

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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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

ZUNI RIVER BASIN

ADJUDICATION

**AMENDED SUBFILE ANSWER**

Summary:

As the Owners of three (3) adjacent lots in the Cloh Chin Toh Subdivision of Timberlake with currently two residences and one good well capable of supplying the needs of three residences, we request the Plaintiffs grant the exception of 2.1 acre feet/year (3 x 0.7 acre feet/year) to supply our needs.

History:

We purchased our home and two lots in the Cloh Chin Toh Subdivision in September, 2005. At that time we were unaware of the Zuni River Basin (ZRB) Adjudication. This fact was not disclosed by the Seller and was not discoverable by the routine title search. We first became aware of the ZRB Adjudication on November 6, 2006. We were provided a copy of the existing well permit (G-2252) indicating the "maximum amount of water that may be appropriated under this permit is 3.0 acre feet/year." When we purchase our home and property, it was our intention that our son would build his residence on the adjacent lot and share our well. The capacity of the well and the permit appeared to allow for this.

In August 2008, we purchased a third (adjacent) lot with a second residence and its own well. This well produces saline, non-potable water. We revised our plans with the hope that our son, who is completing medical training at UNM, his wife, who is Navajo and completing her teacher training at UNM, and their two children would occupy this residence—and be provided water from our well. We obviously faced a “catch 22” situation where we could not currently meet the Historical Beneficial Use requirement but were reluctant to incur the expense of connecting our well to the second residence pending resolution of the ZRB Adjudication.

Argument:

As outlined in my previous correspondence in this matter, I continue to believe there is reason to question the adequacy of the 0.7 acre feet/year offered in the settlement. I believe the Consent Order in this regard is inappropriately restrictive, inadequate, and arbitrary—and contradicts other authorities, including the U.S. Bureau of Reclamation and the American Ground Water Trust, which sets the figure at 1.0 acre feet/year for a residential family of four. However, I also believe that I will not prevail in this argument and, not wanting to waste the Court’s time, am prepared to accept the 0.7 acre foot figure.

The more important issue for me has always been the extenuating circumstance of owning three adjacent lots in the Timberlake Subdivision (governed by CC&Rs which restrict each lot to one residence.) I have one good well on one lot and a well on a second lot which produces saline/non-potable water. Good wells with potable water are rare in this area and extremely unpredictable. Although I cannot, at present, establish Historic Beneficial Use supporting three residences with my one good well, it is our family’s intention that residences for my children be built on the two adjacent lots and it seems reasonable and legitimate to request the right to use 2.1 acre feet/year (3 X 0.7 acre feet) from this well. I would point out that, one way or the other, 2.1 acre feet of water/year will eventually be drawn for these three lots.

I have worked as a physician at the Zuni PHS Hospital for more than 16 years taking care of Zuni and Navajo patients. I am certain that Zuni and Navajo people would understand the importance of ties to family and would not require that I incur the expense and uncertainty of digging additional wells on my adjacent lots when my existing well would serve us all. I remain hopeful that someone with authority involved in this process will recognize and accept the logic of this position.

If the United States of America and the State of New Mexico, as Plaintiffs acting on behalf of the true Plaintiffs in this case, the Zuni Indian Tribe and the Navajo Nation, object to granting the requested exception in my case, I would respectfully request that the Court ask the Zuni Tribe and the Navajo Nation to consider my request. If they refuse, I will accept their decision.

cc Zuni Tribal Council

PO Box 339

Zuni, NM 87327

Ben Shelly, President, Navajo Nation

PO Box 7440

Window Rock, Navajo Nation, AZ 86515

Respectfully submitted: October 24, 2011

A handwritten signature in black ink, appearing to read "Robert W. Crooks", written over a horizontal line.

Robert W. Crooks

PO Box 70

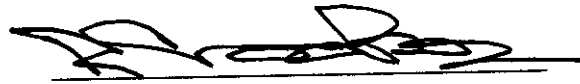
Ramah, NM 87321

(505) 783-2471

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, on October 24, 2011, I filed the foregoing *Amended Subfile Answer* by certified mail.

I FURTHER CERTIFY that I mailed copies of the foregoing to the following persons.

A handwritten signature in black ink, appearing to read 'Robert W. Crooks', written over a horizontal line.

Robert W. Crooks

Bradley S. Bridgewater

U.S. Department of Justice

South Terrace, Suite 370

999 18<sup>th</sup> Street

Denver, CO 80202

Edward Bagley

Office of the State Engineer, Legal Division

PO Box 25102

Santa Fe, NM 87504

Robert W. Crooks, M.D.  
P.O. Box 70  
Ramah, NM 87321

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT  
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE



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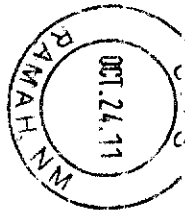
*RAMAH ZUNI RIVER ASSOCIATION  
CASE 01-21-00072-BB*

United States District Court

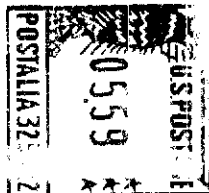
Office of the Clerk

333 Lomas Blvd. NW

Albuquerque, NM 87102



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At Albuquerque NM

OCT 25 2011

MATTHEW J. DYKMAN  
CLERK