

**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-MV/WPL

ZUNI RIVER BASIN
ADJUDICATION

Sub-areas 4 and 8

Subfile No. ZRB-1-0057

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:

CHARLES E. MALLERY

("Defendant") concerning the Defendant's right(s) to use the public waters of the Zuni River

Stre am System, Sub-areas 4 and 8, 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 4 and 8. 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 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 4 and 8, is as set forth below:

STOCK POND

Map Label: 4A-3-SP08
Purpose of Use: LIVESTOCK
Priority Date: 1/1/1947
Source of Water: Surface Runoff
Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 2.0
Surface Area (sq.ft): 70,867
Storage Impoundment Volume (ac-ft): 1.952

Pond Location: As shown on Hydrographic Survey Map 4A-3

S. 6 T. 10N R. 14W 1/4, 1/16, 1/64: SE SW NE

X(ft): 2,567,976 Y(ft): 1,499,947

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 4A-3-SP31
Purpose of Use: LIVESTOCK
Priority Date: 1/1/1972
Source of Water: Surface
Runoff
Not
Point of Diversion: Applicable

Amount of Water:

Depth (ft): 2.0

Surface Area (sq.ft): 1,228

Storage Impoundment Volume (ac-ft): 0.034

Pond Location: As shown on Hydrographic Survey Map 4A-3

S. 6 T. 10N R. 14W 1/4, 1/16, 1/64: NE NE SE

X(ft): 2,569,361 Y(ft): 1,503,095

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 4A-3-SP32

Purpose of Use: SWIMMING POOL

Priority Date: 6/1/2000

Source of Water: Well

Point of Diversion: Fills from well 4A-3-W04 (Location X(ft): 2,568,902; Y(ft): 1,501,863); **Amount of Water:**

Depth (ft): 6.0

Surface Area (sq.ft): 1,197

Storage Impoundment Volume (ac-ft): 0.099

Pond Location: As shown on Hydrographic Survey Map 4A-3

S. 6 T. 10N R. 14W 1/4, 1/16, 1/64: NE SE SW
X(ft): 2,568,971 Y(ft): 1,501,885

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 4A-3-SP37

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1972

Source of Water: Surface
Runoff
Not

Point of Diversion: Applicable

Amount of Water:

Depth (ft): 3.0

Surface Area (sq.ft): 2,512

Storage Impoundment Volume (ac-ft): 0.104

Pond Location: As shown on Hydrographic Survey Map 4A-3

S. 6 T. 10N R. 14W 1/4, 1/16, 1/64: SW NE NE

X(ft): 2,568,530 Y(ft): 1,502,933

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

Dam height (if greater than 9 ft):

WELL

Map Label: 4A-3-W04

OSE File No: G 02161

Priority Date: 12/31/1950

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

Well Location: As shown on Hydrographic Survey Map 4A-3

S. 6 T. 10N R. 14W 1/4, 1/16, 1/64: NE SE SW

X (ft): 2,568,902 Y (ft): 1,501,863

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

Amount of Water: 4.090 ac-ft per annum

WELL

Map Label: 4A-3-W06 A

OSE File No: G 02160

Priority Date: 12/31/1976

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

Well Location: As shown on Hydrographic Survey Map 4A-3

S. 6 T. 10N R. 14W 1/4, 1/16, 1/64: SE SE NE

X (ft): 2,569,020 Y (ft): 1,500,170

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

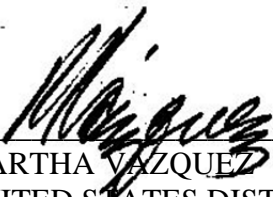
Amount of Water: 2.240 ac-ft per annum

5. Defendant has no right to divert and use the public waters of the Zuni River Stream System, Sub-areas 4 and 8, 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 4 and 8, 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 4 and 8, 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 4 and 8, 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 VAZQUEZ
UNITED STATES DISTRICT JUDGE

Approved:



WILLIAM P. LYNCH
UNITED STATES MAGISTRATE JUDGE

ACCEPTED: Charles E. Malley 12/2/15
CHARLES E. MALLEY DATE

ADDRESS: P.O. Box 250
Roswell, N.M. 87321

COUNSEL FOR THE DEFENDANT (IF REPRESENTED):

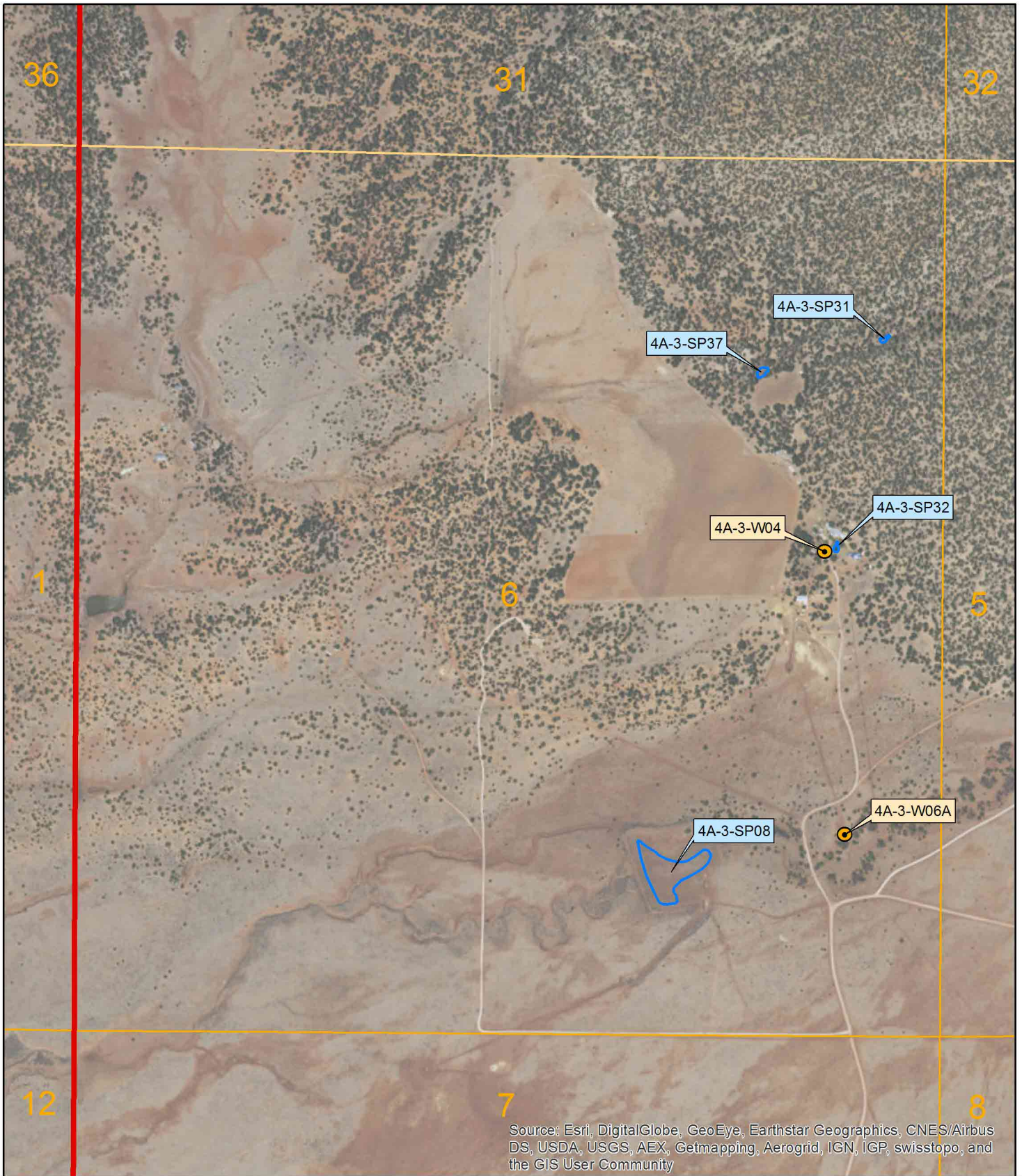
DATE

COUNSEL FOR THE UNITED STATES:

[Signature] 12-10-15
ANDREW "GUSS" GUARINO DATE
U.S. Department of Justice
South Terrace, Suite 370
999 18th Street
Denver, CO 80202
(303) 844-1343

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

[Signature] 12/10/2015
EDWARD C. BAGLEY DATE
Special Assistant Attorney General
Office of the State Engineer
P.O. Box 25102
Santa Fe, NM 87504
(505) 827-6150







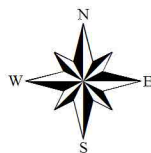
August 2015

Zuni River Basin
Hydrographic Survey

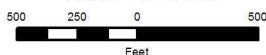
Sub-Area 4
Subfile Number: ZRB-1-0057
PLSS: S06, T10N, R14W
Sheet 1 of 1

LEGEND

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



1 inch = 800 feet



Natural Resources Consulting Engineers, Inc.

Fort Collins, CO Oakland, CA Asmara, ERITREA