

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,)	
)	
and)	01cv00072-BB-ACE
ZUNI INDIAN TRIBE, NAVAJO NATION,)	
Plaintiffs-in-Intervention,)	ZUNI RIVER BASIN
)	ADJUDICATION
-v-)	
)	
A & R PRODUCTIONS, <i>et al.</i>)	
)	
Defendants.)	
_____)	

ORDER DENYING MOTION FOR APPOINTMENT OF COUNSEL
AND OBJECTION TO PROCEEDINGS

THIS MATTER is before the Special Master on the Motion and Objection filed May 12, 2004 by Lavern Morsbach (Docket No. 332).¹ In her Motion and Objection, Ms. Morsbach requests that the Court appoint a free lawyer to represent her rights in this stream system adjudication, and protests the adjudication generally. Ms. Morsbach writes that she has received “several papers from [my] office” and needs further information about the pleadings and this suit. From these allegations, I assume that Ms. Morsbach claims water rights in the Zuni River Basin and is a defendant in this action.

Being fully advised in the premises, I find the Motion and Objection should be DENIED for the following reasons:

¹ Ms. Morsbach communicated by letter dated May 5, 2004, but requested that her letter be filed as an objection. I have construed her request for an attorney as a motion.

1. The right to a court-appointed attorney is limited. The Sixth Amendment to the United States Constitution guarantees every criminal defendant the right to assistance of counsel. Rule 44 of the Federal Rules of Criminal Procedure authorizes the Court to appoint counsel; and the Criminal Justice Act at 18 U.S.C.A. §3006A sets forth procedures and standards by which financially eligible criminal defendants may be provided with counsel. United States v. Osuna, 141 F.3d 1412, 1414 (1998). However, there is no constitutional or statutory authority which would permit this Court to appoint counsel for a defendant in a stream system adjudication.

2. Each defendant has the right to appear in a *pro se* capacity, that is, represent his or her own interests, before the Court. Further, Ms. Morsbach is advised that in this case there is at least one water users' association in the Zuni Basin area which has been organized to retain counsel, and which may be of assistance to currently unrepresented defendants.

3. General information about this adjudication has been available through public information meetings within the Zuni Basin area, numerous field offices which defendants may attend, and several general status conferences. Additional meetings will be scheduled in the future. If Ms. Morsbach has access to the internet, she can review the pleadings and other relevant documents through the United States' website at www.zunibasin.com or contact the U.S. District Court for information about access to the Court's electronic docket. Also, a paper file is available at the University of New Mexico's Zollinger Library in Gallup.

4. General information is also available from the United States attorney, Mr. Bradley Bridgewater ((303) 312-7318), or the lead counsel for the State of New Mexico, Mr. Edward Bagley of the Office of the State Engineer ((505) 827-6150).

