

Texas v. New Mexico and Colorado, No. 141 Original
Non-Waiver Agreement

WHEREAS, the State of Texas has brought an original action in the United States Supreme Court against the State of New Mexico alleging violations of the Rio Grande Compact;

WHEREAS, the United States Supreme Court has docketed this action as No. 141 Original;

WHEREAS, the complaint of the State of Texas names the State of Colorado as a defendant in this action, but does not assert any claims for relief against the State of Colorado;

WHEREAS, the United States has intervened in this action as a plaintiff and asserted claims for relief against the State of New Mexico, but has not made any assertions related to the State of Colorado;

WHEREAS, the parties to this action are the State of Texas, the State of New Mexico, the State of Colorado, and the United States;

WHEREAS, the parties in this action desire to avoid unnecessarily expanding the scope of this action;

WHEREAS, the Federal Rules of Civil Procedure are not mandatory, but guides only, in an original action brought by a State in the United States Supreme Court.

NOW THEREFORE, the parties agree that in this action the State of Colorado shall not be bound by the provisions of the Federal Rules of Civil Procedure 12 and 13 as they relate to required counter-claims or cross-claims, and mandatory defenses. The parties also agree that Colorado is not required to file an answer in this action at this time because the complaints assert no claims for relief against it. Should it become apparent to Colorado, through development of this action, that claims or defenses are necessary to protect its Rio Grande Compact interests in this action, Colorado shall be allowed to file such pleadings. In that event New Mexico, Texas and the United States shall be allowed to respond appropriately to Colorado's pleadings.

FURTHER, the parties agree that Colorado does not waive its right to assert defenses or claims regarding the Rio Grande Compact if it does not assert any particular claim or defense in this action. None of the parties shall assert waiver, estoppel, laches, accord or satisfaction resulting from Colorado not raising a defense or claim in this action; nor shall Colorado assert waiver, estoppel, laches, accord or satisfaction to any appropriate responses that New Mexico, Texas or the United States may file related to Colorado's future defenses or claims regarding the Rio Grande Compact, if any.

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FURTHER, the parties agree to file this agreement with the special master and seek to have it entered as an order of the court.

This agreement may be signed in counterparts and is fully executed on the date of the last signature.

The below signatories affirm that they have the right to bind their respective parties to this agreement:

_____ Date:
James J. DuBois
Trial Attorney
U.S. Department of Justice
Attorney for United States of America

_____ Date:
Stuart L. Somach, Esq.
Somach Simmons & Dunn, P.C.
Attorney for State of Texas


_____ Date: 05/21/18
Marcus J. Rael, Jr., Esq.
Robles, Rael and Anaya
Attorney for State of New Mexico


_____ Date:
Chad M. Wallace
Senior Assistant Attorney General
Colorado Department of Law
Attorney for State of Colorado

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James J. DuBois
Trial Attorney
U.S. Department of Justice
Attorney for United States of America

Date: 5/15/18

Date:
Stuart L. Somach, Esq.
Somach Simmons & Dunn, P.C.
Attorney for State of Texas

Date:
Marcus J. Rael, Jr., Esq.
Robles, Rael and Anaya
Attorney for State of New Mexico

Date:
Chad M. Wallace
Senior Assistant Attorney General
Colorado Department of Law
Attorney for State of Colorado

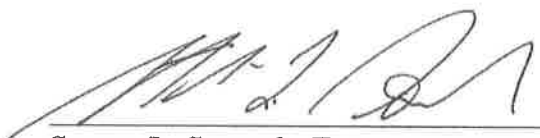
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_____ Date:
James J. DuBois
Trial Attorney
U.S. Department of Justice
Attorney for United States of America

 _____ Date: *May 14, 2018*
Stuart L. Somach, Esq.
Somach Simmons & Dunn, P.C.
Attorney for State of Texas

_____ Date:
Marcus J. Rael, Jr., Esq.
Robles, Rael and Anaya
Attorney for State of New Mexico

_____ Date:
Chad M. Wallace
Senior Assistant Attorney General
Colorado Department of Law
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_____ Date:
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Robles, Rael and Anaya
Attorney for State of New Mexico

 _____ Date: 5-21-18
Chad M. Wallace
Senior Assistant Attorney General
Colorado Department of Law
Attorney for State of Colorado