

ELEVENTH JUDICIAL DISTRICT
COUNTY OF SAN JUAN
STATE OF NEW MEXICO

FILED
DISTRICT COURT
SAN JUAN COUNTY
NM

2004 JUN 25 P 4: 12

STATE OF NEW MEXICO ex rel.
State Engineer,
Plaintiff,

v.

No. CV 75-184

UNITED STATES OF AMERICA, et al.,
Defendants.

SAN JUAN RIVER
ADJUDICATION SUIT

MOTION TO INTERVENE

COMES NOW Gary L. Horner, in propria persona (hereinafter referred to as "Applicant"), pursuant to NMRA Rule 1-024A and § 72-4-17 NMSA 1978, and hereby moves the Court for an order of intervention, in the above entitled matter.

As and for good cause for said Motion, Applicant states:

1) NMRA Rule 1-024 provides

"A. **Intervention of right.** Upon timely application anyone shall be permitted to intervene in an action:

"(1) when a statute confers an unconditional right to intervene;

* * *

"C. **Procedure.** A person desiring to intervene pursuant to Paragraph A or B of this rule shall serve a motion to intervene upon the parties as provided in Rule 1-005. The motion shall state the grounds therefor and shall be accompanied by a pleading setting forth the claim or defense for which intervention is sought. The same procedure shall be followed when a statute gives a right to intervene."

2) § 72-4-17 NMSA 1978 (1997 Repl.) [**Suits for determination of water rights; parties; hydrographic survey; jurisdiction; unknown claimants.**] provides

"In any suit for the determination of a right to use the waters of any stream system, all those who claim to the use of such waters are of record and all other claimants, so far as they can be ascertained, with reasonable diligence, shall be made parties. . . ."

3) Applicant is a resident, property owner, taxpayer and water user within the City of Farmington, County of San Juan and State of New Mexico within the San Juan River Basin.

4) As a water user in the San Juan Basin, said statute (§ 72-4-17 NMSA 1978) provides Applicant the unconditional right to intervene (pursuant to said Rule 1-024A (1)) in the present action.

5) The present water rights adjudication suit is very complex and encompasses many issues that will probably need to be raised and determined over a period of years. Applicant may wish to raise and participate in many of such issues in defense of his right to use water.

6) Two days ago, Applicant filed in the present matter a MOTION TO VOID CONFIDENTIALITY AGREEMENT and a MOTION TO ENJOIN THE EXECUTION OF THE NAVAJO WATER RIGHTS SETTLEMENT. Yesterday, Applicant filed a MOTION FOR EX PARTE RESTRAINING ORDER. Today the Court entered an order entitled ORDER DENYING *IN PROPRIA PERSONA* MOTIONS. Pursuant to said Order, the Court on its own motion summarily denied said Motions stating that

“The Court record does not reflect, nor does movant allege that he represents party or parties to the above law suit, or an interest in water rights within the geographical jurisdiction of the pending lawsuit;
“IT IS THEREFORE ORDERED that the above motions be and the same are hereby summarily denied without prejudice.”

7) This Motion is filed to remedy the standing issue addressed by the Court pursuant to said Order.

8) With respect to the accompanying pleading requirement of Rule 1-024 C., Applicant hereby adopts and incorporates herein by reference the above mentioned Motions.

9) Further, Applicant requests that said Order be rescinded and that such Motions be allowed to stand as originally filed.


WHEREFORE, Applicant respectfully requests of the Court an order:

- 1) Of intervention;
- 2) Rescinding said Order Denying *In Propria Persona* Motions, entered in

the present matter on June 25, 2004;

3) That said Motions as filed on June 23 and 24, 2004 be allowed st stand as originally filed; and

4) For such other and further relief as the Court deems appropriate.



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June 25, 2004
Date

CERTIFICATE OF MAILING

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