

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' UNOPPOSED MOTION TO EXTEND DISPOSITIVE MOTION
DEADLINES**

JEFFREY WALL
Acting Solicitor General
JEAN E. WILLIAMS
Deputy Assistant Attorney General
FREDERICK LIU
Assistant to the Solicitor General
JAMES J. DuBOIS
R. LEE LEININGER
DAVID W. GEHLERT
JUDITH E. COLEMAN
JOHN P. TUSTIN
Attorneys, Environment and Natural Resources Division
U.S. Department of Justice

Counsel for the United States

The United States of America (United States) by and through its undersigned attorneys, respectfully moves the Court to extend the deadlines for the briefing of dispositive motions in this matter. In further support of this Motion, the United States states as follows:

1. Pursuant to the Court's Order and Amendment to Trial Management Schedule dated May 5, 2020 ("Scheduling Order"), the Parties' dispositive motions are due October 15, 2020; oppositions are due December 1, 2020; and replies are due December 21, 2020.

2. The United States is moving for this extension based on discussions with counsel for the States of Texas, New Mexico, and Colorado, who have indicated their support to the schedule proposed below.

3. Certain circumstances and developments in this case and others involving the parties' counsel are creating unexpected hardships for the parties that make it difficult to adequately prepare dispositive motions under the current schedule, and additional time for completion of the motions is needed. These circumstances include:

A. Oral argument in *Texas v. New Mexico*, No. 65 Original, involving litigation over the Pecos River Compact, has been scheduled for October 5, 2020. Both Mr. Weschler, lead counsel for the State of New Mexico, will be arguing the case, and Mr. Liu, counsel for the United States with the Office of the Solicitor General is also involved. In addition, on October 6, 2020, Mr. Liu also will be arguing the United States position in *Rutledge v. Pharmaceutical Care Management Association*. Substantial time is needed to prepare for these arguments. Both of these attorneys' full participation is also necessary for the proper development of the dispositive motions in this proceeding. The conflict with the proceedings in the Pecos litigation is a substantial hardship on both parties.

B. The mediator selected by the Special Master is also seeking a time commitment of the parties in October that will further compress the time to be devoted to critical briefing. The mediator is requesting mediation briefs to inform him, and intends to have preliminary discussions with a number of parties during the week of October 19. These efforts in the mediation will present additional challenges to preparation of briefing. Additional time for mediation may also assist the parties in determining whether settlement is feasible.

C. Completion of discovery and of depositions that have extended into September and October have consumed more resources than originally contemplated. While the parties have been working cooperatively to complete the depositions, unanticipated problems have arisen, including health issues that have stretched out the timing of completion.

D. On September 17 2020, New Mexico produced additional model runs that need to be reviewed to determine their relationship, if any, to the motions. New Mexico produced approximately 3.6 terabytes of data that is currently being reviewed by Texas' and the United States' experts.

3. The parties agree that any change of the briefing schedule should try to avoid deadlines falling in the week between Christmas and New Year due to staffing and other related considerations. For this reason, the parties request a three week extension of all of the dispositive motion briefing deadlines. The following amendments to the Scheduling Order are proposed:

Dispositive Motions Deadline: November 5, 2020

Opposition to Dispositive Motions: December 22, 2020

Replies to Dispositive Motions: January 18, 2021

4. The parties believe that oral argument on the motions can be held in early February of 2021, and trial will still commence in the summer of 2021.

WHEREFORE, the United States respectfully requests the Court to enter an Order granting the United States Motion to Amend the Scheduling Order, and establishing new deadlines as follows:

- A. The deadline for filing of dispositive motions: **November 5, 2020**
- B. The deadline for filing opposition to dispositive motions: **December 22, 2020**
- C. The deadline for filing replies to dispositive motions: **January 18, 2021.**

Respectfully submitted this 28th day of September 2020.

JEFFERY WALL
Solicitor General
JEAN E. WILLIAMS
Deputy Assistant Attorney General

FREDERICK LIU
Assistant to the Solicitor General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

/s/ James J. Dubois

JAMES J. DuBOIS
R. LEE LEININGER
DAVID W. GEHLERT
Trial Attorneys
U.S. Department of Justice
Environment & Natural Resources Division
999 18th Street, South Terrace – Suite 370
Denver, CO 80202
JUDITH E. COLEMAN
JOHN P. TUSTIN
Trial Attorney
U.S. Department of Justice
Environment & Natural Resources Division
P.O. Box 7611
Washington, D.C. 20004

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CERTIFICATE OF SERVICE

This is to certify that on the 28th day of September 2020, I caused a true and correct copy of **UNITED STATES' UNOPPOSED MOTION TO EXTEND DISPOSITIVE MOTION DEADLINES** to be served via electronic mail upon those individuals listed on the Service List, attached hereto.

Respectfully submitted,

/s/ Seth C. Allison
Seth C. Allison
Paralegal Specialist

SPECIAL MASTER

HONORABLE MICHAEL J. MELLOY

Special Master

United States Circuit Judge
111 Seventh Avenue, S.E., Box 22
Cedar Rapids, IA 52401-2101

TXvNM141@ca8.uscourts.gov
(319) 432-6080
(service via email and U.S. Mail)

MICHAEL E. GANS

Clerk of the 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

TXvNM141@ca8.uscourts.gov
(314) 244-2400

UNITED STATES

NOEL J. FRANCISCO*

Acting Solicitor General

JEAN E. WILLIAMS

Deputy Assistant Attorney General

FREDRICK LIU

Assistant to the Solicitor General

US Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

supremectbriefs@usdoj.gov
(202) 514-2217

JAMES J. DUBOIS*

R. LEE LEININGER

DAVID W. GEHLERT

U.S. Department of Justice
Environment & Natural Resources Division
999 18th Street
South Terrace – Suite 370
Denver, Colorado 80202

james.dubois@usdoj.gov
(303) 844-1375
Lee.leininger@usdoj.gov
(303) 844-1364
david.gehlert@usdoj.gov
(303) 844-1386

Seth Allison, Paralegal

Seth Allison, Paralegal
Seth.allison@usdoj.gov

JUDITH E. COLEMAN

JOHN TUSTIN

US DEPARTMENT OF JUSTICE
Environment & Natural Resources Division
P.O. Box 7611
Washington, D.C. 20044-7611

Judith.coleman@usdoj.gov
(202) 514-3553
John.tustin@usdoj.gov
(202) 305-3022

STATE OF COLORADO

PHILIP J. WEISER
Attorney General of Colorado

chad.wallace@coag.gov
(720) 508-6281

ERIC R. OLSEN
Colorado Solicitor General

preston.hartman@coag.gov
(720) 508-6257

LAIN LEONIAK
Acting First Assistant Attorney
General

eric.olson@coag.gov

CHAD M. WALLACE*
Senior Assistant Attorney

nan.edwards@coag.gov

PRESTON V. HARTMAN
Assistant Attorney General

Paralegal II

Nan B. Edwards, Paralegal II

Colorado Department of Law
7th Floor, 1300 Broadway
Denver, CO 80203

STATE OF NEW MEXICO

HECTOR H. BALDERAS
New Mexico Attorney General

hbalderas@nmag.gov
tmaestas@nmag.gov

TANIA MAESTAS

ckhoury@nmag.gov

CHOLLA KHOURY

psalazar@nmag.gov

Chief Deputy Attorney General

(505) 239-4672

Assistant Attorney General

STATE OF NEW MEXICO

P.O. Drawer 1508

Santa Fe, New Mexico 87501

PATRICIA SALAZAR - Assistant

MARCUS J. RAEL, JR.*

marcus@roblesrael.com

LUIS ROBLES

luis@roblesrael.com

Special Assistant Attorneys General

chelsea@roblesrael.com

ROBLES, RAEL & ANAYA, P.C.

pauline@roblesrael.com

500 Marquette Avenue NW, Suite 700

bonnie@roblesrael.com

Albuquerque, New Mexico 87102

(505) 242-2228

CHELSEA SANDOVAL – Firm Administrator

PAULINE WAYLAND – Paralegal

BONNIE DEWITT - Paralegal

BENNETT W. RALEY

braley@troutlaw.com

LISA M. THOMPSON

lthompson@troutlaw.com

MICHAEL A. KOPP

mkopp@troutlaw.com

Special Assistant Attorneys General

(303) 861-1963

TROUT RALEY

1120 Lincoln Street, Suite 1600

Denver, Colorado 80203

JEFFREY WECHSLER
Special Assistant Attorney General
MONTGOMERY & ANDREWS
325 PASEO DE PERALTA
SANTA FE, NM 87501
DIANA LUNA - Paralegal

jwechsler@montand.com
(505) 986-2637

dluna@montand.com

JOHN DRAPER
Special Assistant Attorney General
DRAPER & DRAPER LLC
325 PASEO DE PERALTA SANTA FE,
NM 87501
DONNA ORMEROD - Paralegal

john.draper@draperllc.com
(505) 570-4591

donna.ormerod@draperllc.com

STATE OF TEXAS

STUART SOMACH*
ANDREW M. HITCHINGS
ROBERT B. HOFFMAN
FRANCIS M. "MAC" GOLDSBERRY II
THERESA C. BARFIELD
SARAH A. KLAHN
BRITTANY K. JOHNSON
RICHARD S. DEITCHMAN
SOMACH SIMMONS & DUNN, PC
500 Capital Mall, Suite 1000
Sacramento, CA 95814
CORENE RODDER - Secretary
CHRISTINA GARRO - Paralegal
YOLANDA DE LA CRUZ - Paralegal
RENA WADE - Secretary

ssomach@somachlaw.com
ahitchings@somachlaw.com
rhoffman@somachlaw.com
mgoldsberry@somachlaw.com
tbarfield@somachlaw.com
sklahn@somachlaw.com
bjohnson@somachlaw.com
rdeitchman@somachlaw.com
(916) 446-7979
(916) 803- 4561 (cell)
cgarro@somachlaw.com
crodder@somachlaw.com
ydelacruz@somachlaw.com
rwade@somachlaw.com
(512) 463-2012

KEN PAXTON
Attorney General
JEFFREY C. MATEER
First Assistant Attorney General
DARREN L. McCARTHY
Deputy Attorney General for Civil Litigation
PRISCILLA M. HUBENAK
Chief, Environmental Protection Division
P.O. Box 12548
Austin, TX 78711-2548

Priscilla.Hubenak@oag.texas.gov

AMICI / FOR INFORMATIONAL PURPOSES ONLY

ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY

JAMES C. BROCKMANN*
JAY F. STEIN
STEIN & BROCKMANN, P.A.
505 Don Gaspar Avenue
P.O. Box 2067
Santé Fe, New Mexico 87505

(505) 983-3880
jcbrockmann@newmexicowaterlaw.com
jfstein@newmexicowaterlaw.com
administrator@newmexicowaterlaw.com

PETER AUH
ALBUQUERQUE BERNALILLO COUNTY
WATER UTILITY AUTHORITY
P.O. Box 568
Albuquerque, NM 87103-0568

(505) 289-3092
pauh@abcwua.org

CITY OF EL PASO

DOUGLAS G. CAROOM*
SUSAN M. MAXWELL
BICKERSTAFF HEATH DELGADO
ACOSTA, LLP
2711 S. MoPac Expressway
Building One, Suite 300
Austin, TX 78746

(512) 472-8021
dcaroom@bickerstaff.com
smaxwell@bickerstaff.com

CITY OF LAS CRUCES

JAY F. STEIN*
JAMES C. BROCKMANN
STEIN & BROCKMANN, P.A.
P.O. Box 2067
Santa Fe, NM 87504

(505) 983-3880
jfstein@newmexicowaterlaw.com
jcbrockmann@newmexicowaterlaw.com
administrator@newmexicowaterlaw.com

JENNIFER VEGA-BROWN
MARCIA B. DRIGGERS
LAW CRUCES CITY ATTORNEY'S OFFICE
P.O. Box 12428
Las Cruces, New Mexico 88004

(575) 541-2128
jvega-brown@las-cruces.org
marcyd@las-cruces.org

ELEPHANT BUTTE IRRIGATION DISTRICT

SAMANTHA R. BARNCASTLE*

BARNCASTLE LAW FIRM, LLC

1100 South Main, Ste. 20

P.O. Box 1556

Las Cruces, NM 88005

Janet Correll - Paralegal

(575) 636-2377

(575) 636-2688 (fax)

samantha@h2o-legal.com

janet@h2o-legal.com

EL PASO COUNTY WATER AND IMPROVEMENT DISTRICT

MARIA O'BRIEN*

SARAH M. STEVENSON

MODRALL, SPERLING, ROEHL, HARRIS

& SISK, PA

500 Fourth Street N.W.; Suite 1000 Albuquerque,

New Mexico 87103-2168

SHANNON GIFFORD – Legal Assistant

LAMAI HOWARD – Legal Assistant

(505) 848-1803 (direct)

mobrien@modrall.com

sarah.stevenson@modrall.com

shannong@modrall.com

lamaih@modrall.com

RENEA HICKS

LAW OFFICE OF MAX RENEA HICKS P.O.Box 303187

Austin, TX 78703

rhicks@renea-hicks.com

HUDSPETH COUNTY CONSERVATION AND RECLAMATION DISTRICT

ANDREW S. "DREW" MILLER*

KEMP SMITH LLP

816 Congress Avenue, Suite 1260

Austin, TX 78701

(512) 320-5466

dmiller@kempsmith.com

STATE OF KANSAS

TOBY CROUSE*

Solicitor General, State of Kansas

DEREK SCHMIDT

Attorney General, State of Kansas

JEFFREY A. CHANAY

Chief Deputy Attorney General

BRYAN C. CLARK

Assistant Solicitor General

DWIGHT R. CARSWELL

Assistant Attorney General 120

S. W. 10th Ave., 2nd

Floor Topeka, KS 66612

(785) 296-2215

toby.crouse@ag.ks.gov

bryan.clark@ag.ks.gov

NEW MEXICO PECAN GROWERS

TESSA T. DAVIDSON*
DAVIDSON LAW FIRM, LLC
P.O. Box 2240 4206
Corrales Road
Corrales, NM 87048
JO HARDEN – Paralegal

ttd@tessadavidson.com
(505) 792-3636

jo@tessadavidson.com

NEW MEXICO STATE UNIVERSITY

JOHN W. UTTON*
UTTUN & KERY, P.A.
P.O. Box 2386
Santa Fe, New Mexico 87504

(505) 699-1445
john@uttonkery.com

General Counsel
New Mexico State University
Hadley Hall Room 132
2850 Weddell Road Las
Cruces, NM 88003

gencounsel@nmsu.edu