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,

No. 01cv00072-MV/WPL

Plaintiffs,

and ZUNI RIVER BASIN ADJUDICATION

ZUNI INDIAN TRIBE, NAVAJO NATION,

Sub-areas 9 and 10

Plaintiffs in Intervention,

v.

STATE OF NEW MEXICO COMMISSIONER OF PUBLIC LANDS, and A & R PRODUCTIONS, et al., Subfile No. ZRB-2-0014

Defendants.

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 ("State"), and:

EDWARD BAWOLEK & SUZAN BAWOLEK

("Defendant") concerning the Defendant's right(s) to use the public waters of the Zuni River Stream System, Sub-areas 9 and 10, as set forth below FINDS:

Consent Order Page 1 **Subfile No.** ZRB-2-0014

- 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 9 and 10. 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 9 and 10, is as set forth below:

WELL

Map Label: 10C-4-W08

OSE File No: None

Priority Date: 12/31/1981

Purpose of Use: NON 72-12-1 DOMESTIC & LIVESTOCK

Well Location: As shown on Hydrographic Survey Map 10C-4

S. 35 **T.** 06N **R.** 17W **1/4, 1/16, 1/64** SW SW SW

X (ft) 2,490,429 **Y** (ft): 1,346,220

New Mexico State Plane Coordinate System, West Zone, NAD 1983

Amount of Water: 1.568 ac-ft per annum

WELL

Map Label: 10C-4-W11

OSE File No: None

Priority Date: 1/1/1980

Purpose of Use: NON 72-12-1 LIVESTOCK WATERING

Well Location: As shown on Hydrographic Survey Map 10C-4

S. 3 T. 05N R. 17W 1/4, 1/16, 1/64 NW SW SE

X (**ft**) 2,485,966 **Y** (**ft**): 1,343,839

New Mexico State Plane Coordinate System, West Zone, NAD 1983

Amount of Water: 0.168 ac-ft per annum

WELL

Map Label: 10C-4-W12

OSE File No: None

Priority Date: 1/1/1980

Purpose of Use: NON 72-12-1 LIVESTOCK WATERING

Well Location: As shown on Hydrographic Survey Map 10C-4

S. 3 T. 05N R. 17W 1/4, 1/16, 1/64 SW NE NW

X (ft) 2,486,625 **Y** (ft): 1,342,984

New Mexico State Plane Coordinate System, West Zone, NAD 1983

Amount of Water: 0.168 ac-ft per annum

WELL

Map Label: 10C-4-W13

OSE File No: None

Priority Date: 1/1/1980

Purpose of Use: NON 72-12-1 LIVESTOCK WATERING

Well Location: As shown on Hydrographic Survey Map 10C-4

S. 3 **T.** 05N **R.** 17W **1/4, 1/16, 1/64** NW SE NE

X (**ft**) 2,487,606 **Y** (**ft**): 1,344,106

New Mexico State Plane Coordinate System, West Zone, NAD 1983

Amount of Water: 0.168 ac-ft per annum

WELL

Map Label: 10C-4-W14

OSE File No: None

Priority Date: 12/31/1939

Purpose of Use: NON 72-12-1 DOMESTIC & LIVESTOCK

Well Location: As shown on Hydrographic Survey Map 10C-4

S. 3 T. 05N R. 17W 1/4, 1/16, 1/64 NE NE SW

X (ft) 2,489,107 **Y** (ft): 1,345,312

New Mexico State Plane Coordinate System, West Zone, NAD 1983

Amount of Water: 1.088 ac-ft per annum

WELL

Map Label: 10C-4-W16

OSE File No: None

Priority Date: 12/31/1971

Purpose of Use: NON 72-12-1 LIVESTOCK WATERING

Well Location: As shown on Hydrographic Survey Map 10C-4

S. 1 **T.** 05N **R.** 17W **1/4, 1/16, 1/64** NW SE NW

X (**ft**) 2,497,587 **Y** (**ft**): 1,344,277

New Mexico State Plane Coordinate System, West Zone, NAD 1983

Amount of Water: 0.168 ac-ft per annum

STOCK POND

Map Label: 10C-4-SP14

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1972

Source of Water: Surface Runoff and Well

Point of Diversion: Fills from surface runoff and well 10C-4-W08 (Location X(ft):

2,490,429; Y(ft): 1,346,220);

Amount of Water:

Depth (ft) 9.0

Surface Area (sq.ft): 43,010

Storage Impoundment Volume (ac-ft): 5.332

Pond Location: As shown on Hydrographic Survey Map 10C-4

S. 35 **T.** 06N **R.** 17W **1/4, 1/16, 1/64** SW SE SE

X(ft) 2,492,886 **Y(ft)**: 1,346,091

New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft): 12.0

STOCK POND

Map Label: 10C-4-SP19

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1972

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft) 5.0

Surface Area (sq.ft): 4,108

Storage Impoundment Volume (ac-ft): 0.283

Pond Location: As shown on Hydrographic Survey Map 10C-4

S. 3 **T.** 05N **R.** 17W **1/4, 1/16, 1/64** SE SE NW

X(ft) 2,486,911 **Y(ft)**: 1,344,196

New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10C-4-SP20

Purpose of Use: LIVESTOCK

Priority Date: 12/31/1954

Source of Water: Surface Runoff and Well

Point of Diversion: Fills from surface runoff and well 10C-4-W14 (Location X(ft):

2,489,107; Y(ft): 1,345,312);

Amount of Water:

Depth (ft) 5.0

Surface Area (sq.ft): 10,055

Storage Impoundment Volume (ac-ft): 0.693

Pond Location: As shown on Hydrographic Survey Map 10C-4

S. 3 **T.** 05N **R.** 17W **1/4, 1/16, 1/64** NE NW SE

X(ft) 2,488,697 **Y(ft)**: 1,344,895

New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10C-4-SP21

Purpose of Use: LIVESTOCK

Priority Date: 12/31/1950

Source of Water: Surface Runoff and Well

Point of Diversion: Fills from surface runoff and well 10C-4-W14 (Location X(ft):

2,489,107; Y(ft): 1,345,312);

Amount of Water:

Depth (ft) 5.0

Surface Area (sq.ft): 3,261

Storage Impoundment Volume (ac-ft): 0.225

Pond Location: As shown on Hydrographic Survey Map 10C-4

S. 3 T. 05N R. 17W 1/4, 1/16, 1/64 NE NE SW

X(ft) 2,489,029 **Y(ft)**: 1,345,015

New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10C-4-SP22

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1972

Source of Water: Surface Runoff and Well

Point of Diversion: Fills from surface runoff and well 10C-4-W14 (Location X(ft):

2,489,107; Y(ft): 1,345,312);

Amount of Water:

Depth (ft) 5.0

Surface Area (sq.ft): 5,091

Storage Impoundment Volume (ac-ft): 0.351

Pond Location: As shown on Hydrographic Survey Map 10C-4

S. 3 T. 05N R. 17W 1/4, 1/16, 1/64 NE NE SW

X(ft) 2,489,303 **Y(ft)**: 1,345,087

New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10C-4-SP23

Purpose of Use: LIVESTOCK

Priority Date: 12/31/1954

Source of Water: Surface Runoff and Well

Point of Diversion: Fills from surface runoff and well 10C-4-W14 (Location X(ft):

2,489,107; Y(ft): 1,345,312);

Amount of Water:

Depth (ft) 5.0

Surface Area (sq.ft): 3,596

Storage Impoundment Volume (ac-ft): 0.248

Pond Location: As shown on Hydrographic Survey Map 10C-4

S. 3 **T.** 05N **R.** 17W **1/4, 1/16, 1/64** NE NE SE

X(ft) 2,489,667 **Y(ft):** 1,345,209

New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10C-4-SP24

Purpose of Use: LIVESTOCK

Priority Date: 12/31/1954

Source of Water: Surface Runoff and Well

Point of Diversion: Fills from surface runoff and well 10C-4-W14 (Location X(ft):

2,489,107; Y(ft): 1,345,312);

Amount of Water:

Depth (ft) 5.0

Surface Area (sq.ft): 6,142

Storage Impoundment Volume (ac-ft): 0.423

Pond Location: As shown on Hydrographic Survey Map 10C-4

S. 3 **T.** 05N **R.** 17W **1/4, 1/16, 1/64** NE NE SE

X(ft) 2,489,867 **Y(ft)**: 1,345,271

New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10C-4-SP25

Purpose of Use: LIVESTOCK

Priority Date: 12/31/1954

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft) 5.0

Surface Area (sq.ft): 11,466

Storage Impoundment Volume (ac-ft): 0.790

Pond Location: As shown on Hydrographic Survey Map 10C-4

S. 3 **T.** 05N **R.** 17W **1/4, 1/16, 1/64** NE NE SE

X(ft) 2,490,222 **Y(ft):** 1,345,327

New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10C-4-SP26

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1972

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft) 5.0

Surface Area (sq.ft): 3,137

Storage Impoundment Volume (ac-ft): 0.216

Pond Location: As shown on Hydrographic Survey Map 10C-4

S. 3 **T.** 05N **R.** 17W **1/4, 1/16, 1/64** SE NE SE

X(ft) 2,487,575 **Y(ft)**: 1,342,476

New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10C-4-SP27

Purpose of Use: LIVESTOCK

Priority Date: 12/31/1954

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft) 5.0

Surface Area (sq.ft): 6,953

Storage Impoundment Volume (ac-ft): 0.479

Pond Location: As shown on Hydrographic Survey Map 10C-4

S. 3 **T.** 05N **R.** 17W **1/4, 1/16, 1/64** SE NW SW

X(ft) 2,487,937 **Y(ft)**: 1,342,592

New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10C-4-SP28

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1972

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft) 5.0

Surface Area (sq.ft): 1,315

Storage Impoundment Volume (ac-ft): 0.091

Pond Location: As shown on Hydrographic Survey Map 10C-4

S. 3 **T.** 05N **R.** 17W **1/4, 1/16, 1/64** SE NW NE

X(ft) 2,488,519 **Y(ft)**: 1,342,744

New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10C-4-SP29

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1972

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft) 5.0

Surface Area (sq.ft): 5,219

Storage Impoundment Volume (ac-ft): 0.359

Pond Location: As shown on Hydrographic Survey Map 10C-4

S. 3 **T.** 05N **R.** 17W **1/4, 1/16, 1/64** SE NW NE

X(ft) 2,488,946 **Y(ft)**: 1,342,863

New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10C-4-SP30

Purpose of Use: LIVESTOCK

Priority Date: 12/31/1954

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft) 5.0

Surface Area (sq.ft): 2,268

Storage Impoundment Volume (ac-ft): 0.156

Pond Location: As shown on Hydrographic Survey Map 10C-4

S. 3 **T.** 05N **R.** 17W **1/4, 1/16, 1/64** SE SW SW

X(ft) 2,487,917 **Y(ft)**: 1,340,965

New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10C-4-SP31

Purpose of Use: LIVESTOCK

Priority Date: 12/31/1954

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft) 5.0

Surface Area (sq.ft): 3,435

Storage Impoundment Volume (ac-ft): 0.237

Pond Location: As shown on Hydrographic Survey Map 10C-4

S. 3 **T.** 05N **R.** 17W **1/4, 1/16, 1/64** SE SW SE

X(ft) 2,488,492 **Y(ft)**: 1,341,270

New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10C-4-SP32

Purpose of Use: LIVESTOCK

Priority Date: 12/31/1954

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft) 5.0

Surface Area (sq.ft): 4,003

Storage Impoundment Volume (ac-ft): 0.276

Pond Location: As shown on Hydrographic Survey Map 10C-4

S. 3 **T.** 05N **R.** 17W **1/4, 1/16, 1/64** SE SE SE

X(ft) 2,490,086 **Y(ft):** 1,340,852

New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10C-4-SP34

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1940

Source of Water: Surface Runoff and Well

Point of Diversion: Fills from surface runoff and well 10C-4-W16 (Location X(ft):

2,497,587; Y(ft): 1,344,277);

Amount of Water:

Depth (ft) 5.0

Surface Area (sq.ft): 1,281

Storage Impoundment Volume (ac-ft): 0.088

Pond Location: As shown on Hydrographic Survey Map 10C-4

S. 1 **T.** 05N **R.** 17W **1/4, 1/16, 1/64** NW SE NE

X(ft) 2,497,618 **Y(ft)**: 1,344,247

New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10C-4-SP35

Purpose of Use: LIVESTOCK

Priority Date: 12/31/1954

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft) 5.5

Surface Area (sq.ft): 29,420

Storage Impoundment Volume (ac-ft): 2.229

Pond Location: As shown on Hydrographic Survey Map 10C-4

S. 1 **T.** 05N **R.** 17W **1/4, 1/16, 1/64** SE NW SW

X(ft) 2,498,563 **Y(ft)**: 1,342,275

New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10C-4-SP36

Purpose of Use: LIVESTOCK

Priority Date: 12/31/1954

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft) 1.0

Surface Area (sq.ft): 8,543

Storage Impoundment Volume (ac-ft): 0.118

Pond Location: As shown on Hydrographic Survey Map 10C-4

S. 3 **T.** 05N **R.** 17W **1/4, 1/16, 1/64** SE SW SE

X(ft) 2,488,946 **Y(ft)**: 1,341,232

New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10C-4-SP37

Purpose of Use: LIVESTOCK

Priority Date: 12/31/1954

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft) 1.5

Surface Area (sq.ft): 4,831

Storage Impoundment Volume (ac-ft): 0.100

Pond Location: As shown on Hydrographic Survey Map 10C-4

S. 3 **T.** 05N **R.** 17W **1/4, 1/16, 1/64** SE SE SW

X(ft) 2,489,118 **Y(ft)**: 1,341,079

New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10C-4-SP38

Purpose of Use: LIVESTOCK

Priority Date: 12/31/1954

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft) 2.5

Surface Area (sq.ft): 1,232

Storage Impoundment Volume (ac-ft): 0.042

Pond Location: As shown on Hydrographic Survey Map 10C-4

S. 3 **T.** 05N **R.** 17W **1/4, 1/16, 1/64** SE SE SW

X(ft) 2,489,545 **Y(ft)**: 1,341,159

New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10C-4-SP39

Purpose of Use: LIVESTOCK

Priority Date: 5/26/2000

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft) 2.0

Surface Area (sq.ft): 1,093

Storage Impoundment Volume (ac-ft): 0.030

Pond Location: As shown on Hydrographic Survey Map 10C-4

S. 35 **T.** 06N **R.** 17W **1/4, 1/16, 1/64** SW NE SW

X(ft) 2,491,893 **Y(ft)**: 1,347,675

New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10C-4-SP40

Purpose of Use: LIVESTOCK

Priority Date: 5/26/2000

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft) 4.5

Surface Area (sq.ft): 2,130

Storage Impoundment Volume (ac-ft): 0.132

Pond Location: As shown on Hydrographic Survey Map 10C-4

S. 35 **T.** 06N **R.** 17W **1/4, 1/16, 1/64** NE NW NE

X(ft) 2,493,815 **Y(ft)**: 1,350,966

New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft):

- 5. Defendant has no right to divert and use the public waters of the Zuni River Stream System, Sub-areas 9 and 10, 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 9 and 10, 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 9 and 10, 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 9 and 10, 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.

MARTHA/AZQI

UNITED ŠTATES DISTRICT JUDGE

Approved:

WILLIAM P. LYNCH

UNITED STATES MAGISTRATE JUDGE

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.

	MARTHA VAZQUEZ UNITED STATES DISTRICT JUDGE
Approved:	
WILLIAM P. UNITED STA	LYNCH ATES MAGISTRATE JUDGE
ACCEPTED:	Edward Bawolek & DATE SUZAN BAWOLEK
ADDRESS:	2200 WEST SAGEBRUSH CT. CHANDLER, AZ 85224
COUNSEL FO	OR THE DEFENDANT (IF REPRESENTED):
	DATE

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Consent Order

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