

FILED
UNITED STATES DISTRICT COURT

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

MAY 19 2008

UNITED STATES OF AMERICA, for Itself
and as Trustee for the Zuni Indian Tribe, Navajo
Nation and Ramah Band of Navajos
and
STATE OF NEW MEXICO, ex rel. STATE
ENGINEER,

Plaintiffs,

and

ZUNI INDIAN TRIBE,
NAVAJO NATION,

Plaintiffs in Intervention,

v.

STATE OF NEW MEXICO COMMISSIONER
OF PUBLIC LANDS,
and
A & R PRODUCTIONS, et. al.,

Defendants.

No. 01cv00072-BB

ZUNI RIVER BASIN
ADJUDICATION

Subfile No: ZRB-4-0108

SUBFILE ANSWER

COME(S) NOW ROBERT W. CROOKS & HANNAH C. CROOKS and
answer(s) the complaint as follows:

<u>Subfile No:</u>	<u>Object</u>	<u>Claim No Right</u>
ZRB-4-0108	<input checked="" type="checkbox"/>	<input type="checkbox"/>

(Instructions: **Initial** in one of the two boxes to indicate whether you object to the description of water right(s) contained in the proposed Consent Order offered by the United States and the State, or whether you make no claim as to the water right(s) described in the proposed Consent Order. Provide the appropriate explanation below, and indicate what you have done to resolve your disagreement with the United States and the State, in the spaces provided below.)

I (We) object to the description of the water right(s) described by the proposed Consent Order for Subfile Number ZRB-4-0108 because:

(explain)

SEE ATTACHED ADDENDUM (1 PAGE)
PLUS COPIES CORRESPONDENCE
(2 PAGES)

(Attach additional pages if necessary)

I (We) made a good faith effort to resolve my (our) disagreement with the Consent Order proposed by the United States and the State by:

(describe)

SEE ATTACHED ADDENDUM (1 PAGE)

(Attach additional pages if necessary)

I (We) claim no right for the water right(s) described by the proposed Consent Order for Subfile Number ZRB-4-0108 because:


(explain)


(Attach additional pages if necessary)

I (We) understand that by making this claim and filing this document I (we) am (are) not waiving my (our) rights to later raise, in an Amended Answer, any jurisdictional or affirmative defenses I (we) may have.

(Instructions: Each named defendant, or the defendant's attorney, must sign and date this Answer. If multiple defendants are named and you have separate addresses or telephone numbers, please attach an additional page providing address information for each defendant. If you are signing on behalf of a named defendant, you must indicate the source of your legal authority to do so and provide both your address and the address of the named defendant.)

Signature(s) – ROBERT W. CROOKS & HANNAH C. CROOKS:





PO BOX 70

RAMAH, NM 87321

(Address: Print Clearly)

505-783-2471

(Phone Number: Print Clearly)

IMPORTANT: Within 20 days of May 5, 2008, you must EITHER accept the last Consent Order offered by the United States and the State for Subfile ZRB-4-0108 OR file an answer in this Subfile with United States District Court for the District of New Mexico. Any right you may have to use waters of the stream system may be adjudicated by default judgment in conformity with the Consent Order proposed by the United States and the State if you fail to accept the proposed Consent Order or file an answer within 20 days of May 5, 2008. Answers may be mailed to the Clerk of Court at 106 S. Federal Place, Santa Fe, NM 87501. A copy of the answer filed with the district court must also be sent to counsel for the United States and counsel for the State at the following addresses:

BRADLEY S. BRIDGEWATER
U.S. Department of Justice
1961 Stout Street – 8th Floor
Denver, CO 80294

EDWARD BAGLEY
Office of the State Engineer, Legal Division
P.O. Box 25102
Santa Fe, NM 87504

Addendum/Attachment to SUFILE ANSWER

10 May 2008

Zuni River Basin Adjudication

Case No 01cv00072-BB

Subfile No. ZRB-4-0108

Robert W. Crooks 

Hannah C. Crooks 

We object to the description of the water rights described by the proposed Consent Order for Subfile Number ZRB-4-0108 because insufficient evidence has been provided that the 0.7 acre feet per year accurately reflects our Historic Beneficial Use and may be insufficient to meet our needs. We conclude that this amount may have been arbitrarily determined.

We made a good faith effort to resolve our disagreement with the Consent Order proposed by the United States and the State by:

1. Since our current water consumption is not metered and our Historical Beneficial Use is not known, we attempted to inform ourselves about the average residential water consumption for the average family of four through as many resources as possible. Most resources, including the US Bureau of Reclamation and the American Ground Water Trust, stated that the average residential family of four consumes 1 acre foot of water per year.
2. In a timely fashion, we filed a Request For Consultation.
3. One of us (Robert W. Crooks) attended the Consultation on 20 February 2008. Many questions were answered and an explanation that the 0.7 acre foot offered in the Consent Order was based upon metering data obtained in Pojoaque, New Mexico was elaborated upon.
4. Following the Consultation and based upon concerns that Pojoaque, New Mexico may or may not represent typical historic water use and based on contradictory figures provided by other resources, we contacted Dr. Rodriguez-Bejarano (one of those present at our Consultation) requesting further information. (Copy of that email dated 27 February 2008 is attached.) We received no response. On 1 April 2008 we forwarded the same request to Bradley Bridgewater asking for additional information and received no reply. (Copy of that correspondence attached.) As we stated in that correspondence, we were quite prepared to accept the Consent Order if additional references could be provided to substantiate the validity of the 0.7 acre foot representing typical water use for a residential family of four.
5. Absent additional information and evidence that metered water use in Pojoaque, New Mexico accurately reflects our own Historic Beneficial Use, we are unable to sign the Consent Order.

From: mailbox@hughes.net [crooks@hughes.net]
Date: 02/27/2008 1:42
To: <dario.rodriguez@state.nm.us>
Cc:
Subject: Follow-up consultation

Dr. Rodriguez-Bejarano,

Thank you for meeting with me for consultation regarding the Zuni River Basin Adjudication (Tuesday, February 20th.) I enjoyed meeting you and appreciated the opportunity to learn more about the process and to express my concerns and pose my questions. I feel I have a clearer understanding regarding the difference between the water permit, Historical Beneficial Use, and the 0.7 acre feet offered in the Consent Order.

I have this one lingering concern which, if settled in my own mind, could allow me to be comfortable agreeing with the Consent Order. Since my (and everyone else's) Historic Beneficial Use is not actually measured, the figure of 0.7 acre feet is arrived at by looking at other communities where water use is measured. The Frequently Asked Questions explains how the figure is arrived at through metering information obtained in Pojoaque, New Mexico. No other references are provided. My own research repeatedly sites the figure of one (1) acre foot as the typical amount of water consumed by a family of four (American Ground Water Trust, US Bureau of Reclamation, and others.) Would you please provide me with additional references (perhaps from monitoring data from other communities in the Western United States) which substantiate the legitimacy of the 0.7 acre foot figure offered in the Consent Order. I'm sure that you will understand that the one example of Pojoaque, New Mexico against contradictory figures from other sources causes me to have reservation about the adequacy of 0.7 acre feet/year.

Thank you.

Sincerely,

Robert W. Crooks, M.D.
333 Timberlake Road
PO Box 70
Ramah, NM 87321
crooks@unm.edu

[Close Window](#)

1 April 2008

Bradley Bridgewater
U.S. Department of Justice
1961 Stout St—8th Floor
Denver, CO 80294

Dear Mr. Bridgewater:

Thank you for meeting with me for consultation regarding the Zuni River Basin Adjudication (2/20/08.) Following the meeting I sent an email to Dr. Rodriguez-Bejarano (copy attached, dated 2/27/08) but have received no reply.

Would you please review the enclosed email and either respond yourself or forward my correspondence to the appropriate person for a response.

Thank you.

Sincerely,

Robert Crooks
P.O. Box 70
Ramah, NM 87321
crooksr@unm.edu