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April 23, 2018

Via Email: Michael_melloy@ca8.uscourts.gov

Honorable Michael J. Melloy
Special Master
United States Circuit Judge
111 Seventh Ave., S.E. Box 22
Cedar Rapids, IA 52401

Re: *State of Texas v. State of New Mexico and State of Colorado*,
Supreme Court Docket No. 141 Original

Undersigned counsel for *Amicus Curiae* Hudspeth County Conservation and Reclamation District No. 1 ("HCCRD") respectfully submits this letter on behalf of HCCRD, in order to provide comments on other recent letters submitted to Your Honor in the above-referenced original action, and to provide information regarding the interests of HCCRD. This letter is meant for Your Honor's consideration in advance of the Telephonic Status Conference set for later today, April 23, 2018, at 3:00 P.M. CDT.

Background

HCCRD is a conservation and reclamation district of the State of Texas established under Article XVI, §59 of the Texas Constitution. HCCRD has a significant interest in the outcome of this litigation. HCCRD has thus far submitted two amicus briefs in this case.¹

The Parties in this original action – *i.e.*, the States of New Mexico, Colorado, and Texas, and the United States – recently submitted a draft Case Management Plan (CMP) to you for your review and consideration.² Thereafter, on April 19, 2018, counsel for *amici* City of Law Cruces, New Mexico Pecan Growers, New Mexico State University and Albuquerque Bernalillo County Water Utility Authority submitted a letter to you on behalf of those parties regarding the draft

¹ See Brief of Hudspeth County Conservation and Reclamation District No. 1 as *Amicus Curiae* in Support of Plaintiff's Motion for Leave to file Complaint (filed Mar. 11, 2013); Brief of Hudspeth County Conservation and Reclamation District No. 1 as *Amicus Curiae* in Opposition to New Mexico's Motion to Dismiss. (filed June 16, 2014).

² See Letter from Stuart L Somach to Special Master Melloy with attachments (dated Apr. 13, 2018). This submittal was in response to Case Management Order 16, and Your Honor's letter dated April 3, 2018.

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CMP.³ Then, on April 20, 2018, counsel for *amici* El Paso County Water Improvement District No. 1 (“EPCWID”) and Elephant Butte Irrigation District (“EBID”) also submitted a letter to you on behalf of those parties regarding the draft CMP.⁴

This letter is meant to provide comments on behalf of HCCRD in support of the NM Amici Letter and on the EPCWID/EBID Letter, and to inform the Special Master of HCCRD interests in the Rio Grande Project.

Comments on NM Amici Letter

HCCRD agrees with the statements in the NM Amici Letter that HCCRD has important and vital interests in the water of the Rio Grande Basin, and that HCCRD will be affected by the outcome of the litigation.⁵ Like the NM Amici, HCCRD is also concerned with the limited role for *amici* reflected in the draft CMP. HCCRD supports the proposals set forth in the NM Amici Letter that would provide the “Stakeholder Amici” (including HCCRD) with sufficient notice and opportunity to ensure that their interests are properly represented by the Parties and the full exposition of the issues. HCCRD agrees that Stakeholder Amici should be allowed to participate in hearings as set forth in the NM Amici Letter.

Comments on EPCWID/EBID Letter

HCCRD holds rights to and receives water from the Rio Grande Project and provides that water to farmers within its jurisdiction in Hudspeth County, Texas, for irrigation use. Although EPCWID and EBID are the direct beneficiaries of the Project, HCCRD is a contractual beneficiary of the Project water based on its Warren Act Contract with the United States. The United States and the HCCRD entered into a Warren Act Contract, dated December 1, 1924, and amended in 1951, which provides for the use of Rio Grande Project water by the HCCRD. HCCRD also benefits from the Project and the Rio Grande Compact through its state permit to divert water from the Rio Grande.

HCCRD respectfully requests that you take these comments into account in considering and adopting a CMP.

³ See Letter from Tessa T. Davidson, John W. Utton, Jay F. Stein and James C. Brockman to Special Master Melloy (dated Apr. 19, 2018) (“NM Amici Letter”).

⁴ See Letter from Maria O’Brien and Samantha R. Barncastle to Special Master Melloy (dated Apr. 20, 2018) (“EPCWID/EBID Letter”).

⁵ See Brief of Hudspeth County Conservation and Reclamation District No. 1 as *Amicus Curiae* in Support of Plaintiff’s Motion for Leave to file Complaint (filed Mar. 11, 2013) at 1.

Respectfully submitted,

KEMP SMITH LLP

A handwritten signature in black ink, appearing to read "Drew Miller". The signature is written in a cursive style with a horizontal line underneath it.

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*Counsel for Hudspeth County Conservation &
Reclamation District No. 1*

Attachment – Service List

CURRENT/UPDATED CONTACT LIST FOR ALL PARTIES**In The Supreme Court of the United States, Original No. 141
STATE OF TEXAS v. STATE OF NEW MEXICO and STATE OF COLORADO****Parties¹**

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