

**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-2-0006
)	
v.)	
)	
A & R PRODUCTIONS, et al.)	
)	
Defendants.)	
)	

**MOTION TO DISMISS PARTY DEFENDANT AND TO VACATE
CERTIFICATE OF DEFAULT AS TO WOODSON ALLEN, TRUSTEE**

The Plaintiff United States of America (“United States”) hereby moves the Court to dismiss Woodson Allen, Trustee as a party defendant from this action and to vacate the Clerk’s June 18, 2008 *Certificate of Default* [Doc. No. 1788] as to defendant Woodson Allen, Trustee for Subfile No. ZRB-2-0006. In support of this motion, the United States asserts:

1. Since entry of the Clerk’s *Certificate of Default*, the United States has been provided documentation, attached as Exhibit 1 to this motion, indicating that Woodson Allen became incapacitated and was replaced as Trustee with respect to the property involved in Subfile No. ZRB-2-0006 as of August 4, 2006, and prior to the date,

September 8, 2006, when Woodson Allen was served with a summons in this civil action. In addition, the United States has been informed that Woodson Allen is now deceased.

2. Furthermore, counsel for the successor Trustee has provided information to the United States and to Co-Plaintiff State of New Mexico ex rel. State Engineer (“State”) which indicates that there may be a substantive error in the Hydrgraphic Survey with respect to the water use features surveyed for Subfile No. ZRB-2-0006. Counsel for the United States and for the State have agreed that the provided information warrants a further field investigation.

3. The United States will file a separate motion to join the successor Trustee as a party defendant, and thereafter serve the successor Trustee with all documents required by the Special Master’s Procedural and Scheduling Orders. In the circumstances, it appears to be in the interests of all the parties to the subfile to vacate the previously-entered default.

4. Counsel for the State, Mr. Bagley, was not available to review this motion as drafted. However, on July 11, 2008, the undersigned counsel for the United States discussed the motion in general terms with Mr. Bagley, who concurred.

WHEREFORE, the United States respectfully requests the Court to dismiss Woodson Allen, Trustee as a party defendant from this action and to vacate the June 18, 2008 *Certificate of Default* with respect to the defendant Woodson Allen, Trustee and Subfile ZRB-2-0006.

Respectfully submitted,

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on July 15, 2008, I filed the foregoing *Motion to Dismiss Party Defendant and to Vacate Certificate of Default as to Woodson Allen, Trustee* 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.

_____/s/_____
BRADLEY S. BRIDGEWATER