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June 10, 2020

Via Electronic and U.S. Mail

Special Master Michael J. Melloy
United States Courthouse
111 Seventh Avenue, S.E.
P.O. Box 22
Cedar Rapids, IA 52401
Email: TxvNM141@ca8.uscourts.gov

Re: *State of Texas v. State of New Mexico and State of Colorado*
United States Supreme Court, Original Jurisdiction No. 141

Dear Special Master Melloy:

The State of Texas (Texas) respectfully submits its expert witness designations in response to the Special Master's June 3, 2020 Order.

Texas encloses two pleadings wherein it selected experts and filed expert witness designations:

- THE STATE OF TEXAS'S DISCLOSURE OF EXPERT WITNESSES (5/31/19);
- THE STATE OF TEXAS'S DISCLOSURE OF REBUTTAL EXPERT WITNESSES (12/30/19).

Texas has not enclosed supplemental expert witness designations that speak only to issues of data and information supporting the previously disclosed experts. Texas will provide all supplemental disclosure pleadings upon request.

Very truly yours,

s/Stuart L. Somach
Stuart L. Somach
Counsel of Record
State of Texas

TCB:cmg

cc: All counsel for parties and amici
(see attached service list)

Texas v New Mexico & Colorado docket:
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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

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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>

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

THE STATE OF TEXAS'S DISCLOSURE OF EXPERT WITNESSES

STUART L. SOMACH, ESQ.*
ANDREW M. HITCHINGS, ESQ.
ROBERT B. HOFFMAN, ESQ.
FRANCIS M. GOLDSBERRY II, ESQ.
THERESA C. BARFIELD, ESQ.
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**Counsel of Record*

May 31, 2019

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Pursuant to Rule 26(a)(2) of the Federal Rules of Civil Procedure, and the Case Management Plan executed by the Honorable Michael J. Melloy, Special Master, on September 6, 2018, and amendments thereto, Plaintiff, State of Texas (Texas) hereby discloses the identities of the following retained experts:

1. Robert J. Brandes, P.E., Ph.D.
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2. Lydia R. Dorrance, Ph.D.
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555 12th Street, Suite 250
Oakland, California 94607
(415) 967-6000
3. William R. Hutchison, Ph.D., P.E., P.G.
9305 Jamaica Beach
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(512) 745-0599
4. Colin P. Kikuchi, Ph.D.
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(520) 881-4912
5. Joel Kimmelshue, Ph.D., CPSS
Land IQ
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(916) 265-6330
6. Scott Miltenberger, PhD
JRP Historical Consulting
2850 Spafford Street
Davis, CA 95618
(530) 757-2521

7. Staffan W. Schorr
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(520) 881-4912
8. David Sunding, Ph.D.
The Brattle Group
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(415) 217-1000

In accordance with Rule 26(a)(2)(B) of the Federal Rules of Civil Procedure, and the Case Management Plan executed by the Honorable Michael J. Melloy, Special Master, on September 6, 2018, and amendments thereto, and agreement between the parties, written reports prepared and signed by the above-referenced retained experts are served concurrently herewith. All written reports and supporting data, files, and references are available to download here:

<https://somachlaw.sharefile.com/d-sce52e1d82124c9da>

The documents will remain available to download for 30 days, after which time, the link will expire. Thereafter, the documents will be available through the Veritext vault.

Pursuant to Rule 26(a)(2)(C) of the Federal Rules of Civil Procedure, and the Case Management Plan executed by the Honorable Michael J. Melloy, Special Master, on September 6, 2018, and amendments thereto, Texas discloses the following non-retained experts:

1. John E. Balliew, P.E.
President & CEO
El Paso Water Utilities Public Service Board, City of El Paso
1154 Hawkins Blvd.
El Paso, TX 79925

Subject matter: (1) city, county, special district, political subdivision, state and/or federal agency contracts, agreements, regulation, action, inaction, and/or oversight related to and/or impacting the Project and/or Compact; (2) analyses of the evolution of consumptive use and the impacts therefrom; and (3) injuries sustained and/or damages incurred by Texas.

2. Al Blair
District Engineer, El Paso County Water Improvement District #1
13247 Alameda Ave.
Clint, TX 79836

District Engineer, Hudspeth County Underground Water
Conservation District #1
71920 Texas Highway 20
Fort Hancock, TX 79839

Subject matter: (1) the management and administration of the Compact; (2) technical analyses, management and operation of the Project, including but not limited to issues related to Project deliveries, surface water flows and diversions, groundwater pumping and/or the interconnections between Rio Grande surface flow and groundwater; (3) intrastate, interstate, and/or international surface and groundwater operations and management issues in the Rio Grande watershed; (4) Project and Compact accounting; (5) city, county, special district, political subdivision, state and/or federal agency contracts, agreements, regulation, action, inaction, and/or oversight related to and/or impacting the Project and/or Compact; (6) analyses of agricultural management and practices; (7) analyses of the evolution of consumptive use and the impacts therefrom; and (8) injuries sustained and/or damages incurred by Texas.

3. Gary L. Esslinger
Elephant Butte Irrigation District Manager and Treasurer
530 S. Melendres St.
Las Cruces, NM 88005

Subject matter: (1) the management and administration of the Compact; (2) technical analyses, management and operation of the Project, including but not limited to

issues related to Project deliveries, surface water flows and diversions, groundwater pumping and/or the interconnections between Rio Grande surface flow and groundwater; (3) intrastate, interstate, and/or international surface and groundwater operations and management issues in the Rio Grande watershed; (4) Project and Compact accounting; (5) city, county, special district, political subdivision, state and/or federal agency contracts, agreements, regulation, action, inaction, and/or oversight related to and/or impacting the Project and/or Compact; (6) analyses of agricultural management and practices; and (7) analyses of the evolution of consumptive use and the impacts therefrom.

4. Art Ivey
Vice-President
El Paso County Water Improvement District #1
13247 Alameda Ave.
Clint, TX 79836

Subject matter: (1) city, county, special district, political subdivision, state and/or federal agency contracts, agreements, regulation, action, inaction, and/or oversight related to and/or impacting the Project and/or Compact; (2) analyses of agricultural management and practices; (3) analyses of the evolution of consumptive use and the impacts therefrom; and (4) injuries sustained and/or damages incurred by Texas.

5. J. Phillip King
Elephant Butte Irrigation District Hydrology Consultant
530 S. Melendres St.
Las Cruces, NM 88005

Subject matter: (1) city, county, special district, political subdivision, state and/or federal agency contracts, agreements, regulation, action, inaction, and/or oversight related to and/or impacting the Project and/or Compact; (2) analyses of agricultural management and practices; (3) analyses of the evolution of consumptive use and the impacts therefrom; and (4) injuries sustained and/or damages incurred by Texas.

Texas reserves the right to rely upon and use the testimony of any and all expert witnesses identified by all parties to this action and to present rebuttal testimony to any such witness through those listed here or other expert witnesses. Texas also reserves the right to amend or supplement this disclosure pursuant to Federal Rules of Civil Procedure 26(a)(2) and 26(e).

Dated: May 31, 2019

Respectfully submitted,

s/ Stuart L. Somach
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No. 141, Original

IN THE
SUPREME COURT OF THE UNITED STATES

STATE OF TEXAS,

Plaintiff,

v.

STATE OF NEW MEXICO AND
STATE OF COLORADO,

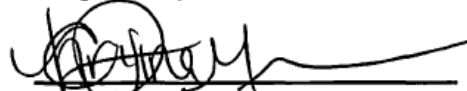
Defendants.

OFFICE OF THE SPECIAL MASTER

CERTIFICATE OF SERVICE

This is to certify that on this 31st day of May 2019, I caused a true and correct copy of **THE STATE OF TEXAS'S DISCLOSURE OF EXPERT WITNESSES** 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: May 31, 2019

SERVICE LIST

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

Honorable Michael J. Melloy

Special Master
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**HUDSPETH COUNTY CONSERVATION
AND RECLAMATION DISTRICT NO. 1**

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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

**THE STATE OF TEXAS'S DISCLOSURE OF REBUTTAL
EXPERT WITNESSES**

STUART L. SOMACH, ESQ.*
ANDREW M. HITCHINGS, ESQ.
ROBERT B. HOFFMAN, ESQ.
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**Counsel of Record*

December 30, 2019

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Pursuant to Rule 26(a)(2) of the Federal Rules of Civil Procedure, and the Case Management Plan executed by the Honorable Michael J. Melloy, Special Master, on September 6, 2018, and amendments thereto, Plaintiff, State of Texas (Texas) hereby discloses the identities of the following retained rebuttal experts:

1. Travis Brooks
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(916) 265-6330
2. Shane Coors, P.E.
Precision Water Resources Engineering, LLC.
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(720) 261-7007
3. Jonathan D. George, P.E.
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4. Mica Heilmann, CPSS
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5. George M. Hornberger, Ph.D.
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6. William R. Hutchison, Ph.D., P.E., P.G.
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7. Joel Kimmelshue, Ph.D., CPSS
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8. Leonardo Lombardini, Ph.D.¹
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In accordance with Rule 26(a)(2)(B) of the Federal Rules of Civil Procedure, and the Case Management Plan executed by the Honorable Michael J. Melloy, Special Master, on September 6, 2018, as amended, and agreement between the parties, written

¹ Dr. Lombardini's supplemental expert report addresses field work that was conducted in July and August, 2019, that could not have been completed prior to the start of discovery, as set forth in the September 6, 2018 Case Management Plan, as amended. Discovery commenced in this matter on September 1, 2018. *See* App. B. to Case Management Plan. Dr. Lombardini's report analyzes whether soil salinity has an impact on agricultural productivity in the Rio Grande region, based on samples collected at 14 farms during the agricultural growing season. *See* Lombardini Report at 1. The summer/fall 2019 growing season is the only full agricultural growing season during the discovery period in this litigation. As a result, Texas could not have produced Dr. Lombardini's report by the May 31, 2019 initial expert disclosure deadline.

reports prepared and signed by the above-referenced retained rebuttal experts are served concurrently herewith. All written reports and supporting data, files, and references are available to download using the following link:

<https://somachlaw.sharefile.com/d-s6e8c29252e24965b>

The documents will remain available to download for 30 days, after which time, the link will expire. Thereafter, the documents will be available via the VeritextVault.

Pursuant to Rule 26(a)(2)(C) and (D) of the Federal Rules of Civil Procedure, and the Case Management Plan executed by the Honorable Michael J. Melloy, Special Master, on September 6, 2018, as amended, Texas discloses the following non-retained rebuttal experts:

1. Erech H. Fuchs, Ph.D.
Elephant Butte Irrigation District Groundwater Resources Director
530 S. Melendres Street
Las Cruces, NM 88005

Subject matter: New Mexico water rights administration, management and regulation.

Dr. Fuchs will offer specific facts and opinions from the perspective of his EBID Groundwater Resources Director position, which may include, but are not limited to the following: Testimony regarding New Mexico's management and regulation of groundwater pumping, including implementation and enforcement of statutes and regulations on groundwater pumping and offset requirements; (2) historical and current summary of water administration; and (3) impact of water rights administration upon hydrologic conditions and related surface groundwater interactions in the lower Rio Grande stream system.

The retained and non-retained rebuttal witnesses identified herein, and the opinions reflected in the written reports and supporting data, files, and references, are not intended to critique every error made by New Mexico experts and should not be

construed as acceptance of any of New Mexico experts' opinions that are not expressly addressed and/or otherwise challenged by the identified rebuttal witnesses. Texas reserves its right to further critique New Mexico experts' opinions and analyses at the time of trial.

Texas further continues to reserve its right to rely upon and use the testimony of any and all expert witnesses identified by all parties to this action and to present rebuttal testimony to any such witness through those listed here or other expert witnesses. Texas also reserves the right to amend or supplement this disclosure pursuant to Federal Rules of Civil Procedure 26(a)(2) and 26(e).

Dated: December 30, 2019

Respectfully submitted,

s/ Stuart L. Somach
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No. 141, Original

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STATE OF TEXAS,

Plaintiff,

v.

STATE OF NEW MEXICO AND
STATE OF COLORADO,

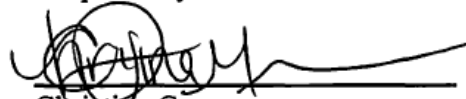
Defendants.

OFFICE OF THE SPECIAL MASTER

CERTIFICATE OF SERVICE

This is to certify that on this 30th day of December 2019, I caused a true and correct copy of **THE STATE OF TEXAS'S DISCLOSURE OF REBUTTAL EXPERT WITNESSES** 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: December 30, 2019

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