

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,                               | ) |                      |
|   | ) | No. 01cv00072 BB-ACE |
| and                                       | ) |                      |
|   | ) | ZUNI RIVER BASIN     |
| ZUNI INDIAN TRIBE, NAVAJO NATION,         | ) | ADJUDICATION         |
|   | ) |                      |
| Plaintiffs in Intervention,               | ) |                      |
|   | ) |                      |
| v.  | ) |                      |
|   | ) |                      |
| A&R PRODUCTIONS, et al.                   | ) |                      |
|   | ) |                      |
| Defendants.                               | ) |                      |
| _____                                     | ) |                      |

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**MOTION TO JOIN ADDITIONAL PARTIES DEFENDANT**

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The United States of America (“United States”) hereby respectfully requests the Court to join as an additional parties defendant the persons or entities named below and order the parties to answer the United States’ Complaint in this action as required in any civil action in the United States District Court or suffer default judgment against the party. In support of this motion, the United States asserts:

1. The persons or entities listed below are diverting and using or may claim a right to divert and use surface or underground waters within the Zuni River stream system in New Mexico:

| <b>Subfile No.</b> | <b>Defendant</b>   |
|--------------------|--|
| ZRB-4-0029         | DIANE S. BARETINICICH REV. TRUST<br>501 COUNTRY CLUB DR.<br>GALLUP, NM 87301         |
| ZRB-4-0039         | LAURENCE R. BERGER & DIANA M. BERGER REV. TRUST<br>406 BAKER ST.<br>GALLUP, NM 87301 |

The water uses, or claims to the right to use water, of these persons or entities is subject to the laws of the State of New Mexico and the United States. This Court has exclusive jurisdiction to adjudicate all claims to the right to divert, store, or use public waters of the Zuni River stream system in New Mexico.

2. The persons or entities listed above have been identified by the Hydrographic Survey for Sub-areas 1, 2 & 3 (excluding Ramah) of the Zuni River stream system or information obtained during the consultation process and may be diverting and using water associated with the subfile number listed, or may otherwise be using or diverting surface or underground waters within the Zuni River stream system.

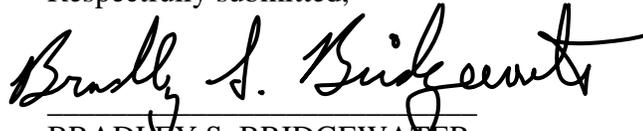
3. These persons or entities were omitted from the United States' October 26, 2006 *Motion to Join Additional Parties Defendant* (Doc. No. 855) due to data processing errors or erroneous information obtained from county records.

4. For the benefit of other parties, and by way of explanation, the United States asserts that motions to add additional defendants, dismiss defendants, correct defendants' names, and take other corrective action, are parts of an on-going process made necessary by the hydrographic survey, defendants' responses, and other kinds of new information received during the course of this adjudication. The United States advances such motions primarily for the

purpose of ensuring that the Court's records indicate as accurately as possible the persons or entities that are parties to this case.

DATED: December 6, 2006

Respectfully submitted,

A handwritten signature in black ink that reads "Bradley S. Bridgewater". The signature is written in a cursive style with a horizontal line underneath the name.

BRADLEY S. BRIDGEWATER

U.S. Department of Justice  
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COUNSEL FOR THE UNITED STATES

**CERTIFICATE OF SERVICE**

I hereby certify that, on December 6, 2006, a copy of the foregoing *Motion To Join Additional Parties Defendant* was mailed to the following persons.



Bradley J. Bairants

Special Master Vickie L. Gabin  
U.S. District Court  
District of New Mexico  
P.O. Box 2384  
Santa Fe, NM 87504-2384

Edward Bagley  
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