

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

UNITED STATES OF AMERICA,

Plaintiff,

vs.

STATE OF NEW MEXICO, ex rel. STATE
Engineer, A & R Productions, et al.,

Defendants.

01-CV-00072-BDB-ACE

ZUNI RIVER BASIN

02 MAY 28 PM 1:06

OBJECTION OF ROBERT W. IONTA AND
LINDA A. IONTA TO SPECIAL MASTER'S
REPORT AND RECOMMENDATIONS

NOW COME Robert W. Ionta and Linda A. Ionta and for their objections to the Special Master's Report and Recommendations state as follows:

1. These Defendants restate and incorporate herein by reference their proposals referred to in the Appendix of the Report on the Special Master as "Round One" (a) and "Round Two" (h).

2. The following comments correspond with the specific numbered recommendations of the Special Master, being Roman numeral III on page 9 of her report and number 1-8S:

1. **Special Master's recommendation # 1:** The other parties should not be foreclosed from participating in the determination of the scope of the adjudication. There is no reason why the Zuni Tribe and Navajo Nation should be allowed to

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participate while all other Defendants are to the dismissed and denied access to this important stage of the litigation. Other Defendants have an interest in the scope of the litigation as well as the Tribes. Accordingly, participation should be open to anyone who desires and any interested party or person should be entitled to all of the information, to attend meetings, etc.

2. **Recommendation # 2:** No objection except to the effect that the issue of the stay may depend upon which Defendants are dismissed and which Defendants remain in the case (see below).
3. **Recommendation # 3:** The United States should be required to dismiss all Defendants with prejudice at least as to all claims based upon quiet title, trespass, conversion, and other accusations of wrongdoing by the Defendants. At the hearing on the Special Master's recommendation, it was pointed out that the economic injury which has been and is being suffered by individual Defendants is caused by the fact that the United States has in effect instituted a quiet title action, causing the title companies, realtors, and potential purchasers of property to be wary. This action was commenced

without filing a lis pendens. It is completely unfair to the individual Defendants to allow the United States leave the unsupported and improperly pleaded allegations of quiet title, trespass and the like (if this case is in fact a general adjudication) in effect and then dismissing the individual Defendants "without prejudice" which leaves these allegations on the record. The damage to the Defendants will continue. It is important to protect the "little people" in this action. The United States should be ordered to dismiss all allegations relating to quiet title, trespass, and other alleged illegal and wrongful acts by the Defendants with prejudice and immediately.

The United States also should not be allowed to temporarily dismiss the Defendants without prejudice. There is a conceptual and legal problem as appears to these Defendants namely: How can you have a lawsuit without any Defendants? The Special Master purports to dismiss the Defendants and to name "Unknown Claimants" as the Defendants. However, as a matter of law it would appear that at least some of the Defendants are known, and that they cannot be unknown. Who is going to represent

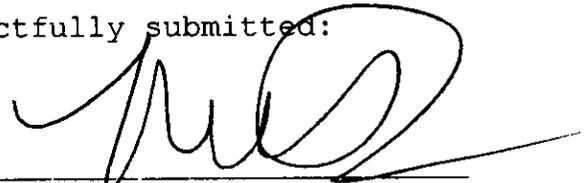
the Defendants' interests? If the Tribes are allowed to intervene they would be Plaintiffs' not Defendants. They cannot be expected to represent the interests of non-Native American and non-Tribal Defendants. How is the Court going to dismiss Defendants and then force them to incur the expense later in intervening when many of them are already in the case?

4. **Recommendation # 4:** No objection.
5. **Recommendation # 5:** Defendants agree with the Special Master's recommendation. The United States and the Tribes have already had 20 years or so to prepare the Federal and Indian claims. It is unfair and unreasonable to force the individual Defendants (as the United States is attempting to do in its proposal before the Special Master) to defend and justify their titles without the United States setting forth first the bases for all of its claims, including the individual claims of Tribes and Native American. Therefore, Defendants that request the Court not only order the United States to proceed with the preparation of the Federal and Indian claims, but that these claims should be proceeded with first, before any of the Defendants

are required to present their own claims.

6. **Recommendation # 6:** Defendants disagree with this recommendation. The Special Master is limiting the right to intervene to the Native American and Tribal claimants and discriminating against the non-Indian Defendants by not giving them the same right.
7. **Recommendation # 7:** No objection. This is a recommendation which needs to be approved to reduce the costs of defense to the individual Defendants. The United States has the resources to provide this information in a central location.
8. **Recommendation # 8:** No objection.

Respectfully submitted:



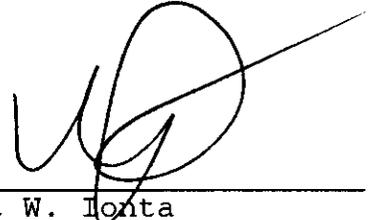
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Date: 5/24/2002

CERTIFICATE OF SERVICE

I hereby certify that I served one copy of Objection of Robert W. Ionta and Linda A. Ionta to Special Master's Report and Recommendations along with a copy of this certificate on the

attached list by depositing them in the United States mail postage prepaid this 24 day of May, 2002, addressed to them at their addresses of record.

A handwritten signature in black ink, appearing to read 'R. Lonta', is written over a horizontal line. The signature is stylized and somewhat cursive.

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