

**No. 141, Original**

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**In the  
SUPREME COURT OF THE UNITED STATES**

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**STATE OF TEXAS,**

**Plaintiff,  
v.**

**STATE OF NEW MEXICO and  
STATE OF COLORADO,**

**Defendants**

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**OFFICE OF THE SPECIAL MASTER**

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**UNITED STATES OF AMERICA’S JUNE 2019 STATUS REPORT**

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The United States respectfully submits its June 2019 status report to the Special Master pursuant to paragraph 5 of the Case Management Plan dated September 6, 2018 (“CMP”).

### **I. The United States’ Production of Documents**

Pursuant to the CMP and Rule 26(a)(1) of the Federal Rules of Civil Procedure, the State of Texas, the State of New Mexico, the State of Colorado and the United States uploaded their respective initial document productions to the Veritext Vault document storage system through mutually agreed-upon means. As described in prior Status Reports, the United States uploads its documents to the Box.com file-sharing site, and Veritext transfers the documents to the Veritext Vaults. The United States has currently produced 59,117 documents, comprising of 366,989 pages. On June 4, 2019, the United States produced its fifth supplemental production, consisting of 12,084 documents, comprising of 118,315 pages. These documents were produced from the files of federal agencies including the Bureau of Reclamation (“Reclamation”), the United States Section of the International Boundary and Water Commission (“IBWC”), the State Department, the Bureau of Prisons, and the United States Army. The United States continues to review potentially discoverable documents and supplement its production of documents as responsive documents are identified and become available for production.

### **II. Production of Electronically Stored Information (“ESI”)**

The United States has participated in negotiation of the Stipulation for the production of ESI entered into by the parties and filed with the Special Master on November 14, 2018. The parties are negotiating agreed upon search terms for their sweep of computer, email and electronic systems for ESI. The parties are working towards creating a Final ESI search term list in order to limit the use of terms that result in over-broad collection of tens of thousands of documents irrelevant to the facts and issues of this case. Production of ESI information is anticipated to begin in mid-July, 2019.

### **III. Index of Documents**

The Parties continue to discuss the creation of an index system for documents produced in this case, as provided in Section 7.2.2 of the CMP. The United States anticipates that the system will also

address the handling of ESI.

#### **IV. Further Discovery**

Fact discovery commenced in this case on September 1, 2018. Depositions of fact witnesses have commenced. The United States participated in depositions of fact witnesses in Santa Fe, N.M. on May 1, 3, 7, 16, 17, and 30, 2019 and will be attending depositions on June 18 and 19, 2019. Written discovery has been propounded on New Mexico by Texas, on Amici by New Mexico, on Texas by New Mexico, on El Paso County Water Improvement District No.1 by New Mexico, and on New Mexico by the United States. The United States participated in a regularly scheduled discovery call among the parties on May 10, 2019, May 24, 2019, and June 7, 2019.

Pursuant to Section 6.2.2 of the September 6, 2018 Case Management Plan, the United States served its initial expert witness reports and expert designations and disclosures on the parties on May 31, 2019. The expert reports, and supporting materials were served on the other parties via Veritext.

#### **V. Motions on Pleadings and Motions for Partial Judgment**

Under the amended case management plan, the United States filed a motion for judgment on the pleadings against New Mexico's counterclaims 2, 3, 5, 6, 7, 8, and 9 on December 21, 2018. On December 26, Texas filed (1) a request for a judicial declaration to confirm the legal issues previously decided and motion in limine to exclude the introduction of evidence thereon, and (2) a motion to strike or for partial judgment regarding New Mexico's counterclaims and affirmative defenses, under Federal Rules of Civil Procedure 12(c) and 56. On December 26, New Mexico filed a motion for partial judgment on matters previously decided and brief in support. The Special Master held an in-person oral argument on these motions on April 2, 2019, in Denver.

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Respectfully submitted this 7th day of June, 2019.

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**CERTIFICATE OF SERVICE**

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This is to certify that on the 7th day of June, 2019, the **UNITED STATES OF AMERICA'S June 2019 STATUS REPORT** was served via electronic mail and/or U.S. mail as indicated, upon the individuals listed on the Service List, attached hereto.

Respectfully submitted,

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