

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

FILED  
UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO

08 APR 14 PM 2:30

CLERK-ALBUQUERQUE

UNITED STATES OF AMERICA )  
 and )  
 STATE OF NEW MEXICO, ex rel. STATE )  
 ENGINEER, )  
 )  
 Plaintiffs, )  
 )  
 And )  
 )  
 ZUNI INDIAN TRIBE, NAVAJO NATION, )  
 )  
 Plaintiffs in Intervention )  
 )  
 v. )  
 )  
 A & R PRODUCTIONS, et. al. )  
 )  
 Defendants. )  
 )  
 \_\_\_\_\_ )

No. 01cv00072 BB/WDS

ZUNI RIVER BASIN  
ADJUDICATION

Subfile No. ZRB-3-0090

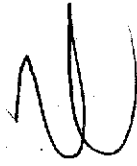
**MOTION TO SET ASIDE ENTRY**  
**OF DEFAULT**

I am writing in response to Document 1514 – Application for entry of default – in the above captioned case.

In May 2006 I received the service packet with a proposed settlement. In a timely manner I sent in my subfile answer in the prepaid return envelope. Unfortunately I did not request a return receipt or keep a copy. In my response I did not accept the proposed settlement as I felt it was inadequate, and I requested a consultation.

Under Rule 55(c) an entry of default can be set aside for good cause, which I believe is the case. I am requesting the opportunity to resubmit an answer, and am attaching the subfile response.

Thank you.

A handwritten signature in black ink, consisting of a stylized 'D' followed by a series of loops and a final vertical stroke.

David Kessler

PO Box 467

Zuni, NM 87327

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

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-3-0090

**SUBFILE ANSWER**

COME(S) NOW: *David S. Kessler* and *Lisa de St Crai*  
answer(s) the complaint as follows:

Subfile No:                      Object                      Claim No Right

*W*

(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 ~~288-3-0090~~ because:

(explain)

*It is an arbitrary number + may not be adequate  
It is well below the  
usual accepted standard.  
There is no obvious method used that makes sense  
to estimate how much water  
land on a given*

(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)

*- requesting consultation  
- requesting an increase to  
the usual 3 acre-feet per annum*

(Attach additional pages if necessary)

I (We) claim no right for the water right(s) described by the proposed Consent Order for Subfile Number ~~288-3-0090~~ because:

(explain)

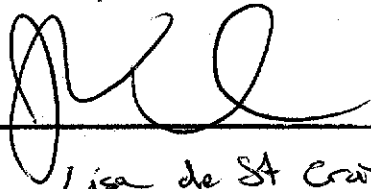
*Refusing to accept Order*

(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)



Lisa de St Cruz

PO Box 467

Zuni NM 87327

(Address: Print Clearly)

507-783-4502

(Phone Number: Print Clearly)

**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**

**. 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 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 - 8<sup>th</sup> Floor  
Denver, CO 80294**