

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,)	
)	
v.)	
)	
A & R PRODUCTIONS, et al.)	
)	
Defendants.)	
_____)	

STATUS REPORT RE: SUBFILES READY FOR A PRETRIAL CONFERENCE

During the telephonic Status Conference held in this matter on February 9, 2011, the Special Master requested Counsel for the United States to prepare a report of subfiles, involving defendants not represented by counsel, which may benefit from pretrial conferences. Counsel for the United States has prepared the following status summaries of subfiles that appear to meet the criteria specified by the Special Master. Counsel for the State has also reviewed these summaries and concurs that, subject to other resource demands presently before the Court and Counsel for the Plaintiffs, pretrial conferences are now appropriate for the identified subfiles.

SUBFILE/DEFENDANT	STATUS SUMMARY
ZRB-1-0110 J. E. AND WINNIE MAE WILLCOX TRUST P.O. BOX 2711 MILAN, NM 87021	Consultation has not been successful and the Defendant previously filed a subfile answer on February 24, 2006 (No. 496). Accordingly, this subfile is ready for a pretrial conference. Per the order entered April 28, 2009 (No. 2325) this Defendant is no longer represented by counsel.
ZRB-2-0003 JANE C. MARTIN 6075 DEL SOL DR ALAMOSA, CO 81101 & CHARLIE H. ALLEN 563 A SR 278 GRADY, NM 87120	The parties consulted on June 14, 2006 and Plaintiffs believed an agreement had been reached. However, the Defendants have not returned the revised consent order. Defendants previously filed a subfile answer on April 7, 2006 (No. 618). Accordingly, a Notice That the Consultation Period Has Ended is neither necessary nor appropriate. The matter is ready for pretrial. Per the order entered April 28, 2009 (No. 2325) these defendants are no longer represented by counsel.
ZRB-2-0047 DEBORAH GREEN TRUSTEE FOR TRIBAL TRUST & JAMES GREEN TRUSTEE FOR TRIBAL TRUST HR 60, BOX 11 FENCE LAKE, NM 87315	These Defendants filed a subfile answer on August 9, 2006 (No. 789) and have never requested consultation. Accordingly, the subfile is ready for a pretrial conference. Plaintiffs have no record indicating these defendants are represented by counsel.
ZRB-2-0064 WILSON LINK 7319 LEW WALLACE DR. NE ALBUQUERQUE, NM 87109	Following an unsuccessful consultation on April 5, 2006, Edward Link, a non-attorney claiming to have a power of attorney to act for the Defendant filed a late Subfile Answer on April 24, 2006 (Doc. No. 681). Plaintiffs believe this is a default but, given a previous ruling by the Court (No. 2555), a pretrial conference may be appropriate. The named Defendant has not been represented by counsel. However, Edward Link, was at one time represented by counsel. (See Nos. 1625 and 1930.)
ZRB-2-0077 DENNIS M. NORTON & LINDA J. NORTON HCR 31, BOX 13 FENCE LAKE, NM 87315	Plaintiffs filed a Notice That the Consultation Period Has Ended on October 9, 2007. Defendants filed their Subfile Answer (No. 1354) on October 31, 2007. The subfile is ready for a pretrial conference. Plaintiffs have no record indicating these Defendants are represented by counsel.

SUBFILE/DEFENDANT	STATUS SUMMARY
<p>ZRB-2-0091 EDWARD ALLEN WAGNER P.O. BOX 779 FENCE LAKE, NM 87315-0779 & DONNA MARIE WAGNER 74 BROOK LANE BERLIN, MA 01503</p>	<p>Plaintiffs filed a Notice That the Consultation Period Has Ended for this subfile on September 13, 2010. Defendants filed their late Subfile Answer (No. 2617) on October 12, 2010. The matter is ready for pretrial. Plaintiffs have no record indicating these Defendants are represented by counsel.</p>
<p>ZRB-2-0092 ROBERT R. WALLACE & ROBERT J. WALLACE 620 MCKEE GALLUP, NM 87301</p>	<p>Following two consultations, a revised consent order sent to defendants on April 16, 2010 was returned unclaimed by the defendants. Since defendants did file a subfile answer in 2006 (No. 810), it appears a pretrial conference will be necessary. Plaintiffs have no record of an entry of appearance by counsel for these defendants in this case. However, both of them were named on an appearance in Subproceeding 1. See No. 208 in Case 07cv00681-BB.</p>
<p>ZRB-2-0101 LINK RANCH, LLC 7319 LEW WALLACE DR. NE ALBUQUERQUE, NM 87109</p>	<p>Plaintiffs consulted with a representative of the Defendant on April 5, 2006, and negotiated a revised consent order. However, the Defendant subsequently declined to execute the consent order and Edward Link, a non-party non-attorney claiming to have a power of attorney to act for Wilson Link, who is the defendant in a different subfile, sent to Counsel for the United States, but failed to file with the Court, a partial Subfile Answer. The subfile is in default, under the terms of the applicable Procedural and Scheduling Order. However, given the Court's prior ruling in Docket No. 2555, a pretrial conference may be appropriate. The record in this case is ambiguous as to whether this corporate defendant is represented by counsel. See Nos. 1625 and 1930.</p>
<p>ZRB-2-0104 LAWRENCE SILVIS & LAURA SILVIS 7217 LUELLA ANNE DR. NE ALBUQUERQUE, NM 87109</p>	<p>Plaintiffs consulted with Defendants on May 17, 2006 and, after follow-up field work, sent Defendants a revised consent order, to which the Defendants have never responded. Because the Defendants filed a subfile answer on April 10, 2006 (No. 621) the subfile is now ready for a pretrial conference. Plaintiffs have no record indicating these Defendants are represented by counsel.</p>

SUBFILE/DEFENDANT	STATUS SUMMARY
ZRB-2-0111 MARILYN O. ZUG & RICHARD B. ZUG 12323 FREEMONT ST. YUCAIPA, CA 92399	Plaintiffs filed a Notice That the Consultation Period Has Ended for this subfile on September 13, 2010. Defendants filed a subfile answer on September 27, 2010 (No. 2606). The matter is ready for a pretrial. Plaintiffs have no record indicating these Defendants are represented by counsel.
ZRB-3-0018 BEVERLY BROOKS & RICHARD BROOKS P.O. BOX 576 RAMAH, NM 87321	A consultation held on July 25, 2006 did not result in an agreement. The Defendants filed their subfile answer on August 14, 2006 (No. 804). The matter is ready for a pretrial conference. Plaintiffs have no record indicating these Defendants are represented by counsel.
ZRB-3-0051 NORMA M. ELAM & WILLIAM J. ELAM 912 HERMOSA DR SE ALBUQUERQUE, NM 87108	A consultation in June of 2006 did not produce an agreement. Defendants filed a subfile answer on August 10, 2006 (No. 791). Accordingly, the matter is ready for a pretrial conference. Plaintiffs have no record indicating these Defendants are represented by counsel.
ZRB-3-0121 JOSEPH F. NEAS & SUSAN S. NEAS REVOCABLE TRUST P.O. BOX 776 PLACITAS, NM 87043	Plaintiffs filed a Notice That the Consultation Period Has Ended for this subfile on July 9, 2008. The Defendant Trustees filed a subfile answer on July 25, 2008 (No. 1827). This subfile is ready for a pretrial conference. Plaintiffs have no record indicating these Defendants are represented by counsel.
ZRB-3-0122 JOSEPH F. NEAS & SUSAN S. NEAS REVOCABLE TRUST P.O. BOX 776 PLACITAS, NM 87043	Plaintiffs filed a Notice That the Consultation Period Has Ended for this subfile on July 9, 2008. The Defendant Trustees filed a subfile answer on July 25, 2008 (No. 1828). This subfile is ready for a pretrial conference. Plaintiffs have no record indicating these Defendants are represented by counsel.
ZRB-3-0175 DAVID SWINDLE TRUSTEE & LINDA SWINDLE TRUSTEE 7021 PIONEER PLACE NW ALBUQUERQUE, NM 87120	Plaintiffs filed a Notice That the Consultation Period Has Ended for this subfile on March 8, 2007. Defendants filed a subfile answer on March 23, 2007 (No. 1088). The subfile is ready for a pretrial conference. The only record Plaintiffs can find that these Defendants were ever represented by counsel in this case is the Motion to Withdraw (No. 2323) that was granted by No. 2325. However, see No. 136 in Case 07cv00681-BB (Subproceeding 1).

SUBFILE/DEFENDANT	STATUS SUMMARY
ZRB-4-0108 HANNAH C. CROOKS & ROBERT W. CROOKS P.O. BOX 70 RAMAH, NM 87321	Plaintiffs filed a Notice That the Consultation Period Has Ended for this subfile on May 5, 2008. Defendants filed their subfile answer on May 22, 2008 (No. 1739). This subfile is ready for a pretrial conference. Plaintiffs have no record indicating these Defendants are represented by counsel.
ZRB-4-0168 CARY GRINOLD & LYNNE A. GRINOLD P O BOX 828 RAMAH, NM 87321	Plaintiffs filed a Notice That the Consultation Period Has Ended on September 20, 2007. Defendants filed their subfile answer on October 1, 2007 (No. 1283). The subfile is ready for a pretrial conference. Plaintiffs have no record indicating these Defendants are represented by counsel.
ZRB-4-0169 HENRY RAY GRIZZLE & REBECCA GRIZZLE P.O. BOX 154 VANDERWAGEN, NM 87326	Plaintiffs filed a Notice That the Consultation Period Has Ended for this subfile on February 27, 2008. Defendants filed their subfile answer on March 18, 2008 (No. 1653). The subfile is ready for a pretrial conference. Per the order entered April 28, 2009 (No. 2325) these defendants are no longer represented by counsel.
ZRB-4-0313 KAREN PETTIT, TRUSTEE & STEVEN PETTIT, TRUSTEE P.O. BOX 273 SANTA YSABEL, CA 92070	Plaintiffs filed a Notice That the Consultation Period Has Ended for this subfile on June 12, 2008 and the Defendant Trustees filed their subfile answer on June 30, 2008 (No. 1798). Accordingly, this subfile is ready for a pretrial conference. The record in this case is ambiguous as to whether one or both of the Defendant Trustees are represented by counsel. See Nos. 211, 1625 & 1930.
ZRB-4-0351 JACK L. WOODS & B. ELAINE WOODS P.O. BOX 22 CABALLO, NM 87931	Plaintiffs filed a Notice That the Consultation Period Has Ended for this subfile on June 27, 2007. Defendants filed their subfile answer on July 5, 2007 (Doc. No. 1152). The subfile is therefore ready for a pretrial conference. Plaintiffs have no record indicating these Defendants are represented by counsel.
ZRB-4-0365 MATTHEW K. SILVA 9204 CAMINO DEL SOL ALBUQUERQUE, NM 87111	Plaintiffs filed a Notice That the Consultation Period Has Ended for this subfile on September 13, 2010. Defendant filed a subfile answer on October 1, 2010 (Doc. No. 2608). The subfile is therefore ready for a pretrial conference. Plaintiffs have no record indicating this Defendant is represented by counsel.

SUBFILE/DEFENDANT	STATUS SUMMARY
ZRB-4-0406 TONIA MONTAGUE & KENNETH MONTAGUE P.O. BOX 2966 PINETOP, AZ 85935	These Defendants failed to waive service of a summons and complaint and were eventually served by publication. (See No. 2379.) They also subsequently failed file the answer required by the summons. However, after Plaintiffs filed a Notice That the Consultation Period Has Ended for this subfile on September 13, 2010, defendants did file a subfile answer on October 1, 2010 (No. 2609). Accordingly, this subfile is now ready for a pretrial conference. Plaintiffs have no record indicating these Defendants are represented by counsel.
ZRB-5-0014 THE CLAWSON FARM & RANCH LLC D/B/A THE QUARTER CIRCLE RANCH P.O. BOX 453 RAMAH, NM 87321	Plaintiffs filed a Notice That the Consultation Period Has Ended for this subfile on September 26, 2007. On October 17, 2007, a non-attorney filed a subfile answer on behalf of the Defendant limited liability corporation. Plaintiffs believe this is a default. However, given the prior ruling by the Court in Docket No. 2555, a pretrial conference may be appropriate. Per the order entered April 28, 2009 (No. 2325, granting 2323) it appears this corporate defendant is no longer represented by counsel.

The Plaintiffs would note that similar subfile litigation in State of New Mexico ex rel State Engineer v. Aamodt, et al., 66cv6639 (D.N.M.1966) (“Aamodt”) proved to be surprisingly resource intensive. In May of 2009, five *Answers* were filed with regard to domestic well water right claims. *See Aamodt* Nos. 6676, 6679, 6683, 6717 and 6718. The claims were simple, limited and virtually identical, all made pursuant to permits which allowed for indoor use only. However, a separate *Initial Scheduling Order* was entered for each (Aamodt Nos. 6720-6724), and the State undertook a separate meet and confer session with each claimant pursuant to Fed. R. Civ. P. 26. A *Joint Status Report and Provisional Discovery Plan* was prepared and filed for each, (Aamodt Nos. 6730, 6733, 6735, 6738 and 6741) and each had a separate resulting *Order* providing for discovery (Aamodt Nos. 6743-6747). Individualized

discovery then proceeded for each subfile through the end of 2009, with motion practice for each beginning about that time. Final resolution was had with regard to all five subfiles by the end of 2010. *See e.g.*, Aamodt No. 7058. In the end, the litigation for each subfile proved to be separate and distinct, with no economies realized by the similar nature of the claims.

In the present case, each of the above-listed subfiles involves significant distinguishing features, some of which can be seen on the face of the referenced subfile answers. Except possibly with respect to Subfiles ZRB-2-0064 and ZRB-2-0101, and Subfiles ZRB-3-0121 and ZRB-3-0122, Plaintiffs see no potential for consolidating the listed subfiles for purposes of pretrial conferences. Plaintiffs further anticipate that preparing the listed subfiles for trial or summary disposition will be very time and resource consuming, both for the parties and for the Court. Given the budgetary constraints currently faced by both Plaintiffs, and the competing resource demands created by, *inter alia*, the on-going implementation in this State of three substantial Indian water rights settlements pursuant to deadlines established by Congress, Plaintiffs advise that they are not presently able to engage in simultaneous proceedings on the listed subfiles. They request instead that any such proceedings be scheduled seriatim.

Respectfully submitted: February 28, 2011

Electronically Filed

/s/ Bradley S. Bridgewater

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(approved 2/28/2011)

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on February 28, 2011, I filed the foregoing *Status Report Re: Subfiles Ready For A Pretrial Conference* 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

I FURTHER CERTIFY that I mailed copies of the foregoing to the following persons who are not CM/ECF Participants.

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