

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

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01CV00072BDB/WWD(ACE)

United States.)
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Plaintiff)
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v.)
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A & R Productions, et al..)
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Defendants)
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Robert M. Marsh

ZUNI RIVER STREAM
SYSTEM ADJUDICATION

* * * * *
UNITED STATES' MEMORANDUM
IN SUPPORT OF MOTION
TO DROP/DISMISS
DEFENDANT PARTIES

This memorandum is submitted in support of the United States' motion to drop/dismiss existing party-defendants having no interest in the subject matter of the suit. Rule 21 of the Fed. R. Civ. P. governs this motion.^{2/}

I. Relevant Facts and Justification to Grant Motion

The suit seeks adjudicate all use of the surface and groundwaters of the Zuni River Stream System. The party-defendants identified in the United States' complaint and amended complaint include all those at the time the complaint was filed were believed to own parcels of land within the Zuni River Basin.^{2/} Service of process on all named party-defendants was completed pursuant to the requirements of Rule 4(d) of the Fed. R. Civ. P. Listed in the

^{1/} Fed. R. Civ. P. 21 reads as follows:
Misjoinder of parties is not ground for dismissal of an action. Parties may be dropped or added by order of the court on motion of any party or of its own initiative at any stage of the action and on such terms as are just. Any claim against a party may be severed and proceeded with separately.

^{2/} The list of property owners within the Zuni River Basin was compiled in the year 2000 from the tax records of Cibola, McKinley and Catron Counties.

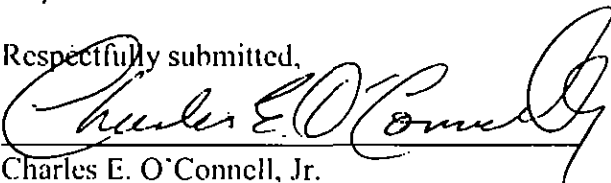
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accompanying motion are landowner/defendants who have advised or otherwise indicated in writing that they either do not use or presently claim a right to the use of surface or groundwater within the geographical boundary of the Zuni River Basin as that basin is described by this Court or that they do not presently hold fee title to land within the geographic boundaries of the Zuni River Basin as that basin is described by this Court. Docket No. 200.

No party will be prejudiced by granting the motion. The United States respectfully requests this Court to grant its motion to drop/dismiss those that do not have an interest in the subject matter of the suit.

Dated this th 16 day of December, 2003

Respectfully submitted,



Charles E. O'Connell, Jr.
United States Trial Attorney