

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 FEBRUARY 2020 STATUS REPORT

STUART L. SOMACH, ESQ.*
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February 7, 2020

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 January 2020 Status Report, Texas has completed its production of electronically stored information (ESI), productions pursuant to subpoenas to third parties, and has recently produced additional expert materials from Montgomery & Associates and Land IQ.

In accordance with the CMP, New Mexico timely disclosed expert witnesses, produced expert reports, and has made multiple supplemental disclosures related thereto. Thus far, Texas has deposed experts Brian Thoreson of Davids Engineering, Inc., Richard Allen of Evapotranspiration Plus, Daniel Morrissey of McDonald Morrissey Associates, Inc., Dr. Dana Hoag, David Jordan of INTERA, as well as Steven Setzer and John Carron of Hydros Consulting, Inc. In the coming weeks, Texas has noticed and intends to take the depositions of New Mexico experts, Gregory Sullivan and Heidi Welsh of Spronk Water Engineers, Lewis Munk of Munk Consulting, and Estevan Lopez, P.E. Additionally, New Mexico has noticed the depositions of United States' experts, Michelle Lopez and Ian Ferguson. Counsel for all parties continue to coordinate depositions 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 February 5, 2020, the Special Master served notice upon all counsel requesting the parties provide availability during the weeks of March 23 and March 30, respectively, in order to set an in-person status conference in Cedar Rapids, Iowa to discuss completion of discovery, setting of hearing dates, and to establish a trial date, mediation and settlement, and any other relevant issues that require court attention. Texas will provide any scheduling conflicts no later than February 12, 2020, in accordance with this notice.

Dated: February 7, 2020

Respectfully submitted,

s/ Stuart L. Somach

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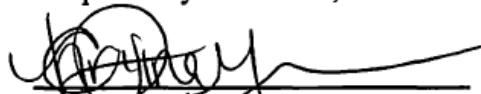
OFFICE OF THE SPECIAL MASTER

CERTIFICATE OF SERVICE

This is to certify that on this 7th day of February 2020, I caused a true and correct copy of **The State of Texas's February 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.

Dated: February 7, 2020

Respectfully submitted,



Christina Garro

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

Honorable Michael J. Melloy

Special Master
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