

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

ORDER

July 15, 2021

ORDER

For the purposes of the proceedings before the Special Master, IT IS HEREBY ORDERED:

As a result of the courtroom technology demonstration and the subsequent status hearing held on July 13, 2021, the following Order is entered.

A. Courtroom technology.

1. A subsequent demonstration of the courtroom technology will be held on **July 27, 2021**. A noninteractive demonstration will be held at 1:00 p.m. Central Daylight Time, with an interactive Zoom hearing to follow at 2:00 p.m. Central Daylight Time. Worldwide Technologies is requested to set up the Zoom sessions for both proceedings.
2. There was some discussion about the publishing of exhibits and how exhibits may be disclosed to parties and attorneys who may be viewing the court proceedings from a remote location. Several options were discussed. Essentially, it is the position of the undersigned this is a matter best resolved between the parties, amici and Worldwide Technologies.
3. There was some discussion about who and at what locations the video feed of the trial may be viewed. To clarify, any attorney of record may view the video feed. Whether that viewing will be from the attorney's office, home, or some other location, will be up to the attorney. If any party in interest or other individual wishes to view the video feed, they will be required to go to the attorney's office. The only exception being that there has been some discussion about possibly establishing a central location in either El Paso and/or Las Cruces where non-attorneys may view the trial. No final determination has been made as to that issue.

An issue was also raised concerning whether other interested attorneys could view the feed. Specifically, this would refer to parties that could be potentially impacted by the pending motion to amend filed by the State of Texas. I indicated that such requests would be handled on a case-by-case basis. If any attorney who is not already an attorney of record wishes to view the feed, they should email a letter to the undersigned, with copies to all interested parties on the service

list, which will then be placed on the docket. I will then indicate whether the request will be granted.

B. Exhibits.

The parties have now exchanged their proposed exhibit lists. Pursuant to the discussions with counsel the deadline for objecting to exhibits on basis of “authenticity” is extended to **August 2, 2021**. Texas and the United States have requested that all other evidentiary objections be identified several days in advance of a witness testifying on a per witness basis. New Mexico requests that all other objections also be disclosed well in advance of trial. The undersigned indicated that no final decision will be made on that issue until I’ve had a chance to review the motions in limine.

C. Site visit.

The site visit will occur on **August 23 and 24**. An issue was raised as to the flyover and how far north the flyover will occur. Essentially, the undersigned indicated that the flyover should be limited on the northern end to no more than 20 or so miles north of Elephant Butte Reservoir.

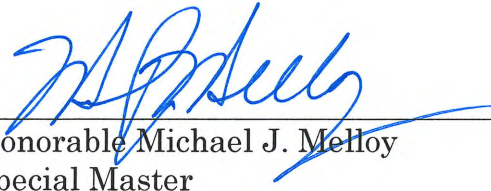
Hopefully, the logistics of the tour, agenda and other matters can be resolved by the July 27, 2021, status conference.

D. Final pretrial conference.

There was discussion about having the final pretrial conference following the site visit on **August 25, 2021**. It was tentatively agreed that the final pretrial conference would be held on that date in either El Paso or Las Cruces. I want to advise the parties that I have contacted the chief judge for the United States District Court for the Western District of Texas and have been in contact with one of the judges in El Paso. They have both been extremely cooperative and I do not anticipate any problems with having a courtroom available. However, I do want to alert the parties to the fact that the Western District of Texas is following CDC guidelines on entry to the courthouse. I will get further clarification on this requirement, but basically

it is my understanding that any person who has not been vaccinated will be required to wear a mask and socially distance.

Dated: July 15, 2021



Honorable Michael J. Melloy
Special Master
United States Circuit Judge
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