

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

MOTION FOR SUBSTITUTION OF PARTY

The Plaintiffs United States of America (“United States”) and State of New Mexico *ex rel.* State Engineer (“State”) hereby move the Court pursuant to Fed. R. Civ. P. 25(c) to issue its order (1) substituting the CANDY KITCHEN AREA WATER COOPERATIVE ASSOCIATION for defendants EDWARD J. VALDEZ and PAULINE C. VALDEZ in these proceedings, and (2) dismissing EDWARD J. VALDEZ and PAULINE C. VALDEZ as parties defendant from this action. As grounds for this motion, Plaintiffs state as follows:

1. Edward J. Valdez and Pauline C. Valdez 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).

2. Pursuant to the Special Master's March 7, 2006 *Procedural and Scheduling Order for the Adjudication of Water Rights Claims in Sub-Area 7 of the Zuni River Stream System* (Doc. No. 561), the United States served Edward J. Valdez and Pauline C. Valdez with a proposed consent order for Subfile ZRB-3-0024 and with other required service items. As indicated by data obtained from Cibola County records, the service packet was addressed to Mr. & Mrs. Valdez "C/O CANDY KITCHEN AREA WATER."

3. Edward J. Valdez and Pauline C. Valdez returned a timely *Request for Consultation* and attended a consultation with counsel for the United States and the State on June 14, 2006. During the course of the consultation, it became clear that the Mr. & Mrs. Valdez misunderstood which property was affected by this adjudication and that they had in fact conveyed the property involved in Subfile ZRB-3-0024 to the Candy Kitchen Area Water Cooperative Association. However, they were unable at that meeting to provide an address for the Association.

4. Subsequent efforts by the United States' hydrographic survey consultants to obtain an address or other contact information for the Candy Kitchen Area Water Cooperative Association were not successful. On August 13, 2007, Counsel for the United States wrote to Mr. and Mrs. Valdez and requested their further assistance in contacting the Association. On September 17, 2007, the United States received a letter from Stephanie Y. Cox, Secretary of the Association, who confirmed that the Association has purchased the property in question and provided a mailing address and telephone number for the Association.

5. The Hydrographic Survey of the Zuni River Stream System has not identified Edward J. Valdez or Pauline C. Valdez to be potential claimants of any other water rights than those involved in Subfile ZRB-3-0024.

6. Pursuant to Fed.R.Civ.P. 25(a) and (c), this motion is being served on the Candy Kitchen Area Water Cooperative Association in the manner provided in Fed.R.Civ.P. 4(e)(1) and Rule 1-004(E)(3) NMRA for service of a summons.

WHEREFORE, the Plaintiffs respectfully move the Court to enter its order (1) substituting the CANDY KITCHEN AREA WATER COOPERATIVE ASSOCIATION for defendants EDWARD J. VALDEZ and PAULINE C. VALDEZ in these proceedings, and (2) dismissing EDWARD J. VALDEZ and PAULINE C. VALDEZ as parties defendant from this action.

DATED: October 2, 2007

Electronically Filed

/s/ Bradley S. Bridgewater

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(approved via email 10/2/2007)
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COUNSEL FOR THE STATE OF NEW MEXICO
EX REL. STATE ENGINEER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on October 2, 2007, I filed the foregoing *Motion For Substitution Of Party* electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

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AND I FURTHER CERTIFY that on such date I served the foregoing on the following non-CM/ECF Participants in the manner indicated:

Via Certified Mail, Restricted Delivery:

Candy Kitchen Area Water Cooperative Association
P.O. Box 394
Pine Hill, NM 87357

Via Regular Mail:

Edward J. Valdez
Pauline C. Valdez
1224 N. 1st ST.
Grants, NM 87020

_____/s/_____
Bradley S. Bridgewater