

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

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

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CLERK-ALBUQUERQUE

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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-ACE

ZUNI RIVER BASIN
ADJUDICATION

Subfile No: ZRB-3-0077

SUBFILE ANSWER

COME(S) NOW GALE HENKE and answer(s) the complaint as follows:

<u>Subfile No:</u>	<u>Object</u>	<u>Claim No Right</u>
ZRB-3-0077	<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

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Order for Subfile Number ZRB-3-0077 because:
(explain) _____

(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) *Attended a consultation meeting on June 14, 2006 in Gallup, New Mexico. The well was successful from 316.9 feet, but this is not satisfactory given the historical use of the well.*

(See Attachment)
(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-3-0077 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) -- GALE HENKE:

Gale Henke

5528 Via Conejo NE
(Address: Print Clearly)

505-239-1950 (cell)
(Phone Number: Print Clearly)

505-299-7948 (home)

IMPORTANT: If you have been served with a summons and copy of the complaint in this action, or if you waived service of process, you must file an answer in this subfile with United States District Court for the District of New Mexico by August 12, 2006. 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 file an answer by August 12, 2006. The court's address is 333 Lomas NW, Suite 270, Albuquerque, NM 87102. A copy of the answer filed with the district court must also be sent to counsel for the United States at the following address:

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

July 30, 2006

United States of America, for Itself and as Trustee for the Zuni Indian Tribe, Navajo Nation and Ramah Band of Navajos and the STATE OF NEW MEXICO, ex re. STATE ENGINEER, and ZUNI INDIAN TRIBE, NAVAJO NATION

V

STATE OF NEW MEXICO COMMISSIONER OF PUBLIC LANDS, and A&R PRODUCTIONS, et.al.,
Subfile Answer
Subfile Number ZRB-3-0077

We reject the offer for of the WELL described as follows:

Map Label: 7B-20W02

OSE File No: None

Priority Date: 1935

Purpose of Use: Livestock

Well Location: As shown on Hydrographic Survey Map 7B-2

S 23 T 09N R 16W 12,1/16.1/64

New Mexico State Plan Coordinate System, West Zone, NAD 1983

Amount of Water (ac/ft per annum): .9

As directed in the letter of May 12, we consulted with the United States and the State of New Mexico ex rel: State Engineer concerning the Consent Order provided to Gale Henke for Subfile No. ZRB-3-0077. The date of the Consultation was June 14, 2006. An offer of .9 acre feet was provided and the priority date of the well was to be corrected.

We reject the offer for the well in question for the following reason. State statute give 3 acre feet water for domestic wells. This well historically provided water for the cattle of the Navajo's and my Uncle Kenneth Mangum as well as domestic water for several Navajo families. My Uncle leased the land from the Railroad prior to its purchase in the 1940's. He ran cattle from the 1930's to the mid 1960's.

Kenneth Mangum ran between 120 to 160 mother cows, 4 bulls, and when calves were on the ground, he could have 320 animals drinking water from this well.

In addition the Navajo family of Billy Martine lived nearby and used the well for domestic purposes as well as to water sheep and cows. When stock ponds did not have water, this was the only source of water. A road went through the property, and the Navajo's came and went as needed.

In the 1960's my father, Leslie Clawson, purchased the land when my Uncle Kenneth died. My father did not purchase all of my uncles land, and therefore he ran fewer cattle. He had on an average between 80-100 cattle.

In the 1980's my father's health failed and he leased to land to Curly Biggs (A NAVAJO man who ran cattle on the property (100 plus head) and pumped the well for water. At times this was the only well available for watering his stock.

When my husband, Gerald Henke, attended the consultation on June 14 in Gallup New Mexico because I was in Los Angeles working, he did not have all the historical information on the property.

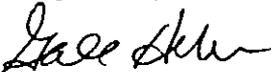
It is now 2006 and we have decided to rest the land from cattle grazing, (being good stewards of the land) and spend money improving the water shed by removing brush, sage brush, pinon/juniper, and erosion control. The Crockett draw water moves through the center of our property.

We respectfully ask that the State Engineer reconsider the offer of .9 acre feet for the well in question as not being an accurate historical usage of this well. Historically we have been good neighbors to the Navajo living and ranching adjacent to us. As an example, my father had a verbal agreement with the Navajo man, Curly Biggs, that at the time of his death, he would give him the BLM lease that was attached to this section. Being a person of my word, and even though my father did not tell me of this agreement, when Curly Biggs came to me and told me that he was to get the land, I made arrangements for the transaction to occur. I could have SOLD this lease for several thousand dollars, but chose not to do so because of the integrity of my family's word to our Native American neighbors.

Historically, we have shared water from the well during times of need and drought. In the 1950's drought this well provided water for many Navajo families.

Your consideration of this historical information related to the well usage is requested; as the offer does not take into consideration the many years Navajo's have used the water for domestic purposes and to water their livestock.

Respectfully



Gale Henke