

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

UNITED STATES OF AMERICA)	
and	)	07cv00681-BB
ZUNI INDIAN TRIBE)	
Plaintiffs,	)	ZUNI RIVER BASIN
	)	ADJUDICATION
-v-)	
)	
STATE OF NEW MEXICO, ex rel. State	)	Subproceeding 1
ENGINEER, et al.	)	Zuni Indian Claims
Defendants)	
_____)	

INITIAL SCHEDULING AND PLANNING ORDER

This Order is entered by the Special Master pursuant to Fed.R.Civ.P. 16(b) to guide the course of the adjudication of the water rights claims asserted in this Subproceeding by the Plaintiffs United States of America (“United States”) and Zuni Indian Tribe (“Tribe”). In entering this Order, the Special Master is guided by concerns for efficiency and for resolution of this Subproceeding in as short a time as the complexities of the case, and the resources of the parties, will allow. In drafting this Order, the Special Master has taken into consideration the comments of counsel and parties *pro se* at the November 27, 2007, Scheduling and Planning Conference. No written comments to the United States’ [Proposed] Initial Scheduling and Planning Order, filed December 7, 2007 (Docket No. 138-2) were received.

1. Findings Concerning Notices of Intent to Participate

Pursuant to the July 30, 2007 *Preliminary Procedural and Scheduling Order* (Doc. No. 3), only those parties who filed a *Notice of Intent to Participate in Subproceeding 1*, for receipt on or before October 26, 2007, and who had appeared at the November 27, 2007, Planning and Scheduling Conference, in person or by counsel, may participate in Subproceeding 1, unless

pursuant to an order granting a motion to intervene in Subproceeding 1 consistent with Fed.R.Civ.P.

24. In addition, the *Preliminary Procedural and Scheduling Order* required all notices of intent to participate attached to an attorney's entry of appearance to be signed by the clients.

Upon examination of the Clerk of Court's Docket, the Special Master **HEREBY FINDS** that the Court received timely, and properly completed, *Notice of Intent to Participate in Subproceeding 1* submissions by or on behalf of only the following persons or entities:

WILLIAM D. ARMSTRONG
PO BOX 1131
GALLUP, NM 87305
(Doc. No. 75)

DANIEL K. BLOEDEL
PO BOX 3245
GALLUP, NM 87305
(Doc. No. 73)

KAREN A. ARMSTRONG
PO BOX 1131
GALLUP, NM 87305
(Doc. No. 75)

CASSANDRA J. BLOEDEL
PO BOX 3245
GALLUP, NM 87305
(Doc. No. 74)

MARY COSETTE BALOK
P.O. BOX 4414
GALLUP, NM 87305
(Doc. No. 32)

DODD H. BOGART
310 TULANE PL NE
ALBUQUERQUE, NM 87106
(Doc. No. 114)

ALAN F. BALOK
PO BOX 5052
GALLUP, NM 87305
(Doc. No. 102)

BILLIE BOND
P.O. BOX 802
RAMAH, NM 87321
(Doc. No. 43)

CLINTON J. BALOK
P.O. BOX 4414
GALLUP, NM 87305
(Doc. No. 31)

JOSEPH DEAN BOND
P.O. BOX 802
RAMAH, NM 87321
(Doc. No. 42)

WAYNE P. BASGAL
200 VANDEN BOSCH PKWY
GALLUP, NM 87301
(Doc. No. 109)

CHERYL A. BRADLEY
PO BOX 726
FENCE LAKE, NM 87315
(Doc. No. 94)

TIMOTHY PETER BECKER
PO BOX 249
RAMAH, NM 87321
(Doc. No. 77)

ROBERT DALE BRADLEY
PO BOX 701
FENCE LAKE, NM 87315
(Doc. No. 93)

DOMINIC J. BIAVA
1905 MARIYANA
GALLUP, NM 87301
(Doc. No. 80)

JAMES P. BRUNNER
HC 61 BOX 5021
RAMAH, NM 87321
(Doc. No. 48)

LINDA L. BURSON
PO BOX 534
RAMAH, NM 87321
(Doc. No. 60)

CARNES BURSON
PO BOX 534
RAMAH, NM 87321
(Doc. No. 59)

WILLARD L. CLAWSON
P.O. BOX 116
RAMAH, NM 87321
(Doc. No. 35)

LAWRENCE D. CLAWSON
PO BOX 22
RAMAH, NM 87321
(Doc. No. 54)

DORIS J. CLAWSON
P.O. BOX 116
RAMAH, NM 87321
(Doc. No. 36)

ELSIE B. CLAWSON
PO BOX 22
RAMAH, NM 87321
(Doc. No. 55)

MILDRED C. CORDOVA
10309 RIO PUERCO TR. SW
ALBUQUERQUE, NM 87121
(Doc. No. 51)

DANIEL G. CORDOVA
10309 RIO PUERCO TR. SW
ALBUQUERQUE, NM 87121
(Doc. No. 50)

WILLIAM JOHN CROOKS
1958 LIGHTHOUSE DRIVE
CARRABELLE, FL 32322
(Doc. No. 14)

WINABELL M. CROOKS
HC 61 BOX 26
RAMAH, NM 87321
(Doc. No. 24)

WANDA J. DAVIS
PO BOX 918
RAMAH, NM 87321
(Doc. No. 53)

CHARLES W. DAVIS
PO BOX 918
RAMAH, NM 87321
(Doc. No. 52)

PAUL DAVIS
PO BOX 399
RAMAH, NM 87321
(Doc. No. 62-2)

KRISTEEN DAVIS
PO BOX 866
RAMAH, NM 87321
(Doc. No. 62-9)

PAMELA DAVIS
PO BOX 159
RAMAH, NM 87321
(Doc. No. 62-5)

SHARON J. DISHONGH
HC 61 BOX 44
RAMAH, NM 87321
(Doc. No. 37)

MARGARET V. DOWLING
1829 GEORGIA NE
ALBUQUERQUE, NM 87110
(Doc. No. 117)

EDWARD J. BAWOLEK AND SUZAN J.
BAWOLEK TRUST
2200 WEST SAGEBRUSH COURT
CHANDLER, AZ 85224
(Doc. No. 61)

ASHLEE JEAN ELKINS - OLSON
140 BRADSHAW DR. APT. 9
PRESCOTT, AZ 86301
(Doc. No. 72)

JAMES A. FARMER
HC 60 BOX F
FENCE LAKE, NM 87315
(Doc. No. 66)

SHARON S. FARMER
HC 60 BOX F
FENCE LAKE, NM 87315
(Doc. No. 67)

MARC FERNANDEZ
1016 6TH ST. S.E.
RIO RANCHO, NM 87124
(Doc. No. 4)

ANNETTE FERNANDEZ
1016 6TH ST. S.E.
RIO RANCHO, NM 87124
(Doc. No. 5)

DANA FRANCES FERRILL
HC 61 BOX 786
RAMAH, NM 87321
(Doc. No. 68)

REGINA FREDRICKSON
2742 VERANDA RD. N.W.
ALBUQUERQUE, NM 87107
(Doc. No. 8)

CRAIG FREDRICKSON
2742 VERANDA RD. N.W.
ALBUQUERQUE, NM 87107
(Doc. No. 7)

LEROY GABALDON
BOX 637
GALLUP, NM 87305
(Doc. No. 92)

MAX GARCIA
707 W GREEN
GALLUP, NM 87301
(Doc. No. 65)

DEBORAH A. GARCIA-SANCHEZ
6901 BANGOR AVE, N.W.
ALBUQUERQUE, NM 87120
(Doc. No. 11)

SHERRY M. GATES
24002 E AVE G
LANCASTER, CA 93535
(Doc. No. 76)

DON GRIESER
PO BOX 69
PINE HILL, NM 87357
(Doc. No. 110)

LYNNE A. GRINOLD
BOX 828
RAMAH, NM 87321
(Doc. No. 122)

CARY GRINOLD
BOX 828
RAMAH, NM 87321
(Doc. No. 121)

RICHARD HEATH
350 OSO RIDGE
GRANTS, NM 87020
(Doc. No. 90)

ANN HEATH
350 OSO RIDGE
GRANTS, NM 87020
(Doc. No. 91)

ROBERT RAY HEINE
1687 FM 3061
THORNDALE, TX 76577
(Doc. No. 101)

CHARLES W. HOCH
5520 W. MARCONI AVE.
GLENDALE, AZ 85306
(Doc. No. 13)

MARLENE G. HOCH
5520 W. MARCONI AVE.
GLENDALE, AZ 85306
(Doc. No. 13)

GLORIA HOLDEN
HC 61 BOX 19
RAMAH, NM 87321
(Doc. No. 30)

LINDA A. IONTA
PO BOX 1059
GALLUP, NM 87305
(Doc. No. 104-2)

ROBERT W. IONTA
PO BOX 1059
GALLUP, NM 87305
(Doc. No. 104-2)

JARALOSA CATTLE COMPANY, LLC
2181 N NORWALK #105
MESA, AZ 85215
(Doc. No. 103)

JOANN V. DAVIS RESIDUAL TRUST DATED
JULY 28, 2003
PO BOX 399
RAMAH, NM 87321
(Doc. No. 62-4)

CHERIE LOUISE KALISTA
HC 61 BOX 799
RAMAH, NM 87321
(Doc. No. 69)

GLENN KATAHARA
P.O. BOX 617
HATCH, NM 87937
(Doc. No. 28)

TERAL KATAHARA
P.O. BOX 617
HATCH, NM 87937
(Doc. No. 29)

LESLIE KENNEY
1721 S. CITRUS
GOODYEAR, AZ 85338
(Doc. No. 87)

TERRANCE KENNEY
1721 S. CITRUS
GOODYEAR, AZ 85338
(Doc. No. 86)

MICHAEL EDWARD KIRK
707 E. GREEN
GALLUP, NM 87301
(Doc. No. 70)

LUCY W. KLUCKHOHN JONES
4351 ALLA ROAD #8
MARINA DEL REY, CA 90292
(Doc. No. 62-10)

SHIRLEY A. KOEHLER
HC 61 BOX 768
RAMAH, NM 87321
(Doc. No. 120)

DONNIE RAY BOGART LAMBDEN
1357 43RD AVE. #20
GREELEY, CO 80634
(Doc. No. 85)

DEEANN A. LEWIS
PO BOX 442
RAMAH, NM 87321
(Doc. No. 81)

JODIE R. LEWIS
PO BOX 442
RAMAH, NM 87321
(Doc. No. 82)

SHARON MASON-MERRILL
PO BOX 4017
APACHE JUNCTION, AZ 85278
(Doc. No. 100)

RAYMOND MCCALL
HC 61 BOX 2019
RAMAH, NM 87321
(Doc. No. 57)

ROSE M. MCCALL
HC 61 BOX 2019
RAMAH, NM 87321
(Doc. No. 58)

GARY D. MCDORMAN
P.O. BOX 684
FENCE LAKE, NM 87315
(Doc. No. 19)

DENNIS B. MCRAE
PO BOX 40
RAMAH, NM 87321
(Doc. No. 112)

SCOTT W. MCRAE
PO BOX 40
RAMAH, NM 87321
(Doc. No. 111)

JOSEPHINE V. MCTAGUE
PO BOX 917
RAMAH, NM 87321
(Doc. No. 108)

MICHAEL MERRILL
PO BOX 4017
APACHE JUNCTION, AZ 85278
(Doc. No. 99)

SAGE G. MERRILL
125 20TH AVE E
SEATTLE, WA 98112
(Doc. No. 83-2)

BILLIE NAVARRE REVOCABLE TRUST
BOX 174
GRANTS, NM 87020
(Doc. No. 9)

DENNIS NORTON
HCR 61 BOX 13
FENCE LAKE, NM 87315
(Doc. No. 39)

ORC, LLC
2181 N. NORWALK #105
MESA, AZ 85215
(Doc. No. 103)

JOSEPHINE T. PARRY
169 OCEAN VIEW BLVD
PACIFIC GROVE, CA 98950
(Doc. No. 98)

JAMES H. PARRY
169 OCEAN VIEW BLVD
PACIFIC GROVE, CA 93950
(Doc. No. 97)

PAUL DAVIS SURVIVOR'S TRUST DATED JULY
28, 2003
PO BOX 399
RAMAH, NM 87321
(Doc. No. 62-3)

PAUL PETRANO
HC 61 BOX 759
RAMAH, NM 87321
(Doc. No. 105-2)

DONALD J. PHILIPPE
HC 61 BOX 3040
RAMAH, NM 87321
(Doc. No. 33)

MARZELLA PORATH
10537 CALLE ALBA NW
ALBUQUERQUE, NM 87114
(Doc. No. 96)

RONALD B. PORATH
10537 CALLE ALBA NW
ALBUQUERQUE, NM 87114
(Doc. No. 95)

MARGARET JANE PYLE
221 CLARK RD. S. W.
ALBUQUERQUE, NM 87105
(Doc. No. 71)

RAMAH LAND & IRRIGATION CO.
PO BOX 381
RAMAH, NM 87321
(Doc. No. 123-2)

RAMAH WATER & SANITATION DIST.
P.O. BOX 416
RAMAH, NM 87321
(Doc. No. 16)

LANNY JASON RAY
BOX 362
RAMAH, NM 87321
(Doc. No. 41)

DANA LARAE RAY
BOX 362
RAMAH, NM 87321
(Doc. No. 34)

JOSEPH RICE
10605 SIERRA OSCURA N.E.
ALBUQUERQUE, NM 87111
(Doc. No. 84)

ETHAN F. RICHARDS
HC 61 BOX 4100
RAMAH, NM 87321
(Doc. No. 21)

RIVER OF LIFE/OAR
HC 60 BOX 11
FENCE LAKE, NM 87315
(Doc. No. 89)

ROBERT W. AND LINDA A. IONTA REVOCABLE
TRUST U/A/D 1-14-2002
PO BOX 1059
GALLUP, NM 87305
(Doc. No. 104-2)

SHIRLEY ELAINE ROPER (BUTCHER)
HC 61 BOX 2029
RAMAH, NM 87321
(Doc. No. 15)

ALBERT U. SANCHEZ
6901 BANGOR AVE, N.W.
ALBUQUERQUE, NM 87120
(Doc. No. 10)

ANITA D. SCHAFER
PO BOX 716
RAMAH, NM 87321
(Doc. No. 62-7)

ROBERT JOHN SCHAFER
PO BOX 716
RAMAH, NM 87321
(Doc. No. 62-8)

PRISCILLA M. SCHULTE
PO BOX 5721
KETCHIKAN, AK 99901
(Doc. No. 62-11)

SFFL, LLC
P.O. BOX 3834
MILAN, NM 87021
(Doc. No. 17)

RICHARD ANDREW SHEETS
200 OSO RIDGE RTE
GRANTS, NM 87020
(Doc. No. 38)

SIERRA LAND GROUP, INC.
PO BOX 743
FENCE LAKE, NM 87315
(Doc. No. 115)

MATTHEW SILVA
9204 CAMINO DEL SOL NE
ALBUQUERQUE, NM 87111
(Doc. No. 116)

LAURA SILVIS
HC 60 BOX 3
FENCE LAKE, NM 87315
(Doc. No. 27)

LAWRENCE SILVIS
HC 60 BOX 3
FENCE LAKE, NM 87315
(Doc. No. 26)

JOANNE C. SNOWDON
HC 61 BOX 39C
RAMAH, NM 87321
(Doc. No. 119)

KATHY S. STEVENSON
101 BIRCH CT.
GRANTS, NM 87020
(Doc. No. 12)

RONALD G. STEVENSON
101 BIRCH CT.
GRANTS, NM 87020
(Doc. No. 6)

WILLIAM G. STRIPP
PO BOX 159
RAMAH, NM 87321
(Doc. No. 62-6)

MARY LOU TAFOYA
6343 ISLETA S.W.
ALBUQUERQUE, NM 87105
(Doc. No. 64)

ROBERT TAFOYA
6343 ISLETA S.W.
ALBUQUERQUE, NM 87105
(Doc. No. 63)

TAMPICO SPRINGS 3000 LLC
19820 N 7TH ST., SUITE 230
PHOENIX, AZ 85024
(Doc. No. 47)

THE NAVAJO NATION
POST OFFICE BOX 2010
WINDOW ROCK, AZ 86515
(Doc. No. 106-2)

TRIBAL TRUST
HC 60 BOX 11
FENCE LAKE, NM 87315
(Doc. No. 88)

CHARLEEN E. USREY
PO BOX 443
VANDERWAGEN, NM 87326
(Doc. No. 113)

EDWARD ALLEN WAGNER
PO BOX 779
FENCE LAKE, NM 87315
(Doc. No. 49)

ROBERT J. WALLACE
620 MCKEE
GALLUP, NM 87301
(Doc. No. 78)

ROBERT R. WALLACE
620 MCKEE
GALLUP, NM 87301
(Doc. No. 79)

SHIRLEY SUE WILSON
603 SOPHIE AVE.
GALLUP, NM 87301
(Doc. No. 56)

MICHIEL E. WILSON
PO BOX 692
FENCE LAKE, NM 87315
(Doc. No. 46)

PAUL WOLF, JR.
HC 31 BOX 20
FENCE LAKE, NM 87315
(Doc. No. 25)

SHARON P. WOLFORD
HC 61 BOX 817
RAMAH, NM 87321
(Doc. No. 23)

WILLIAM F. WOLFORD
HC 61 BOX 817
RAMAH, NM 87321
(Doc. No. 22)

JACK L. WOODS
P.O. BOX 22
CABALLO, NM 87931
(Doc. No. 20)

B. ELAINE WOODS
P.O. BOX 22
CABALLO, NM 87931
(Doc. No. 20)

MICHAEL W. ZINN
HC 61 BOX 39C
RAMAH, NM 87321
(Doc. No. 118)

ERIC ZWINSKI
2205 TANGLEWOOD
MESQUITE, TX 75181
(Doc. No. 45)

JOSEPHINA ZWINSKI
2205 TANGLEWOOD
MESQUITE, TX 75181
(Doc. No. 44)

2. Date of Conference and Appearances

2.1 Date of Conference

The Planning and Scheduling Conference was held before Special Master Vickie L.

Gabin on November 27, 2007.

2.2 Appearances

2.2.1. Counsel

The Special Master finds that the following counsel were present at the Planning and Scheduling Conference and represent the identified parties, who filed timely and properly completed notices of intent to participate, or were exempted from the obligation to file such notices by Paragraph 8 of the *Preliminary Procedural and Scheduling Order*:

Attorney and/or Firm:	Representing:
ARIANNE SINGER EDWARD C. BAGLEY Office of the State Engineer, Legal Division P.O. Box 25102 Santa Fe, NM 87504 (505) 827-6150	Defendant New Mexico ex rel. State Engineer
BIDTAH BECKER Navajo Nation Department of Justice P.O. Box 2010 Window Rock, AZ 86515 (928) 871-7543	Defendant Navajo Nation
BRADLEY S. BRIDGEWATER U.S. Department of Justice 1961 Stout St., 8 th Floor Denver, CO 80294 (303) 347-9601	Plaintiff United States
JANE MARX 2825 Candelaria Road, NW Albuquerque, New Mexico 87107	Plaintiff Zuni Indian Tribe
JAMES NOBLE Ryley Carlock & Applewhite 1999 Broadway, Suite 1800 Denver, CO 80202 (303) 813-6713 jnoble@rcalaw.com	ORC, LLC, and Jaralosa Cattle Company, LLC
TANYA SCOTT Law & Resource Planning Associates 201 3 rd Street NW, Ste. 1750 Albuquerque, NM 87102 (505) 346-0998	Max Garcia, Robert Ray Heine, Robert W. Ionta, Linda A. Ionta, Ramah Land & Irrigation Co., Robert W. and Linda A. Ionta Revocable Trust U/A/D 1-14-2002, Michael Edward Kirk, Sharon J. Dishongh
WILLIAM G. STRIPP P.O. Box 159 Ramah, NM 87321 (505) 783-4138	Paul Davis Survivor's Trust dated July 28, 2003, JoAnn V. Davis Residual Trust dated July 28, 2003, Pamela Davis, Sage Grae Merrill, Kristeen "Kristi" Davis, Anita D. Schafer, Robert John Schafer, Lucy W. Kluckhohn-Jones, Trustee, Priscilla M. Schulte, Paul Petranto, and William G. Stripp

The Special Master notes that the listed Counsel may have also entered appearances on behalf of other persons or entities that did not file timely notices of intent to participate, have not been granted leave to intervene, and which therefore are not parties to this subproceeding.¹

2.2.2 Parties appearing *pro se*:

The Special Master finds that the following parties, who filed timely and properly completed notices of intent to participate, and are not yet represented by counsel, were also present at the Planning and Scheduling Conference:

DODD H. BOGART
310 TULANE PL NE
ALBUQUERQUE, NM 87106
Phone: 505-265-0718

MILDRED C. CORDOVA
10309 RIO PUERCO TR. SW
ALBUQUERQUE, NM 87121
Phone: 505-831-4178

DANIEL G. CORDOVA
10309 RIO PUERCO TR. SW
ALBUQUERQUE, NM 87121
Phone: 505-831-4178

EDWARD J. BAWOLEK AND
SUZAN J. BAWOLEK TRUST
2200 WEST SAGEBRUSH COURT
CHANDLER, AZ 85224
Phone: 480-899-7157

ASHLEE JEAN ELKINS - OLSON
140 BRADSHAW DR. APT. 9
PRESCOTT, AZ 86301
Phone: 928-210-0804

CRAIG FREDRICKSON
2742 VERANDA RD. N.W.
ALBUQUERQUE, NM 87107
Phone: 505-344-1048

REGINA FREDRICKSON
2742 VERANDA RD. N.W.
ALBUQUERQUE, NM 87107
Phone: 505-344-1048

MICHAEL MERRILL
PO BOX 4017
APACHE JUNCTION, AZ 85278
Phone: 480-984-0006

BILLIE NAVARRE REVOCABLE TRUST
BOX 174
GRANTS, NM 87020
Phone: 505-287-4270

RONALD B. PORATH
10537 CALLE ALBA NW
ALBUQUERQUE, NM 87114
Phone:

MARZELLA PORATH
10537 CALLE ALBA NW
ALBUQUERQUE, NM 87114
Phone:

RAMAH WATER & SANITATION DIST.
P.O. BOX 416
RAMAH, NM 87321
Phone: 505-783-4018

LANNY JASON RAY
BOX 362
RAMAH, NM 87321
Phone: 505-783-4334

DANA LARAE RAY
BOX 362
RAMAH, NM 87321
Phone: 505-783-4334

JOSEPH RICE
10605 SIERRA OSCURA N.E.
ALBUQUERQUE, NM 87111
Phone: 505-241-4484

SFFL, LLC
P.O. BOX 3834
MILAN, NM 87021
Phone: 505-287-2386

MATTHEW SILVA
9204 CAMINO DEL SOL NE
ALBUQUERQUE, NM 87111
Phone: 505-270-0339

LAURA SILVIS
HC 60 BOX 3
FENCE LAKE, NM 87315
Phone: 505-788-2334

LAWRENCE SILVIS

JOANNE C. SNOWDON

RONALD G. STEVENSON

¹ In addition, the Special Master notes the appearance at the Planning and Scheduling Conference of Peter B. Shoenfeld, P.O. Box 2421, Santa Fe, NM 87504-2421, (505) 982-3566, who acknowledged that his clients, John A. Yates and Trust Q Under the Last Will and Testament of Peggy A. Yates, Deceased, have not filed a notice of intent to participate or a motion to intervene.

HC 60 BOX 3
FENCE LAKE, NM 87315
Phone: 505-788-2334

HC 61 BOX 39C
RAMAH, NM 8732
Phone: 505-775-3701

101 BIRCH CT.
GRANTS, NM 87020
Phone: 505-876-4900

KATHY S. STEVENSON
101 BIRCH CT.
GRANTS, NM 87020
Phone: 505-476-4900

TAMPICO SPRINGS 3000 LLC
19820 N 7ST SUITE 230
PHOENIX, AZ 85024
Phone: 623-581-5551

EDWARD ALLEN WAGNER
PO BOX 779
FENCE LAKE, NM 87315
Phone: 505-205-5706

MICHIEL E. WILSON
PO BOX 692
FENCE LAKE, NM 87315
Phone: 505-788-2231

PAUL WOLF, JR.
HC 31 BOX 20
FENCE LAKE, NM 87315
Phone: 505-788-2261

MICHAEL W. ZINN
HC 61 BOX 39C
RAMAH, NM 87321
Phone: 505-775-3701

The Special Master further finds that the following individuals made timely requests to be excused from the Planning and Scheduling Conference and provided documentation establishing a legitimate excuse:

CARY GRINOLD
BOX 828
RAMAH, NM 87321
PHONE: 505-783-4093

LYNNE GRINOLD
BOX 828
RAMAH, NM 87321
PHONE: 505-783-4093

The Special Master further finds that a representative of the following individual appeared and explained that the individual had a legitimate excuse for not appearing at the Planning and Scheduling Conference; documentation was subsequently submitted:

JOSEPH DEAN BOND
BOX 802
RAMAH, NM 87321

Accordingly, Cary Grinold, Lynne Grinold, and Joseph Dean Bond may continue as parties to this subproceeding.

Some of the parties listed above purported to also be appearing on behalf of other individuals whose presence in the courtroom is not evident from the record. Some of these absent persons or entities have not filed timely notices of intent to participate and have not been granted leave to intervene, and therefore are not parties to this subproceeding. Others, who may have filed

timely notices of intent to participate, did not make timely requests to be excused and have failed to provide the Court with documentation establishing a valid excuse, or even documentation establishing that the person who purported to speak on their behalf had any authority to do so.² Accordingly, the Special Master finds that they did not appear, in person or by counsel, at the Planning and Scheduling Conference, were not excused from their obligation to do so, and consequently are no longer parties to this Subproceeding.

3. Preliminary Case Plan and Schedule

3.1 Parties

Pursuant to the July 30, 2007 *Preliminary Procedural and Scheduling Order* (Doc. No. 3), only those parties who have filed a timely *Notice of Intent to Participate in Subproceeding 1*, and who have appeared at the Planning and Scheduling Conference, in person or by counsel, may participate in Subproceeding 1. Accordingly, only those parties listed in Section 2.2 of this Order, or in a subsequent order of the Court granting a motion to intervene in Subproceeding 1 consistent with Fed.R.Civ.P. 24, shall be entitled to participate in, or to receive service of pleadings and other papers concerning, Subproceeding 1.

All parties in this Subproceeding will be expected to be familiar and comply with the Federal Rules of Civil Procedure, the Local Civil Rules of the United States District Court for the District of New Mexico, and all orders entered by this Court. The Special Master anticipates that some parties may find the burdens of participation in this Subproceeding to be greater than expected or for other reasons may desire to terminate their participation. Accordingly, any party other than

² Parties are cautioned that a power of attorney is not a license to practice law. See Chisholm v. Ruekhaus, 124 N.M. 255, 257, 948 P.2d 707, 709 (N.M. App. 1997) citing Christiansen v. Melinda, 857 P.2d 345, 347-349 (Alaska 1993) (power of attorney best characterized as the power to act as client in attorney-client relationship).

the United States, the Zuni Indian Tribe, or the State of New Mexico ex rel. State Engineer may request dismissal from this subproceeding by completing, signing, and filing the Form B REQUEST TO WITHDRAW FROM PARTICIPATION attached to this Initial Scheduling and Planning Order.

3.2 Requirement For Participants That Are Not Natural Persons To Obtain Representation

The Special Master finds that the following parties appear to be artificial entities that, pursuant to 28 U.S.C. § 1654, D.N.M.LR-Civ. 83.7, and N.M.S.A. 1978 § 36-2-27, may not file pleadings or other documents, or make further appearance, in this Court *pro se*:

EDWARD J. BAWOLEK AND SUZAN J. BAWOLEK TRUST

SFFL, LLC

BILLIE NAVARRE REVOCABLE TRUST

RAMAH WATER & SANITATION DIST.

TAMPICO SPRINGS 3000 LLC

Accordingly, IT IS HEREBY ORDERED that, before filing any motions, pleadings, or other documents in this Subproceeding, and no later than the Answer date specified in Paragraph 3.4, these entities shall retain counsel who shall file entries of appearance on the entities' behalf.

3.3 Service of Pleadings and Other Documents, Joint Document Depository

The Special Master finds that, as provided by Paragraph 3(a) of this Court's CM/ECF Administrative Procedures Manual, all parties represented by counsel of record, and all parties *pro se* who have registered with the Court's CM/ECF system, will be electronically served with all filed documents via the CM/ECF system and have waived their right under Fed.R.Civ.P. 5 to personal service or service by mail of such documents. Nonetheless, a large number of parties involved in this Subproceeding are not CM/ECF Participants, and discovery documents listed in D.N.M.LR-Civ. 26.2 (a) - (f), which are not to be filed with the Court, must still be served pursuant to Fed.R.Civ.P.

5. In consequence, a narrow interpretation of Fed.R.Civ.P. 5(a) requiring almost all documents filed with the Court or relating to discovery to be served upon each of the parties would cause significant financial hardship to many parties, could discourage some parties from participating in the Subproceeding, and thus would run contrary to the mandate of Fed.R.Civ.P. 1 that the Rules be “construed and administered to secure the just, speedy, and inexpensive determination of every action.”

Accordingly, on or before February 15, 2008, counsel listed in Section 2.2.1 and any interested *pro se* parties, shall meet and confer and submit to the Special Master recommendations concerning a Joint Document Depository (JDD) that will store materials pertinent to this Subproceeding, including disclosures, interrogatories, requests for admission, requests for production of documents, deposition transcripts, documents produced in response to discovery requests or subpoenas, and similar materials, and provide access to such materials to the parties on a not-for-profit basis. Counsel for the United States shall arrange a meeting time and location and/or telephone conference and provide notice of the arrangements to the meeting participants. Participation in this discussion by *pro se* parties is not mandatory. However, any interested *pro se* parties listed in Section 2.2.2 who desire to participate in this discussion shall, no later than January 31, 2008, provide written notification of their interest to Counsel for the United States.

The parties' considerations and recommendations should encompass:

- (a) making a party's placement of documents in the JDD fully satisfy the party's obligation to produce documents to other parties,
- (b) the means of providing notice of the contents of the JDD to all parties,
- (c) rules of usage,

(d) protocols for produced materials subject to a claim of privilege or assertion of confidentiality,

(e) use of unique alphanumeric identifiers for all documents placed in the JDD,

(f) allocation of fees for operation of the JDD and payment of allocated fees by users, and

(g) use of electronic media and/or remote access to reduce parties' need to travel to examine documents.

3.4 Answers

Pleadings responding to the *United States' Subproceeding Complaint And Statement Of Claims For Water Rights On Behalf Of, And For The Benefit Of, The Zuni Indian Tribe And Zuni Allottees* (Doc. No. 1) ("U.S. Subproceeding Complaint") and the Zuni Indian Tribe's *Supplemental Subproceeding Complaint* (Doc. No. 2) ("Zuni Supplemental Complaint") are necessary to frame issues for purposes of disclosures and discovery, and to provide information essential to the Court's further management of the case, including which parties are prepared to bear the burdens of participation in the adjudication of which issues. Accordingly, on or before January 31, 2008, all parties opposing any of the claims stated by the U.S. Subproceeding Complaint or the Zuni Supplemental Complaint shall file Answers consistent with Fed.R.Civ.P. 8 except that, given this proceeding's character as a subproceeding, no such Answer shall contain a counterclaim or cross-claim. Any claim that could be stated in a counterclaim or cross-claim should be properly raised in the main case, No. 01cv00072. Counterclaims or cross-claims asserted in this Subproceeding in

violation of this Order shall be deemed stricken without further order of the Court. A party's failure to file a timely Answer shall be grounds for dismissal of the party from this Subproceeding.

3.5 Initial Disclosures

On or before July 30, 2008, all parties shall make initial disclosures required by Fed.R.Civ.P. 26(a)(1)(A)(i) & (ii).³ As stated by Rule 26(E), "[a] party must make its initial disclosures based on the information then reasonably available to it. A party is not excused from making its disclosures because it has not fully investigated the case or because it challenges the sufficiency of another party's disclosures or because another party has not made its disclosures."

3.6 Discovery Conference

On or before August 26, 2008, the attorneys of record listed in Section 2.2.1, and all unrepresented parties listed in Section 2.2.2, shall meet to develop a proposed discovery plan that indicates the parties' views and proposals concerning disclosure of expert testimony and any other topic listed in Fed.R.Civ.P. 26(f)(1) - (6). In particular, the parties' proposed plan shall address proposals to conduct discovery and/or evidentiary hearings in phases or focused on particular issues. Counsel for the United States shall provide notice to all parties of the time and location of the meeting no later than 10 days before the meeting.

3.7 Pretrial Conference

³ The parties are cautioned that the Federal Rules of Civil Procedure were revised, effective December 1, 2007. For more information and the text of the new rules, see:

<http://www.uscourts.gov/rules/congress0407.htm>

The United States has also posted the text of the revised rules on

<http://www.zunibasin.com>

A further conference to address scheduling and management of this Subproceeding will be held on August 27, 2008, at a time and place to be announced.

IT IS SO ORDERED.

Vickie L. Gabin

SPECIAL MASTER VICKIE L. GABIN

FORM B

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

UNITED STATES OF AMERICA)	
and	)	07cv00681-BB
ZUNI INDIAN TRIBE)	
Plaintiffs,	)	ZUNI RIVER BASIN
	)	ADJUDICATION
-v-)	
)	
STATE OF NEW MEXICO, ex rel. State	)	Subproceeding 1
ENGINEER, et al.	)	Zuni Indian Claims
Defendants)	
_____)	

REQUEST TO WITHDRAW FROM PARTICIPATION

_____ hereby
(Name of Party)

requests leave to withdraw from participation in the above-referenced civil action. The undersigned, who is the named party or counsel of record for the named party, represents that the named party hereby (1) waives all rights to further notice of, or participation in, the adjudication of the water rights claims for surface and groundwater use made in this civil action on behalf of the Zuni Indian Tribe and its members, and (2) agrees to be bound by the final judgment entered herein.

SIGNED: _____ DATE: _____

ADDRESS: _____

PHONE: _____