

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

UNITED STATES OF AMERICA,)
ET AL.,)
)
 PLAINTIFFS,)
)
)
)
)
 v.)
)
)
)
 STATE OF NEW MEXICO)
 COMMISSIONER OF PUBLIC)
 LANDS, ET AL.,)
)
 DEFENDANTS.)
_____)

CIV NO. 01- 00072 BDB/WDS
Subfile: ZRB-4-0453

ZUNI RIVER BASIN
ADJUDICATION

**FIRST AMENDED ANSWER
AND COUNTERCLAIM FOR DECLARATORY JUDGMENT**

COMES NOW, Ted Broderick (“Broderick”), by and through his Attorneys of record, Law & Resource Planning Associates, P.C., and files his Subfile Answer for ZRB-4-0453 as follows:

ANSWER

1. Broderick admits the allegations stated in ¶ 1 and 2 of the Amended Complaint (Doc. 222).
2. Broderick is without sufficient information to determine the truth of the allegations stated in ¶ 3 of the Amended Complaint and therefore denies the same.
3. Broderick admits the allegations stated in ¶ 4, 5, 6, and 7 of the Amended Complaint.

4. Broderick is without sufficient information to determine the truth of the allegations stated in ¶ 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23 of the Amended Complaint and therefore denies the same.

5. Broderick admits the allegations stated in ¶ 24 and 25 of the Amended Complaint.

ANSWER TO SUBFILE ZRB-4-0453 OFFER

6. In response to the specific Offer made by the Plaintiffs in Subfile ZRB-4-0453, the Trust states that the Offer was declined for the following reasons:

a. The Offer does not accurately reflect amounts of water that have been placed to beneficial use.

b. The Offer does reflect the conditions of the well permit.

c. The Offer includes injunctive relief not requested in the Amended Complaint, which would preclude Broderick from further developing water rights.

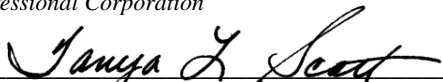
7. Broderick has made a good faith effort to consult with and resolve any differences with the Plaintiffs herein.

AFFIRMATIVE DEFENSES

The Amended Complaint fails to state a claim for which relief may be granted.

Respectfully submitted,

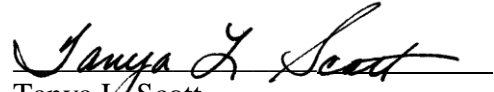
LAW & RESOURCE PLANNING ASSOCIATES,
A Professional Corporation

By: 

Charles T. DuMars
Tanya L. Scott
Attorneys at Law
Albuquerque Plaza, 201 3rd Street NW, Ste. 1750
Albuquerque, NM 87102
(505) 346-0998 / FAX: (505) 346-0997

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 23, 2012, I filed the foregoing pleading electronically through the CM/ECF system, which caused the parties or counsel reflected on the Notice of Filing to be served by electronic means.


Tanya L. Scott