

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



STIPULATION OF THE STATES OF TEXAS AND NEW MEXICO
REGARDING DAMAGES



The State of Texas (“Texas”) and the State of New Mexico (“New Mexico”) hereby stipulate as follows:

I. Procedural Background

1. The States of Colorado, New Mexico, and Texas (together, the “Compacting States”) entered the Rio Grande Compact (“Compact”) in 1938, with the consent of Congress.

2. After years of disputes, Texas filed its Motion for Leave to File Bill of Complaint on January 8, 2013. The Supreme Court granted Texas leave to file its Complaint on January 27, 2014. *Texas v. New Mexico*, 571 U.S. 1173 (Mem.) (2014).

3. In its Bill of Complaint, Texas alleged that New Mexico violated its obligations under the Compact, causing injury to Texas and its citizens. Among other relief, Texas sought an award of damages to Texas for injury suffered because of New Mexico’s alleged violations of the Compact.

4. New Mexico filed Counterclaims against Texas on May 22, 2018. In its Counterclaims, New Mexico alleged that Texas violated its obligations under the Compact, causing injury to New Mexico and its citizens. Among other relief, New Mexico sought an award of damages to New Mexico for injury suffered because of Texas’s alleged violations of the Compact.

5. Underlying the claims and counterclaims of Texas and New Mexico is a dispute over the meaning of the Compact.

6. On August 29, 2025, the Compacting States filed a Joint Motion to Enter Compact Decree (“Joint Motion”). Attached to the Joint Motion as Exhibit 1 is a proposed Compact Decree that the Compacting States have requested be entered by the Court.

II. Stipulation

7. The Compact effects an equitable apportionment of the waters of the Rio Grande above Fort Quitman, Texas, among Colorado, New Mexico, and Texas. The Compacting States must comply with the Compact.

8. The division of Rio Grande water between New Mexico and Texas below Elephant Butte Reservoir is based upon the percentage of the total authorized irrigable acreage of the Rio Grande Project situated in each State at the time of the Compact, approximately 57% in New Mexico and 43% in Texas.

9. The Compact Decree includes procedures to ensure the proper apportionment of Rio Grande water between Texas and New Mexico below Elephant Butte Reservoir.

10. The Compact Decree includes procedures for calculating the water to be delivered to Texas at the El Paso Gage utilizing an Effective El Paso Index (“EEPI”).

11. The EEPI is the calculation of Rio Grande water released from Caballo that Texas is entitled to receive. New Mexico is entitled to use the balance of the Rio Grande water released from Caballo Dam so long as its use complies with the other provisions of the Compact Decree.

12. The EEPI was developed to ensure Texas and New Mexico receive the amounts of water each is entitled to under the Compact below Elephant Butte Reservoir based upon Project operations during the D2 Period.

13. New Mexico owes Texas a duty to not interfere with the delivery of Texas's Compact apportionment through the Rio Grande Project. Texas has a reciprocal duty.

14. Compliance with the Compact Decree, if it is entered, will represent compliance with the Compact with respect to the division of Rio Grande water below Elephant Butte Reservoir.

15. Throughout this litigation, New Mexico has acknowledged that it deprived Texas of water to which it was entitled under the Compact in 2003 and 2004 under a D2 Baseline condition. *See, e.g.*, Order of May 21, 2021 [Dkt. 503], lodged with the United States Court of Appeals for the Eighth Circuit.

16. New Mexico and Texas stipulate that the Compact Decree fully and fairly addresses any claims and counterclaims in this litigation.

17. New Mexico and Texas hereby waive any and all claims to damages that may have resulted from the allegations in this case, including for any damages that occurred in 2003 and 2004.

Respectfully submitted,

By: /s/ Stuart L. Somach

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CERTIFICATE OF SERVICE

This is to certify that on the 3rd day of November 2025, I caused a true and correct copy of the foregoing **STIPULATION OF THE STATES OF TEXAS AND NEW MEXICO REGARDING DAMAGES** to be served on the parties and filed with the Special Master through Third Circuit Case Management and Electronic Case Filing (CM/ECF) System.

Respectfully submitted,

/s/ Stuart L. Somach