

*20 Sep 2011*

**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/DWD/ACE

ZUNI RIVER BASIN  
ADJUDICATION

Subfile No: ZRB-1-0005

**SUBFILE ANSWER**

COMES NOW BATTLE WOLF TRUST, RON ALD PORATH &  
MARZELLA PORATH and answer(s) the complaint as follows:

<u>Subfile No:</u>	<u>Object</u>	<u>Claim No Right</u>
ZRB-1-0005	<input checked="" type="checkbox"/> <i>SM</i>	<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 Order for Subfile Number ZRB-1-0005 because:  
(explain)

*See Attached*

(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)

*See Attached*

(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-1-0005 because:  
(explain)

*See Attached*

(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.

We object to the description of the water rights described by the proposed Consent Order for the Subtitle No. ZRB-1-0005 because:

(explain) We purchased 88 Acres of land according to the information we received from the Water study evaluation report. Then we ordered and paid for a soil evaluation, for irrigation, domestic use, and livestock use, as well as for building sites from a geologist. Eighty eight Acres are not needed for merely building a residence. We are not wealthy.

We seeded our land with High Altitude Grass seed for the livestock. We have an ongoing need for use of water. We pastured our horses and exchanged grazing rights in exchange for livestock. We continue to allow grazing for this exchange of cattle, up to 35 heads, plus calves depending on the land production for grazing. More than two miles of Fencing and labor costs, plus installation of power poles and electricity to operate the well plus labor costs was a considerable investment for livestock.

A greater progress toward our domestic use has been delayed due to the diagnosis of my having Cancer. With continued improvement we will begin a renewed effort to complete our dreams but the existing water right must be preserved. The value of our investment will have greatly diminished if the water rights are lowered from 3 Acre Feet to .7 Acre Feet. I don't believe my investments could be recovered if we had to sell with diminished water rights. We paid the land price according to Water law of 3 Acre feet, in a newly declared County of Cibola. No permit was needed to drill our well at the time.

The Indian tribes Rights should not be given greater rights to water than we have. By existing law they are allowed 3 Acre feet also. A greater need has NOT been explained. New Mexico Water cannot be sold according to law. If the intention is to sell or lease water to another entity it would be a violation of existing law, and if that is the case or cause for this lawsuit, then our wells will dry up leaving our land useless. We object adamantly against changing the existing law, or in selling/giving our water rights away. In other countries water rights have been lost and the people are starving for lack of water for agricultural production.

The consideration of water use by the Uranium mines should be observed in the court action because the water was diverted for mining and the land dried up. When the mines closed the water returned. WE have never been advised of the greater need for more than 3 Acre feet than we all presently have. We were told three acre is a lot <sup>of</sup> water that we "would probably never use"; well then the same applies to the Indian Tribes. What greater need do they have than ours, that they "would probably never use"?

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

(describe) We, Ronald B. Porath, and Marzella J. Porath, have made a good faith effort to resolve any disagreement with the Consent Order proposed by the United States and the State by:

meeting with Mr. Bridgewater, and other gentlemen on February 20, 2008 in Gallup, NM.

We were unable to come to an agreement on lowering the three acre feet down to .7 Acre Feet.

We did however agree upon the 1991 priority date for our well. The State Engineers office has all of the information required by regarding water right claim.

Contrary to Mr. Bradley S. Bridgewater, his statement regarding inspection, we did not refuse to allow a follow up "field inspection". The gentlemen present at the meeting advised us that our claims of use would have to be confirmed by inspection. My question to the other gentlemen at the meeting, was, "How are you going to do that? His response was: "It will be done by an aerial view." How could we refuse that? We do not control the skies ! We had no problem with an aerial inspection; that was how Our Well had already been recorded as existing. We did not ask anything about a "field inspection", a term I would not know to use because I am not in that profession but is probably second nature to Mr. Bridgewater.

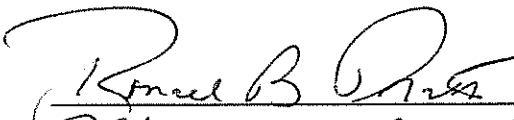
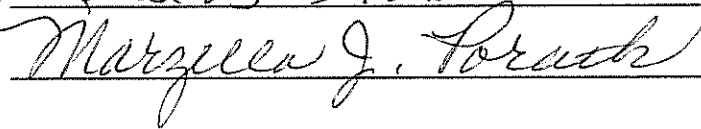
**We claim no right for the water rights described by the proposed consent order for Subfile ZRB-1-0005 because:**

**(explain) \_\_\_\_\_ Not applicable \_\_\_\_\_**

**WE understand that my making this claim and filing this document we are not waving our rights to later raise in an amended answer, any jurisdictional or affirmative defenses 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) – BATTLE WOLF TRUST, RONALD PORATH & MARZELLA PORATH

10537 CALLE ALBA NW.

(Address: Print Clearly)

ALBUQUERQUE NM. 87114

(Phone Number: Print Clearly)

**IMPORTANT: You have been served with a summons and copy of the complaint in this action and must file an answer in this subfile with United States District Court for the District of New Mexico within 20 days of the date of service. 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 within 20 days of the date of service. 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  
999 Eighteenth St., Suite 945 N  
Denver, CO 80202**