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Summary of Settlements in Principle for Multiple Rio Grande Lawsuits

Texas, New Mexico, Colorado, and the United States have agreed in principle to a group of settlements that would, collectively, resolve a number of outstanding disputes, including the issues that are being litigated in *Texas v. New Mexico*, Original Action No. 141, in the United States Supreme Court. The United States, New Mexico, Elephant Butte Irrigation District (EBID), and El Paso County Water Improvement District #1 (EP1) have agreed to certain Rio Grande Project operations changes and to resolve certain outstanding disputes, including issues in *New Mexico v. United States* and *United States v. Elephant Butte Irrigation District*, in U.S. District Court for New Mexico. New Mexico, EBID, and the United States also agreed to resolve certain outstanding issues in the Lower Rio Grande Stream System Adjudication, in New Mexico state court. These parties are currently preparing various settlement documents and plan to finalize them by August 29, 2025. New Mexico plans to coordinate with other water users who are participating as *amici* in the preparation of settlement documents. The Special Master will hold a hearing in the fall to take evidence on the proposed settlement for the Original Action and will prepare a Report and Recommendation to the U.S. Supreme Court. The Supreme Court will make the ultimate decision on whether to accept the settlement and dismiss that case. Some parties will implement other aspects of the settlements in applicable federal and state courts.

The settlements in principle include the following:

- A Supreme Court Decree between Texas, New Mexico, and Colorado quantifying among those parties the apportionment of water between New Mexico and Texas below Elephant Butte based on the D2 period (1951 to 1978). This Decree would set forth an index, called the Effective El Paso Index (EEPI), which would quantify the amount of surface flows that the States agree must arrive and be measured at the Texas-New Mexico state line as a function of releases from Caballo Reservoir. The United States will separately dismiss its claims in the Supreme Court action pursuant to its settlement agreements.
- A Rio Grande Project Operations Agreement between the United States, EBID, EP1, and New Mexico, as well as a Conversion Contract under the Miscellaneous Purposes Act between the United States and EBID and an associated Implementing Contract between New Mexico and EBID. The Rio Grande Project Operations Agreement is among the districts, the United States and New Mexico and would make specific changes to project operations documents to resolve outstanding disputes between these parties regarding project operations and accounting. The agreements would also collectively provide a framework for transfers of surface water between the Districts.
- A Groundwater Management Agreement between New Mexico and the United States that would require New Mexico to retire groundwater rights associated with 9,240 irrigated acres (or the equivalent amount of non-irrigation water rights) sufficient to reduce depletions in New Mexico by 18,200 acre-feet per year. New Mexico would acquire these groundwater rights from willing sellers. The Groundwater Management Agreement would also require New Mexico to adopt a Lower Rio Grande Water Management Plan to ensure that depletion reductions are maintained, to protect deliveries of Project water, and

to maintain long-term aquifer sustainability. The means by which New Mexico achieves these goals will be within New Mexico's discretion.

- An agreement between New Mexico, EBID, and the United States to resolve certain outstanding issues in the Lower Rio Grande Adjudication among those parties. New Mexico, the United States, and EBID would agree to a 1903 priority date for the water right of the Rio Grande Project in the Stream System 104 case regarding the rights of the United States. In addition, New Mexico will agree to recognize a priority date for supplemental groundwater rights of EBID members equal to the priority date of the Rio Grande Project that will allow farmers to use up to 3.024 acre-feet per acre for irrigation from either surface or groundwater. The United States, New Mexico, and EBID have agreed to continue to negotiate with the New Mexico *amici* to seek to resolve outstanding adjudication issues and agree upon an alternative administration plan that would replace strict priority administration.