

**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. 01cv00072-BB/LFG
)	
ZUNI INDIAN TRIBE, NAVAJO NATION,)	ZUNI RIVER BASIN
)	ADJUDICATION
Plaintiffs in Intervention)	
)	
v.)	Subfile No. ZRB-1-0075 Consolidated
)	
A & R PRODUCTIONS, et al.,)	
)	
Defendants)	
_____)	

MOTION TO INTERVENE BY EDWARD J. BAWOLEK AND SUZAN J. BAWOLEK

Edward J. Bawolek and Suzan J. Bawolek (hereinafter the “Bawoleks”), defendants pro se in Subfile ZRB-2-0014 of the above-captioned matter, move the Court for an order granting them leave to intervene as Defendants in Subfile ZRB-1-0075 Consolidated, pursuant to Fed. R. Civ. P. 24(a)(2), or in the alternative, pursuant to Fed. R. Civ. P. 24(b)(1). As grounds, the Bawoleks state as follows:

1. The Bawoleks are the Lessees for Agricultural Lease GR1434 (hereinafter “the leased land”) which commenced on October 1, 2011 and will expire at midnight September 30, 2016. Said lease encompasses Section 2, Township 5 North, Range 17 West N.M.P.M, Cibola County New Mexico. Further, the leased land includes water use features described in the ZUNI RIVER BASIN ADJUDICATION HYDROGRAPHIC SURVEY REPORT FOR SUB AREAS 9 & 10 as

Well 10C-4-W15 and Pond 10C-4-SP33. The water rights associated with these features will be adjudicated in this proceeding, and as lease holders of GR1434, the Bawoleks have a direct, substantial, and immediate interest in the Subfile ZRB-2-0075 Consolidated proceeding. The Bawoleks' deeded property, comprising Sections 1 and 3, Township 5 North, Range 17 West, and Section 35, Township 6 North, Range 17 West, N.M.P.M, Cibola County New Mexico, substantially surround the area comprising the leased land, such that the disposition of this action in Subfile ZRB-2-0075 Consolidated will impair the Bawoleks' ability to protect their interests, absent their participation in the action as a party.

2. Although the New Mexico Commissioner of Public Lands (hereinafter the "Commissioner" or "State Land Office") has been joined in this action as party defendant with respect to Subfile ZRB-2-0075 Consolidated, the Bawoleks wish to intervene in their own right in this matter, so as to assert positions that may be at variance with positions and claims asserted by the Commissioner, and in addition, to avoid any adverse impact the Bawoleks might suffer by virtue of the Commissioner's representation of multiple interests. The Bawoleks should thus be permitted intervention as a matter of right under Fed. R. Civ. P. 24(a)(2).
3. Wholly apart from the adequacy of the Commissioner's representation of the Bawolek's interest in ZRB-2-0075 Consolidated, the adjudication of said subfile raises factual and legal issues that are common to the issues raised by the claims of the other parties, namely, the nature and extent of the water rights of each of the parties in the Zuni River Basin Adjudication, and in particular the rights of individuals holding Grazing Leases issued by the Commissioner. Under the

circumstances, the Bawoleks satisfy the requirements for permissive intervention under the provisions of Fed. R. Civ. P. 24(b)(1).

4. This motion is timely because the Court has recently directed (in [2782]) the consolidation of the State Land Subfiles, with the establishment of a preliminary schedule for completion of the adjudication.
5. Proposed Interveners (the Bawoleks) aver that, if intervention is granted, they will (i) participate in the action on the schedule that will be established for the existing parties; (ii) avoid unnecessary delays or duplication of efforts in areas satisfactorily addressed and represented by the existing Defendant, to the extent possible; and (iii) coordinate all future proceedings with the existing Defendant to the extent possible.

In particular, pursuant to points (ii) and (iii) supra, the Bawoleks request that the scope of their participation be limited to water features identified supra as Well 10C-4-W15 and Pond 10C-4-SP33.

A proposed form of Order is not attached, as Counsel for the United States and Counsel for the State of New Mexico ex rel. State Engineer have indicated their intent to oppose this motion. Counsel for the State Land Office has indicated that the Office does not take a position with respect to this motion.

WHEREFORE, the Bawoleks request that the Court enter an Order granting this Motion to Intervene.

Dated June 28, 2012.

Respectfully submitted,

By: /s/ Edward J. Bawolek and /s/ Suzan J. Bawolek
Edward J. Bawolek and Suzan J. Bawolek
2200 West Sagebrush Court
Chandler, AZ 85224
(602) 376-1755

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on June 28, 2012, I filed the foregoing Petition for CM/ECF Access 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.

/s/ Edward J. Bawolek
Edward J. Bawolek
2200 West Sagebrush Court
Chandler, AZ 85224
(602) 376-1755
bawolek@cox.net