

No. 29, Original

Supreme Court, U.S.
FILED

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JOSEPH F. SPANIOLO, JR.
CLERK

In The
Supreme Court of the United States
October Term, 1985

STATE OF TEXAS AND STATE OF NEW MEXICO,
Plaintiffs,

vs.

STATE OF COLORADO,
Defendant,
and

UNITED STATES OF AMERICA,
Plaintiff-Intervenor.

**STIPULATED MOTION FOR DISMISSAL AND
MEMORANDUM OF THE PARTIES THERETO**

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Plaintiff-Intervenor.

STIPULATED MOTION FOR DISMISSAL

COME NOW the States of Colorado, Texas, and New Mexico, and, pursuant to Rule 53 of the Rules of the Supreme Court, respectfully move the Court to issue an order dismissing this action with prejudice, each party to pay

its own costs. As grounds therefore, the parties submit the attached memorandum.

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No objection to dismissal.

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UNITED STATES OF AMERICA,
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**MEMORANDUM OF THE PARTIES RELATIVE
TO THEIR STIPULATED MOTION FOR DISMISSAL**

The States of Colorado, Texas, and New Mexico request the Court to dismiss this action with prejudice for the following reasons:

1. In 1966, Texas and New Mexico brought this action against Colorado and alleged that, as of December 31, 1965, Colorado had accrued a debit of 939,900 acre-feet of water in violation of the Rio Grande Compact. Colorado denied these allegations.

2. On April 17, 1968, the States signed a joint motion for continuance. On April 19, 1968, the Solicitor General filed a motion for leave for the United States to intervene as a plaintiff in the case. On May 6, 1968, the Court entered an order granting both motions. 391 U.S. 901.

3. On July 2, 1985, the Rio Grande Compact Commission determined that pursuant to a May 13, 1985 agreement, an actual spill of useable water, as defined by Article VI of the Rio Grande Compact, had occurred on June 13, 1985. The Commission also determined that, pursuant to unnumbered paragraph 7 of Article VI of the Rio Grande Compact, all previously accrued water debits of Colorado and New Mexico were cancelled on June 13, 1985. The Rio Grande Compact Commissioners for Texas, New Mexico, and Colorado agreed to recommend to the attorneys general of their respective states that the attorneys general jointly petition this Court for dismissal of this matter. A copy of the July 2, 1985, resolution of the Rio Grande Compact Commission is attached.

4. In response to the July 2, 1985, resolution of the Rio Grande Compact Commission, the attorneys general for Texas, New Mexico, and Colorado have agreed to request the Court to dismiss this action. The Acting Solicitor General of the United States has no objection.

Therefore, the States of Colorado, Texas, and New Mexico jointly request that the Court dismiss this matter with prejudice. The dismissal of this matter with prejudice does not determine the legal sufficiency or validity of the defenses asserted by Colorado.

DATED : _____, 1985.

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RESOLUTION

WHEREAS, the States of Texas and New Mexico brought suit against the State of Colorado in the United States Supreme Court, October Term, 1966, Original No. 29, alleging that Colorado had accrued a debit of 939,900 acre-feet of water in violation of the Rio Grande Compact, and further moving the Court for a decree commanding Colorado to comply with the Compact and eliminate her debit, and

WHEREAS, during the course of the lawsuit all states moved the Court to continue the case pursuant to the terms of an agreement signed April 17, 1968, and

WHEREAS, Texas and New Mexico agree that Colorado's accrued debits have now been cancelled pursuant to unnumbered paragraph seven of Article VI of the Rio Grande Compact and that Colorado is now in full compliance with the terms and conditions of the Compact, and

WHEREAS, Colorado agrees to fulfill her water delivery obligations set out in the Rio Grande Compact, and

WHEREAS, all states agree that the terms and conditions of the Rio Grande Compact shall be fully complied with.

NOW THEREFORE, IT IS HEREBY RESOLVED that the Rio Grande Compact commissioners for the states of Texas, New Mexico and Colorado do hereby jointly recommend to the attorneys general of those states that they jointly petition the United States Supreme Court for dismissal of the suit filed by the States of Texas and New Mexico against the State of Colorado in the United States Supreme Court, Original No. 29.

