

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 *AMENDED* THIRD SUPPLEMENTAL
DISCLOSURE OF EXPERT WITNESS INFORMATION**

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**Counsel of Record*

June 10, 2020

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Pursuant to Rule 26(a)(2)(E) and 26(e)(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 *amends* its Third Supplemental Disclosure of Expert Witness Information as follows: Texas strikes the word “negotiation” from the pleading.

With this amendment, the Third Supplemental Disclosure of Expert Witness Information in its operative form is as follows:

Texas supplements its Rule 26(a)(2)(B) disclosure of retained experts to reflect a change in the professional profile for Lydia R. Dorrance, Ph.D. As of July, 2019, Ms. Dorrance is employed with Geosyntec Consultants as a senior scientist. Her current professional address is as follows:

Lydia R. Dorrance, Ph.D.
Geosyntec Consultants
1111 Broadway, 6th Floor
Oakland, California 94607
(510) 836-3034

Additionally, Texas hereby supplements its Rule 26(a)(2)(C) disclosure of non-retained experts to provide additional information regarding the nature of the anticipated non-retained expert testimony as follows:

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.

Mr. Balliew will offer specific facts and opinions from the perspective of his President & CEO positions with El Paso Water Utilities (EPWU), which may include, but are not limited to the following: Testimony regarding the operations of EPWU, including a description of the facilities, what they do, and how they are managed and operated; testimony describing the irrigation and water rights held by EPWU; testimony regarding the rights, receipt, delivery and/or supply of Rio Grande Project Water by EPWU; testimony regarding how EPWU manages and utilizes surface and ground water resources currently and historically, including how EPWU has addressed and managed historic water supply shortages; testimony regarding how EPWU accounts for groundwater pumping in the Canutillo Well Field and how the pumping is integrated into the water supply; testimony regarding the purpose, history and/or operation of contracts by and between EPWU, the United States, and/or El Paso County Water Improvement District No. 1 (EP1) and/or Elephant Butte Irrigation District (EBID), and communications regarding the same; testimony regarding conservation of water resources; testimony regarding observation of historical trends of decreased water quality and increased salinity.

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.

Dr. Blair will offer specific facts and opinions from the perspective of his District Engineer positions with EP1 and Hudspeth County Underground Water Conservation District #1 (Hudspeth), which may include, but are not limited to the following: Testimony regarding the purpose and operations of the EP1 and Hudspeth districts, what the districts do, the locations of the districts and their district facilities, and how the districts are managed and operated from a technical perspective; testimony regarding the purpose, history and/or operation of contracts by and between the United States, EP1, and/or EBID and communications regarding the same; testimony regarding the management and administration of the Compact within the districts, including issues related to Project deliveries, Project accounting, surface water flows and diversions, groundwater pumping and/or the interconnections between Rio Grande surface flow and groundwater; testimony regarding how the districts operate pursuant the 2008 Operating

Agreement; testimony regarding how the districts interact with landowners and the substance of the interactions, including but not limited to the utilization of surface and ground water resources, agricultural practices and crop management, decreased water quality and increased salinity; testimony regarding the receipt, delivery and/or supply of Rio Grande Project Water by the districts.

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.

Mr. Esslinger will offer specific facts and opinions from the perspective of his EBID manager and board member positions, which may include, but are not limited to the following: Testimony regarding the purpose and operations of the EBID, what the district does, the locations of the district and its district facilities, and how the districts is managed and operated; testimony regarding the purpose, history and/or operation of

contracts by and between the United States, EP1, and/or EBID and communications regarding the same; testimony regarding the management and administration of the Compact within EBID, including issues related to Project deliveries, Project accounting, surface water flows and diversions, groundwater pumping and/or the interconnections between Rio Grande surface flow and groundwater; testimony regarding how EBID operates pursuant the 2008 Operating Agreement; testimony regarding how EBID interacts with landowners and the substance of the interactions, including but not limited to the utilization of surface and ground water resources, agricultural practices, and crop management; testimony regarding the receipt, delivery and/or supply of Rio Grande Project Water by EBID.

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.

Mr. Ivey will offer specific facts and opinions from the perspective of an owner/operator of a farm within EP1, which may include, but are not limited to the following: Testimony regarding the rights, receipt, delivery and/or supply of Rio Grande Project Water to his farm; testimony regarding how he manages and utilizes surface and ground water resources for agricultural activities; testimony regarding farming and

irrigation practices; testimony regarding crop types, including how and why crop decisions are made, as well as historical changes in the types and/or quantities of crops grown; testimony regarding observation of historical trends of decreased water quality and increased salinity.

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.

Dr. King will offer specific facts and opinions from the perspective of his EBID hydrology consultant position, which may include, but are not limited to the following: Testimony regarding the purpose and operations of the EBID, what the district does, the locations of the district and its district facilities, and how the districts is managed and operated from a technical perspective; testimony regarding the purpose, history and/or operation of contracts by and between the United States, EP1, and/or EBID and communications regarding the same; testimony regarding the management and administration of the Compact within EBID, including issues related to Project deliveries, Project accounting, surface water flows and diversions, groundwater pumping and/or the interconnections between Rio Grande surface flow and groundwater; testimony regarding how EBID operates pursuant the 2008 Operating Agreement; testimony regarding how EBID interacts with landowners and the substance of the interactions, including but not

limited to the utilization of surface and ground water resources, agricultural practices and crop management; testimony regarding the receipt, delivery and/or supply of Rio Grande Project Water by EBID.

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: June 10, 2020

Respectfully submitted,

s/ Stuart L. Somach

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

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SPECIAL MASTER

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