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**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.*

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On the Third Interim Report  
of the Special Master

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**MOTION FOR DIVIDED ARGUMENT  
BY THE STATES OF TEXAS AND NEW MEXICO**

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Pursuant to Rules 21 and 28.4 of the Rules of this Court, the States of New Mexico and Texas (the “States”) respectfully move for divided argument in this case. Specifically, the States request that the time be allotted as follows: 30 minutes for the United States, 15 minutes for the State of Texas, and 15 minutes for the State of New Mexico. The United States and the State of Colorado do not oppose this motion.

This case concerns the division of Rio Grande water between New Mexico and Texas below Elephant Butte Reservoir pursuant to the Rio Grande Compact, Act of May 31, 1939, 53 Stat. 785 (“Compact”). On January 27, 2014, Texas was granted leave to file its complaint. On March 31, 2014, the United States was granted leave to intervene. New Mexico filed

counterclaims. Following the first phase of trial and months of negotiations, the States of Texas, New Mexico, and Colorado entered a settlement and filed a motion requesting that the Court enter a Consent Decree. The Consent Decree would govern the Compact apportionment and resolve all claims and counterclaims between the States. On July 3, 2023, Special Master Melloy filed his Third Interim Report in which he recommended that the Court grant the motion and enter the Consent Decree. The United States filed an Exception.

The States request divided argument to offer the Court their distinct views of the issues presented by the Consent Decree. This Court has routinely approved divided argument to allow the upstream state, the downstream state, and the United States to participate in oral argument in original actions over interstate rivers.<sup>1</sup> As the upstream state and downstream state, New Mexico and Texas have different rights and obligations under the Consent Decree. Texas and New Mexico also have unique information to offer the Court on issues raised by the Third Interim Report and the United States' Exception. For example, Texas is uniquely positioned to explain how its claims are different from those of the United States and why the Consent Decree will provide Texas with its Compact entitlement. New Mexico is uniquely positioned to discuss the baseline condition required by the Compact, why the Consent Decree does not impermissibly impose obligations on the Reclamation Project located in New Mexico, and the New Mexico forums available to address any remaining claims of the United States. Neither Texas nor New Mexico can adequately represent the sovereign interests of the other.

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<sup>1</sup> See, e.g., *Texas v. New Mexico*, No. 65 Original (divided argument granted March 23, 2020); *Kansas v. Colorado*, No. 105 Original (divided argument granted February 21, 1995); *Kansas v. Nebraska & Colorado*, No. 126 Original (divided argument granted October 2, 2014); *Montana v. Wyoming & North Dakota*, No. 137 Original (divided argument granted November 1, 2010); and *Florida v. Georgia*, No. 142 Original (divided argument granted November 6, 2017).

For these reasons, a divided argument is likely to be of material assistance to the Court. The States therefore respectfully request that the Court allow divided argument with 30 minutes allocated to the United States, 15 minutes allocated to the State of Texas, and 15 minutes allocated to the State of New Mexico. This allocation will not require any enlargement of argument time.

Respectfully submitted,

KEN PAXTON  
Attorney General of Texas  
AARON L. NIELSON  
Solicitor General  
Counsel of Record  
LANORA C. PETTIT  
Principal Deputy Solicitor General

*Counsel for the State of Texas*

RAÚL TORREZ  
Attorney General of New Mexico  
JAMES GRAYSON  
Chief Deputy Attorney General  
JEFFREY J. WECHSLER  
Special Assistant Attorney General  
Counsel of Record

*Counsel for the State of New  
Mexico*

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