



MODRALL SPERLING
LAWYERS

March 15, 2021

Special Master Michael J. Melloy
United States Courthouse
111 Seventh Avenue SE, Box 22
Cedar Rapids, Iowa 52401
Email: TXvNM141@ca8uscourts.gov

Maria O'Brien
Tel: 505.848.1803
Fax: 505.848.9710
mobrien@modrall.com

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

Dear Special Master Melloy,

We are in receipt of the Joint Status Conference Statement from the parties to you dated March 5, 2021. As drafted, the proposed outline of schedule and trial issues provides for no participation of any *amici*, most notably El Paso County Water Improvement District No. 1 (EPCWID) and Elephant Butte Irrigation District (EBID) (collectively, Districts). We do not believe that at this point, especially with no ruling on basic issues of apportionment and the proper interrelationship of the Rio Grande Compact and the Rio Grande Project, excluding the Districts from pre-trial and trial proceedings is appropriate. At a minimum, it would be premature.

A scheduling order should include provisions for the Districts' participation in pre-trial and trial proceedings, with the precise details of the nature and extent of participation reserved until after your proposed disposition of the pending summary judgment motions. But any scheduling order should include at least an opportunity for cross-examination of witnesses and to present argument at trial.

The Districts' central role in operation of the Rio Grande Project as the entities entitled to receive and distribute Project supply, coupled with the parties' claims about the Project, point to the essential nature of the Districts' participation. Even in proceedings where *amici* interests were more tangential than EPCWID's and EBID's, Special Masters provided for *amici* participation in the pre-trial and trial phases *See Montana v. Wyoming and North Dakota*, No. 137 Orig.; *Nebraska v. Wyoming*, No. 108 Orig.; *New Jersey v. New York*, No. 120 Orig.

Modrall Sperling
Roehl Harris & Sisk P.A.

500 Fourth Street NW
Suite 1000
Albuquerque,
New Mexico 87102

PO Box 2168
Albuquerque,
New Mexico 87103-2168

Tel: 505.848.1800
www.modrall.com

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We look forward to discussing this matter with you at the March 17 Status Conference.

Sincerely,

A handwritten signature in blue ink that reads "Maria" followed by a stylized flourish.

Maria O'Brien

Cc: Service List

SPECIAL MASTER

HONORABLE MICHAEL J. MELLOY

Special Master
United States Circuit Judge
111 Seventh Avenue, S.E., Box22
Cedar Rapids, IA 52401-2101

TXvNM141@ca8.uscourts.gov
(319)432-6080

MICHAEL E. GANS

Clerk of the Court
United States Court of Appeals – Eighth Circuit
Thomas F. Eagleton United States Courthouse
111 Seventh Avenue, S.E., Box22
Cedar Rapids, IA 52401-2101

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

MEDIATOR

HON. OLIVER W. WANGER (USDJ RET.)

WANGER JONES HELSLEY PC
265 E. River Park Circle, Suite 310
Fresno, California 93270

owanger@wjhattorneys.com
(559) 233-4800 Ext. 203

UNITED STATES

JEFFREY WALL*

Acting 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

supremectbriefs@usdoj.gov

(202) 514-2217

JAMES J. DUBOIS*

R. LEE LEININGER

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

Seth Allison, Paralegal

seth.allison@usdoj.gov

(303)844-7917

JUDITH E. COLEMAN

JENNIFER A. NAJJAR

U.S. DEPARTMENT OF JUSTICE

Environment & Natural Resources Division

P.O. Box 7611

Washington, D.C. 20044-7611

judith.coleman@usdoj.gov

(202) 514-3553

jennifer.najjar@usdoj.gov

(202) 305-0476

STATE OF NEW MEXICO

HECTOR H. BALDERAS
New Mexico Attorney General
TANIA MAESTAS
Deputy Attorney General
CHOLLA KHOURY
Assistant Attorney General
ZACHARY E. OGAZ
Assistant Attorney General
STATE OF NEW MEXICO
P.O. Drawer 1508
Santa Fe, New Mexico 87501
505-239-4672

hbalderas@nmag.gov
tmnaestas@nmag.gov
ckhoury@nmag.gov
zogaz@nmag.gov

JOHN DRAPER
Special Assistant Attorney General
DRAPER AND DRAPER, LLC
325 Paseo De Peralta
Santa Fe, NM 87501
505-570-4591 (Direct)
john.draper@draperllc.com

JEFFREY WECHSLER
Special Assistant Attorney General
MONTGOMERY & ANDREWS
325 Paseo De Peralta
Santa Fe, NM 87501
505-986-2637
jwechsler@montand.com

MARCUS J. RAEL, JR.*
Special Assistant Attorneys General
ROBLES, RAEL & ANAYA, P.C.
LUIS ROBLES
SUSAN BARELA
500 Marquette Avenue NW,
Suite 700
Albuquerque, New Mexico 87102
505-242-2228

marcus@roblesrael.com
luis@roblesrael.com
susan@roblesrael.com

Bonnie DeWitt
bonnie@roblesrael.com

Pauline Wayland
pauline@roblesrael.com

BENNET W. RALEY
LISA M. THOMPSON
MICHAEL A. KOPP
Special Assistant Attorneys General
TROUT RALEY
1120 Lincoln Street, Suite 1600
Denver, Colorado 80203
303-861-1963
braley@troutlaw.com
lthompson@troutlaw.com
mkopp@troutlaw.com

STATE OF COLORADO

CHAD M. WALLACE*
Senior Assistant Attorney General

PHILIP J. WEISER
Colorado Attorney General

ERIC R. OLSEN
Colorado Solicitor General

LAIN LEONIAK
Acting First Assistant Attorney General

PRESTON V. HARTMAN
Assistant Attorney General

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

Preston.hartman@coag.gov
720-508-6257 (direct)

COLORADO DEPARTMENT OF LAW
Ralph Carr Judicial Center
7th Floor
1300 Broadway
Denver, Colorado 80203
Tel. 720-508-6281

Nan Edwards, Paralegal II
nan.edwards@coag.gov

eric.olson@coag.gov

STATE OF TEXAS

STUART L. SOMACH*
ANDREW M. HITCHINGS
ROBERT B. HOFFMAN
FRANCIS M. "MAC"
GOLDSBERRY II

(916) 446-7979
(916) 803- 4561 (cell)
ssomach@somachlaw.com ahitchings@somachlaw.com
rhoffman@somachlaw.com mgoldsberry@somachlaw.com
tbarfield@somachlaw.com bjohnson@somachlaw.com
sklahn@somachlaw.com, rdeitchman@somachlaw.com

THERESA C. BARFIELD
SARAH A. KLAHN
BRITTANY K. JOHNSON
RICHARD S. DEITCHMAN
SOMACH SIMMONS & DUNN, PC
500 Capital Mall, Suite 1000
Sacramento, CA 95814
Tel. 916-446-7979
Cell 916-803-4561

Corene Rodder – Secretary
crodder@somachlaw.com
Crystal Rivera – Secretary
crivera@somachlaw.com
Christina Garro – Paralegal
cgarro@somachlaw.com
Yolanda De La Cruz – Secretary
ydelacruz@somachlaw.com

KEN PAXTON
Attorney General
JEFFREY C. MATEER
First Assistant Attorney General
DARREN L. MCCARTY
Deputy Attorney General for Civil Litigation
PRICILLA 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.
P.O. Box 2067
Santa Fe, New Mexico 87504

(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
Santé Fe, New Mexico 87504

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

JENNIFER VEGA-BROWN
ROBERT CABELLO
LAW CRUCES CITY ATTORNEY'S OFFICE
P.O. Box 20000
Las Cruces, New Mexico 88004

(575) 541-2128
jvega-brown@las-cruces.org
rcabello@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 88004

Janet Correll – Paralegal

(575) 636-2377

(575) 636-2688 (fax)

samantha@h2o-legal.com

janet@h2o-legal.com

HUDSPETH COUNTY CONSERVATION AND RECLAMATION DISTRICT

ANDREW S. “DREW” MILLER*

KEMP SMITH LLP

919 Congress Avenue, Suite 1305

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

4206 Corrales Road

P.O. Box 2240

Corrales, NM 87048

(505) 792-3636

ttd@tessadavidson.com

Jo Harden – Paralegal

jo@tessadavidson.com

SOUTHERN RIO GRANDE DIVERSIFIED CROP FARMERS ASSOCIATION

ARNOLD J. OLSEN*
HENNIGHAUSEN OLSEN
& McCREA, LLP
P.O. Box 1415
Roswell, NM 88202-1415
Malina Kauai – Paralegal
Rochelle Bartlett – Legal Assistant

(575) 624-2463
ajolsen@h2olawyers.com

mkauai@h2olawyers.com
rbartlett@h2olawyers.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

(575) 646-2446
gencounsel@nmsu.edu