

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

FILED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

JAN 22 2004

UNITED STATES OF AMERICA, for Itself and)
as Trustee for the Zuni Indian Tribe, Navajo Nation)
and Ramah Band of Navajos, and)
and)
STATE OF NEW MEXICO, *ex rel.* State)
ENGINEER.)

Plaintiffs,)

and)
ZUNI INDIAN TRIBE, NAVAJO NATION.)

Plaintiffs-in-Intervention.)

-v-)

STATE OF NEW MEXICO, COMMISSIONER)
OF PUBLIC LANDS and A & R PRODUCTIONS.)
et al.)

Defendants.)

01cv00072-BB-ACE

ZUNI RIVER BASIN
ADJUDICATION

Robert M. March
CLERK

ORDER GRANTING MOTION TO EXPUNGE NOTICE OF LIS PENDENS

THIS MATTER is before the Court on the Motion to Expunge Notice of Lis Pendens, filed by Richard Davis Mallery, et al., December 10, 2003 (Docket No. 289), with Exhibit (No. 290). No responses were filed (No. 303). The Court, having reviewed the Motion, finds the following:

1. A traditional *lis pendens* may result in a cloud on the real estate titles of Defendants. see, Affirmance of Scheduling Order and Denial of Pending Motion to Dismiss, filed December 9, 2003 (No. 287).

2. A notice of *lis pendens* in a stream system adjudication should be tailored as narrowly as possible, and apply only to lands with appurtenant water rights so that prospective purchasers may have notice of the pending suit.

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3. The filed Notice of *Lis Pendens* is overly broad, because it effects all property owners located within the described boundaries of the Zuni River Basin, without regard to water rights claims or usage.

4. No responses have been filed. D.N.M.I.R - Civ. 7.1(b).

IT IS ORDERED, THEREFORE, that the Motion to Expunge (No. 289) is GRANTED. The United States, after consultation with interested counsel, may re-file an appropriately drafted notice of *lis pendens*.

IT IS SO ORDERED.


BRUCE D. BLACK
UNITED STATES DISTRICT JUDGE

Recommended for approval:

/electronic signature/
Special Master Vickie L. Gabin