

**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,	)	Subfile No. ZRB-4-0369
	)	
v.	)	
	)	
A & R PRODUCTIONS, et al.	)	
	)	
Defendants.	)	
_____	)	

**MOTION TO VACATE CONSENT ORDER**

The Plaintiffs United States of America (“United States”) and State of New Mexico *ex rel.* State Engineer (“State”) hereby move the Court to vacate the Consent Order filed February 27, 2007 (Doc. No. 1036) concerning Subfile No. ZRB-4-0369 and the defendants John F. Ripley and Patricia L. Anderson. In support of this motion, Plaintiffs assert:

1. Following signing of the original proposed Consent Order for Subfile ZRB-4-0369 by the defendants John F. Ripley and Patricia L. Anderson, the United States submitted the proposed Consent Order to the Special Master on January 23, 2007. Subsequently, during consultations held by the United States and the State on February 22, 2007, George E. Dobbs and Nancy A. Dobbs, the defendants in another

subfile, made claims concerning ownership of water features in the vicinity of Subfile ZRB-4-0369 that could not be reconciled with property description data previously obtained from McKinley County for the Hydrographic Survey. However, it was not immediately apparent that the Dobbs' claims affected the substance of ZRB-4-0369 and, on February 27, 2007, the Court approved and filed the Consent Order in that subfile (Doc. No. 1036).

2. A subsequent field inspection and examination of deed records have confirmed that there was an error in the electronic property description data obtained from McKinley County. In consequence, the one water-use feature that is located on the property owned by John F. Ripley and Patricia L. Anderson (well 3B-4-W108) was erroneously not included in the Consent Order for Subfile ZRB-4-0369 and the three water-use features that were included in that Consent Order (the pond 3B-4-SP011, and the two wells 3B-4-W109 and 3B-4-W110) are actually located on adjoining property owned by other defendants in the case.<sup>1</sup>

3. Accordingly, the Consent Order filed February 27, 2007 (Doc. No. 1036) should be vacated.

4. By a letter dated January 3, 2008, the United States explained the error in the original Consent Order and offered a corrected Consent Order for Subfile ZRB-4-0369 to Mr. Ripley and Ms. Anderson. (Exhibit A.) The defendants received that correspondence on January 9, 2008. (Exhibit B.) However, Mr. Ripley and Ms. Anderson have not responded to that offer. If the erroneous Consent Order for this subfile is vacated, the United States and the State intend to re-serve Mr. Ripley and Ms.

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<sup>1</sup> In the interim, the Dobbs have conveyed the affected parcel, which is the subject of Subfile ZRB-4-0442, to Thomas Juster & Peggy Frank. The Dobbs continue to own a different parcel that is the subject of Subfile ZRB-4-0127 and is unaffected by the present motion.

Anderson consistent with the *Procedural and Scheduling Order for the Adjudication of Water Rights Claims in Sub-areas 1, 2, and 3 (Excluding Ramah) of the Zuni River Stream System* (Doc. No. 838).

WHEREFORE, the Plaintiffs request the Court to vacate the Consent Order filed February 27, 2007 (Doc. No. 1036) concerning Subfile No. ZRB-4-0369 and the defendants John F. Ripley and Patricia L. Anderson.

Respectfully submitted,

/s/ Bradley S. Bridgewater  
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COUNSEL FOR THE UNITED STATES

(approved 2/12/2008)  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, on February 13, 2008, I filed the foregoing *Motion to Vacate Consent Order* electronically through the CM/ECF system, which caused parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

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

**Via U.S. Mail, Postage Pre-paid:**

John F. Ripley  
Patricia L. Anderson  
606 Country Club Dr.  
Kingman, AZ 86401

\_\_\_\_\_/s/\_\_\_\_\_  
BRADLEY S. BRIDGEWATER