

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

UNITED STATES,

Plaintiff,

vs.

NO. CV 01-72 BB/WDS (ACE)

STATE OF NEW MEXICO ENGINEER, et al.,

Defendants.

ANSWER BY DEFENDANT PAMELA DAVIS TO AMENDED COMPLAINT

NOW ENTERING COURT is William G. Stripp, Attorney at Law, on behalf of Pamela Davis (hereafter "Defendant"), who answers as follows:

1. Paragraph 1 of the Amended Complaint states a legal conclusion, the accuracy of which will be determined by the district judge, and which does not require a reply by Defendant. To the extent that a reply is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments.

2. Paragraph 2 of the Amended Complaint states a legal conclusion, the accuracy of which will be determined by the district judge, and which does not require a reply by Defendant. To the extent that a reply is required, Defendant admits the averments.

3. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraph 3 of the Amended Complaint.

4. Defendant admits the averments in Paragraph 4 of the Amended Complaint.

5. Defendant admits the averments in Paragraph 5 of the Amended Complaint.

6. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraph 6 of the Amended Complaint.

7. With regard to the averments in Paragraph 7 of the Amended Complaint, Defendant states that the district court orders referred to in the paragraph speak for themselves. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in Paragraph 7 of the Amended Complaint.

8. With regard to the averments in Paragraph 8 of the Amended Complaint, Defendant admits that the Zuni Indian Tribe is a federally recognized tribe. Defendant denies that the Zuni Indian Tribe has owned and occupied lands within the Zuni River basin in New Mexico since time immemorial, and states that the term “time immemorial” is ambiguous and can be defined in many ways. Defendant states that the each order and statute described in Paragraph 8 speaks for itself. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in Paragraph 8 of the Amended Complaint.

9. With regard to the averments in Paragraph 9 of the Amended Complaint, Defendant denies that the Zuni Indian Tribe and its members have used waters of the Zuni River stream system in New Mexico from time immemorial. Defendant states that each law of the United States and each law of Spain and Mexico speaks for itself, as does the decision in State of New Mexico v. Aamodt, 537 F.2d 1102 (10th Cir. 1976). Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in Paragraph 9 of the Amended Complaint.

10. With regard to the averments in Paragraph 10 of the Amended Complaint, Defendant states that each treaty, statute, executive order, federal law, or federal case decision, which is referred to, speaks for itself. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in Paragraph 10 of the Amended Complaint.

11. With regard to the averments in Paragraph 11 of the Amended Complaint, Defendant admits that the Navajo Nation (a/k/a Navajo Tribe of Indians) is a federally recognized tribe. Defendant denies that the Navajo Nation occupied lands in the Zuni River basin since time immemorial. Defendant denies that the Navajo Nation and its members have used waters of the Zuni River stream system in New Mexico from time immemorial. Defendant states that each statute and executive order referred to in Paragraph 11 speaks for itself. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in Paragraph 11 of the Amended Complaint.

12. With regard to the averments in Paragraph 12 of the Amended Complaint, Defendant states that each law of the United States, which is referred to, speaks for itself. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in Paragraph 12 of the Amended Complaint.

13. With regard to the averments in Paragraph 13 of the Amended Complaint, Defendant states that each statute and executive order, which is referred to, speaks for itself. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in Paragraph 13 of the Amended Complaint.

14. With regard to the averments in Paragraph 14 of the Amended Complaint, Defendant states that federal law speaks for itself, as do the federal decisions, which are referred to. Defendant denies that members of the Ramah Band of Navajos have lived on and occupied lands in the Zuni River basin in New Mexico from time immemorial. Defendant denies that members of the Ramah Band of Navajos have used waters of the Zuni River stream system in New Mexico from time immemorial. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in Paragraph 14 of the Amended Complaint.

15. With regard to the averments in Paragraph 15 of the Amended Complaint, Defendant states that each treaty, statute, executive order, federal law, and federal decision, which is referred to, speaks for itself. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in Paragraph 15 of the Amended Complaint.

16. With regard to the averments in Paragraph 16 of the Amended Complaint, Defendant states that the Presidential Proclamation, which is referred to, speaks for itself, as do the federal decisions. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in Paragraph 16 of the Amended Complaint.

17. With regard to the averments in Paragraph 17 of the Amended Complaint, Defendant states that the Presidential Proclamation, which is referred to, speaks for itself. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in Paragraph 17 of the Amended Complaint.

18. With regard to the averments in Paragraph 18 of the Amended Complaint, Defendant states that each federal law, which is referred to, speaks for itself. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in Paragraph 18 of the Amended Complaint.

19. With regard to the averments in Paragraph 19 of the Amended Complaint, Defendant states that each federal law, which is referred to, speaks for itself. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in Paragraph 19 of the Amended Complaint.

20. With regard to the averments in Paragraph 20 of the Amended Complaint, Defendant states that the Executive Order, which is referred to, speaks for itself. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in Paragraph 20 of the Amended Complaint.

21. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraph 21 of the Amended Complaint.

22. Paragraph 22 of the Amended Complaint states a legal conclusion, the accuracy of which will be determined by the district judge, and which does not require a reply by Defendant. To the extent that a reply is required, Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments.

23. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments in Paragraph 23 of the Amended Complaint.

24. With regard to the averments in Paragraph 24 of the Amended Complaint, Defendant claims the right to divert, impound, pump and use surface water and

groundwater on her land. Defendant is without knowledge or information sufficient to form a belief as to the truth of the remaining averments in Paragraph 24 of the Amended Complaint.

25. Defendant denies the averments in paragraph 25 of the Amended Complaint.

WHEREFORE, Defendant requests that this Court:

- (1) Deny the United States the prayer for relief as stated in the Amended Complaint;
- (2) Dismiss the Amended Complaint;
- (3) Award defendant her attorney's fees and costs; and
- (4) Award Defendant such other and further relief as the Court may deem just and proper.

Date: September 4, 2007

Respectfully submitted,

----signed electronically-----

**WILLIAM G. STRIPP
ATTORNEY AT LAW
P.O. BOX 159
RAMAH, NEW MEXICO 87321
Telephone: (505) 783-4138
Facsimile: (505) 783-4139**

Certificate of Service

I HEREBY CERTIFY that on the 4th day of September 2007, I filed the foregoing electronically through the CM/ECF system, which caused counsel and parties pro se who have entered an appearance to be served by electronic means.

----signed electronically-----

William G. Stripp
Attorney at Law