

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

UNITED STATES OF AMERICA,	)	
and	)	<b>07cv00681-BB</b>
ZUNI INDIAN TRIBE	)	
Plaintiffs,	)	
	)	ZUNI RIVER BASIN
-v-	)	ADJUDICATION
	)	
STATE OF NEW MEXICO, <i>ex rel.</i> State	)	<b>Subproceeding 1</b>
ENGINEER, <i>et al.</i>	)	<b>Zuni Indian Claims</b>
Defendants	)	
_____	)	

**JOINT ANSWER OF ORC, LLC, JARALOSA CATTLE COMPANY, LLC, AND  
TAMPICO SPRINGS 3000, LLC TO ZUNI INDIAN TRIBE'S SUPPLEMENTAL  
SUBPROCEEDING COMPLAINT**

Defendants ORC, LLC, Jaralosa Cattle Company, LLC, and Tampico Springs 3000, LLC (collectively "Defendants"), by and through their undersigned counsel, for their answer to the Zuni Indian Tribe's Supplemental Subproceeding Complaint ("Complaint"), admit, deny, and allege as follows:

1. In response to Paragraph 1 of the Complaint, which incorporates the allegations contained in the *United States' Subproceeding Complaint and Statement of Claims for Water Rights on Behalf of, the Zuni Indian Tribe and Zuni Allottees* (the "United States' Complaint"), Defendants respond by incorporating all of their responses to the allegations contained in the United States' Complaint, which responses are contained in the *Joint Answer of ORC, LLC, Jaralosa Cattle Company, LLC, and Tampico Springs 3000, LLC To United States' Subproceeding Complaint and Statement of Claims for Water Rights on Behalf of, and for the Benefit of, the Zuni Indian Tribe and Zuni Allottees*, being filed contemporaneously herewith.

2. In response to Paragraph 2 of the Complaint, Defendants' responses to specific additional water right claims are contained in the following paragraphs of this Answer. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegation that such additional water rights should have a time immemorial or aboriginal priority, and therefore deny the same.

3. In response to Paragraph 3 of the Complaint, Defendants aver as follows:

a. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in the first two sentences of Paragraph 3, including the table contained therein, and therefore deny the same. Defendants further aver that the Zuni Indian Tribe has not alleged sufficient facts to support the claims contained therein, and therefore deny the same.

b. Defendants deny that the Zuni Indian Tribe has "the right to enlarge or deepen any existing impoundments and to create any new impoundments that may be necessary to meet the livestock-watering, sewage treatment, irrigation, and other needs of a permanent Zuni homeland."

c. Defendants deny any and all allegations contained in Paragraph 3 of the Complaint, not expressly denied in subparagraphs 3.a and 3.b of this Answer above.

4. In response to Paragraph 4 of the Complaint, Defendants aver as follows:

A. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in the first sentence of Paragraph 4 of the Complaint, including the contents of Table A, referenced therein, and therefore deny the same. Defendants

further aver that the Zuni Indian Tribe has not alleged sufficient facts to support the claims contained therein, and therefore deny the same.

B. Defendants deny the allegations contained in the second sentence of Paragraph 4 of the Complaint.

5. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 5 of the Complaint, including all subparagraphs of Paragraph 5, and therefore deny the same. Defendants further aver that the Zuni Indian Tribe has not alleged sufficient facts to support the claims contained therein, and therefore deny the same.

6. Defendants deny the allegations contained in Paragraph 6 of the Complaint.

7. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 7 of the Complaint, including the contents of the table contained therein, and therefore deny the same. Defendants further aver that the Zuni Indian Tribe has not alleged sufficient facts to support the claims contained therein, and therefore deny the same.

8. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 8 of the Complaint, including the contents of “Zuni PIA Map 1,” “Zuni PIA Map 2,” and “Zuni PIA Map 3,” referenced therein, and therefore deny the same. Defendants further aver that the Zuni Indian Tribe has not alleged sufficient facts to support the claims contained therein, and therefore deny the same.

9. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 9, and therefore deny the same. Defendants

further aver that the Zuni Indian Tribe has not alleged sufficient facts to support the claims contained therein, and therefore deny the same.

10. Defendants deny each and every allegation contained in the Complaint not expressly admitted herein.

### **AFFIRMATIVE DEFENSES**

11. Defendants do not assert any specific affirmative defenses at this time, but reserve the right to assert any and all defenses available to them pursuant to Fed. R. Civ. P. 8 and 12 as the facts and claims are developed in this matter.

### **CONCLUSION**

12. The Complaint contains no demand for relief, as required by Fed. R. Civ. P. 8(a)(3). To the extent the Court deems the allegations contained in the Complaint as a demand for relief, Defendants request that the Court require the Zuni Indian Tribe to satisfy its burden of proof with respect to all aspects of the claims contained in the Complaint. To the extent that the Zuni Indian Tribe does not satisfy its burden of proof, Defendants request that the Court deny such relief.

Respectfully submitted,

By:           /s/ James M. Noble            
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, on January 31, 2008, I filed the foregoing **JOINT ANSWER OF ORC, LLC, JARALOSA CATTLE COMPANY, LLC, AND TAMPICO SPRINGS 3000, LLC TO ZUNI INDIAN TRIBE’S SUPPLEMENTAL SUBPROCEEDING COMPLAINT** electronically through the CM/ECF system, which caused the parties who have entered their appearance in this subproceeding electronically to be served with this pleading.

          /s/ James M. Noble            
James M. Noble