

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

NOTICE OF FILING WAIVER OF SERVICE OF SUMMONS

The United States of America (“United States”) hereby files with the Clerk of the Court the attached Waiver of Service of Summons for the defendant listed below. The waiver, as executed by the Defendant, is consistent with the September 27, 2006, Order Granting Joint Motion to Amend Procedural and Scheduling Orders and Establish or Revise Deadlines for Defendants to Return Requests for Consultation and Submit Subfile Answers (Doc. #837) and the Special Master’s subsequent procedural orders.

Sena Fitzpatrick

Dated : January 23, 2009

Electronically Filed

/s/ Bradley S. Bridgewater

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BRADLEY S. BRIDGEWATER

U.S. Department of Justice  
1961 Stout Street - 8<sup>th</sup> Floor  
Denver, CO 80294  
(303) 844-1359

COUNSEL FOR THE UNITED STATES



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

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
ZUNI INDIAN TRIBE, NAVAJO NATION,
Plaintiffs in Intervention,
v.
A & R PRODUCTIONS, et al.,
Defendants.

No. 01cv00072-BB
ZUNI RIVER BASIN
ADJUDICATION

WAIVER OF SERVICE OF SUMMONS

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

I, SENA FITZPATRICK, acknowledge receipt of your request that I waive
service of summons in the civil action United States and State of New Mexico, ex rel. State
Engineer v. A & R Productions, et al., Civil Action No. 01cv00072-BB, 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. I understand that a judgment may be entered against me (or the entity on whose
behalf I am acting) if I do not return a Request for Consultation form within 60 days, or if I fail
to serve on you and file with the Court an Answer or motion under Rule 12 within 20 days after
being sent a Notice That The Consultation Period Has Ended.

Signature: Senia Fitzpatrick Date: 1/20/09

print or type name: SENA FITZPATRICK

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 are 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, 1961 Stout Street – 8<sup>th</sup> Floor, Denver, CO, 80294).

**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.