

**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,	)	Subfile No. ZRB-1-0088
	)	
v.	)	
	)	
A & R PRODUCTIONS, et al.	)	
	)	
Defendants.	)	
	)	

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**MOTION TO SET ASIDE DEFAULT JUDGMENT (NO. 1400) AND TO DROP  
BRENDA ROMERO AS A PARTY**

The Plaintiffs United States of America (“United States”) and State of New Mexico *ex rel.* State Engineer (“State”) hereby move the Court to set aside the *Order Granting Default Judgment* filed December 10, 2007 (No. 1400) concerning Subfile No. ZRB-1-0088 and the Defendant Brenda Romero and, pursuant to Fed.R.Civ.P. 21, to drop Ms. Romero as a party from this action. In support of this motion, Plaintiffs assert:

1. The original hydrographic survey of the property involved in this subfile was in error due to confusing ownership data obtained from Cibola County, and failed to include a well and an additional stock pond that are located on the parcel.

2. In addition, Plaintiffs have learned that, shortly after the Defendant Brenda Romero was served with the original service packet for this subfile and returned her waiver of service of summons, she conveyed the property to Bethra Szumski, who subsequently was joined as a defendant in this civil action on December 3, 2009 (No. 2485).

3. The United States' hydrographic survey contractor has examined the deed from Ms. Romero to Ms. Szumski and has resurveyed the property described by that deed. Based on that resurvey, Plaintiffs have concluded that Subfile No. ZRB-1-0088 should be administratively closed and that the stock pond (Map Label: 4A-3-SP17) previously adjudicated to Ms. Romero in this subfile should be included with two other surveyed water uses to be adjudicated to Ms. Szumski in Subfile No. ZRB-1-0185.

4. Plaintiffs have offered a consent order to Ms. Szumski for Subfile No. ZRB-1-0185 that includes all three water uses surveyed on the parcel in question and she has accepted. The Subfile No. ZRB-1-0185 consent order will be submitted to the Court if the present motion is granted.

5. Although neither Ms. Romero nor Ms. Szumski have filed a motion to substitute pursuant to Fed.R.Civ.P. 25(c), Plaintiffs assert that in these circumstances the interests of justice, including the interest of clarity of the record, will be best served by setting aside the Subfile No. ZRB-1-0088 default judgment and dropping Ms. Romero as a party.

6. The hydrographic survey has determined that Brenda Romero owns no other property with water use features in the Zuni River Stream System.

WHEREFORE, the Plaintiffs respectfully request the Court to set aside the *Order Granting Default Judgment* filed December 10, 2007 (No. 1400) concerning Subfile No. ZRB-1-0088 and the Defendant Brenda Romero and, pursuant to Fed.R.Civ.P. 21, to drop Brenda Romero as a party defendant from this civil action.

Respectfully submitted,

/s/ Bradley S. Bridgewater  
BRADLEY S. BRIDGEWATER  
ANDREW "GUSS" GUARINO  
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COUNSEL FOR THE UNITED STATES

(approved 12/5/2011 )  
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COUNSEL FOR THE STATE OF NEW  
MEXICO EX REL STATE ENGINEER

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, on December 5, 2011, I filed the foregoing *Motion to Set Aside Default Judgment (No. 1400) and to Drop Brenda Romero as a Party* electronically through the CM/ECF system, which caused parties or counsel 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 U.S. Mail, Postage Pre-paid:**

BRENDA ROMERO  
7972 MEADE ST, Apt. 7  
WESTMINSTER, CO 80030

BETHRA SZUMSKI  
1893 HICKORY ROAD  
CHAMBLEE, GA 30341

\_\_\_\_\_/s/\_\_\_\_\_  
BRADLEY S. BRIDGEWATER