

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 1, 2 & 3 (excl. Ramah)
	)	
v.	)	Subfile ZRB-4-0170
	)	
A&R PRODUCTIONS, et al.	)	
	)	
Defendants.	)	
_____	)	

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**MOTION FOR SUBSTITUTION OF PARTY**

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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 substituting CLAUDE R. BURGIN AND LU ANNE L. BURGIN for defendants TIMOTHY J. GUGLIOTTA AND KIMBERLY J. GUGLIOTTA in these proceedings. As grounds for this motion, Plaintiffs state as follows:

1. Timothy J. Gugliotta and Kimberly J. Gugliotta were named as defendants in this matter by the United States’ original Complaint and waived service of process on March 5, 2001. (Filed of record May 13, 2005, Doc. No. 362.) In addition, Kimberly J. Gugliotta entered an appearance in this action *pro se* on March 12, 2001. (Doc. No. 13.)

2. Pursuant to the Special Master's September 28, 2006 *Procedural and Scheduling Order for the Adjudication of Water Rights Claims in Sub-Areas 1, 2, and 3 (Excluding Ramah) of the Zuni River Stream System* (Doc. No. 838), the United States served Timothy J. Gugliotta and Kimberly J. Gugliotta with a proposed consent order for Subfile ZRB-4-0170 and with other required service items.

3. Kimberly J. Gugliotta has provided the Form A Change of Ownership and deed copy submitted herewith as Exhibit A. These documents demonstrate that Timothy J. Gugliotta and Kimberly J. Gugliotta have conveyed title to the property involved in Subfile ZRB-4-0170 to Claude R. Burgin and Lu Anne L. Burgin.

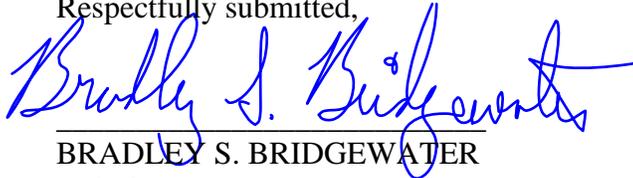
4. The Hydrographic Survey of the Zuni River Stream System has not identified Timothy J. Gugliotta and Kimberly J. Gugliotta to be potential claimants of any other water rights than those involved in Subfile ZRB-4-0170.

5. Pursuant to Fed.R.Civ.P. 25(a) and (c), this motion is being served on Claude R. Burgin and Lu Anne L. Burgin in the manner provided in Fed.R.Civ.P. 4(e)(1) and Rule 1-004(E)(3) NMRA for service of a summons.

WHEREFORE, the Plaintiffs respectfully move the Court to enter its order (1) substituting CLAUDE R. BURGIN AND LU ANNE L. BURGIN as party defendants for TIMOTHY J. GUGLIOTTA AND KIMBERLY J. GUGLIOTTA in these proceedings and (2) dismissing TIMOTHY J. GUGLIOTTA AND KIMBERLY J. GUGLIOTTA as party defendants from this action.

DATED: December 6, 2006

Respectfully submitted,



BRADLEY S. BRIDGEWATER  
U.S. Department of Justice  
1961 Stout Street – 8<sup>th</sup> Floor  
Denver, CO 80294  
(303) 844-1359

COUNSEL FOR THE UNITED STATES

(approved via email 12/6/2006)

EDWARD BAGLEY  
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P.O. Box 25102  
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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 December 6, 2006, a copy of the foregoing *Motion For*

*Substitution Of Party* was mailed to the following persons:

**Via Certified Mail, Restricted Delivery:**

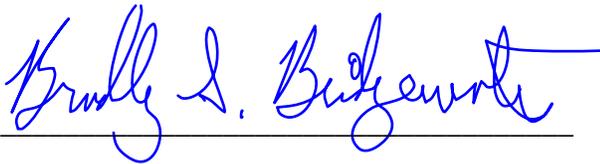
Claude R. Burgin  
Lu Anne L. Burgin  
2632 W. Bentrup St.  
Chandler, AZ 85224

**Via Regular Mail:**

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

Edward Bagley  
Office of the State Engineer, Legal Division  
P.O. Box 25102  
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Timothy J. Gugliotta  
Kimberly J. Gugliotta  
158 W. William Carey St.  
Corona de Tucson, AZ 85641

  
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