

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

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

**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**

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 United States' Subproceeding Complaint and Statement of Claims for Water Rights of, and for the Benefit of, the Zuni Tribe and Zuni Allottees ("Complaint"), admit, deny, and allege as follows:

1. In response to Paragraph 1 of the Complaint, Defendants aver as follows:
 - a. Defendants admit that the Zuni Indian Tribe is federally recognized.

Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations made in the first sentence of Paragraph 1.

b. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations made in the second sentence of Paragraph 1, and therefore deny the same.

c. Defendants deny the statements made in the third sentence of Paragraph 1.

d. With respect to the fourth sentence of Paragraph 1, Defendants admit the existence of the Treaty of Guadalupe Hidalgo, and affirmatively aver that the treaty speaks for itself. The statement that the United States acquired jurisdiction over the lands encompassing the Zuni Tribal lands in New Mexico by the Treaty of Guadalupe Hidalgo is a legal conclusion, for which no response is necessary. To the extent a response is deemed necessary, Defendants lack knowledge or information sufficient to form a belief about the truth of such allegation, and all other allegations contained in the fourth sentence of Paragraph 1.

e. With respect to the fifth sentence of Paragraph 1, Defendants admit that Congress enacted an Act of March 3, 1931, relating to the Zuni Tribe, and affirmatively aver that such Act speaks for itself. Defendants deny that this act of Congress “confirmed the Spanish grant.” Defendants lack knowledge or information sufficient to form a belief about the truth of the allegation that “a patent, dated February 15, 1933, was issued,” and therefore deny the same.

f. With respect to the sixth sentence of Paragraph 1, Defendants deny that there was a “Congressional confirmation of the Zuni land grant.” Defendants admit the existence of the Executive Order of March 16, 1877, and affirmatively aver that such Executive Order speaks for itself.

g. With respect to the seventh sentence of Paragraph 1, Defendants lack knowledge or information sufficient to form a belief about the truth of the allegation that the

lands referred to as the “Spanish grant lands” lie entirely within the 1877 reservation, and therefore deny the same. Defendants deny that the characterization of the lands as “Spanish grant lands” is correct.

h. With respect to the parenthetical at the end of Paragraph 1, Defendants admit that the listed Executive Orders and Presidential Proclamation were issued, and Defendants affirmatively avow that these documents speak for themselves. Defendants deny that any additional lands identified in the specified Executive Orders and Presidential Proclamation should be characterized as “enlargements” of the “1877 reservation.” Defendants lack knowledge or information sufficient to form a belief about the truth of the allegation that additional lands were added to the 1877 reservation by purchases pursuant to the various Acts of Congress listed.

i. Defendants deny each and every allegation contained in Paragraph 1 of the Complaint not expressly admitted in subparagraphs 1.a through 1.h above.

2. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 2 of the Complaint, and therefore deny the same.

3. The allegations contained in Paragraph 3 of the Complaint call for legal conclusions, for which no response is necessary. To the extent response is deemed necessary, Defendants deny the allegations contained in Paragraph 3.

4. The allegations contained in Paragraph 4 of the Complaint call for legal conclusions, for which no response is necessary. To the extent response is deemed necessary, Defendants deny the allegations contained in Paragraph 4.

5. The allegations contained in Paragraph 5 of the Complaint call for legal conclusions, for which no response is necessary. To the extent response is deemed necessary, Defendants deny the allegations contained in Paragraph 5.

6. With respect to the allegations contained in Paragraph 6, Defendants admit the existence of the Acts of Congress described therein, and affirmatively aver that those Acts speak for themselves. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations regarding patents issued in the names of members of the Zuni Indian Tribe, and therefore deny the same.

7. The allegations contained in Paragraph 7 of the Complaint call for legal conclusions, for which no response is necessary. To the extent response is deemed necessary, Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained therein, and therefore deny the same.

8. The allegations contained in Paragraph 8 of the Complaint call for legal conclusions, for which no response is necessary. To the extent response is deemed necessary, Defendants deny the allegations contained in Paragraph 8.

9. In response to Paragraph 9 of the Complaint, Defendants aver as follows:

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

b. With respect to the second sentence of Paragraph 9, the allegations contained therein call for legal conclusions, for which no response is necessary. To the extent response is deemed necessary, Defendants deny the same.

10. In response to Paragraph 10 of the Complaint, Defendants aver as follows:

a. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegation that the Zuni Tribe uses water for religious and ceremonial practices, and therefore deny the same.

b. Defendants deny each and every remaining allegation contained in Paragraph 10 of the Complaint.

11. Paragraph 11 of the Complaint does not contain an allegation and therefore does not require an admission or denial. To the extent response is deemed necessary, Defendants admit that the United States uses the conventions described therein, but deny any intended legal effect of those conventions.

12. Paragraph 12 of the Complaint does not contain an allegation and therefore does not require an admission or denial. To the extent response is deemed necessary, Defendants admit that the United States uses the conventions described therein, but deny any intended legal effect of those conventions.

13. Paragraph 13 of the Complaint does not contain an allegation and therefore does not require an admission or denial. To the extent response is deemed necessary, Defendants admit that the United States uses the conventions described therein, but deny any intended legal effect of those conventions.

14. In response to Paragraph 14 of the Complaint, Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained therein, including the contents of Table 1, referenced therein, and therefore deny same

15. In response to Paragraph 15 of the Complaint, Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained therein, including the contents of Table 2, referenced therein, and therefore deny the same.

16. In response to Paragraph 16 of the Complaint, Defendants aver as follows:

a. With respect to the first and second sentences of Paragraph 16, Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained therein, and therefore deny the same.

b. With respect to the allegations contained in the third sentence of Paragraph 16 of the Complaint, the allegations contained therein call for legal conclusions, for which no response is necessary. To the extent response is deemed necessary, Defendants deny the same.

17. Defendants deny the allegations contained in Paragraph 17.

18. In response to Paragraph 18 of the Complaint, Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained therein, and therefore deny the same.

19. In response to Paragraph 19 of the Complaint, Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained therein, and therefore deny the same.

20. In response to Paragraph 20 of the Complaint, Defendants aver as follows:

a. With respect to the first and second sentences of Paragraph 20, Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained therein, including the contents of Table 3, referenced therein, and therefore deny the

same. Defendants further aver that the United States has not alleged sufficient facts to support the claims contained therein, and therefore deny the same.

b. With respect to the third sentence of Paragraph 20, Defendants deny the allegations contained therein.

21. In response to Paragraph 21 of the Complaint, Defendants aver that the United States has not alleged sufficient facts to support the claims contained therein, and therefore deny the same.

22. In response to Paragraph 22 of the Complaint, Defendants aver as follows:

a. With respect to the first sentence of Paragraph 22, Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained therein, including the contents of Table 4, referenced therein, and therefore deny the same. Defendants further aver that the United States has not alleged sufficient facts to support the claims contained therein, and therefore deny the same.

b. With respect to the second sentence of Paragraph 22, Defendants deny the allegations contained therein.

23. In response to Paragraph 23 of the Complaint, Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained therein, including the contents of Tables 5 and 6, referenced therein, and therefore deny the same. Defendants further aver that the United States has not alleged sufficient facts to support the claims contained therein, and therefore deny the same.

24. In response to Paragraph 24 of the Complaint, Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained therein,

including the information contained in “PIA Map 1,” and “PIA Map 2”, referenced therein, and therefore deny the same. Defendants further aver that the United States has not alleged sufficient facts to support the claims contained therein, and therefore deny the same.

25. In response to Paragraph 25 of the Complaint, Defendants aver as follows:

a. Defendants deny the claims asserted in the first sentence of Paragraph 25.

b. Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations contained in Paragraph 25, including the contents of Table 7, referenced therein, and therefore deny the same. Defendants further aver that the United States has not alleged sufficient facts to support the claims contained therein, and therefore deny the same.

26. In response to Paragraph 26 of the Complaint, Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained therein, and therefore deny the same. Defendants further aver that the United States has not alleged sufficient facts to support the claims contained therein, and therefore deny the same.

27. In response to Paragraph 27 of the Complaint, Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained therein, and therefore deny the same. Defendants further aver that the United States has not alleged sufficient facts to support the claims contained therein, and therefore deny the same.

28. In response to Paragraph 28 of the Complaint, Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained therein, and therefore deny the same. Defendants further aver that the United States has not alleged sufficient facts to support the claims contained therein, and therefore deny the same.

29. In response to Paragraph 29 of the Complaint, Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained therein, and therefore deny the same. Defendants further aver that the United States has not alleged sufficient facts to support the claims contained therein, and therefore deny the same.

30. In response to Paragraph 30 of the Complaint, Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained therein, and therefore deny the same. Defendants further aver that the United States has not alleged sufficient facts to support the claims contained therein, and therefore deny the same.

31. In response to Paragraph 31 of the Complaint, Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained therein, and therefore deny the same. Defendants further aver that the United States has not alleged sufficient facts to support the claims contained therein, and therefore deny the same.

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

AFFIRMATIVE DEFENSES

33. 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

34. 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 United States to satisfy its burden of

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 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** 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