

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

|                                     |   |                               |
|-------------------------------------|---|-------------------------------|
| UNITED STATE OF AMERICA,            | ) |                               |
| and                                 | ) | <b>No. 01cv00072-MV/WPL</b>   |
|                                     | ) |                               |
| STATE OF NEW MEXICO ex rel. STATE   | ) |                               |
| ENGINEER,                           | ) | ZUNI RIVER BASIN              |
|                                     | ) | ADJUDICATION                  |
| Plaintiffs,                         | ) |                               |
|                                     | ) | <b>Subfile No. ZRB-3-0022</b> |
| and                                 | ) |                               |
|                                     | ) |                               |
| ZUNI INDIAN TRIBE, NAVAJO NATION,   | ) |                               |
|                                     | ) |                               |
| Plaintiffs-in-Intervention,         | ) |                               |
| -v-                                 | ) |                               |
|                                     | ) |                               |
| A & R PRODUCTIONS, <i>et. al.</i> , | ) |                               |
|                                     | ) |                               |
|                                     | ) |                               |
| Defendants.                         | ) |                               |
| _____                               | ) |                               |

**JOINT REPLY TO THE BAWOLEKS’ RESPONSE IN OPPOSITION TO MOTION TO  
VACATE DEFAULT JUDGMENT FILED BY JOSEPH F. NEAS & SUSAN S. NEAS  
REVOCABLE TRUST**

Plaintiffs United States of America (“United States”) and the State of New Mexico (“New Mexico”) jointly reply to Edward J. Bawolek and Susan J. Bawolek’s (“the Bawoleks”) *Response in Opposition to Motion to Vacate Default Judgment Filed by Joseph F. Neas & Susan S. Neas Revocable Trust* (Doc. 2937) (“Bawolek Response”). The United States and New Mexico ask this Court to simply disregard the Bawolek Response. The Bawoleks have no basis to ask this Court for any relief whatsoever in this subfile.

## ARGUMENT

The Bawolek Response is unusual because they are not a plaintiff, they are not a subfile defendant in this subfile, they do not have any apparent interest in the water right associated in this subfile, and the *inter se* phase of this adjudication has not begun. Instead, the Bawoleks appear to be interested in injecting themselves into unrelated subfile actions and “policing” perceived procedural problems associated with subfile actions to which they are not parties. Simply put, the Bawoleks have no standing to request the relief sought by the Bawolek Response.

In their response, the Bawoleks attempt to raise a number of issues. First, the Bawoleks ask this Court to dismiss the *Motion to Vacate Default Judgment* (Doc. 2934) filed by Joseph F. Neas (“Neas Motion to Vacate”) because that document was prepared and filed by a non-attorney, Mr. Neas, on behalf of the Joseph F. Neas and Susan S. Neas Revocable Trust (“the Trust”). Second, the Bawoleks assert that Mr. Neas failed to meet an obligation under the Court’s local rules to inform the Court as to whether Plaintiff United States and New Mexico support or oppose the Motion. Finally, the Bawoleks claim “prejudice” because other artificial entities in this adjudication have to retain counsel to appear before the Court.

The Bawoleks’ assertion of “prejudice” has no basis at all: the Bawoleks are not represented by counsel in their own subfile action (Subfile ZRB-2-0014) and the Bawolek Response wholly fails to allege, because it cannot, that requiring the Neas Trust to obtain counsel will provide any benefit to the Bawoleks. Further, nothing associated with the Motion to Vacate Default is of such a nature that persons unaffiliated with the subfile

must be heard on the Motion to Vacate. To the extent that concerns associated with the Motion to Vacate must be addressed, those concerns have been addressed by the Plaintiffs to this action.<sup>1</sup> Frankly, denial of the Motion to Vacate for only the reasons articulated by the Bawolek Response would be inappropriate.

**WHEREFORE**, the United States and New Mexico requests that the Court disregard the Bawolek Response.

DATED this 19th day of March, 2014.

Electronically Filed

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MEXICO

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<sup>1</sup> Simultaneously filed with this Reply is the joint response of the United States and New Mexico to the Motion to Vacate. In that response, the United States and New Mexico ask this Court to dismiss the motion for appropriate reasons wholly unrelated to those raised by the Bawoleks.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, on March 19, 2014, I filed the foregoing *JOINT REPLY TO THE BAWOLEKS' RESPONSE IN OPPOSITION TO MOTION TO VACATE DEFAULT JUDGMENT FILED BY JOSEPH F. NEAS & SUSAN S. NEAS REVOCABLE TRUST* 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.

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:**

Joseph and Susan Neas  
P.O. Box 776  
Placitas, New Mexico 87043

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/s/ Andrew "Guss" Guarino