

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

UNITED STATES OF AMERICA	)	
and	)	No. 01cv00072-MV-JHR
STATE OF NEW MEXICO, ex rel. STATE	)	
ENGINEER,	)	ZUNI RIVER BASIN
Plaintiffs,	)	ADJUDICATION
v.	)	
	)	Subfile No. ZRB-3-0047
A & R PRODUCTIONS, et al.	)	
Defendants.	)	
_____	)	

**JOINT MOTION TO SET PRETRIAL CONFERENCE**

Plaintiffs, the United States of America and the State of New Mexico ex rel. State Engineer move the Court pursuant to Fed. R. Civ. P. 16(a) to set this Subfile Action for a telephonic pretrial conference and to thereafter enter a scheduling order pursuant to Fed. R. Civ. P. 16(b). Further, Plaintiffs request that this Subfile Action be set for a pretrial conference along with the following Subfile Actions: ZRB-4-0116, ZRB-4-0118, ZRB-4-0119, and ZRB-3-0046.

As required by Local Rule 7.1(a) and as detailed in the paragraphs below, undersigned counsel attempted to consult and seek concurrence on this motion with counsel for subfile Defendant Paul Davis Survivor's Trust, ("Defendant") but received no response. Plaintiffs presume that Defendant opposes this motion.

1. On October 8, 2010, Defendant filed a timely *Subfile Answer* (ECF No. 2612).
2. On September 22, 2017, undersigned counsel for the United States sent counsel for the Defendant a draft Joint Status Report and Proposed Discovery Plan (attached hereto as

Exhibit 1) and informed him that Plaintiffs would seek a pretrial conference with the Court. The September 22, 2017, email requested a response before September 26, 2017, with any edits to the Joint Status Report.

3. Counsel for Defendant did not respond to Plaintiffs' communication concerning this Subfile Action.

4. Likewise, counsel for Defendant is also counsel of record associated with Subfile Actions ZRB-3-0116, ZRB-4-0118, ZRB-4-0119, and ZRB-3-0046. Counsel for Defendant was similarly contacted about those cases and has not responded to Plaintiffs' communication concerning those Subfile Actions.

**WHEREFORE**, pursuant to Fed. R. Civ. P. Rule 16, the Plaintiffs request that the Court set this Subfile Action for a telephonic pretrial conference and thereafter enter a pretrial order consistent with the Joint Status Report and Proposed Discovery Plan submitted with this motion. Further, Plaintiffs request that the pretrial conference associated with this Subfile Action be scheduled simultaneously with any telephonic pretrial conference scheduled for Subfile Actions ZRB-4-0116, ZRB-4-0118, ZRB-4-0119, and ZRB-3-0046.

Respectfully submitted this 28th day of September,

/s/ Guss Guarino

Andrew "Guss" Guarino

Bradley S. Bridgewater

Samuel Gollis

U.S. Department of Justice

Suite 370, South Terrace

999 18th Street

Denver, CO 80202

Phone: (303) 844-1343

COUNSEL FOR THE UNITED STATES

Approved September 26, 2017

Edward C. Bagley

Special Assistant Attorney General

P.O. Box 25102

Santa Fe, NM 87504-5102

(505) 827-6150

COUNSEL FOR THE STATE OF NEW MEXICO

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, on September 28, 2017, I filed the foregoing *Joint Motion To Set 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.

/s/ Guss Guarino  
Andrew "Guss" Guarino