

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
and)	
)	ZUNI RIVER BASIN
ZUNI INDIAN TRIBE, NAVAJO NATION,)	ADJUDICATION
)	
Plaintiffs in Intervention,)	
)	
v.)	
)	
A&R PRODUCTIONS, et al.)	
)	
Defendants.)	
_____)	

MOTION TO DISMISS PARTIES DEFENDANT

The Plaintiffs United States of America (“United States”) and State of New Mexico *ex rel.* State Engineer (“State”) hereby move the Court to dismiss FREDRICK A. TASKER, LINDA R. TASKER, HAROLD COVELL, and RITA JEAN COVELL as parties defendant from this action. As grounds for this motion, the movants assert as follows:

1. Fredrick A. Tasker, Linda R. Tasker, Harold Covell, and Rita Jean Covell were joined as defendants in this matter by the Court’s April 5, 2006 *Order Granting Motion to Join Additional Parties Defendant*. (Doc. No. 616) which granted the United States’ joinder motion (Doc. No. 615). The United States’ motion was based on data collected during the Hydrographic Survey of Sub-area 7, that indicated the presence of an impoundment on property owned by these defendants, which was then assigned Subfile No. ZRB-3-0154.

2. These defendants did not respond to the initial service packet for Subfile No. ZRB-3-0154. However, after Ms. Tasker was served with a summons, Mr. and Mrs. Covell contacted counsel for the United States and subsequently indicated that they did not believe the impoundment surveyed for Subfile No. ZRB-3-0154 was located on the property owned by the defendants. After a follow-up re-inspection in the field, the United States' Hydrographic Survey contractor has determined that the feature previously identified as an impoundment consists of a berm that was likely constructed for the purpose of controlling erosion and that it has never impounded a significant quantity of water.

3. Based on the information provided by the Covells and the additional field inspection, counsel for the United States and for the State believe the original identification of these defendants as water rights claimants was erroneous. The Hydrographic Survey of the Zuni River Stream System has not identified Fredrick A. Tasker, Linda R. Tasker, Harold Covell, or Rita Jean Covell to be potential claimants of any water rights within the scope of this adjudication other than those initially identified for Subfile ZRB-3-0154, and it now appears that Subfile was mistakenly created and should be closed without further action.

WHEREFORE, the Plaintiffs respectfully move the Court to enter its order dismissing FREDRICK A. TASKER, LINDA R. TASKER, HAROLD COVELL, and RITA JEAN COVELL as parties defendant from this action.

DATED: November 17, 2008

Electronically Filed

/s/ Bradley S. Bridgewater

BRADLEY S. BRIDGEWATER
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COUNSEL FOR THE UNITED STATES

 (approved 11/14/2008)
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COUNSEL FOR THE STATE OF NEW MEXICO
EX REL. STATE ENGINEER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on November 17, 2008, I filed the foregoing *Motion To Dismiss Parties Defendant* 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.

AND I FURTHER CERTIFY that on such date I served the foregoing on the following non-CM/ECF Participants via first class mail, postage prepaid:

Linda R. Tasker
Fredrick A. Tasker
205 N. Maple St
Canby, OR 97013

Harold Covell
Rita Jean Covell
3746 W. Kelton Lane
Phoenix, AZ 85053

_____/s_____
Bradley S. Bridgewater