

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,)	Subfile No. ZRB-4-0123
)	
v.)	
)	
A&R PRODUCTIONS, et al.)	
)	
Defendants.)	
_____)	

**MOTION TO CORRECT DEFENDANT’S NAME AND DISMISS ERRONEOUSLY
NAMED DEFENDANT**

COME NOW the Plaintiffs United States of America (“United States”) and State of New Mexico ex rel. State Engineer (“State”) and move the Court to issue its order correcting the name of the defendant specified below to read as follows:

FROM:	TO:
CARLOTTA CARELEAN	CARLOTTA DETWILER

The Plaintiffs further move the Court to dismiss ARTHUR CARELEAN as a party defendant from this case. In support of this motion, the Plaintiffs assert:

1. Based on information contained in county property records, the United States’ October 26, 2006 *Motion to Joint Additional Parties Defendant* (Doc. No. 855) requested

joinder of three defendants associated with Subfile ZRB-4-0123: William Detwiler, Arthur Carelean, and Carlotta Carelean. The Court granted the United States' motion by an Order docketed November 1, 2006 (Doc. No. 857).

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 mailed the named defendants a proposed consent order for Subfile ZRB-4-0123 and other required service items.

3. Defendant William Detwiler returned a hand-edited copy of the signature pages for the proposed consent order (copy attached as Exhibit 1), indicating that (1) there is no such person as Arthur Carelean; and (2) the correct name of Mr. Detwiler's only co-defendant on the subfile should be Carlotta Carelean Detwiler. The United States' hydrographic survey contractor has contacted the McKinley County Clerk's Office and confirmed that the property is deeded to William Arthur Detwiler and Carlotta Carelean Detwiler. The erroneous names listed on the original proposed consent order, and on the United States' October 26, 2006 motion to join, were the result of an anomalous treatment of the defendants' middle names in the County's data entry procedure.

4. The Hydrographic Survey of the Zuni River Stream System has not otherwise identified any individual with the name of "Arthur Carelean" to be a potential claimant of water rights. Given Mr. Detwiler's handwritten assertion that there is no such person as Arthur Carelean, dismissal is warranted to clarify the Court's records.

5. Longstanding caselaw suggests that middle names are not essential to legal proceedings. See, e.g., Games v. Stiles, 39 U.S. 322, 326 (1840) ("The law knows of but *Motion To Correct Defendant's Name And Dismiss Erroneously Named Defendant*, Page 2

one Christian name, and the omission of insertion of the middle name, or of the initial letter of that name, is immaterial ...”). Accordingly, Plaintiffs assert there is no need to correct William Detwiler’s name to add his middle name, or to include a middle name in the correction of Carlotta Detwiler’s name.

WHEREFORE, the Plaintiffs move the Court to enter an order (1) correcting the defendant’s name “CARLOTTA CARELEAN” to “CARLOTTA DETWILER”; and (2) dismissing ARTHUR CARELEAN, as a party defendant from this case.

Dated: January 18, 2007

Electronically Filed

/s/ Bradley S. Bridgewater

BRADLEY S. BRIDGEWATER
U.S. Department of Justice
1961 Stout St., 8th Floor
Denver, CO 80294
(303) 844-1359

COUNSEL FOR THE UNITED STATES

 (approved via email 1/17/2007)
EDWARD BAGLEY
Office of the State Engineer, Legal Division
P.O. Box 25102
Santa Fe, NM 87504
(505) 827-6150

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on January 18, 2007, I filed the foregoing *Motion To Correct Defendant's Name, Approve Waiver Of Service, And Dismiss Erroneously Named Defendant* electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

Jeffrey A. Dahl
dahljeffrey@comcast.net,rlddms@aol.com

Raymond Hamilton
raymond.hamilton@usdoj.gov,Rosemarie.Garcia@usdoj.gov,USANM.ECFCivil@usdoj.gov

Stephen G. Hughes
shughes@slo.state.nm.us

Robert A. Johnson
rjohnson@jn-law.com

Stephen R. Nelson
snelson@jn-law.com

Peter B. Shoenfeld
petershoenfeld@qwest.net

John W. Utton
jwu@ssslawfirm.com,djs@ssslawfirm.com

AND I FURTHER CERTIFY that on such date I served the foregoing on the following non-CM/ECF Participants in the manner indicated:

Via first class mail, postage prepaid, addressed as follows:

William Detwiler
Carlotta Detwiler
P.O. Box 117
Vanderwagen, NM 87326

Edward C. Bagley
Office of the State Engineer, Legal Division
P.O. Box 25102
Santa Fe, NM 87504