

UNITED STATES OF AMERICA and)	
STATE OF NEW MEXICO, ex rel. STATE)	
ENGINEER,)	
Plaintiffs,)	
)	
and)	No. 01cv00072 BB/WDS
ZUNI INDIAN TRIBE and NAVAJO NATION,)	
Plaintiffs-in-Intervention)	
)	
)	ZUNI RIVER BASIN
v.)	ADJUDICATION
)	
A & R PRODUCTIONS, et al.,)	

**MOTION FOR AN ORDER ALLOWING AN ALTERNATE FORM OF SERVICE
OF PROCESS ON ARIZONA DEFENDANTS**

The Plaintiff United States of America (“United States”) hereby moves the Court to enter an order allowing an alternate or substituted form of service of process for party defendants residing in the State of Arizona. In support of this motion, the United States asserts:

1. Because many party defendants in this case who reside in the State of Arizona have failed to waive service of a summons, the United States has contracted with process servers to make the service required by Fed.R.Civ.P. 4. According to the standard terms of such contracts, the process servers are required to make up to three attempts to serve each summons.

2. During the course of attempting to effect service on Arizona residents, the process servers retained by the United States have encountered numerous instances where they have heard and seen people inside a defendant’s residence who will respond neither to repeated requests to accept service nor to inquiries concerning the defendant the process server is attempting to serve.

3. Pursuant to Fed.R.Civ.P. 4(e)(1) individuals may be served in a judicial district of the United States by following the state law for serving a summons in an action brought in courts of general jurisdiction in the state where the federal district court is located or in the state where service is made.

4. 16 A.R.S. Rules Civ.Proc., Rule 4.1(d) provides that service of summons upon individuals shall be effected by delivering a copy of the summons and complaint to the individual personally or by leaving the same at that individual's dwelling home or usual place of abode with some person of suitable age or by delivering the copies to an agent authorized by appointment or by law to receive service of process. However, 16 A.R.S. Rules Civ.Proc., Rule 4.1(m) provides for alternate or substituted service if service by Rule 4.1(d) proves impracticable. Upon motion and without notice, the court can direct that service be accomplished by mailing the summons and complaint, and any order of the court authorizing an alternative method of service, to the last known business or residence address of the person being served.

WHEREFORE the United States respectfully moves the Court to enter an order allowing the United States to serve any party defendant residing in Arizona by mailing a copy of the summons, Amended Complaint, and the Court's order allowing alternative form of service to the defendant's last known place of business or residence address, whenever three attempts to serve process on the defendant in accordance with 16 A.R.S. Rules Civ.Proc., Rule 4.1(d) have proved fruitless.

Submitted November 20, 2008.

Electronically Filed

/s/ Bradley S. Bridgewater

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on November 20, 2008, I filed the foregoing *Motion For An Order Allowing An Alternate Form Of Service Of Process On Arizona Defendants* electronically through the CM/ECF system, which caused CM/ECF participants to be served by electronic means, as more fully reflected on the Notice of Electronic Filing.

/s/
Bradley S. Bridgewater