

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,

UNITED STATES OF AMERICA,

Intervenor.

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**ORDER**

By Order dated July 17, 2024, the Supreme Court of the United States expressed its thanks to the Honorable Michael J. Melloy, of Cedar Rapids, Iowa, for his service as Special Master in the above-captioned matter and discharged him

from further service.<sup>1</sup> That Order also appointed the undersigned to succeed Judge Melloy as Special Master “with authority to fix the time and conditions for proceedings, to summon witnesses, to issue subpoenas, and to take such evidence as may be introduced and such as he may deem it necessary to call for.”

It is the intent of the Special Master to move the instant matter forward in as timely and efficient a manner as possible, given the age of the case and the sizable record that has already been developed. Accordingly, consistent with the authority conferred upon me “to fix the time and condition for proceedings,” it is hereby

ORDERED:

1. Counsel of record for the parties shall forthwith confer and undertake good faith discussions on ways to most effectively resume proceedings in this matter in light of the Supreme Court’s decision of June 21, 2024. Such discussion should be undertaken in anticipation of the Special Master’s intent to conduct an in-person status conference (yet to be scheduled) to be held in Denver Colorado.
2. The Honorable Arthur Boylan has agreed to continue in his role as Mediator and will attend the forthcoming status conference. He is hereby authorized to be in

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<sup>1</sup> The undersigned expresses his own gratitude to Judge Melloy for his generous assistance in facilitating the transition of responsibility for managing ongoing proceedings in this decade-long original jurisdiction case.

contact with counsel of record for the parties prior to the soon-to-be scheduled status conference, should he wish to do so.

3. Counsel for the parties shall confer and advise the Special Master on or before noon, EST, on Friday September 6, 2024, of their availability to attend an in-person status conference on the following dates: October 22, 23, and 24.

4. To prepare for the status conference, counsel for the parties shall confer and submit no later than noon, EST, on Friday October 4, 2024, a Joint Status Report, limited to 25 pages, to apprise the Special Master of “next steps” in this proceeding. In the event a party objects to joining a Joint Status Report, the parties which have agreed to a Joint Status Report shall file that report by the same deadline, and any objecting party or parties shall simultaneously file an Individual Status Report, limited to 12 pages, by the same deadline.

5. The Clerk of the United States Court of Appeals for the Third Circuit will specify the procedure for the filing of all submissions. Although the Clerk’s instructions will direct that all submissions shall be electronically filed, two hard copies of such submissions shall be mailed to the Chambers of Judge D. Brooks Smith at 1798 Plank Road, Suite 203, Duncansville, PA 16635.

6. All submissions to the Special Master shall be in a Word format and double-spaced with 14 pt Times New Roman font. Footnotes in any such submissions shall be in the same font and size.

By order dated this 28<sup>th</sup> day of August, 2024:

s/D. Brooks Smith

Honorable D. Brooks Smith

Special Master

United States Circuit Judge

1798 Plank Road, Suite 203

Duncansville, PA 16635

Tel: 814-693-0570

[chambers\\_of\\_judge\\_d\\_brooks\\_smith@ca3.uscourts.gov](mailto:chambers_of_judge_d_brooks_smith@ca3.uscourts.gov)