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

UNITED STATE OF AMERICA, and	)	
STATE OF NEW MEXICO, ex rel. STATE	)	
ENGINEER,	)	
	)	
Plaintiffs,	)	
	)	CIV. NO. 01-cv-00072-BB
and	)	
	)	ZUNI RIVER BASIN
ZUNI INDIAN TRIBE, NAVAJO NATION,	)	ADJUDICATION
	)	
Plaintiffs-in-Intervention,	)	Subfile No. ZRB-1-0057
	)	CHARLES E. MALLERY
v.	)	
A D DD ODY/GWYONG	)	
A & R PRODUCTIONS, et al.,	)	
	)	
Defendants.	)	
	()	
	)	

## **SUBFILE ANSWER**

**COMES NOW**, Charles E. Mallery, by and through his attorney, Law & Resource Planning Associates, P.C., and hereby submits his Answer to the Complaint.

Subfile No:	<u>Object</u>	Claim No Right
ZRB 1-0057	X	

(Instructions: <u>Initial</u> 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) and indicate what you have done to resolve your disagreement with the United States and the State, in the spaces provided below.)

I object to the description of the water right(s) described by the proposed Consent Order for Subfile Number **ZRB 1 – 0057** because: (explain)The amounts offered for my wells 4A-3-W04 and 4A-3-W06 A do not reflect my actual historical beneficial use. Also, the amounts offered did not take into consideration my water rights associated with the natural spring on the adjacent property. In addition the offer does not comport with the underlying legislative policy of allowing permittees of § 72-12-1 wells sufficient water to irrigate up to one acre of noncommercial trees, lawn or garden, and for domestic uses and livestock uses.

(Attach additional pages if necessary)

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

(describe) I have requested a consultation and a consultation has not yet been scheduled for my subfile.

(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- 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.)

Respectfully submitted,

LAW & RESOURCE PLANNING ASSOCIATES,

A Professional Corporation

Tanya L/Scott

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## **CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on July 21, 2014, I filed the foregoing Subfile Answer electronically through the CM/ECF system, which caused the parties or counsel reflected on the Notice of Filing to be served by electronic means.

Janya L. Scott