

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

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UNITED STATES OF AMERICA. )  
 )  
 Plaintiff. )  
 )  
 v. )  
 )  
 STATE OF NEW MEXICO, *ex rel.* )  
 STATE ENGINEER, A & R Productions, )  
*et al.*, )  
 )  
 Defendants. )  
 )  
 \_\_\_\_\_ )

*Robert J. ...*  
 CLERK OF COURT

01-CV-00072-BDB/ACE  
 ZUNI RIVER BASIN

**NAVAJO NATION'S**  
**COMPLAINT IN INTERVENTION**

The Navajo Nation, by and through its counsel the Navajo Nation Department of Justice, for its Complaint in Intervention alleges the following:

1. The Navajo Nation is a federally-recognized Indian tribe whose lands include portions of the Zuni River basin in New Mexico.
2. The lands of the Navajo Nation located in the Zuni River basin of New Mexico include lands held in trust by the United States for the Navajo Nation, lands held in trust by the United States for the benefit of the Ramah Band of Navajo Indians, land held in trust by the United States for the benefit of Navajo allottees, and lands held in fee by the Navajo Nation.
3. The United States entered into several treaties with the Navajos, including unratified treaties in 1855, 1858, and 1861, promising peace and a homeland for tribal members.

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4. By treaty of 1868, ratified on August 12, 1868, the Navajo Reservation was created for the benefit of the Navajo Tribe of Indians and its members in New Mexico and Arizona. None of the original treaty reservation is located in the Zuni River basin in New Mexico; however, the Navajo reservation was expanded by statutes, executive orders, public land withdrawals, tribal purchases and allotments to individual Navajo Nation members to include lands within the Zuni River basin in New Mexico.

5. These lands in the Zuni River basin in New Mexico include portions of Navajo Grazing District 16 located in T. 11 & 12 N., R. 18 through 21 W.; T. 13 & 14 N.; R. 17 through 21 W., and portions of Ramah Chapter located in T. 6 N., R. 14 W.; T. 7 N., R. 14 through 16 W., T. 8 N., R. 14 & 15 W.; T. 9 & 10, R. 14, 15 & 16 W., New Mexico Principal Meridian.

6. Members of the Ramah Band of Navajos reside within the Ramah Chapter, a political subdivision of the Navajo Nation. 2 Navajo Nation Code §§ 4001 *et seq.*

7. From time immemorial, members of the Navajo Nation have lived on, cultivated crops and occupied lands in the Zuni River basin in New Mexico and have used the waters of the Zuni River basin in New Mexico for religious, municipal, domestic, irrigation, livestock watering, commercial, recreation, and other homeland purposes.

8. The laws of the United States grant to the Navajo Nation and its members the right to the use of waters in the Zuni River basin in New Mexico to satisfy the needs described herein. *Winters v. United States*, 207 U.S. 564 (1908); *United States v. Powers*, 305 U.S. 527 (1938).

9. The Navajo Nation also owns lands in fee in the Zuni River basin including lands known as the "Nicoll Ranch." The Navajo Nation owns state-based water rights associated with Nicoll Ranch, including File Nos. 1916 and 1916A.

10. All rights to use the surface and underground waters within such lands within the Zuni River basin are subject to the general stream adjudication that is the subject of this action.

11. Each of the other parties and interests herein claims rights in or to the use of the waters of the Zuni River basin, which claims are adverse to the claims of the Navajo Nation and its member allottees.

WHEREFORE, Intervenor Navajo Nation prays for relief as follows:

A. That this Court require that each and every party, and all other claimants to the use of the surface and underground waters of the Zuni River basin, appear and set forth fully their claims to the use of the waters of the Zuni River basin.

B. That this Court determine the rights of each of the parties in and to the use of the surface and underground waters of the Zuni River basin, setting forth such rights with a date of priority for each right.

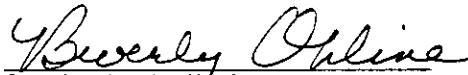
C. That this Court determine and decree that the Navajo Nation has the right to divert and use as much of the surface and underground waters of the Zuni River as necessary to satisfy its aboriginal, historic, present or future needs within the Zuni River basin, including such rights that may exist under state and federal laws.

D. That this Court enter its order enjoining all diversions and uses of the surface and underground waters from the Zuni River basin except in accordance with the rights and priorities as set forth in the Court's decree.

E. That the Court enter such further orders and decrees and grant such further and different relief as may be just and proper for a determination of the parties' rights to the use of the surface and underground waters of the Zuni River basin, or with respect to such other matters that the Court deems proper.

Respectfully submitted this 7<sup>th</sup> day of September 2001.

NAVAJO NATION DEPARTMENT OF JUSTICE  
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 7<sup>th</sup> day of September 2001, a true and correct copy of the foregoing NAVAJO NATION'S COMPLAINT IN INTERVENTION was served by United States Postal Service first class, postage pre-paid mail to those on the LIST OF PERSONS RECEIVING SERVICE (Zuni River Basin), which is incorporated here by reference.

By: Pat Lyons  
Legal Secretary

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