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,

UNITED STATES OF AMERICA,
Intervenor.

_____♦_____

OFFICE OF THE SPECIAL MASTER

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AMICUS CURIAE SOUTHERN RIO GRANDE DIVERSIFIED CROP GROWERS ASSOCIATION'S COMMENTS AFTER SEPTEMBER 30, AND OCTOBER 1, 2025, HEARINGS

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Southern Rio Grande Diversified Crop Growers Association

Amicus curiae Southern Rio Grande Diversified Crop Growers Association ("SRGDCFA") is grateful for the opportunity to provide commentary regarding the proposed entry of the Decree of Dismissal of the United States' claims and New Mexico's counterclaims, with prejudice, in this action and the entry of a Consent Decree in this matter resolving Texas' claims after the hearing held in this matter on September 30 and October, 1, 2025.

COMMENTS

I. THE SOUTHERN RIO GRANDE DIVERSIFIED CROP GROWERS ASSOCIATION ("SRGDCFA") SUPPORTS SETTLEMENT IN THIS MATTER.

SRGDCFA is a non-profit organization representing farmers and landowners who grow a variety of crops in New Mexico's Lower Rio Grande valley, utilizing surface waters from the Rio Grande River and supplementing these surface waters with groundwater. Members grow crops ranging from the beloved Hatch green and red chiles to cotton, onions to pumpkin, melons to forage crops for animal agriculture.[1] Nearly every member works a multi-generational farm and is tied to the culture, water, land, and economy of southern New Mexico. The success of the settlement directly impacts the businesses and families of the members.

[1] As of 2024, New Mexico ranked first for chile production, fifth for onion production, and second for pecan production for all states. 2024 New Mexico Agricultural Statistics Bulletin, State of New Mexico Department of Agriculture, August 2025, https://www.nass.usda.gov/Statistics_by_State/New_Mexico/Publications/Annual_Statistical_Bulletin/2024/2024-NM-Ag-Statistics.pdf., last accessed on October 12, 2025. For the same year, the total value of agricultural products sold from Sierra and Dona Ana Counties, New Mexico, amounted to $341.95 million.

The parties and amici involved in this matter have invested considerable time and financial resources to reach a resolution. As is typical in litigation, compromise means that no individual party receives all of its preferred outcomes. The SRGDCFA maintains cautious optimism that this settlement will promote stability, prevent future legal disputes within the Lower Rio Grande Basin of New Mexico, and supports the ongoing economic sustainability of agriculture in the region.

II. THE SETTLEMENT AGREEMENTS AND CONSENT DECREE EFFECTUATING THE SETTLEMENT OF THIS MATTER ARE BROAD AND MAY NOT FULLY AND FINALLY RESOLVE ALL POTENTIAL ISSUES BETWEEN THE PARTIES.

SRGDCFA has expended countless hours and resources during the pendency of this matter and looks forward to the full and final resolution of the disputes between New Mexico, Texas, and the claims made by the United States. As an amicus party, SRGDCFA understands it is not a signatory to the agreements entered into by the parties, and as stated above, not all preferred outcomes are received in a settlement. Additionally, SRGDCFA accepts the Parties have requested the Court not weigh in on all disputed issues. *See* Hearing Trans. 9-30-25, 11:12-24. However, it remains concerned that the United States is not bound by the terms of the Settlement Agreements to any interpretation of what the Rio Grande Compact ("Compact") requires for the apportionment of water between

New Mexico and Texas, and that the United States does not have proactive obligations required of it to effectuate the settlement.

Specifically, SRGDCFA is very concerned that maintenance of the Rio Grande within New Mexico, which is the responsibility of the United States, has been delayed, unfunded and defunded, resulting in increasing amounts of silt in the riverbed along with overgrowth of native and invasive vegetation alongside the river. Within the terms of the Settlement Agreements, the United States has a voice in the consultation process regarding potential shortfalls in groundwater levels in New Mexico, yet it has no obligation to improve surface water flows within the reaches of the Rio Grande within New Mexico, which is hydrologically connected to groundwater. Groundwater management is an intrastate action and responsibility of the State of New Mexico, yet it could be impacted in the Lower Rio Grande due to actions or lack thereof from the United States. SRGDCFA does not "welcome" the intrusion of the United States into the management of groundwater resources which have historically been firmly under the management and administration of states without federal interference.

SRGDCFA respectfully requests the Special Master's Report emphasizes the United States' acknowledgement and position that "the Consent Decree is consistent with the Compact and other relevant federal law" and confirm that while the United States will consult with New Mexico if specific triggers occur, the

settlement agreements do not allow for the United States to unilaterally direct intrastate groundwater management and administration within New Mexico. *See* Joint Motion of United States and State of New Mexico to Dismiss, ECF No. 50-1, 30-34.

III. SRGDCFA IS DEPENDING ON THE ACTIONS OF THE STATE OF NEW MEXICO TO EFFECTUATE THE TERMS OF THE GROUNDWATER SETTLEMENT AGREEMENT, OPERATIONS SETTLEMENT AGREEMENT, CONVERSION CONTRACT, AND THIRD-PARTY IMPLEMENTING CONTRACT IN ACCORDANCE WITH PRIOR APPROPRIATION DOCTRINE, FEDERAL, AND STATE LAW TO MAINTAIN THE VIABILITY OF AGRICULTURE IN THE LOWER RIO GRANDE.

In settling this matter, the State of New Mexico has committed to devote substantial resources to implementing the terms of the various agreements. Historically, New Mexico has consistently met its obligations in interstate stream settlements, and the SRGDCFA anticipates that this situation will be no exception. The acreage that is required to be purchased by New Mexico will likely overwhelmingly come from highly productive, generational farms of the members of Elephant Butte Irrigation District. The State's legislature is required to allocate significant funding for the acquisition of land and water rights, in order to reduce depletions as specified in the settlement. Additional resources will also be necessary for the Office of the State Engineer to adequately review and monitor key metrics related to these agreements, and to guarantee proper water deliveries to Texas.

New Mexico will be expected to engage in transparent and continuous communication with water rights holders throughout the upcoming decade, and hopefully beyond, ensuring that all settlement dates and deadlines are met. The SRGDCFA is committed to active participation in rulemaking and administrative processes initiated by New Mexico, while steadfastly safeguarding the priority of its members' water rights, and is grateful for the opportunity to actively participate in this extensive process both before and after the entrance of the Consent Decree and Decree of Dismissal in this matter.

Respectfully submitted this 14th day of October, 2025,

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CERTIFICATE OF SERVICE

This is to certify that on October 14, 2025, I caused a true and correct copy of the *AMICUS CURIAE* SOUTHERN RIO GRANDE DIVERSIFIED CROP

GROWERS ASSOCIATION'S COMMENTS AFTER SEPTEMBER 30, AND OCTOBER 1, 2025, HEARINGS to be served on the parties and filed with the Special Master through the Third Circuit Case Management and Electronic Case Filing (CM/ECF) System.