrelevant information. EBID further objects on the basis that this Request calls for privileged information.

50. Please produce all Documents relating to agendas and minutes for EBID board meetings during which the EBID board discussed, in open or closed session, proposed operating agreements for the Project, including the 2008 Operating Agreement.

OBJECTIONS TO REQUEST NO. 50: EBID objects on the basis that this Request calls for irrelevant information.

51. Please produce all Documents relating to presentations made to EBID water users or other members of the public regarding the 2008 Operating Agreement.

OBJECTIONS TO REQUEST NO. 51: EBID objects on the basis that this Request calls for irrelevant information.

52. Please produce all Documents, including yearly summaries, interim operating plans or agreements, and communications in any form, relating to operation of the Project and any changes in Project operations for the period 1980 to 2005.

OBJECTIONS TO REQUEST NO. 52: EBID objects on the basis that the Request is overbroad and unduly burdensome and oppressive. EBID objects insofar as this Request calls for irrelevant information. EBID further objects on the basis that this Request calls for privileged information.

53. Please produce all Documents, including yearly summaries, interim operating plans or agreements, and communications in any form, relating to operation of the Project and any changes in Project operations for the year 2006.

OBJECTIONS TO REQUEST NO. 53: EBID objects on the basis that the Request is overbroad and unduly burdensome and oppressive. EBID objects insofar as this Request calls for irrelevant information. EBID further objects on the basis that this Request calls for privileged information.

54. Please produce all Documents, including yearly summaries, interim operating plans or agreements, and communications in any form, relating to operation of the Project and any changes in Project operations for the year 2007.

OBJECTIONS TO REQUEST NO. 54: EBID objects on the basis that the Request is overbroad and unduly burdensome and oppressive. EBID objects insofar as this Request calls for irrelevant information. EBID further objects on the basis that this Request calls for privileged information.

55. Please produce all Documents, including yearly summaries and communications in any form, relating to operation of the Project and changes in operation of the Project since adoption of the 2008 Operating Agreement.

OBJECTIONS TO REQUEST NO. 55: EBID objects on the basis that the Request is overbroad and unduly burdensome and oppressive. EBID objects insofar as this Request calls for irrelevant information. EBID further objects on the basis that this Request calls for privileged information.

56. Please produce all Documents about communications, in any form, between You, EPCWID, and/or the United States of America raising concerns with implementation of the 2008 Operating Agreement and/or Project operations since 2008.

OBJECTIONS TO REQUEST NO. 56: EBID objects on the basis that this Request is vague and ambiguous, overbroad, unduly burdensome and oppressive, and calls for irrelevant information. EBID further objects insofar as this Request calls for privileged information.

57. Please produce all Documents about communications or agreements, in any form, between You and EPCWID concerning water sharing, operations, water leasing, water delivery, water storage, or water use or water management in any respect, including but not limited to communications or agreements concerning wells in Texas.

OBJECTIONS TO REQUEST NO. 57: EBID objects on the basis that this Request is vague and ambiguous, overbroad, and unduly burdensome and oppressive. EBID objects on the basis that this Request calls for irrelevant information. EBID further objects on the basis that this Request calls for privileged information.

58. Please produce all Documents relating to analyses or estimates of the impacts of wells in Texas on surface and ground water availability in New Mexico.

OBJECTIONS TO REQUEST NO. 58: No objection beyond those noted in the General Objections section above.

59. Please produce all Documents on operating procedures or the operation of Project canals, laterals, drains, wasteways, headgates, and other infrastructure owned, controlled, or operated by EBID.

OBJECTIONS TO REQUEST NO. 59: EBID objects on the basis that this Request calls for irrelevant information.

60. Please produce all Documents on the function and operation of the California extension.

OBJECTIONS TO REQUEST NO. 60: EBID objects on the basis that this Request calls for irrelevant information.

61. Please produce all Documents relating to deliveries of water from the Leasburg Canal to the Eastside Canal, including but not limited to records of all such deliveries and policies or procedures governing such deliveries.

OBJECTIONS TO REQUEST NO. 61: EBID objects on the basis that this Request calls for irrelevant information. EBID further objects on the basis that this Request is overbroad and unduly burdensome and oppressive.

62. Please produce all Documents relating to collection and compilation of Project water delivery orders from Project water users, and copies of all Project water orders.

OBJECTIONS TO REQUEST NO. 62: EBID objects on the basis that the Request is overbroad, unduly burdensome and oppressive, and calls for irrelevant information.

63. Please produce all Documents relating to the procedures and methods for Project water users to place orders for Project water with You, and for You to transmit these orders to the United States of America.

OBJECTIONS TO REQUEST NO. 63: EBID objects on the basis that the Request is overbroad, unduly burdensome and oppressive, and calls for irrelevant information.

64. Please produce all Documents compiling or summarizing Project water orders and deliveries, including but not limited to all information concerning the mechanism, communication, and timing of water orders and subsequent changes to water orders.

OBJECTIONS TO REQUEST NO. 64: EBID objects on the basis that the Request is overbroad, unduly burdensome and oppressive, and calls for irrelevant information.

65. Please produce all Documents relating to Your provision of Project deliveries to lands within EPCWID, including but not limited to records of water You provide to lands within EPCWID, records of where this water is diverted and delivered, and procedures for delivering this water.

OBJECTIONS TO REQUEST NO. 65: EBID objects on the basis that this Request is vague and ambiguous and it potentially calls for irrelevant information. EBID further objects on the basis that this Request is overbroad and unduly burdensome and oppressive.

66. Please produce all Documents relating to winter operations in EBID, defined as operations in the months of November, December, January, and February, including water orders, water delivery rotation practices, diversions, and surface flows within EBID.

OBJECTIONS TO REQUEST NO. 66: EBID objects on the basis that this Request is vague and ambiguous and it potentially calls for irrelevant information. EBID further objects on the basis that this Request is overbroad and unduly burdensome and oppressive.

67. Please produce all Documents showing EBID'S boundaries as well as the boundaries of subdistricts or administrative units within EBID, including maps, diagrams, or other information showing any changes in these boundaries.

OBJECTIONS TO REQUEST NO. 67: EBID objects on the basis that this Request is vague and ambiguous and it potentially calls for irrelevant information. EBID further objects on the basis that this Request is overbroad and unduly burdensome and oppressive.

68. Please provide all Documents relevant to any changing land use practices in EBID, including but not limited to: changing tillage, irrigation methodology, land leveling, urbanization, and fallowing practices.

OBJECTIONS TO REQUEST NO. 68: EBID objects on the basis that this Request is vague and ambiguous and it potentially calls for irrelevant information. EBID further objects on the basis that this Request is overbroad and unduly burdensome and oppressive.

69. Please produce all Documents relating to records of all canal heading diversions in EBID.

OBJECTIONS TO REQUEST NO. 69: EBID objects on the basis that this Request is vague and ambiguous and it potentially calls for irrelevant information. EBID further objects on the basis that this Request is overbroad and unduly burdensome and oppressive.

70. Please produce all Documents relating to the locations of all diversions from the Rio Grande in EBID other than those disclosed in paragraph 69, above, as well as measured or estimated records of such diversions.

OBJECTIONS TO REQUEST NO. 70: EBID objects on the basis that this Request is vague and ambiguous and it potentially calls for irrelevant information. EBID further objects on the basis that this Request is overbroad and unduly burdensome and oppressive. Finally, EBID objects insofar as this Request purports to seek privileged information.

71. Please produce all Documents on the presence, availability, capture, or recapture of return flows anywhere within EBID.

OBJECTIONS TO REQUEST NO. 71: EBID objects insofar as this Request purports to seek privileged information and calls for a legal conclusion.

72. Please produce all Documents related to meetings of Your Board of Directors, including all agendas, minutes, transcripts, or reports.

OBJECTIONS TO REQUEST NO. 72: No objection beyond those noted in the General Objections section above.

73. Please produce all Documents related to bulletins, announcements, correspondence and other communications between EBID and the Project water users within EBID.

OBJECTIONS TO REQUEST NO. 73: No objection beyond those noted in the General Objections section above.

74. Please produce all Documents about any communication, in whatever form, between You; the United States, including but not limited to the Bureau of Reclamation, the International Boundary and Water Commission, the U.S. Geological Survey, and the Department of the Interior; and/or EPCWID, including communications relating to:

- a. Project operations;
- b. Project water delivery;
- c. Groundwater pumping;
- d. Any agreements proposed or signed between You, the United States, and/or EPCWID;
- e. This litigation.

OBJECTIONS TO REQUEST NO. 74: EBID objects on the basis that this Request is vague and ambiguous and it potentially calls for irrelevant information. EBID further objects on the basis that this Request is overbroad and unduly burdensome and oppressive. Finally, EBID objects insofar as this Request purports to seek privileged information.

75. Please produce all Documents, including contracts, draft contracts, and communications, in whatever form, concerning the non-irrigation use of Project water within or outside the EBID boundaries.

OBJECTIONS TO REQUEST NO. 75: EBID objects on the basis that this Request is vague and ambiguous, overbroad, and unduly burdensome and oppressive. EBID further objects insofar as this Request purports to seek privileged information.

76. Please produce all Documents and correspondence related to negotiation of the Rio Grande Compact.

OBJECTIONS TO REQUEST NO. 76: EBID objects on the basis that this Request is unduly burdensome and oppressive insofar as it should be directed to other parties or requires extensive research to locate given the length of time since the event surrounding the Request. Finally, EBID objects insofar as this Request purports to seek privileged information.

77. Please produce all Documents and data that were provided to the National Resources Committee for its use in relation to preparation of the Rio Grande Joint Investigation.

OBJECTIONS TO REQUEST NO. 77: EBID objects on the basis that this Request is unduly burdensome and oppressive insofar as it should be directed to other parties or requires extensive research to locate given the length of time since the event surrounding the Request.

78. Please produce all Documents concerning lands in EBID that contain Project water rights owned, leased, or otherwise acquired by the City of El Paso or any other provider of water for non-irrigation purposes including:
- a. Location of such lands;
 - b. Date acquired;
 - c. Acreage;
 - d. Historical Project deliveries to these lands;
 - e. Historical and current use of these lands;
 - f. All studies or engineering reports pertaining to such lands or the use of water from such lands.

OBJECTIONS TO REQUEST NO. 78: EBID objects on the basis that the phrase “all studies or engineering reports pertaining to such lands or the use of water from such lands” is vague and ambiguous. EBID further objects on the basis that this Request is overbroad and unduly burdensome and oppressive insofar as parts of the Request should be directed to other entities. EBID further objects on the basis that the Request calls for irrelevant information.

79. Please produce all Documents relating to contracts between the United States, EPCWID, the City of El Paso, and/or any other provider of water providing for the use of Project water for purposes other than irrigation of lands, including but not limited to communications, in whatever form, between You and any of the above entities relating to these agreements.

OBJECTIONS TO REQUEST NO. 79: EBID objects on the basis that this Request is overbroad and unduly burdensome and oppressive insofar as parts of the Request should be

directed to other entities. EBID further objects on the basis that the Request calls for irrelevant information. Finally, EBID objects insofar as this Request calls for privileged information.

80. Please produce all Documents pertaining to El Paso Carriage Water operations.

OBJECTIONS TO REQUEST NO. 80: EBID objects on the basis that this Request is vague and ambiguous insofar as the term “El Paso Carriage Water operations” is not defined.

81. Please produce all Documents relating to any reports, records, studies, data, imagery or any other information within Your possession or control responsive to any of the above discovery requests but which applies to the Mexico area within the Rio Grande Basin above Fort Quitman, Texas.


OBJECTIONS TO REQUEST NO. 81: No objection beyond those noted in the General Objections section above.

82. Please produce all Documents You have received from any Mexican representative or agent regarding any surface water or groundwater use, well pumping, aquifer characteristics, ground water levels, or any other surface water or ground water information, agricultural use or municipal use of water for the Mexico area within the Rio Grande Basin above Fort Quitman, Texas.

OBJECTIONS TO REQUEST NO. 82: No objection beyond those noted in the General Objections section above.

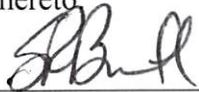
DATED: March 11, 2019

BARNCASTLE LAW FIRM

By 
Samantha R. Barncastle
Counsel for Elephant Butte Irrigation District
P.O. Box 1556
Las Cruces, NM 88004
Ph: 575-636-2377
Email: samantha@h2o-legal.com

CERTIFICATE OF SERVICE

On the 11th day of March, 2019, I hereby certify that a true and correct copy of the foregoing Objections by Elephant Butte Irrigation District was served via electronic mail, as indicated, upon those individuals listed on the service list attached hereto.

By 
Samantha R. Barncastle

SERVICE LIST FOR ALL PARTIES

In The Supreme Court of the United States, Original No. 141
STATE OF TEXAS v. STATE OF NEW MEXICO and STATE OF COLORADO

PARTIES¹

STATE	ATTORNEY & ADDRESS	PHONE & EMAIL
Texas	<p>STUART L. SOMACH* ANDREW M. HITCHINGS ROBERT B. HOFFMAN FRANCIS M. "MAC" GOLDSBERRY II THERESA C. BARFIELD BRITTANY K. JOHNSON SOMACH SIMMONS & DUNN, PC 500 Capitol Mall, Suite 1000 Sacramento, CA 95814 Rhonda Stephenson - Secretary Christina Garro – Paralegal Yolanda De La Cruz - Secretary</p> <p>KEN PAXTON <i>Attorney General</i> JEFFREY C. MATEER <i>First Assistant Attorney General</i> BRANTLEY STARR <i>Deputy First Asst. Attorney General</i> JAMES E. DAVIS <i>Deputy Attorney General</i> PRISCILLA M. HUBENAK* <i>Chief, Environmental Protection Div.</i> OFFICE OF THE ATTORNEY GENERAL OF TEXAS P.O. Box 12548 Austin, TX 78711-2548</p>	<p>(916) 446-7979 (916) 803-4561 (cell) ssomach@somachlaw.com ahitchings@somachlaw.com rhoffman@somachlaw.com mgoldsberry@somachlaw.com tbarfield@somachlaw.com bjohnson@somachlaw.com</p> <p>rstephenson@somachlaw.com cgarro@somachlaw.com ydelacruz@somachlaw.com (512) 463-2012</p> <p>Priscilla.Hubenak@oag.texas.gov</p>

¹ (*) = Counsel of Record

<p>New Mexico</p>	<p>HECTOR BALDERAS New Mexico Attorney General TANIA MAESTAS (ext. 4048) Deputy Attorney General MARCUS J. RAEL, JR.* Special Assistant Attorney General 408 Galisteo Street (87501) P.O. Drawer 1508 Santa Fe, NM 87501 Patricia Salazar – Tania’s asst.</p> <p>MARCUS J. RAEL, JR. DAVID A. ROMAN Special Assistant Attorney General ROBLES, RAEL, AND ANAYA 500 Marquette Ave. NW, Suite 700 Albuquerque, NM 87102 Chelsea Sandoval (Paralegal)</p> <p>BENNET W. RALEY LISA M. THOMPSON MICHAEL A. KOPP Special Assistant Attorneys General TROUT RALEY 1120 Lincoln St., Suite 1600 Denver, CO 80203</p>	<p>(505) 490-4060/490-4863-Salazar hbalderas@nmag.gov tmaestas@nmag.gov</p> <p>marcus@roblesrael.com</p> <p>psalazar@nmag.gov</p> <p>(505) 242-2228 – Theresa/Clara marcus@roblesrael.com droman@roblesrael.com</p> <p>Chelsea@roblesrael.com</p> <p>(303) 861-1963 braley@troutlaw.com lthompson@troutlaw.com mkopp@troutlaw.com</p>
<p>Colorado</p>	<p>CYNTHIA H. COFFMAN <i>Attorney General of Colorado</i> KAREN M. KWON <i>First Assistant Attorney General</i> CHAD M. WALLACE* <i>Senior Assistant Attorney General</i> Colorado Department of Law 1300 Broadway Denver, CO 80203 Nan Edwards - Paralegal</p>	<p>720-508-6281 cynthia.coffman@coag.gov karen.kwon@coag.gov chad.wallace@coag.gov</p> <p>nan.edwards@coag.gov</p>

<p>United States</p>	<p>JAMES J. DUBOIS* R. LEE LEININGER THOMAS K. SNODGRASS U.S. DEPT. OF JUSTICE Environment & Natural Resources Div 999 18th Street South Terrace – Suite 370 Denver, CO 80202 Seth C. Allison, Paralegal</p> <p>NOEL J. FRANCISCO * Acting Solicitor General JEFFREY H. WOOD Acting Assistant Attorney General ANN O'CONNELL Assistant to Solicitor General U.S. DEPARTMENT OF JUSTICE 950 Pennsylvania Ave, NW Washington , DC 20530-0001</p> <p>STEPHEN M. MACFARLANE U.S. DEPARTMENT OF JUSTICE Environment & Natural Resources Div 501 I Street, Suite 9-700 Sacramento, CA 95814</p> <p>JUDITH E. COLEMAN U.S. DEPARTMENT OF JUSTICE Environment & Natural Resources Div P. O. Box 7611 Washington, DC 20044-7611</p>	<p>(303) 844-1375 james.dubois@usdoj.gov (303) 844-1364 lee.leininger@usdoj.gov (303) 844-7233 Thomas.snodgrass@usdoj.gov</p> <p>(303) 844-7917 Seth.allison@usdoj.gov</p> <p>(202) 514-2217 supremectbriefs@usdoj.gov</p> <p>(916) 930-2204 stephen.macfarlane@usdoj.gov</p> <p>(202) 514-3553 judith.coleman@usdoj.gov</p>

AMICI

AMICI	ATTORNEY AND ADDRESS	PHONE & EMAIL
<p>Albuquerque Bernalillo County Water Utility Authority</p>	<p>JAY F. STEIN JAMES C. BROCKMANN* STEIN & BROCKMANN, P.A. P.O. Box 2067 Santa Fe, NM 87504 Administrative Copy</p> <p>PETER AUH Albuquerque Bernalillo County Water Utility Authority P.O. Box 568 Albuquerque, NM 87103-0568</p>	<p>(505) 983-3880 jfstein@newmexicowaterlaw.com jcbrockmann@newmexicowaterlaw.com</p> <p>administrator@newmexicowaterlaw.com</p> <p>(505) 289-3092 pauh@abcwua.org</p>
<p>City of El Paso</p>	<p>DOUGLAS G. CAROOM* SUSAN M. MAXWELL BICKERSTAFF HEATH DELGADO ACOSTA LLP 3711 S. MoPac Expressway Building One, Suite 300 Austin, TX 78746</p>	<p>(512) 472-8021 dcaroom@bickerstaff.com smaxwell@bickerstaff.com</p>
<p>City of Las Cruces</p>	<p>JAY F. STEIN* JAMES C. BROCKMANN STEIN & BROCKMANN, P.A. P.O. Box 2067 Santa Fe, NM 87504 Administrative Copy</p> <p>JENNIFER VEGA-BROWN MARCIA B. DRIGGERS LAS CRUCES CITY ATTORNEY'S OFFICE P.O. Box 20000 Las Cruces, NM 88004</p>	<p>(505) 983-3880 jfstein@newmexicowaterlaw.com jcbrockmann@newmexicowaterlaw.com</p> <p>administrator@newmexicowaterlaw.com</p> <p>(575) 541-2128 jvega-brown@las-cruces.org marcyd@las-cruces.org</p>

<p>El Paso County Water Improvement District No. 1</p>	<p>MARIA O'BRIEN* SARAH M. STEVENSON MODRALL, SPERLING, ROEHL, HARRIS & SISK, P.A. Suite 1000 500 Fourth Street N.W. (87102) P.O. Box 2168 Albuquerque, NM 87103-2168</p>	<p>(505) 848-1800 (main) (505) 848-1803 (direct) (505) 848-9710 (fax) mobrien@modrall.com sarah.stevenson@modrall.com</p>
<p>Elephant Butte Irrigation District</p>	<p>SAMANTHA R. BARNCASTLE* BARNCASTLE LAW FIRM, LLC 1100 South Main, Suite 20 (88005) P.O. Box 1556 Las Cruces, NM 88004 Janet Correll - Paralegal</p>	<p>(575)636-2377 Fax: (575) 636-2688 samantha@h2o-legal.com janet@h2o-legal.com</p>
<p>Hudspeth County Conservation and Reclamation District No. 1</p>	<p>ANDREW S. "DREW" MILLER* KEMP SMITH LLP 919 Congress Ave., Suite 1305 Austin, TX 78701</p>	<p>(512) 320-5466 dmiller@kempsmith.com</p>
<p>New Mexico Pecan Growers</p>	<p>TESSA DAVIDSON* DAVIDSON LAW FIRM, LLC 4206 Corrales Rd. P.O. Box 2240 Corrales, NM 87048 Patricia McCan - Paralegal</p>	<p>(505) 792-3636 ttd@tessadavidson.com patricia@tessadavidson.com</p>

<p>New Mexico State University</p>	<p>JOHN W. UTTON* UTTON & KERY, P.A. P.O. Box 2386 Santa Fe, NM 87504</p> <p>LIZBETH ELLIS General Counsel CLAYTON BRADLEY Counsel Hadley Hall Room 132 2850 Weddell Road Las Cruces, NM 88003</p>	<p>(505) 699-1445 john@uttonkery.com</p> <p>(575) 646-2446 lellis@ad.nmsu.edu bradleyc@ad.nmsu.edu</p>
<p>State of Kansas</p>	<p>DEREK SCHMIDT Attorney General of Kansas JEFFREY A. CHANAY Chief Deputy Attorney General TOBY CROUSE* Solicitor General of Kansas BRYAN C. CLARK Assistant Solicitor General DWIGHT R. CARSWELL Assistant Solicitor General 120 S.W. 10th Ave., 2nd Floor Topeka, KS 66612</p>	<p>(785) 296-2215</p> <p>toby.crouse@ag.ks.gov bryan.clark@ag.ks.gov</p>

SPECIAL MASTER

Special Master	<p>Honorable Michael J. Melloy <i>Special Master</i> United States Circuit Judge 111 Seventh Avenue, S.E., Box 22 Cedar Rapids, IA 52401</p> <p>Michael E. Gans, Clerk of Court United States Court of Appeals – Eighth Circuit Thomas F. Eagleton United States Courthouse 111 South 10th Street, Suite 24.329 St. Louis, MO 63102</p>	<p>(319) 432-6080 TXvNM141@ca8.uscourts.gov</p> <p>(314)244-2400 TxvNM141@ca8.uscourts.gov</p>
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****Updated 4/16/2018**

Corrected the spelling of Pricilla M. Hubenak to Priscilla M. Hubenak and added her e-mail address Priscilla.Hubenak@oag.texas.gov to the Service list.

****Updated 4/18/2018**

Added Toby Crouse (toby.crouse@ag.ks.gov) as the Solicitor General for the State of Kansas and removed Stephen R. McAllister.

****Updated 4/24/2018**

Added Clerk of Court information and updated Special Master e-mail address.

****Updated 11/16/18**

Added Bryan Clark's e-mail address (bryan.clark@ag.ks.gov) for the State of Kansas