

**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 TEXAS'S MOTION FOR  
CONTINUANCE OF TRIAL**

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The United States takes no position on Texas’s request that the trial on the merits be continued for at least six months. Sp. M. Docket No. 562. The United States does not, however, oppose a short delay of perhaps three to five weeks in the start of trial to develop protocols for addressing potential COVID-19 exposure in the courtroom, as referenced in the United States’ pretrial conference statement. Should Texas’s Motion for Continuance of Trial be denied, the United States requests that the Special Master give further serious consideration to whether the trial should be held virtually due to the increasing number of COVID-19 daily cases.<sup>1</sup> Support for a virtual trial would be consistent with the Executive Office of the President - Office of Management and Budget (“Office of Management and Budget”) guidance for federal employees. The Office of Management and Budget issued a memorandum to the heads of all executive departments and agencies, recommending that federal employees do not travel unless “mission critical.” A copy of that memorandum is attached to this Response. While a remote trial is not ideal, given the uncertainty of COVID-19 risks under current conditions, this approach could ultimately present the most efficient method of hearing this matter in a timely fashion with limited, if any, interruption.

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<sup>1</sup> See Center for Disease Control and Prevention, *Trends in Number of COVID-19 Cases and Deaths in the US Reported to the CDC, by State/Territory*, available at [https://covid.cdc.gov/covid-data-tracker/#trends\\_dailycases](https://covid.cdc.gov/covid-data-tracker/#trends_dailycases) (last visited Aug. 24, 2021).

Respectfully submitted this 26th day of August 2021,

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**CERTIFICATE OF SERVICE**

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This is to certify that on the 26th day of August, 2021, I caused a true and correct copy of the **UNITED STATES OF AMERICA’S RESPONSE TO TEXAS’S MOTION FOR CONTINUANCE OF TRIAL** to be served via electronic mail upon those individuals listed on the Service List, attached hereto.

Respectfully submitted,

/s/ Amber Engelkes  
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