

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-ACE
and)	
)	ZUNI RIVER BASIN
ZUNI INDIAN TRIBE, NAVAJO NATION,)	ADJUDICATION
)	
Plaintiffs in Intervention,)	Sub-areas 9 & 10
)	
v.)	Subfile ZRB-2-0061
)	
A&R PRODUCTIONS, et al.)	
)	
Defendants.)	
)	

MOTION FOR SUBSTITUTION OF PARTY

The Plaintiffs United States of America (“United States”) and State of New Mexico *ex rel.* State Engineer (“State”) hereby move the Court pursuant to Fed. R. Civ. P. 25(c) to issue its order (1) substituting MARY G. LANDAVAZO for defendant JOSÉ M. LANDAVAZO in these proceedings, (2) deeming the filed Waiver of Service of Process bearing the typewritten name of José M. Landavazo and the signature of Mary G. Landavazo to be a valid waiver of service by the defendant Mary G. Landavazo, and (3) permitting the United States to submit for Court approval a Consent Order issued to José M. Landavazo but bearing the signature of Mary G. Landavazo. As grounds for this motion, Plaintiffs state as follows:

1. Pursuant to the Special Master’s December 14, 2005 *Procedural and Scheduling Order for the Adjudication of Water Rights Claims in Sub-Areas 9 and 10 of the Zuni*

River System (Doc. No. 436) and based upon information obtained from Cibola County records for the Hydrographic Survey of Sub-areas 9 and 10, the United States served a proposed Consent Order for Subfile ZRB-2-0061, signed by counsel for the United States and the State, upon Roberto E. Landavazo, Carlos U. Landavazo, José M. Landavazo, Adrian Landavazo, and Elma E. Meadows. The service packet, mailed on February 3, 2006, included waiver of service of summons documents for each named defendant who had not previously waived service.

2. Mary G. Landavazo signed the Waiver of Service of Summons bearing the typewritten name of José M. Landavazo on February 26, 2006. Mrs. Landavazo indicated on the waiver form that José M. Landavazo was deceased and that she signed the form on his behalf as his spouse. The waiver was filed of record on March 13, 2006 (Doc. No. 581).

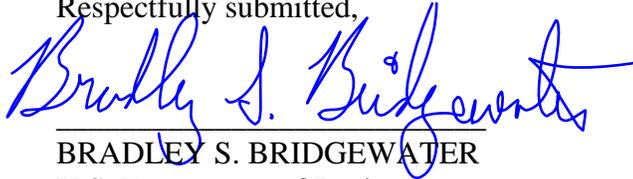
3. On March 31, 2006, the Consent Order proposed by the United States and the State for Subfile ZRB-2-0061 was returned to the United States bearing the signatures of Roberto E. Landavazo, Carlos U. Landavazo, Adrian Landavazo, Elma E. Meadows, and Mary G. Landavazo. The placement of Mary G. Landavazo's signature on the document, in the middle of the signatures of the other subfile defendants, suggests the other defendants are aware of, and accept, Mary G. Landavazo's claim to be the successor in interest or representative of the deceased José M. Landavazo.

WHEREFORE, the Plaintiffs respectfully move the Court to enter its order (1) substituting Mary G. Landavazo for defendant José M. Landavazo in these proceedings, (2) deeming the filed Waiver of Service of Process bearing the typewritten name of José M. Landavazo and the signature of Mary G. Landavazo to be a valid waiver of service by the

defendant Mary G. Landavazo, and (3) permitting the United States to submit for Court approval a Consent Order issued to José M. Landavazo but bearing the signature of Mary G. Landavazo..

DATED: April 11, 2006

Respectfully submitted,



BRADLEY S. BRIDGEWATER
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COUNSEL FOR THE UNITED STATES

(approved via email 4/11/2006)

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(505) 827-6150

COUNSEL FOR THE STATE OF NEW MEXICO
EX REL. STATE ENGINEER

CERTIFICATE OF SERVICE

I hereby certify that, on April 11, 2006, a copy of the forgoing *Motion For*

Substitution Of Party was mailed to the following persons:

Special Master Vickie L. Gabin
U.S. District Court
District of New Mexico
P.O. Box 2384
Santa Fe, NM 87504-2384

Karla McCall, Data Manager
1315 Sagebrush Dr. S.W.
Los Lunas, NM 87031

Edward Bagley
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Mary G. Landavazo
11554 E. Covina St.
Mesa, AZ 85207

Roberto E. Landavazo
Carlos U. Landavazo
Adrian Landavazo
Elma E. Meadows
711 West Green
Gallup, NM 87301

A handwritten signature in blue ink, reading "Bradley S. Budge", is written over a horizontal line. The signature is cursive and includes a long horizontal stroke at the end.