

**No. 141, Original**

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**In the  
SUPREME COURT OF THE UNITED STATES**

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**STATE OF TEXAS,**

**Plaintiff,**

**v.**

**STATE OF NEW MEXICO and  
STATE OF COLORADO**

**Defendants**

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**OFFICE OF THE SPECIAL MASTER**

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**UNITED STATES OF AMERICA'S RESPONSE TO SPECIAL MASTER'S REQUEST  
FOR COMMENT REGARDING TEXAS SUPPLEMENTAL COMPLAINT**

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The United States of America, pursuant to the Special Master's Order dated July 7, 2021, hereby provides comments related to Texas's Motion for Leave to File Supplemental Complaint S.M. Doc. 521. The United States limits its comments to the issues requested in the Special Master's Order, but reserves the right to respond to the merits of Texas's Motion at the appropriate time.

1. By Order of the Special Master dated July 7, 2021, the parties and any current amici were directed to file a response related to Texas's Motion for Leave to File a Supplemental Complaint in this matter. The response is to be "limited to the issue of how the proposed amendment would affect the current lawsuit. Whether new parties, new amici, new discovery etc., would be required." The Order also provides that "the response does not need to go to the merits of the motion, but rather the practical implications."

2. The United States is in the process of reviewing the allegations in Texas's proposed supplemental complaint. Based on a preliminary review, we believe that litigation on the supplemental complaint could affect this case in at least three important respects.

3. First, as noted by some participants in the July 1, 2021 conference, the supplemental complaint is likely to lead to additional requests for amicus participation, or possibly for intervention, from entities not currently involved in this case.

4. Second, the scope of the United States' participation in that suit may be different. It remains to be determined whether the United States would be a necessary party to litigation on the supplemental complaint, and how the United States would be aligned (if it is aligned at all) with respect to Texas's supplemental claims against New Mexico.

5. Third, the Supplemental Claims introduce new issues and facts to be assessed by the Court, thus suggesting additional discovery, including both document production and

depositions to assess any new expert analyses.

6. Based on the likelihood of additional *amici*, and the uncertainty about the United States' role in the case, it is our view—at this time—that litigation on the supplemental complaint would not be congruent with the existing litigation and could lead to collateral disputes about the extent to which the participants in one set of issues may be heard on other issues.

7. In light of the Special Master's limited request for comment, and the early stages of the United States' review, the United States respectfully defers comment on the merit of Texas's motion for leave to file a supplemental complaint.

Respectfully submitted this 15th day of July, 2021,

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**CERTIFICATE OF SERVICE**

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This is to certify that on the 15th day of July, 2021, I caused a true and correct copy of the **UNITED STATES OF AMERICA’S RESPONSE TO SPECIAL MASTER’S REQUEST FOR COMMENT REGARDING TEXAS SUPPLEMENTAL COMPLAINT** to be served via electronic mail upon those individuals listed on the Service List, attached hereto.

Respectfully submitted,

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