

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,  
and  
STATE OF NEW MEXICO, ex rel.  
STATE ENGINEER,  
Plaintiffs,

and

NO. CV 01-72 BB/WDS

ZUNI INDIAN TRIBE and  
NAVAJO NATION,  
Plaintiffs-in-Intervention,

vs.

ZUNI RIVER BASIN  
ADJUDICATION

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

Subfile No.: ZRB-4-0119

SUBFILE ANSWER

**NOW ENTERING COURT** is William G. Stripp, Attorney at Law, on behalf of the Paul Davis Survivor's Trust dated July 28, 2003, who answers the complaint as follows:

1. Defendant objects to the description of water rights contained in the proposed Consent Order offered by the United States and the State of New Mexico concerning Subfile Number **ZRB-4-0119**.

2. The objection to the description of the water rights described by the proposed Consent Order for Subfile Number **ZRB-4-0119** is made because the offers of 0.745 acre feet per annum for well number 3B-5-W005, 1.015 acre feet per annum for well

number 3B-5-W008, 0.790 acre feet per annum for well number 3B-5-W009, 0.7 acre feet per annum for well number 3B-5-W010, 0.7 acre feet per annum for well number 3B-5-W011, 0.7 acre feet per annum for well number 3B-5-W012, do not accurately reflect either historical beneficial use or future needs. Well 3B-5-W005, which has a priority date of 8/1/1971, has historically been used for an orchard, irrigating fields, livestock watering, a home, and a law office. The offer of 0.745 acre feet is insufficient. Defendants would accept 5.0 acre feet. Well 3B-5-W008, which has a priority date of 9/15/92, has historically been used for providing water to residences and livestock watering. The offer of 1.015 acre feet is insufficient. Defendants would accept 5.0 acre feet. Well 3B-5-W009, which has a priority date of 9/24/1971, has historically been used for livestock watering, irrigating fields and irrigating a large garden and fruit trees. The offer of 0.790 acre feet is insufficient. Defendants would accept 10 acre feet. Well 3B-5-W010, which has a priority date of 1/1/1948, has historically been used for a ranch house, a bed & breakfast, an Inn, a small house, a real estate office, gardens and livestock watering. The offer of 0.7 acre feet is insufficient. Defendants would accept 8 acre feet. Well 3B-5-W011, which has a priority date of 1/20/1983, has historically been used to provide water for a residence and livestock watering. The offer of 0.7 acre feet is insufficient. Defendants would accept 3 acre feet. Well 3B-5-W012, which has a priority date of 5/1/1948, has historically been used to provide water for a residence, garden, fruit trees and livestock watering. The offer of 0.7 feet is insufficient. Defendants would accept 5 acre feet. Well 3B-5-W121, which has a priority date of 7/18/2005, has historically been used to provide water for residences and livestock. The offer of 1.015 acre feet is insufficient. Defendants would accept 3 acre feet.

3. Defendants made a good faith effort to resolve their disagreement with the Consent Order proposed by the United States and the State by meeting with representatives of the Plaintiffs. While Defendants believe that the current offer presented in the Consent Order is unacceptable, Defendants are willing to continue negotiations in an attempt to resolve the parties' differences.

4. Defendants understand that by making this claim and filing this document they are not waiving their right to later raise in an Amended Answer, any jurisdictional or affirmative defenses they may have.

5. Defense counsel is using a slightly modified version of the Subfile Answer form presented with the Notice That the Consultation Period Has Ended rather than a customized pleading, because it appears that is what the Court wants.

Date: October 8, 2010

Respectfully submitted,  
---signed electronically-----  
**WILLIAM G. STRIPP**  
**ATTORNEY AT LAW**  
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**RAMAH, NEW MEXICO 87321**  
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**Certificate of Service**

I HEREBY CERTIFY that on October 8, 2010, 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---