

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

◆
**STATE OF NEW MEXICO'S
SEPTEMBER 6, 2019 STATUS REPORT**

HECTOR H. BALDERAS
New Mexico Attorney General
TANIA MAESTAS
Chief Deputy Attorney General
STATE OF NEW MEXICO
P.O. Drawer 1508
Santa Fe, New Mexico 87501
505-239-4672

MARCUS J. RAEL, JR.*
DAVID A. ROMAN
Special Assistant Attorneys General
ROBLES, RAEL & ANAYA, P.C.
500 Marquette Avenue NW,
Suite 700
Albuquerque, New Mexico 87102
505-242-2228
marcus@roblesrael.com

**Counsel of Record*

BENNET W. RALEY
LISA M. THOMPSON
MICHAEL A. KOPP
Special Assistant Attorneys General
TROUT RALEY
1120 Lincoln Street, Suite 1600
Denver, Colorado 80203
303-861-1963

September 6, 2019

COMES NOW the State of New Mexico and respectfully submits this status report to the Special Master pursuant to Paragraph 5 of the Case Management Plan.

Since New Mexico filed its previous Status Report on August 2, 2019, the following developments have occurred in *Texas v. New Mexico and Colorado*, No. 141, Original: First, on August 5, 2019, Elephant Butte Irrigation District made a supplemental production of documents to New Mexico. Second, August 12, 2019, Texas made a third supplemental disclosure of expert witnesses. Third, on August 13, 2019, New Mexico responded to the United States' First Set of Interrogatories, First Requests for Admission, and First Request for Production of Documents to the State of New Mexico. Fourth, on August 22, 2019, the City of El Paso made its first supplemental disclosure of documents to New Mexico.

Fifth, on August 30, 2019, New Mexico filed its notice of a Rule 30(b)(6) Deposition of the City of El Paso. That deposition is scheduled for September 12 and 13, 2019. Sixth, on September 5, 2019, New Mexico submitted its First Set of Discovery Requests to the United States, consisting of interrogatories, requests for admission, and requests for production. Seventh, on September 5, 2019, New Mexico moved to exclude the expert testimony of the United States' non-retained witness, Ian Ferguson, for failure to comply with Federal Rule 26(a)(2)(C). Eighth, also on September 5, 2019, New Mexico moved to strike Texas's expert disclosures related to water quality. Ninth, New Mexico is currently working with counsel for Texas and the other parties to schedule depositions of the plaintiffs' expert witnesses in September and October. New Mexico circulated a notice and subpoena duces tecum for its first expert deposition on September 6, 2019. That deposition is also scheduled for September 12 and 13, 2019.

Tenth, New Mexico conducted a search of its computer systems for relevant electronically stored information ("ESI") the week of August 5th. New Mexico is currently processing the results

of that search and is preparing to disclose relevant documents identified in that search on a rolling basis. Eleventh, New Mexico continues to review the expert disclosures of Texas and the United States and prepare its own disclosures for October 31, 2019, pursuant to the Case Management Plan. Finally, New Mexico continues to gather responsive documents and intends to make a supplemental disclosure of documents in the near future. New Mexico will disclose any additional relevant documents it uncovers as expeditiously as possible. New Mexico also participates in regular discovery management calls with the other parties.

Respectfully submitted this 6th day of September, 2019,

HECTOR H. BALDERAS
New Mexico Attorney General
TANIA MAESTAS
Chief Deputy Attorney General
STATE OF NEW MEXICO
P.O. Drawer 1508
Santa Fe, New Mexico 87501
505-239-4672

MARCUS J. RAEL, JR.*
DAVID A. ROMAN
Special Assistant Attorneys General
ROBLES, RAEL & ANAYA, P.C.
500 Marquette Avenue NW,
Suite 700
Albuquerque, New Mexico 87102
505-242-2228
marcus@roblesrael.com

**Counsel of Record*

BENNET W. RALEY
LISA M. THOMPSON
MICHAEL A. KOPP
Special Assistant Attorneys General
TROUT RALEY
1120 Lincoln Street, Suite 1600
Denver, Colorado 80203
303-861-1963

CERTIFICATE OF SERVICE

This is to certify that on the 6th of September, 2019, I caused true and correct copies of the **State of New Mexico's September 6, 2019 Status Report** to be served by e-mail and U.S. Mail on the Special Master and by e-mail to all counsel of record and interested parties on the Service List, attached hereto.

Respectfully submitted this 6th day of September, 2019.

/s/ Michael A. Kopp _____

Michael A. Kopp
Special Assistant Attorney General
TROUT RALEY
1120 Lincoln Street, Suite 1600
Denver, Colorado 80203
(303) 861-1963

SPECIAL MASTER

HONORABLE MICHAEL J. MELLOY

Special Master

United States Circuit Judge
111 Seventh Avenue, S.E., Box 22
Cedar Rapids, IA 52401-2101

TXvNM141@ca8.uscourts.gov
(319) 432-6080
(service via email and U.S. Mail)

MICHAEL E. GANS

Clerk of the Court

United States Court of Appeals - Eighth Circuit
Thomas F. Eagleton United States Courthouse
111 South 10th Street, Suite 24.329
St. Louis, MO 63102

TXvNM141@ca8.uscourts.gov
(314) 244-2400

UNITED STATES

JAMES J. DUBOIS*

R. LEE LEININGER

THOMAS K. SNODGRASS

U.S. DEPARTMENT OF JUSTICE
Environment & Natural Resources Division
999 18th Street
South Terrace – Suite 370
Denver, Colorado 80202

SETH C. ALLISON, Paralegal

NOEL J. FRANCISCO*

Solicitor General

JEFFREY H. WOOD

Acting Assistant Attorney General

ANN O'CONNELL

Assistant to the Solicitor General

U.S. DEPARTMENT OF JUSTICE
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

STEPHEN M. MACFARLANE

U.S. DEPARTMENT OF JUSTICE
Environment & Natural Resources Division
501 I Street, Suite 9-700
Sacramento, CA 95814

james.dubois@usdoj.gov
(303) 844-1375

Lee.leininger@usdoj.gov
(303)844-1364

Thomas.snodgrass@usdoj.gov
(303)844-7233

Seth.allison@usdoj.gov
(303)844-7917

supremectbriefs@usdoj.gov
(202)514-2217

stephen.macfarlane@usdoj.gov
(916) 930-2204

JUDITH E. COLEMAN
U.S. DEPARTMENT OF JUSTICE
Environment & Natural Resources Division
P.O. Box 7611
Washington, D.C. 20044-7611

Judith.coleman@usdoj.gov
(202) 514-3553

STATE OF NEW MEXICO

HECTOR H. BALDERAS
New Mexico Attorney General

hbalderas@nmag.gov
tmnaestas@nmag.gov

TANIA MAESTAS
Chief Deputy Attorney General
STATE OF NEW MEXICO

psalazar@nmag.gov
(505) 239-4672

P.O. Drawer 1508
Santa Fe, New Mexico 87501
PATRICIA SALAZAR - Assistant

MARCUS J. RAEL, JR.*
DAVID A. ROMAN
Special Assistant Attorneys General
ROBLES, RAEL & ANAYA, P.C.
500 Marquette Avenue NW, Suite 700
Albuquerque, New Mexico 87102
CHELSEA SANDOVAL - Paralegal

marcus@roblesrael.com
droman@roblesrael.com
chelsea@roblesrael.com
(505) 242-2228

BENNETT W. RALEY
LISA M. THOMPSON
MICHAEL A. KOPP
Special Assistant Attorneys General
TROUT RALEY
1120 Lincoln Street, Suite 1600
Denver, Colorado 80203

braley@troutlaw.com
lthompson@troutlaw.com
mkopp@troutlaw.com
(303) 861-1963

STATE OF COLORADO

PHILIP J. WEISER
Attorney General of Colorado
ERIC R. OLSON
Solicitor General
KAREN M. KWON
First Assistant Attorney General
CHAD M. WALLACE*
Senior Assistant Attorney General
COLORADO DEPARTMENT OF LAW
1300 Broadway
Denver, CO 80203

eric.olson@coag.gov
karen.kwon@coag.gov
chad.wallace@coag.gov
nan.edwards@coag.gov
(720) 508-6281

NAN EDWARDS, Paralegal

STATE OF TEXAS

STUART SOMACH*
ANDREW M. HITCHINGS
ROBERT B. HOFFMAN
FRANCIS M. "MAC" GOLDSBERRY II
THERESA C. BARFIELD
SARAH A. KLAHN
BRITTANY K. JOHNSON
RICHARD S. DEITCHMAN
SOMACH SIMMONS & DUNN, PC
500 Capital Mall, Suite 1000
Sacramento, CA 95814
CORENE RODDER - Secretary
CHRISTINA GARRO – Paralegal
YOLANDA DE LA CRUZ - Paralegal
RENA WADE - Secretary

ssomach@somachlaw.com
ahitchings@somachlaw.com
rhoffman@somachlaw.com
mgoldsberry@somachlaw.com
tbarfield@somachlaw.com
sklahn@somachlaw.com
bjohnson@somachlaw.com
rdeitchman@somachlaw.com
(916) 446-7979
(916) 803- 4561 (cell)
cgarro@somachlaw.com
crodder@somachlaw.com
ydelacruz@somachlaw.com
rwade@somachlaw.com
(512) 463-2012

KEN PAXTON
Attorney General
JEFFREY C. MATEER
First Assistant Attorney General
BRANTLEY STARR
Deputy First Assistant Attorney General
JAMES E. DAVIS, Deputy
Attorney General
PRISCILLA M. HUBENAK
Chief, Environmental Protection Division
P.O. Box 12548
Austin, TX 78711-2548

Priscilla.Hubenak@oag.texas.gov

AMICI / FOR INFORMATIONAL PURPOSES ONLY

ALBUQUERQUE BERNALILLO COUNTY WATER UTILITY AUTHORITY

JAMES C. BROCKMANN*
JAY F. STEIN
STEIN & BROCKMANN, P.A.
P.O. Box 2067
Santé Fe, New Mexico 87504

(505) 983-3880
jcbrockmann@newmexicowaterlaw.com
jfstein@newmexicowaterlaw.com
administrator@newmexicowaterlaw.com

PETER AUH
ALBUQUERQUE BERNALILLO COUNTY
WATER UTILITY AUTHORITY

(505) 289-3092
pauh@abcwua.org

P.O. Box 568
Albuquerque, NM 87103-0568

CITY OF EL PASO

DOUGLAS G. CAROOM*
SUSAN M. MAXWELL
BICKERSTAFF HEATH DELGADO
ACOSTA, LLP
2711 S. MoPac Expressway
Building One, Suite 300
Austin, TX 78746

(512) 472-8021
dcaroom@bickerstaff.com
smaxwell@bickerstaff.com

CITY OF LAS CRUCES

JAY F. STEIN *
JAMES C. BROCKMANN
STEIN & BROCKMANN, P.A.
P.O. Box 2067
Santé Fe, New Mexico 87504

(505) 983-3880
jcbrockmann@newmexicowaterlaw.com
jfstein@newmexicowaterlaw.com
administrator@newmexicowaterlaw.com

JENNIFER VEGA-BROWN
MARCIA B. DRIGGERS
LAW CRUCES CITY ATTORNEY'S OFFICE
P.O. Box 20000
Las Cruces, New Mexico 88004

(575) 541-2128
jvega-brown@las-cruces.org
marcyd@las-cruces.org

ELEPHANT BUTTE IRRIGATION DISTRICT

SAMANTHA R. BARNCASTLE*
BARNCASTLE LAW FIRM, LLC
1100 South Main, Ste. 20
P.O. Box 1556
Las Cruces, NM 88004

(575) 636-2377
(575) 636-2688 (fax)
samantha@h2o-legal.com

JANET CORRELL – Paralegal

janet@h2o-legal.com

EL PASO COUNTY WATER IMPROVEMENT DISTRICT NO. 1

MARIA O'BRIEN*
SARAH M. STEVENSON
MODRALL, SPERLING, ROEHL, HARRIS
& SISK, PA
Suite 1000
500 Fourth Street N.W.
P.O. Box 2168
Albuquerque, New Mexico 87103-2168

(505) 848-1803 (direct)
mobrien@modrall.com
sarah.stevenson@modrall.com

SHANNON GIFFORD – Legal Assistant
LEANNE MARTONY – Legal Assistant

shannong@modrall.com
leannem@modrall.com

JAMES M. SPEER, JR.
c/o El Paso County Water Improvement District No. 1
13247 Alameda Ave.
Clint, Texas 79836-0749

**HUDSPETH COUNTY CONSERVATION AND
RECLAMATION DISTRICT NO. 1**

ANDREW S. “DREW” MILLER*
KEMP SMITH LLP
919 Congress Avenue, Suite 1305
Austin, TX 78701

(512) 320-5466
dmiller@kempsmith.com

STATE OF KANSAS

DEREK SCHMIDT
Attorney General of Kansas
JEFFREY A. CHANAY
Chief Deputy Attorney General
TOBY CROUSE*
Solicitor General of Kansas
BRYAN C. CLARK
Assistant Solicitor General
DWIGHT R. CARSWELL
Assistant Attorney General
120 S. W. 10th Ave., 2nd Floor
Topeka, KS 66612

(785) 296-2215
toby.crouse@ag.ks.gov
bryan.clark@ag.ks.gov

NEW MEXICO PECAN GROWERS

TESSA T. DAVIDSON*
DAVIDSON LAW FIRM, LLC
4206 Corrales Road
P.O. Box 2240
Corrales, NM 87048
PATRICIA MCCAN – Paralegal

ttd@tessadavidson.com
(505) 792-3636
patricia@tessadavidson.com

NEW MEXICO STATE UNIVERSITY

JOHN W. UTTON*
UTTUN & KERY, P.A.
P.O. Box 2386
Santa Fe, New Mexico 87504

(505) 699-1445
john@uttonkery.com

GENERAL COUNSEL
New Mexico State University
Hadley Hall Room 132
2850 Weddell Road
Las Cruces, NM 88003

(575) 646-2446
gencounsel@nmsu.edu