

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

STATE OF TEXAS'S JANUARY 2020 STATUS REPORT

STUART L. SOMACH, ESQ.*
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January 3, 2019

COMES NOW the State of Texas (Texas) and provides the following status report to the Special Master pursuant to paragraph 5 of the September 6, 2018 Case Management Plan (CMP), as amended.

Since the filing of Texas's December 2019 Status Report, Texas has completed its production of electronically stored information (ESI); Texas's initial ESI production was uploaded to the Veritext Vault on November 21, 2019, and Texas's first supplemental ESI production was uploaded on December 17, 2019. Texas is also in the process of finalizing its production of documents received via third-party subpoenas, upload of which will be completed on January 3, 2019, followed by service of Texas's notice of production.

In accordance with the CMP, New Mexico disclosed expert witnesses and produced expert reports on October 31, 2019. Soon thereafter, Texas deposed experts Brian Thoreson of Davids Engineering, Inc., Richard Allen of Evapotranspiration Plus, Daniel Morrissey of McDonald Morrissey Associates, Inc., and Dr. Dana Hoag. Counsel for New Mexico and Texas are coordinating additional depositions of New Mexico's disclosed expert witnesses, in consideration of the respective availability of experts and counsel.

Further, pursuant to the CMP and Federal Rules of Civil Procedure 26(a)(2)(B), Texas disclosed rebuttal expert witness information on December 30, 2019.

The United States filed a motion for judgment on the pleadings against New Mexico's counterclaims 2, 3, 5, 6, 7, 8, and 9 on December 21, 2018. On December 26, 2018, Texas filed (1) a request for a judicial declaration to confirm the legal issues previously decided and motion in limine to exclude the introduction of evidence thereon, and (2) a motion to strike or for partial judgment regarding New Mexico's counterclaims and affirmative defenses, under Federal Rules of Civil Procedure 12(c) and 56. On December 26, 2018, New Mexico filed a motion for partial judgment on matters previously

decided. The Special Master held an in-person oral argument on these motions on April 2, 2019, in Denver.

Additionally, on June 17, 2019, the United States Supreme Court referred to the Special Master the Motion to Intervene filed by the Pre-Federal Claimants. Texas, and others, filed responses in opposition to the Pre-Federal Claimants' Motion to Intervene. The Special Master heard oral argument on the Pre-Federal Claimants' Motion to Intervene on July 1, 2019. On December 2, 2019, the Special Master issued a Second Interim Report recommending that the Court deny the Motion to Intervene.

Further, on September 5, 2019, New Mexico filed and served a Motion to Strike Texas's Expert Disclosures on Water Quality. Texas filed its opposition brief on September 23, 2019, and New Mexico filed its reply brief on September 30, 2019. The Special Master denied New Mexico's Motion.

The United States Supreme Court has received the Special Master's Second Interim Report but has not yet set a briefing schedule on the filing of exceptions.

Dated: January 3, 2020

Respectfully submitted,

s/ Stuart L. Somach

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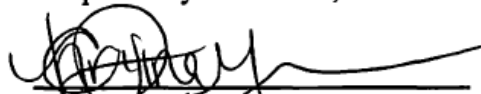
Defendants.

OFFICE OF THE SPECIAL MASTER

CERTIFICATE OF SERVICE

This is to certify that on this 3rd day of January 2020, I caused a true and correct copy of **The State of Texas's January 2020 Status Report** to be served upon all parties and *amici curiae*, by and through the attorneys of record and/or designated representatives for each party and *amicus curiae* in this original action. As permitted by order of the Special Master, and agreement among the parties, service was effected by electronic mail to those individuals listed on the attached service list, which reflects all updates and revisions through the current date.

Respectfully submitted,


Christina Garro

Dated: January 3, 2020

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(Service via E-Mail and U.S. Mail)

Honorable Michael J. Melloy

Special Master
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