



U.S. Department of Justice

Environment and Natural Resources Division

**COPY FOR YOUR
INFORMATION**

SCA:BSB
90-6-2-91

REPLY TO:

Bradley S. Bridgewater
U.S. Department of Justice
1961 Stout Street – 8th Floor
Denver, CO 80294

Telephone: (303) 844-1359
Fax: (303) 844-1350

January 3, 2008

VIA CERTIFIED MAIL

John F. Ripley
Patricia L. Anderson
606 Country Club Dr.
Kingman, AZ 86401

Re: United States v. A & R Productions, No. 01cv00072-BB (D.N.M.) (Zuni River Basin adjudication), ZRB-4-0369.

Dear John F. Ripley and Patricia L. Anderson:

As you know, the Court approved the consent order for Subfile ZRB-4-0369 on February 27, 2007. Unfortunately, it has come to our attention that there was a significant error in the electronic property-description data we obtained from McKinley County and used to create that consent order. In consequence, the well that is located on your property, 3B-4-W108, was not included in your consent order, and the three water-use features included in the consent order (the pond 3B-4-SP011, and the two wells 3B-4-W109 and 3B-4-W110) are actually located on adjoining property owned by other defendants in the case.

Your consent order was, by its terms, “subject to the right of any other water right claimant with standing to object prior to the entry of a final decree,” and you may certainly anticipate such a challenge from the parties who do own the three features erroneously included in your consent order. However, in order to save you the transaction costs (e.g., attorneys’ fees and other costs of litigation) that you may face as a result of such a challenge, we propose the following course of action:

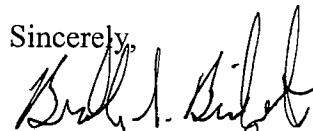
1. The enclosed, revised, consent order for Subfile ZRB-4-0369 includes the well, 3B-4-W108, that is located on your property. We have verified your ownership of this well through examination of hard copies of the subdivision plat, and the legal property descriptions on the deeds maintained by the county.
2. If you sign and return to me the enclosed corrected consent order, I will obtain the signature of the attorney for the State, Mr. Bagley, and then move the Court to vacate the erroneous consent order. You will receive a copy of the motion and of the Court’s action on the motion. If, as expected, the Court grants the motion, I will submit the corrected consent order to the Special Master.
3. When the corrected consent order is approved by the Court, we will send you a complete file-stamped copy.

If you do not accept the enclosed corrected consent order, it is likely that your existing consent order will be vacated in any event, but you will then not have a replacement consent order that recognizes your rights in the well that you do own.

I apologize for this inconvenience. County geographic information system ("GIS") data has proved reliable in the vast majority of cases. However, errors do occasionally occur and require corrective action. In other water cases, the Court has had to act on quite a number of motions to vacate subfile consent orders. To date, your subfile is the only one requiring such action in the Zuni River Adjudication.

I thank you in advance for your continued cooperation in this matter. Please feel free to give me a call, if you have any questions.

Sincerely,



Bradley S. Bridgewater

Enc.

Cc: Edward Bagley, New Mexico Office of the State Engineer, Legal Division (with enc.)
Kit Nielson, NRCE, Inc. (w/o enc.)

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

ZUNI INDIAN TRIBE,
NAVAJO NATION,

Plaintiffs in Intervention,
v.

STATE OF NEW MEXICO COMMISSIONER
OF PUBLIC LANDS,
and
A & R PRODUCTIONS, et al.,

Defendants.

No. 01cv00072-BB

ZUNI RIVER BASIN
ADJUDICATION

Sub-areas 1, 2, and 3 excluding
Ramah

Subfile No: ZRB-4-0369

CONSENT ORDER

The Court, having considered the agreement between the Plaintiffs, the United States of America ("United States") and the State of New Mexico ex rel. State Engineer

JOHN F. RIPLEY & PATRICIA L. ANDERSON

("Defendant") concerning the Defendant's right(s) to use the public waters of the Zuni River Stream System, Sub-areas 1, 2, and 3 excluding Ramah, as set forth below FINDS:

1. The Court has jurisdiction over the United States, the State, the Defendant and the subject matter of this suit.

2. As evidenced by the parties' signatures below, the United States, the State, and the Defendant are in agreement concerning all elements of the right(s) of the Defendant set forth in paragraph 4 of this Consent Order to divert and use the public waters of the Zuni River Stream System, Sub-areas 1, 2, and 3 excluding Ramah. This Consent Order and the parties' respective signatures below evidence the entire agreement between the United States, the State, and the Defendant regarding the elements of the water right(s) adjudicated by this Consent Order.

3. There is no just reason to delay entry of this Consent Order as a final judgment as between the United States, the State, and the Defendant regarding the elements of the claims of the Defendant adjudicated by this Consent Order.

4. The right(s) of the Defendant to divert and use the public waters of the Zuni River Stream System, Sub-areas 1, 2, and 3 excluding Ramah, is as set forth below:

WELL

Map Label: 3B-4-W108
OSE File No: None
Priority Date: 3/13/1994
Purpose of Use: 72-12-1 DOMESTIC

Well Location: As shown on Hydrographic Survey Map 3B-4
S. 11 T. 11N R. 16W 1/4, 1/16, 1/64: NE NW NE
X (ft): 2,526,430 **Y (ft):** 1,530,858
New Mexico State Plane Coordinate System, West Zone, NAD 1983

Amount of Water (ac-ft per annum): Historical beneficial use not to exceed 0.7 ac-ft per annum;

5. Defendant has no right to divert and use the public waters of the Zuni River Stream System, Sub-areas 1, 2, and 3 excluding Ramah, except as set forth in this Consent Order and other orders entered by this Court in this cause.

6. The Defendant, and Defendant's successors, representatives, heirs and assigns, should be enjoined from any diversion or use of the public waters of the Zuni River Stream System, Sub-areas 1, 2, and 3 excluding Ramah, except in strict accordance with this Consent Order and other orders of the Court in this cause.

7. The water right(s) described herein, if any, are adjudicated as between the United States, the State, and the Defendant, subject to the right of any other water right claimant with standing to object prior to the entry of a final decree.

IT IS THEREFORE ORDERED that the right(s) of the Defendant to divert and use the public waters of the Zuni River Stream System, Sub-areas 1, 2, and 3 excluding Ramah, are adjudicated as set forth herein, as between the United States, the State, and the Defendant. The Defendant, and Defendant's successors, representatives, heirs and assigns, are hereby enjoined from any diversion or use of the public waters of the Zuni River Stream System, Sub-areas 1, 2, and 3 excluding Ramah, except in strict accordance with this Consent Order and other orders of this Court in this cause. The Court enters this Consent Order as a partial final judgment, binding on the United States, the State, and the Defendant as to the elements of Defendant's water right(s) set forth herein, subject to the right of any other water right claimant with standing to object prior to the entry of a final decree, and subject to the terms of the final decree in this proceeding.

BRUCE D. BLACK
UNITED STATES DISTRICT JUDGE

Recommended for approval:

VICKIE L. GABIN
SPECIAL MASTER

ACCEPTED:

JOHN F. RIPLEY DATE

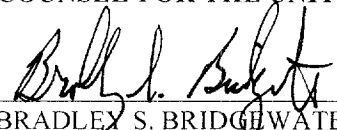
PATRICIA L. ANDERSON DATE

ADDRESS:

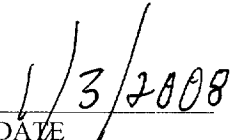
COUNSEL FOR THE DEFENDANT (IF REPRESENTED):

DATE

COUNSEL FOR THE UNITED STATES:



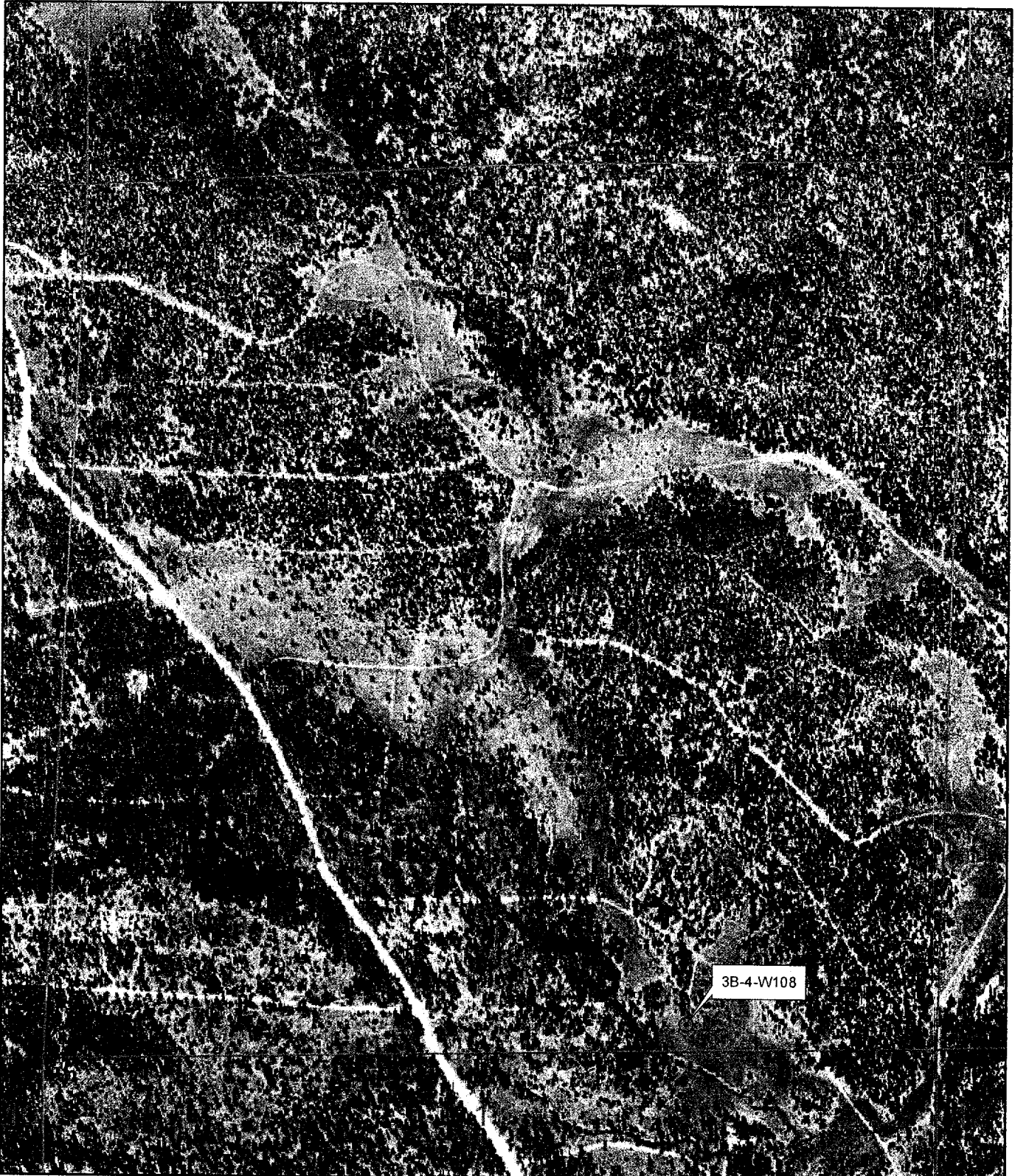
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DATE







COUNSEL FOR THE STATE OF NEW MEXICO *EX REL.* STATE ENGINEER:

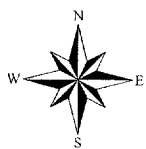
EDWARD C. BAGLEY
Special Assistant Attorney General
Office of the State Engineer
P.O. Box 25102
Santa Fe, NM 87504
(505) 827-6150

DATE



LEGEND

-  Well
-  Town
-  Stock Pond
-  Basin Boundary
-  Sub-Area Boundary
-  Section Boundary



1 inch equals 800 feet



Zuni River Basin
Hydrographic Survey

Sub-Area 3
Subfile Number: ZRB-4-0369
PLSS: S02, T11N, R16W
Sheet 1 of 1

December 2007



Natural Resources Consulting Engineers, Inc.
Fort Collins, CO Oakland, CA Asmara, ERITREA
Project Manager: L. Niel Allen, P.E., Ph.D.