

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

UNITED STATES OF AMERICA and)	
STATE OF NEW MEXICO, ex rel. STATE)	
ENGINEER,)	
Plaintiffs,)	
)	
and)	No. 01cv0072 BB/WDS
ZUNI INDIAN TRIBE and NAVAJO NATION,)	
Plaintiffs-in-Intervention)	
)	
)	ZUNI RIVER BASIN
v.)	ADJUDICATION
)	
A & R PRODUCTIONS, et al.,)	

[PROPOSED] ORDER OF REFERENCE

THIS MATTER comes before the Court on the *State of New Mexico's Notice of Search Committee's Recommendation of Special Master Candidates and Submission of Proposed Order of Reference* (Doc. No.), filed April 13, 2012.

Upon the resignation of Special Master Vickie L. Gabin, on June 8, 2011 the Court provided an opportunity for parties to suggest a candidate for appointment. *See Order* (Doc. No. 2688). On June 22, 2011, the State of New Mexico ("State") filed its *Notice and Suggestion for Procedures for Appointment of Special Master* (Doc. No. 2677), proposing that rather than simply accept suggestions for a candidate, the Court instead form a committee of parties to advertise, review applications, conduct interviews, draft a proposed order of reference, and recommend a candidate to the court. On July 21, 2011, the Court entered its *Order* (Doc. No. 2678) providing that "interested parties are free to form a committee to identify and recommend candidates and to submit a proposed order of reference to the Court." The committee recommended the Honorable Michael C. Nelson and Sue Anne Herrmann to the Court as

candidates for the position of Special Master, and submitted a proposed order of reference describing the Special Master's duties (Doc. No.), filed April 13, 2012.

This water rights adjudication involves exceptional conditions which necessitate the appointment and use of a Special Master. Fed.R.Civ.P. 53(a)(1).

IT IS THEREFORE ORDERED that _____ is hereby appointed Special Master in this case.

THE SPECIAL MASTER IS HEREBY DIRECTED, pursuant to Fed.R.Civ.Proc. 53(c) and NMSA 1978 §72-4-18 (1965), to hear and to determine all claims and contentions of the parties relating to: 1) their rights to the use of the surface and underground waters of the stream system encompassed by this case; and 2) all related matters that may arise in connection with such rights.

This direction includes the authority to conduct hearings and determine all motions, except that the Special Master shall not hear or determine any motion that presents only legal issues and no contested factual matters, including motions asserting lack of jurisdiction over the subject matter under Fed.R.Civ.P 12(b)(1) or failure to state a claim upon which relief can be granted under Fed.R.Civ.P 12(b)(6), motions for judgment on the pleadings under Fed.R.Civ.P 12(c), and motions for summary judgment under Fed.R.Civ.P 56, unless the parties to the motion otherwise agree or unless so directed by the Court.

The Special Master shall not communicate *ex parte* with the Court or the parties on any substantive matter. The Special Master may communicate *ex parte* with the Court or the parties to schedule proceedings and for other administrative purposes.

The Special Master shall preserve all records necessary for the Court's review of the Special Master's orders, reports, or recommendations. All of the evidence the Special Master

considers in arriving at findings shall be recorded, preserved and filed with the Court. The Court authorizes the Special Master to employ the services of a court reporter to generate an adequate record for the Court's review.

The Special Master shall complete and file all orders, reports and recommendations within six months of the conclusion of an evidentiary hearing or other matter submitted to the Special Master and serve a copy on each party, unless the Court orders otherwise. The Special Master shall file a complete record of the evidence considered in making or recommending findings of fact on the basis of the evidence. All orders, reports and recommendations shall include a notice to the parties of their opportunity to be heard under Fed.R.Civ.P 53(f).

The Court will decide *de novo* all objections to findings of fact unless the parties, with the Court's approval, stipulate that the findings will be reviewed for clear error. The Court will decide *de novo* all objections to conclusions of law made or recommended by the Special Master. Fed.R.Civ.P 53(f)(3-4).

IT IS FURTHER ORDERED that pursuant to Fed.R.Civ.P. 53(g), that the Special Master's compensation is hereby fixed at the rate of \$_____ per hour, plus tax, plus reimbursement for his/her reasonable and necessary expenses including travel from Santa Fe or Albuquerque if required for the conduct of the case, and employment of legal clerks and or assistants, court reporters and interpreters. The Special Master shall periodically certify his or her fees and expenses to the Court, and at the same time provide a copy of the certification to the attorneys of record for the State and the United States. These fees and expenses shall be assessed against the State and the United States, with each paying half.

This order may be amended at any time after notice to the parties and an opportunity to be heard. Fed.R.Civ.P 53(b)(4).

UNITED STATES DISTRICT JUDGE

EXHIBIT B

Attorney Position

The New Mexico Game and Fish Department is establishing a statewide search for the Attorney position within the Department. Background Information and Job Description: The New Mexico Department of Game and Fish is seeking candidates to apply to as Attorney for the Department. The Attorney will be responsible for advising and representing the Department on legal issues regarding fish, wildlife, Department owned properties, contract and personnel issues. These issues are complex and sensitive in nature. The office of the Attorney is in Santa Fe, New Mexico. Compensation for this position is up to between \$48,869.60 and \$120,955.12 annually, depending on qualifications and budgetary approval. The State of New Mexico offers a complete benefits package, including retirement. This position is a Governor Exempt position and serves at the pleasure of the State Game Commission and the Director of the Department. Applicants must submit to a criminal background check and pre-employment drug screening. The New Mexico Department of Game and Fish provides equal employment opportunities. Application Information: Minimum Job Requirements: Education: Law Degree and Member of the New Mexico Bar Association in good standing. Job Experience: Must have a minimum of 4 years of general law experience. Deadline to Apply: The New Mexico Department of Game and Fish Human Resources Office must receive all applications by 5:00 pm on Jan. 7, 2011. Applications can be mailed, but will not be considered if received after 5:00 PM Jan. 12, 2011. Mailed applications should be addressed to: James S. Lane, Jr., Director New Mexico Department of Game and Fish, c/o Sonya Quintana, New Mexico Department of Game and Fish, PO Box 25112, Santa Fe, New Mexico 87504-25112. Shipped applications should be addressed to: James S. Lane, Jr. Director, New Mexico Department of Game and Fish, c/o Sonya Quintana, New Mexico Department of Game and Fish, One Wildlife Way, Santa Fe, New Mexico 87507. All application packets must contain the following: Letter of interest, Résumé, College transcripts, Three (3) letters of recommendation. More information about the New Mexico Department of Game and Fish is available on the Department's website, www.state.wildlife.nm.us.

Associate Attorney

Well established Albuquerque personal injury law firm is seeking an associate attorney with zero to 3 years experience. Must have good communication and people skills. Competitive compensation in a great work environment. Send or drop off your resume and contact information to POB 92860, Albuquerque, NM 87199 Attention Box E.

Attorneys

Scheuer, Yost and Patterson, P.C. an AV rated Santa Fe law firm with a diverse civil practice, including business, real estate, banking, finance, probate and estate planning, education law, insurance, employment and related litigation, is seeking one or more qualified attorneys with five or more years experience preferably in education law and real estate/commercial litigation. Must have strong academic background, analytical skills in researching, drafting documents and pleadings, be self motivated and able to work in fast paced environment. Compensation based on experience and other credentials. Competitive benefits and 401(k) plan. Please submit resume, writing sample and salary history and requirements to Hiring Partner, P.O. Box 9570, Santa Fe, NM 87504 or e-mail to firm@santafelawyers.com. Transcripts may be requested. Inquiries will remain confidential. No recruiters or search firms please.

Special Masters

The United States District Court for the District of New Mexico is seeking one or more Special Masters for the following water rights adjudications: New Mexico ex rel. State Engineer v. Abbott, Nos. 68cv7488-BB & 70cv8650-BB consolidated (Rio Santa Cruz & Rio Truchas adjudication); New Mexico ex rel. State Engineer v. Aragon, No. 69cv07941-BB (D.N.M.) (Rio Chama adjudication); United States v. A & R Productions, No. 01cv00072-BB (D.N.M.) (Zuni River Basin adjudication, including No. 07cv000681-BB, which is a formal subproceeding dealing with Zuni Indian claims). The requirements for the positions are the following: attorney at law admitted to practice in New Mexico or another prior appropriation state; experience with water rights; trial practice as counsel, judge, special master, or hearing examiner; clear legal writing skills, and not disqualified under Fed.R.Civ.P. 53 (a)(2). The United States and the State of New Mexico will recommend a candidate or candidates to the Hon. Bruce D. Black in consultation with the other parties to the cases. If you would like to be considered, please submit a proposal as soon as possible, but not later than January 23, 2012, including a resume and a legal writing sample, together with a schedule of your proposed fees and reimbursable expenses. Counsel for the United States and for the State of New Mexico will review all submittals and may conduct interviews with candidates for the position. Counsel for other parties may also review the submittals and participate in interviews. If interviews are conducted, travel will be at the expense of the candidate. Proposals should be mailed to Edward C. Bagley, Litigation and Adjudication Program, State Engineer Office, P.O. 25102, Santa Fe, New Mexico 87504-5102, FAXed to Mr. Bagley at (505) 827-3887, or emailed in pdf format to him at edward.bagley@state.nm.us.

Senior Trial Attorney, Valencia County Assistant Trial Attorney, Sandoval County

The 13th Judicial District Attorney's Office is accepting resumes for an experienced Senior Trial Attorney in the Valencia County Office, Belen, NM and an Assistant Trial Attorney in the Sandoval County Office, Bernalillo, NM. The Senior Trial Attorney position requires substantial knowledge in areas of child abuse and complex felony work. Upon request, be prepared to provide a summary of cases tried. Salary is based upon experience. Send resumes to Carmen Gonzales, HR Administrator, P.O. Box 1750, Bernalillo, NM 87004, or via E-Mail to: cgonzales@da.state.nm.us. Deadline for submission of resumes: Open until positions are filled.

Retiring? Trying To Slow Down? Want To Work Less?

Plaintiff's personal injury firm is looking to combine its practice with an established personal injury or work comp lawyer who wants to retire or cut back on their hours. Please e-mail abqlaw@msn.com.

Assistant Attorney General

The Litigation Division of the Attorney General's Office, an EEO employer, is accepting resumes for an "exempt" (not classified) attorney for the position of Assistant Attorney General located in Santa Fe. The work will consist of administrative prosecutions on behalf of various state licensing boards and civil litigation matters on behalf of the State of New Mexico in state and federal courts. A minimum of 8 years of civil litigation experience is required. NM bar admission is required. Salary is commensurate with experience. Resume, writing sample and minimum of three professional references must be received at the Office of the Attorney General by 5:00 p.m. on December 30, 2011. Send all information to: Dennis Martinez, HR Manager, PO Drawer 1508, Santa Fe, NM 87504-1508.

Paralegal

Paralegal with extensive prior experience in complex commercial civil litigation required, including large case document control/management and proficient knowledge of computerized data bases and relevant software programs. Must be highly skilled, professional, organized, and motivated individual with attention to detail. Excellent computer skills required. All inquiries confidential. Salary DOE. Competitive benefits. Resumes to Atkinson, Thal, & Baker, P.C., Attn: HR, 201 Third Street NW, Suite 1850, Albuquerque, NM 87102

EXHIBIT

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