

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,)	
and)	
STATE OF NEW MEXICO, <i>ex rel.</i> STATE)	
ENGINEER,)	
)	
Plaintiffs,)	
)	No. 01cv00072 BB
and)	
)	ZUNI RIVER BASIN
ZUNI INDIAN TRIBE, NAVAJO NATION,)	ADJUDICATION
)	
Plaintiffs in Intervention,)	
)	
v.)	
)	
A&R PRODUCTIONS, et al.)	
)	
Defendants.)	
_____)	

Before Special Master Vickie L. Gabin

**MOTION FOR ORDER REQUIRING COUNSEL TO AMEND ENTRIES OF
APPEARANCE**

The Plaintiffs United States of America (“United States”) and State of New Mexico *ex rel.* State Engineer (“State”) hereby move the Special Master to enter an order requiring all counsel of record, by a date certain, to (1) amend their entries of appearance to identify, by full name, mailing address, and date of joinder or substitution in, all parties they currently represent in this civil action; and (2) file any appropriate motions to withdraw as required by D.N.M.LR-Civ 83.8. As grounds for this motion, Plaintiffs state as follows:

1. Over the course of this adjudication counsel have entered appearances which, on the face of the documents or as a result of subsequent events, create ambiguities concerning the persons who are represented:

- Some entries of appearance list names of individuals or entities that have never been identified as claimants of water rights by the hydrographic survey, joined as parties to this case, or granted leave to intervene.¹
- Most entries of appearance fail to provide addresses for the persons or entities represented, making it impossible to distinguish the represented persons from other persons in the Zuni River Basin who may have the same or substantially similar names. There are numerous instances where ownership data obtained by the Hydrographic Survey provides differing addresses for persons with identical, or nearly identical, names. Some of these names also have been included on entries of appearance.
- Some entries of appearance have been filed on behalf of persons previously listed on another entry of appearance, with no withdrawal of, substitution for, or even mention of the previous attorney.
- During the pendency of this action, there have been numerous changes of ownership of property having surveyed water uses in the Zuni River Basin.

¹ The United States joined defendants listed in its January 19, 2001 *Complaint* (Doc. No. 1) and the August 4, 2003 *Amended Complaint* (Doc. No. 222). Orders joining additional parties, or granting motions to substitute, are identified in the tables included in Attachment A to this motion. The only order granting intervention in the case (to the Zuni Tribe and the Navajo Nation) was entered July 10, 2002 (Doc. No. 144). Persons or entities not joined, substituted in, or permitted to intervene, or who have been dismissed, are not parties to this civil action.

These transfers may have caused changes in the representation of individuals previously listed on entries of appearance.

- In particular, it is a common practice for individuals, including individuals apparently represented by counsel in this action, to convey their property to a trust. However, attorneys who have entered appearances on behalf of the individual grantors of such trusts may not have entered appearances on behalf of the trusts, which are distinct entities under the law.

2. In consequence of the aforementioned factors, the identification of represented parties listed on the Court's caption for this case appears to be unreliable.

3. The ambiguities concerning representation in this case can create ethical dilemmas for attorneys with respect to contacts with represented persons. See, e.g., Rule 16-402 NMRA.

4. Efforts by Counsel for the United States to obtain clarification from other counsel concerning their representation have frequently received no response.

WHEREFORE, the Plaintiffs respectfully move the Special Master to enter an order requiring all counsel of record, by a date certain, to (1) amend their entries of appearance to identify, by full name, mailing address, and date of joinder or substitution in, all parties they currently represent in this civil action; and (2) file any appropriate motions to withdraw as required by D.N.M.LR-Civ 83.8.

DATED: October 4, 2007

Electronically Filed

/s/ Bradley S. Bridgewater

BRADLEY S. BRIDGEWATER
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COUNSEL FOR THE UNITED STATES

(approved via email 10/03/2007)
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COUNSEL FOR THE STATE OF NEW MEXICO
EX REL. STATE ENGINEER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on October 4, 2007, I filed the foregoing *Motion For Order Requiring Counsel To Amend Entries Of Appearance* electronically through the CM/ECF system, which caused CM/ECF participants to be served by electronic means, as more fully reflected on the Notice of Electronic Filing. AND I FURTHER CERTIFY that on such date I served the foregoing on the following non-CM/ECF Participants in the manner indicated:

Via Regular Mail:

D L Sanders
New Mexico Office of the State Engineer
PO Box 25102
Santa Fe, NM 87504-5102

Michael J Thomas
Commissioner of Public Lands
General Counsel
PO Box 1148
Santa Fe, NM 87504-1148

_____/s/_____
Bradley S. Bridgewater

Attachment A

ORDERS JOINING ADDITIONAL PARTIES

Date	Document No.
11/22/2005	403
12/16/2005	440
1/26/2006	470
4/5/2006	616
4/18/2006	668
7/21/2006	768
11/1/2006	857
12/6/2006	885
12/6/2006	886
12/7/2006	890
1/31/2007	967
4/5/2007	1101
6/20/2007	1139
7/9/2007	1153
7/9/2007	1154
7/17/2007	1161
8/7/2007	1201
8/7/2007	1204
8/9/2007	1214
8/29/2007	1235
8/29/2007	1236
9/13/2007	1268

ORDERS GRANTING SUBSTITUTION OF PARTIES

Date	Document No.
4/14/2006	630
4/18/2006	669
5/1/2006	687
6/7/2006	721
7/14/2006	760
8/10/2006	790
12/6/2006	884
12/7/2006	889
12/26/2006	913
2/1/2007	971
2/8/2007	980
2/23/2007	1008
3/9/2007	1077