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)	No. 01cv00072-MV/LAM
ZUNI INDIAN TRIBE and NAVAJO NATION,)	
Plaintiffs-in-Intervention)	Subfile No. ZRB-2-0014
)	
)	ZUNI RIVER BASIN
v.)	ADJUDICATION
)	
STATE OF NEW MEXICO COMMISSIONER)	
OF PUBLIC LANDS,)	
and)	
A & R PRODUCTIONS, et al.,)	
, ,	,	

JOINT ANSWER TO COUNTERCLAIM OF EDWARD J. BAWOLEK AND SUSAN J. BAWOLEK

Pursuant to Rule 12(a)(2), Fed. R. Civ. P., Plaintiffs, the United States of America and the State of New Mexico *ex rel*. State Engineer answer the Counterclaim for Declaratory Judgment ("Counterclaim") filed and served by Edward J. Bawolek and Susan J. Bawolek ("Defendants"). *See First Amended Answer to Amended Complaint by Edward J. Bawolek and Susan J. Bawolek* (Doc. 2918) ("First Amended Answer") at pp. 18 – 19, ¶¶ 1 – 5.

Paragraph 1 of the Counterclaim constitutes Defendants' legal theory or
conclusion and does not include any factual assertion to which Plaintiffs must
 Joint Answer to Bawolek Counterclaim

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- respond. Plaintiffs admit that there exists an actual controversy between Plaintiffs and Defendants concerning this sub-file action, ZRB-2-0014. Plaintiffs deny that Defendants have a cause of action against Plaintiffs to assert a counterclaim, that jurisdiction exists to assert a counterclaim against Plaintiffs, and that Defendants are entitled to any relief, declaratory or otherwise, against Plaintiffs.
- 2. Plaintiffs admit the contents of Paragraph 2 of the Counterclaim.
- 3. Plaintiffs admit that Defendants, or their predecessors in title, have sufficiently and beneficially used some water to establish a water right under New Mexico law. Plaintiffs deny that Exhibits A and B to the First Amended Answer reflect the Defendants' water right. Plaintiffs otherwise deny any remaining factual assertions contained in Paragraph 3 of the Counterclaim.
- Plaintiffs deny the factual assertions contained in Paragraph 4 of the Counterclaim.
- Paragraph 5 of the Counterclaim constitutes Defendants' legal theory or conclusion and does not include any factual assertion to which Plaintiffs must respond.
- At the conclusion of the Counterclaim, the Defendants claim relief that appears to be associated, at least in part, with their alleged Counterclaim. *See* First Amended Answer p. 19 \P (1) (5). Plaintiffs deny that the Defendants are entitled to any relief with respect to their Counterclaim.

/s/ Andrew "Guss" Guarino Andrew "Guss" Guarino U.S. Department of Justice South Terrace, Suite 370 999 18th St. Denver, CO 80202 (303) 844-1343

and

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 14, 2014, I filed the foregoing electronically through the CM/ECF system, which caused the parties or counsel reflected on the Notice of Electronic Filing to be served by electronic means.

/s/ Andrew "Guss" Guarino	/s/	Andrew	"Guss"	Guarino	
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