

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

**DECLARATION OF WILLIAM FINN
IN SUPPORT OF THE UNITED STATES' OPPOSITION TO PROPOSED DECREE**

I, William Finn, declare as follows:

1. I am over the age of 18 and competent to make this statement. I make this statement freely and voluntarily.
2. I have a Bachelor of Science degree in Hydrology and Water Resources from Tarleton State University. I have over 30 years of federal service working in water operations with the U.S. Army Corps of Engineers, National Weather Service, and the United States Section of the International Boundary and Water Commission ("U.S. IBWC"). For the U.S. Army Corps of Engineers, I was employed as Park Ranger while in college and later as a hydrologist within

Ft. Worth District's Hydrology/Hydraulic Section and Reservoir Control Section. In 1998, I transferred to the National Weather Service, West Gulf River Forecast Center as a hydrologist forecasting river crest responses for Texas, Colorado, and New Mexico stream systems. In 2002, I began my employment with the U.S. IBWC as a staff hydraulic engineer within Engineering Services Division.

3. I am currently employed as the Chief of the Water Accounting Division, which is within the Operations Department of the U.S. IBWC. I have served in this capacity since 2006.

4. Among other duties, I am tasked with the management of the binational accounting and water deliveries between the United States and Mexico, which includes the oversight of the U.S. IBWC stream gaging program. The Water Accounting Division also supports the agency with flood operations.

5. I am very familiar with the U.S. IBWC's water gaging infrastructure, which includes the Rio Grande at El Paso gage ("El Paso gage") located upstream of the American Dam.

6. The El Paso gage is owned, operated, and maintained by the U.S. IBWC.

7. The El Paso gage is used to monitor Rio Grande flows inclusive of Rio Grande Project water belonging to the United States and Mexico. The El Paso gage supports the daily operation of American Dam, International Dam, and American Canal. The U.S. IBWC staff typically conducts weekly measurements at the El Paso gage during the irrigation season. The U.S. IBWC maintains accounting records for the gage Below American Dam and discharge records for the El Paso and American Canal gages. Data from the El Paso gage is accessible via the U.S. IBWC website.

8. The El Paso gage is not operated for, nor is data gathered for, use in accounting for Rio Grande Compact deliveries. I have reviewed the proposed consent decree submitted by the States. The proposed decree would require that the Index Obligation and Index Delivery be measured by flows at the Rio Grande at El Paso gage. Decree II.B. The proposed decree states that the El Paso gage “will continually meet the Rules and Regulations for Rio Grande Compact Administration regarding Gaging Stations.” Decree II.B.ii.g. The rules regarding gaging stations state that “the equipment, method and frequency of measurements at each gaging station shall be sufficient to obtain records at least equal in accuracy to those classified as “good” by the U.S. Geological Survey.”

9. The U.S. IBWC does not operate the El Paso gage to meet the standards in the Compact Administration Rules and has no obligation to do so under existing law. Accordingly, to the best of my knowledge, the El Paso gage does not currently have an accuracy rating based on the U.S. Geological Survey (USGS) standards. To ensure that the El Paso gage produced records “at least equal in accuracy to those classified as ‘good’”, the U.S. IBWC would need to enter into a contract with USGS to review El Paso gage records and practices. This USGS review would be at a cost to the U.S. IBWC. Depending upon the findings from the USGS review, the U.S. IBWC may have to pay tens of thousands of dollars to invest in new infrastructure and personnel training to ensure that the El Paso gage will generate records that the accuracy standard for a “good” USGS rating.


10. In addition, the U.S. IBWC would likely need to pay tens of thousands of dollars each year to continually monitor and maintain the El Paso gage so that it “will continually meet” the accuracy standard for a “good” USGS ranking. Additional funding would be required to

contract with USGS to provide these services. No funding has been appropriated to the U.S. IBWC to make these assessments and modifications to the El Paso gage.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 20 day of January, 2023, in El Paso, Texas.

Dated: 1-20-2023


William D. Finn