

# EXHIBIT A

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

UNITED STATE 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. )  
 )  
 )  
 )

CIV. NO. 07-00681 BDB/WDS  
 ZUNI RIVER BASIN  
 ADJUDICATION  
 Sub-proceedings 1  
 Zuni Indian Claims

**DEFENDANT BROE LAND ACQUISITIONS, III, LLC'S  
 FIRST INTERROGATORIES, REQUESTS FOR PRODUCTION  
 AND REQUESTS FOR ADMISSION TO PLAINTIFF UNITED STATES OF AMERICA**

To: United States of America  
 c/o Mr. Bradley S. Bridgewater, Esq.  
 U.S. Department of Justice  
 1961 Stout Street-8<sup>th</sup> floor  
 Denver, CO 80294  
 Telephone: (303)844-1359  
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Defendant Broe Land Acquisitions, III, LLC, propounds the following First Set of Interrogatories to the Plaintiff United States of America to be answered within thirty days of service, pursuant to Fed. R. Civ. P. 33. The following interrogatories are to be regarded as continuing, and you are requested to provide, by way of supplementary answers thereto, such additional information as may hereafter be obtained by you or any persons on your behalf, which will augment or otherwise modify any answers now given to the following interrogatories. Such

supplementary responses are to be served upon the Defendant within thirty (30) days after the receipt of such information.

Defendant also hereby requests that Plaintiff United States of America make the following documents available for inspection and copying at the offices of Law & Resources Planning Associates, P.C., 201 Third Street, N. W., Suite 1750, Albuquerque, New Mexico 87102 within thirty days of service request, pursuant to Fed. R. Civ. P. 34. The following Requests for Production are to be regarded as continuing, and you are requested to provide, by way of supplementary answers on thereto, such additional information as may hereafter be obtained by you or any persons on your behalf, which will augment or otherwise modify any responses now given to the following Requests for Production. Such supplementary responses are to be served upon the Defendant within the (30) days after receipt of such information.

Defendant also hereby propounds the following Requests for Admission to the Plaintiff United States of America to be answered within thirty days of service, pursuant to Fed. R. Civ. P. 36. Pursuant to that rule, if any matter is not admitted, your answer must specifically deny it or state in detail why you cannot truthfully admit or deny it. If you cannot truthfully admit or deny the request, your answer must specify the part admitted and qualify or deny the rest. You may only assert lack of knowledge or information as a reason for failing to admit or deny the request if you state that you have made a reasonable inquiry and that the information you know or can readily obtain is insufficient to enable you to admit or deny the request. The following Requests for Admission are to be regarded as continuing, and you are requested to provide, by way of supplementary answers thereto, such additional information as may hereafter be obtained by you or any persons on your behalf, which will augment or otherwise modify any responses now given

to the following Requests for Production. Such supplementary responses are to be served upon the Defendant within thirty (30) days after receipt of such information.

**DEFINITIONS**

1. “Entities” includes private or public corporations, companies, partnerships, associations, governmental agencies, organizations, agencies, or employees and agents thereof.

2. “ Communications(s)” mean any type of contact with other people or entities by correspondence, in person, mail, telephone, facsimile, electronic mail or any other means of communication

3. “Documents(s)” mean all written, recorded, or other graphic matter, however produced or reproduced, in the possession, custody or control (including constructive custody) of the person or entity to whom these Interrogatories and Requests for Production are addressed, whether they are located in any of that person or entity’s offices or with his/her/its/their agents, employees, attorneys, investigators, or anyone acting on his/her/its/their behalf.

4. “Statements(s)” mean any written or graphic statement signed or otherwise adopted or approved by the person making it or any stenographic, mechanical, electronic, or other recording or transcription thereof which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

5. “You” or “your” refers to the person or entity to whom these Requests for Admission, Interrogatories, and Requests for Production, are addressed, his/her/its/their agents, employees, attorneys, investigators, and anyone acting on his/her/its/their behalf.

6. “Identify,” when referring:

a. to a person, means to state his or her full name and present or last known business address and phone number;

b. to a public or private corporation, partnership, association, or other organization or to a governmental agency, means to state its full name and present or last known pertinent business address and phone number;

c. to a statement, means to identify who made it, who took or recorded it, and all other persons, if any, present during the making thereof; to state when, where, and how it was taken or recorded, and to identify who has present or last known possession, custody or control thereof;

d. to a document, means to give a reasonably detailed description thereof, including, if applicable, when, where, and how it was made; to identify who made it; and to identify who has present or last known possession, custody or control thereof;

e. to a location, such as a point of diversion or place of use, means using either (1) the Public Land Survey System (Township-Range-Section) to the nearest quarter-quarter-quarter section, (2) the New Mexico State Plane coordinates, Universal Transverse Mercator coordinates, or Geographic Coordinate System (latitude-longitude), and/or (3) the North American Datum (NAD 27 or NAD 83), coordinate zone, and unit of measure (either feet or meters, or in degrees-minutes-seconds); and

f. to any other tangible thing, means to give a reasonably detailed description thereof, including, if applicable, when, where and how it was made; to identify who made it; and to identify who has present or last known possession, custody or control thereof.

**FIRST DISCOVERY REQUESTS**

**Interrogatory No. 1:**

Please identify all person(s) providing information for the answering of these interrogatories, requests for production, and requests for admission, including his or her name, occupation, job and/or office description, address and telephone number. Please also identify the interrogatory answers, requests for production responses, and request for admission responses for which each person supplied information.

**ANSWER:**

**Interrogatory No. 2:**

Please identify (as that term is defined above), the present-day boundaries of the Zuni Reservation in New Mexico, as well as any other lands claimed by the Zuni Tribe or individual Zuni allottees (whether individually owned or held in trust) in New Mexico, or lands which the United States holds in trust for the Zuni Tribe in New Mexico, and identify (as that term is defined above) any map, drawing, diagram, survey, patent, deed, grant, or other document (as that term is defined above) which describes, depicts or otherwise references the lands described pursuant to this Interrogatory.

**ANSWER:**

**Request for Production No. 1:**

Please produce any document (as that term is defined above) described, referred to or relied upon in your response to Interrogatory No. 2, as well as any other map, drawing, diagram, survey, patent, deed, grant, or other document (as that term is defined above) which describes, depicts or otherwise references the lands described pursuant to your response to Interrogatory No. 2.

**RESPONSE:**

**Interrogatory No. 3:**

For the lands described in your response to Interrogatory No. 2, please identify (as that term is defined above) those portions for which you claim that the Zuni Tribe (and/or the United States as holder of trust lands) holds aboriginal title, those for which a reservation was established by executive order, those for which a reservation was created by an act of Congress, those for which a grant, patent or deed was issued from any sovereign, and those for which title was acquired by some other means. (For any lands in the last category, please identify the means

by which title was acquired by the Zuni Tribe or the United States.) In answering this Interrogatory, please identify (as that term is defined above) any map, drawing, diagram, survey, patent, deed, grant, or other document (as that term is defined above) which describes, depicts or otherwise references the lands described pursuant to this Interrogatory.

**ANSWER:**

**Request for Production No. 2:**

Please produce any document (as that term is defined above) described, referred to or relied upon in your response to Interrogatory No. 3, as well as any other map, drawing, diagram, survey, patent, deed, grant, or other document (as that term is described above) which describes, depicts or otherwise references the lands described pursuant to your response to Interrogatory No. 3.

**RESPONSE:**

**Interrogatory No. 4:**

For each of the categories of the title identified in your response to Interrogatory No. 3, please identify the date on which the Zuni Tribe and/or the United States acquired title to that portion of land.

**ANSWER:**

**Request for Admission No. 1:**

Admit that the reservation of land for the Zuni Tribe by executive order or act of Congress, or the granting of a patent, grant or deed from any sovereign, necessarily means that title to the land reserved, patented, deeded or otherwise granted was held by someone other than the Zuni Tribe prior to the reservation, patent, grant or deed.

\_\_\_ Admit \_\_\_ Deny

**RESPONSE:**

**Interrogatory No. 5:**

For each category of water rights claimed in your Subproceeding Complaint and Statement of Claims [Doc. No. 1], please identify whether you claim those water rights pursuant to the federal reserved water rights doctrine in *Winters v. United States*, 207 U.S. 564 (1908), aboriginal rights such as those discussed in *State ex rel. Reynolds v. Aamodt*, 618 F. Supp. 993 (D.N.M. 1985), pueblo rights such as those discussed in that case, or some other basis in Federal or State Law.

**ANSWER:**

**Request for Admission No. 2:**

Admit that, for water rights claimed pursuant to the federal reserved water rights doctrine in *Winters v. United States*, 207 U.S. 564 (1908), the priority date is the date of the federal action creating the federal reservation.

\_\_\_ Admit \_\_\_ Deny

**RESPONSE:**

**Request for Admission No. 3:**

Admit that for water rights claimed pursuant to the federal reserved water right doctrine in *Winters v. United States*, 207 U.S. 564 (1908), and the aboriginal/pueblo water rights doctrines such as those discussed in *State ex rel. Reynolds v. Aamodt*, 618 F. Supp. 993 (D.N.M. 1985), are mutually incompatible and cannot be maintained for the same claimed water right.

\_\_\_ Admit \_\_\_ Deny

**RESPONSE:**

**Interrogatory No. 6:**

For each of the Impoundments identified in Table 1 of your Subprocessing Complaint and Statement of Claims [Doc. No. 1], please identify (as that term is defined above): (1) the date of construction, (2) the priority date claimed (if different from the date of construction), (3) the persons(s) responsible for the construction, (4) whether the impoundment has been continually used for the stated purposes(s) since construction, (5) the dates and causes of any non-use of the impoundment, (6) the amount of water actually put to beneficial use (as opposed to simply stored) from each impoundment, (7) the category of land (as described in your response to Interrogatory No. 3) on which the Impoundment lies, and (8) whether you claim the resulting water right pursuant to the federal reserved water rights doctrine in *Winters v. United States*, 207 U.S. 564 (1908), the aboriginal/pueblo water rights doctrines such as those discussed in *State ex*

*rel. Reynolds v. Aamodt*, 618 F. Supp. 993 (D.N.M. 1985), or some other legal theory.

**ANSWER:**

**Request for Production No. 3:**

Please produce any photograph, map, diagram, blueprint, design, contract, correspondence, investigation, study or other document which relates to, identifies or describes each of the Impoundments identified in Table 1 of your Subproceeding Complaint and Statement of Claims [Doc. No. 1], or which tends to substantiate or disprove any claim you make about the Impoundments.

**RESPONSE:**

**Interrogatory No. 7:**

For each of the Reservoirs identified in Table 2 to your Subproceeding Complaint and Statement of Claims [Doc. No. 1], please identify (as that term is defined above): (1) the date of construction, (2) the priority date claimed (if different from the date of construction), (3) the

person(s) responsible for the construction, (4) whether the reservoir has been continually used for the stated purpose(s) since construction, (5) the dates and causes of any non-use of the reservoir, (6) the amount of water actually put to beneficial use (as opposed to simply stored) from each reservoir, (7) the category of land (as described in your response to Interrogatory No. 3) on which the Reservoir lies, and (8) whether you claim the resulting water right pursuant to the federal reserved water rights doctrine in *Winters v. United States*, 207 U.S. 564 (1908), the aboriginal/pueblo water rights doctrines such as those discussed in *State ex rel. Reynolds v. Aamodt*, 618 F. Supp. 993 (D.N.M. 1985), or some other legal theory.

**ANSWER:**

**Request for Production No. 4:**

Please produce any photograph, map, diagram, plan, blueprint, design, contract, correspondence, investigation, study or other document which relates to, identifies or describes each of the Reservoirs identified in Table 2 to your Subproceeding Complaint and Statement of Claims [Doc. No. 1], or which tends to substantiate or disprove any claim you make about the Reservoirs.

**RESPONSE:**

**Interrogatory No. 8:**

For each of the Wells identified in Table 3 to your Subproceeding Complaint and Statement of Claims [Doc. No. 1], please identify (as that term is defined above): (1) the date of construction, (2) the priority of the date claimed (if different from the date of construction), (3) the person(s) responsible for the construction, (4) the depth of each Well and the depth of the water, (5) the size of casing of each Well, (6) the capacity of each Well in gallons per minute, (7) the size and type of pump for each Well, (8) whether each Well has been continually used for the stated purpose(s) since construction, (9) the dates and causes of any non-use of the Well, (10) the claimed water right from each Well (if different from the amount of water actually put to beneficial use), (11) the category of land, (as described in your response to Interrogatory No. 3) on which the Well lies, and (12) whether you claim the resulting water right pursuant to the federal reserved water rights doctrine in *Winters v. United States*, 207 U.S. 564 (1908), the aboriginal/pueblo water rights doctrines such as those discussed in *Sate ex rel. Reynolds v. Aamodt*, 618 F. Supp. 993 (D.N.M. 1985), or some other legal theory.

**ANSWER:**

**Request for Production No. 5:**

Please produce any photograph, log, well-test data, map, diagram, blueprint, design, contact, correspondence, investigation, study, or other document which relates to, identifies or describes each of the Wells identified in Table 3 of your Subproceeding Complaint and Statement of Claims [Doc. No. 1] or which tends to substantiate or disprove any claim you make about the Wells.

**RESPONSE:**

**Interrogatory No. 9:**

For each of the Springs identified in Table 4 of your Subproceeding Complaint and Statement of Claims [Doc. No. 1], please identify (as that term is defined above): (1) whether any diversion structure or other improvement has been constructed to divert water from the Spring, (2) the date of construction of such diversion structure or other improvement, (3) the priority date claimed (if different from the date of construction), (4) the person(s) responsible for the construction, (5) whether the Spring has been continually used for the stated purpose(s) since construction, (6) the dates and causes of any non-use of the Spring, (7) the amount of water actually put to beneficial use from each spring, (8) the claimed water right from each Spring (if different from the amount of water actually put to beneficial use), (9) the category of land (as described in your response to Interrogatory No. 3.) on which the Spring lies, and (10) whether

you claim the resulting water right pursuant to the federal reserved water rights doctrine in *Winters v. United States*, 207 U.S. 564 (1908), the aboriginal/pueblo water rights doctrines such as those discussed in *State ex rel. Reynolds v. Aamodt*, 618 F. Supp. 993 (D.N.M. 1985), or some other legal theory.

**ANSWER:**

**Request for Production No. 6:**

Please produce any photograph, map, diagram, plan, blueprint, contract, correspondence, investigation, study or other document which relates to, identifies or describes each of the Springs identified in Table 4 to your Subproceeding Complaint and Statement of Claims [Doc. No. 1] and any diversion structure or other improvement constructed, or which tends to substantiate or disprove any claim that you make about the Springs or diversion structures.

**RESPONSE:**

**Interrogatory No. 10:**

For each of the Tracts Irrigated by Permanent Works identified in Table 5 to your Subproceeding Complaint and Statement of Claims [Doc. No 1], please identify (as that term is defined above): (1) the date on which water was first put to beneficial use on the tract, (2) the priority date claimed (if different from the date of first beneficial use of water), (3) the person(s) responsible for the irrigation of the tract, currently and historically, (4) the type(s) of crops grown on each tract, currently and historically, (5) the complete factual basis for the claimed diversion and consumptive use amounts related to each tract, (6) whether the Tract has been continually irrigated since water was first put to beneficial use, (7) the dates and causes of any non-irrigation of the Tract, (8) the maximum amount of water actually put to beneficial use on each Tract, (9) the claimed water right from each Tract (if different from the amount of water actually put to beneficial use), (10) the category of land (as described in your response to Interrogatory No. 3) on which the Tract lies, and (11) whether you can claim the resulting water rights pursuant to the federal reserved water rights doctrine in *Winters v. United States*, 207 U.S. 564 (1908), the aboriginal/ pueblo water rights doctrines such as those discussed in *State ex rel. Reynolds v. Aamodi*, 618 F. Supp. 993 (D.N.M. 1985), or some other legal theory.

**ANSWER:**

**Request for Production No. 7:**

Please produce any photograph, map, diagram, plan, blueprint, design, contract, correspondence, investigation, study or other document which relates to, identifies or describes each of the Tracts identified in Table 5 of your Subproceeding Complaint and Statement of Claims [Doc No. 1], or which tends to substantiate or disprove any claim you make about the Tracts.

**RESPONSE:**

**Interrogatory No. 11:**

For each of the Irrigation Water Conveyances identified in Table 7 to your Subproceeding Complaint and Statement of Claims [Doc. No. 1], please identify (as that term is defined above): (1) the date of construction, (2) the person(s) responsible for the construction, (3) the capacity of each conveyance structure, (4) whether the conveyance structure has been used since construction, (5) the dates and causes of any non-use of the conveyance structure, (6) the land on which water was put to beneficial use by the conveyance structures and the purpose(s) thereof, and (7) the maximum amount of water actually conveyed by each structure.

**ANSWER:**

**Request for Production No. 8:**

Please produce any photograph, map, diagram, plan, blueprint, design, contract, correspondence, investigation, study or other document which relates to, identifies or describes each of the Irrigation Water Conveyances identified in Table 7 of your Subproceeding Complaint and Statement of Claims [Doc. No. 1], or which tends to substantiate or disprove any claim you make about the Irrigation Water Conveyances.

**RESPONSE:**

**Interrogatory No. 12:**

For each of the Tracts Irrigated by Means of Seasonal or Temporary Works identified in Table 7 of your Subproceeding Complaint and Statement of Claims [Doc. No. 1], please identify (as that term is defined above): (1) the date on which water was first put to beneficial use on the tract, (2) the priority date claimed (if different from the date of first beneficial use of water), (3) the person(s) responsible for the irrigation of the tract, currently and historically, (4) the type(s) of crop grown on each tract, currently and historically, (5) the complete factual basis for the claimed diversion and consumptive use amounts related to each tract, (6) whether the Tract, has

been continually irrigated since water was first put to beneficial use, (7) the dates and causes of any non-irrigation of the Tract, (8) the maximum amount of water actually put to beneficial use on each Tract, (9) the claimed water right from each tract (if different from the amount of water actually put to beneficial use), (10) the diversion structure(s) used to convey water to the Tract, (11) the category of land (as described in your response in Interrogatory No. 3) on which the Tract lies, and (12) whether you claim the resulting water right pursuant to the federal reserved water rights doctrine such as those discussed in *Winters v. United States*, 207 U.S. 564 (1908), the aboriginal/pueblo water rights doctrines such as those discussed in *State ex rel. Reynolds v. Aamodt*, 618 F. Supp. 993 (D. N.M. 1985), or some other legal theory.

**ANSWER:**

**Request for Production No. 9:**

Please produce any photograph, map diagram, plan, blueprint, design, contract, correspondence, investigation, study or other document which relates to, identifies or describes each of the Tracts identified in Table 5 of your Subproceeding Complaint and Statement of Claims [Doc. No. 1], or which tends to substantiate or disprove any claim you make about the Tracts.

**RESPONSE:**

**Interrogatory No. 13:**

Please describe the entire factual basis for the amount of water for which you claim right to divert and deplete from wells and springs in paragraph 18 of your Subproceeding Complaint and Statement of Claims [Doc. No. 1], including but not limited to the “demographic and economic” data you identify in that document, any person(s) who have evaluated the data, the basis for the claimed amount for historic or present use, and the basis for the claim to a water right not based on historic or present use,

**ANSWER:**

**Request for production No. 10:**

Please produce any survey, investigation, study, report, data, census, information, photograph, correspondence, or any other document consulted, referred to, or relating to you answer to Interrogatory No. 12.

**RESPONSE:**

**Interrogatory No. 14:**

Please describe the entire factual basis for the “Practicably Irrigated Acreage” water right claim made in paragraph 24 of your Subproceeding Complaint and Statement of Claims [Doc. No. 1], including but not limited to the basis for your claim that the identified acreages are “practicably irrigated,” the basis for your claim that you are entitled to use this standard to request a water right for water not yet put to beneficial use, and any person(s) who have evaluated this claim.

**ANSWER:**

**Request for Production No. 11:**

Please produce any survey, investigation, study, report, data, census information, photograph, correspondence, map, diagram, plan, or any other document consulted, referred to or relating to your answer to Interrogatory No. 13.

**RESPONSE:**

**Request for Admission No. 4:**

Admit that the “Practicably Irrigated Acreage” standard is only available to the extent that the Zuni Tribe has a valid federal reserved water rights claim pursuant to *Winters v. United States*, 207 U.S. 564 (1908), as opposed to the other bases for a water rights claim.

\_\_\_ Admit \_\_\_ Deny

**RESPONSE:**

**Interrogatory No. 15:**

For each year which the information is available since the creation of the Zuni Reservation in 1877, please identify: (1) the total population, Indian and non-Indian, within the reservation boundaries, (2) the total number of acres under cultivation within the reservation boundaries, (3) the total number of impoundments or reservoirs in use within the reservation boundaries, (4) the total number of surface diversions and conveyance structures in use within the reservation boundaries, (5) the total number of wells in use within the reservation boundaries, (6) the types, and amounts of each type, of crops grown within the reservation boundaries, (7)

the total amount of a water diverted on an annual basis within the reservation boundaries, and (8) the total amount of water consumed on an annual basis within the reservation boundaries.

**ANSWER:**

**Request for Production No. 12:**

Please produce any survey, investigation, study, report, data, census information, photograph, correspondence, map, diagram, plan, or any other document consulted, referred to, or relating to your answer to Interrogatory No. 14.

**RESPONSE:**

**Interrogatory No. 16:**

Please identify (as that term is defined above) the person(s) who investigated, studied and produced Tables 1 through 7 of your Subproceeding Complaint and Statement of Claims [Doc. No.1], and any documents (as that term is defined above) relied upon in the creation of those Tables.

**ANSWER:**

**Request for Production No. 13:**

Please produce any survey, investigation, study, report, data, census information, photograph, correspondence, map, diagram, plan or any other document consulted, referred to, or relating to your answer to Interrogatory No. 15.

**RESPONSE:**

**Interrogatory No. 17:**

Please identify (as that term is defined above) any person you may call as an expert witness in this matter. For each person identified, please state the subject matter on which the expert is expected to testify, the substance of the facts and the opinions to which the expert is expected to testify, and summary of the grounds for each opinion.

**ANSWER:**

**Interrogatory No. 18:**

Please identify (as that term is defined above) any person you may call as a lay witness in this matter. For each person identified, please state the subject matter on which the witness is expected to testify and the substance of the party's testimony.

**ANSWER:**

**Request for Production No. 14:**

Please identify and produce any exhibit you may seek to introduce in this matter.

**RESPONSE:**

**Request for Production No. 15:**

Please produce all pleadings, exhibits, depositions, transcripts of hearings, and discovery requests and responses from United States Court of Claims Case Nos. 229, 161-79L, and 327-81L, including any appeals thereto.

**RESPONSE:**

**Request for Production No. 16:**

Please produce any communication (as that term is defined above) between the United States (including but not limited to the Bureau of Indian Affairs and the Department of the Interior) or the Zuni Tribe (including but not limited to those communications made by its governing body or any of its elected or appointed officials, employees or agents) and any third-party regarding the water rights claims made in this litigation by or on behalf of the Zuni Tribe.

**RESPONSE:**

**Request for Production No. 17:**

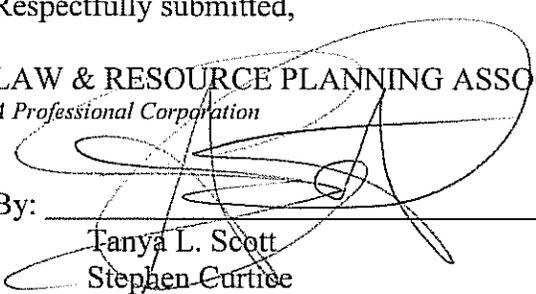
Please produce any other documents (as that term is defined above) identified, consulted, relied upon, or referred to in your answers to these Interrogatories and Request for Admission, whether or not such document has been specifically requested by another Request for Production.

**RESPONSE:**

Respectfully submitted,

LAW & RESOURCE PLANNING ASSOCIATES,  
*A Professional Corporation*

By: \_\_\_\_\_



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