

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-4-0327
)	
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 HAROLD T. GIBSON AND MARY E. GIBSON, TRUSTEES OF THE HAROLD T. GIBSON AND MARY E. GIBSON REVOCABLE TRUST for defendants JAMES THORNBURG AND MARY THORNBURG in these proceedings, and (2) dismissing JAMES THORNBURG as a party defendant from this action. As grounds for this motion, Plaintiffs state as follows:

1. James Thornburg and Mary Thornburg were joined as defendants in this matter by the Court’s October 31, 2006 *Order Granting Motion to Join Additional Parties Defendant* (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 served James Thornburg and Mary Thornburg with a proposed consent order for Subfile ZRB-4-0327 and with other required service items.

3. Mary E. Gibson, formerly known as Mary Thornburg, has provided the Form A Change of Ownership and deed copy submitted herewith as Exhibit A, and also the Request for Consultation form submitted herewith as Exhibit B. These documents indicate (1) that James Thornburg is deceased, (2) that his spouse Mary Thornburg has remarried and taken the name Mary E. Gibson, and (3) that, on April 19, 2006, Mary E. Gibson by warranty deed conveyed title to the property involved in Subfile ZRB-4-0327 to the trustees of the Harold T. Gibson and Mary E. Gibson Revocable Trust.

4. The Hydrographic Survey of the Zuni River Stream System has not identified James Thornburg, or his Estate, to be a potential claimant of any other water rights than those involved in Subfile ZRB-4-0327.

5. Pursuant to Fed.R.Civ.P. 25(a) and (c), this motion is being served on Harold T. Gibson and Mary E. Gibson, Trustees Of The Harold T. Gibson And Mary E. Gibson Revocable Trust 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 HAROLD T. GIBSON AND MARY E. GIBSON, TRUSTEES OF THE HAROLD T. GIBSON AND MARY E. GIBSON REVOCABLE TRUST as party defendants for JAMES

THORNBURG AND MARY THORNBURG in these proceedings, and (2) dismissing JAMES THORNBURG as a party defendant from this action.

DATED: February 6, 2007

Electronically Filed

/s/ Bradley S. Bridgewater

BRADLEY S. BRIDGEWATER
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COUNSEL FOR THE UNITED STATES

 (approved via email 2/6/2007)
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COUNSEL FOR THE STATE OF NEW MEXICO
EX REL. STATE ENGINEER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on February 6, 2007, I filed the foregoing *Motion For Substitution Of Party* 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:

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

Via Certified Mail, Restricted Delivery:

Harold T. Gibson and Mary E. Gibson, Trustees of
The Harold T. Gibson And Mary E. Gibson Revocable Trust
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Ramah, NM 87321