UNITED STATES OF AMERICA, for Itself)
and as Trustee for the Zuni Indian Tribe, Navajo)
Nation and Ramah Band of Navajos and)
STATE OF NEW MEXICO, ex rel. STATE)
ENGINEER,)
      Plaintiffs,)
)
and)   **No. 01cv00072-BB**
)
ZUNI INDIAN TRIBE, NAVAJO NATION,)   ZUNI RIVER BASIN
    Plaintiffs in Intervention,)   ADJUDICATION

v.)
)
A & R PRODUCTIONS, et al.,)
    Defendants.)

WAIVER OF SERVICE OF SUMMONS

TO: Bradley S. Bridgewater, Trial Attorney, U.S. Department of Justice

     I, ELOISE MCDORMAN, acknowledge receipt of your request that I waive service of summons in the action of the United States, State of New Mexico, ex · rel. State Engineer v. A & R Productions, et al., Civil Action No. 01cv00072 BB/WWD-ACE, in the Federal District Court for the District of New Mexico.

     I also acknowledge that I have received a copy of the United States' Amended Complaint, two copies of this instrument (Waiver of Service of Summons), and a means by which I can return one copy of the signed waiver to the United States without cost to me.

     I agree to avoid the cost of service of a summons and an additional copy of the United States' Amended Complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process, in the manner provided by Rule 4 of the Federal Rules of Civil Procedure, as indicated in the Notice of Lawsuit and Request for Waiver of Summons that accompanied this form, and in the Duty to Avoid Unnecessary Costs of Service of Summons, attached to this form.

     I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court, except for objections based on a defect in the summons or in the service of the summons.

     I understand that I retain the right to file an Answer or motion under Rule 12 of the Federal Rules of Civil Procedure objecting to the sufficiency of the United States' Amended Complaint on or before April 10, 2006. I understand that a judgment may be entered against me (or the entity on whose behalf I am acting) if I do not file and serve on you an answer or motion under Rule 12 on or before April 10, 2006.

Waiver of Service   **ELOISE MCDORMAN**
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Signature: *Eloise McDorman* Date: *Feb. 21, 2006*

print or type name: *ELOISE McDORMAN*

        If you are signing on behalf of the named party, please indicate the source of your authority here:

_____

and print or type the full name and address of the party on whose behalf you arc acting here: _____

_____

_____

        Upon agreeing to and completing this form, return one signed original in the pre-addressed, postage-paid envelope provided (addressed to Bradley S. Bridgewater, U.S. Department of Justice, 999 Eighteenth St., Suite 945N, Denver, CO, 80202).

Keep one copy of this form for your records.

Duty to Avoid Unnecessary Costs of Service of Summons

        Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of a summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

        It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the party believes that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or to the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

        A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default judgment may be taken against that defendant.

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ELOISE MCDORMAN