

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 JOIN ADDITIONAL PARTY DEFENDANT

The United States of America (“United States”) hereby respectfully requests the Court to join as an additional party defendant the person named below and order the party 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 person listed below is 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:

Subfile No.	Defendant
ZRB-4-0130 ¹	MARGARET DOWLING 1829 GEORGIA NE ALBUQUERQUE, NM 87110

The water uses, or claims to the right to use water, of this person are 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 person listed above 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. Margaret Dowling was joined as a party defendant by the United States' original Complaint (Doc. No. 1). However, on July 23, 2003, Ms. Dowling submitted a *Disclaimer of Interest*. Pursuant to Paragraph III.B. of the Special Master's July 20, 2003 *Procedural and Scheduling Order*, the United States, on December 23, 2003, filed a motion (Doc. No. 294) to drop/dismiss defendants, including Ms. Dowling, who had disclaimed any interest in the use of the surface or ground waters of the Zuni River Basin. The United States' motion was granted by order of the Court on January 30, 2004 (Doc. No. 308). Nonetheless, the Hydrographic Survey has subsequently determined that there is, and has been at all times relevant to this adjudication, an artificial impoundment, 3C-4-SP006, on property owned by Ms. Dowling.

¹ The United States provides Subfile Numbers in motions to join only for tracking purposes, and not to limit in any way the scope of the joinder sought.

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: January 13, 2009

Electronically Filed

/s/Bradley S. Bridgewater

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COUNSEL FOR THE UNITED STATES

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on January 13, 2009, I filed the foregoing *Motion To Join Additional Party 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:

_____/s/_____
Bradley S. Bridgewater