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IN THE UNITED STATES I FOR THE DISTRICT OF	
	06 JUN 14 PH 4:39
UNITED STATES OF AMERICA, for Itself and as Trustee for the Zuni Indian Tribe, Navajo Nation and Ramah Band of Navajos and	CLERK-SANTA FE
STATE OF NEW MEXICO, cx rel. STATE ENGINEER,	No. 01cv00072-BB/WDS/ACE
Plaintiffs, and	ZUNI RIVER BASIN ADJUDICATION
ZUNI INDIAN TRIBE,	
NAVAJO NATION,	Sub-areas 4 and 8
Plaintiffs in Intervention, v.	
STATE OF NEW MEXICO COMMISSIONER OF PUBLIC LANDS, and A & R PRODUCTIONS, et al.,	Subfile No: ZRB-1-0135
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:

## JOHN JACOBS, CONSERVATOR FOR THE ESTATE OF GLADIS MAY BARTLETT

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

Stream System, Sub-areas 4 and 8, as set forth below FINDS:

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. . .

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-4-SP01
Purpose of Use:	LIVESTOCK
Priority date:	1/1/1970
Source of Water:	Surface Runoff
Point of Diversion:	Not Applicable

Amount of Water:

Depth (ft): 6.0 Surface Area (sq.ft): 26,313 Storage Impoundment Volume (ac-ft): 2.175

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

S. 15 T. 10N R. 14W 1/4, 1/16, 1/64: SW SW NE
X(ft): 2.580.794 Y(ft): 1,489,199
New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft):

## STOCK POND

Map Label:	4A-4-SP02	
Purpose of Use:	LIVESTOCK	
Priority date:	1/1/1970	
Source of Water:	Surface Runoff	
Point of Diversion:	Not Applicable	
Amount of Water:		
<b>Depth (ft):</b> 3.0		
Surface Area (sq.ft): 8,280		
Storage Impoundment Volume (ac-ft): 0.342		0.342

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

S. 11 T. 10N R. 14W 1/4, 1/16, 1/64: SE SW SW
X(ft): 2.588,065 Y(ft): 1,494,062
New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft):

## STOCK POND

Map Label:	4A-4-SP03
Purpose of Use:	LIVESTOCK
Priority date:	1/1/1970
Source of Water:	Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 6.0 Surface Area (sq.ft): 9,574 Storage Impoundment Volume (ac-ft): 0.791

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

S. 23 T. 10N R. 14W 1/4, 1/16, 1/64: SW SE SW
 X(ft): 2,586,988 Y(ft): 1,483,089
 New Mexico State Plane Coordinate System, West Zone, NAD 1983

#### Dam height (if greater than 9 ft):

#### STOCK POND

Map Label:	4A-4-SP04	
Purpose of Use:	LIVESTOCK	
Priority date:	1/1/1963	
Source of Water:	Surface Runoff	
Point of Diversion:	Not Applicable	
Amount of Water:		
Depth (ft):	5.0	
Surface Area (sq.ft): 3,263		
Storage Impoundment Volume (ac-ft): 0.225		
<b>Pond Location:</b> As shown on Hydrographic Survey Map 4A-4		
S. 23 T. 10	N R. 14W 1/4, 1/16, 1/64: SE SW	
X(ft): 2,588,0	47 <b>Y(ft): 1,484</b> ,102	

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

Dam height (if greater than 9 ft):

Consent Order

SW NW

#### STOCK POND

Map Label:	4A-4-SP20
Purpose of Use:	LIVESTOCK
Priority date:	1/1/1970
Source of Water:	Surface Runoff

Point of Diversion: Not Applicable

#### Amount of Water:

Depth (ft): 6.0 Surface Area (sq.ft): 5,191 Storage Impoundment Volume (ac-ft): 0.429

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

S. 17 T. 10N R. 14W 1/4, 1/16, 1/64: NW NW NE
X(ft): 2,570,829 Y(ft): 1,493,595
New Mexico State Plane Coordinate System. West Zone, NAD 1983

## Dam height (if greater than 9 ft):

## STOCK POND

Map Label:	4A-4-SP22
Purpose of Use:	LIVESTOCK
Priority date:	1/1/1970
Source of Water:	Surface Runoff
Point of Diversion:	Not Applicable
Amount of Water:	

Depth (ft): 7.0 Surface Area (sq.ft): 9.087

#### Storage Impoundment Volume (ac-ft): 0.876

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

S. 17 T. 10N R. 14W 1/4, 1/16, 1/64: NE NW SW X(ft): 2,572.306 Y(ft): 1,492.760

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

Dam height (if greater than 9 ft):

#### STOCK POND

Map Label:	4A-4-SP23
Purpose of Use:	LIVESTOCK
Priority date:	1/1/1963
Source of Water:	Surface Runoff
Point of Diversion:	Not Applicable

#### Amount of Water:

Depth (ft): 9.0 Surface Area (sq.ft): 23,321 Storage Impoundment Volume (ac-ft): 2.891

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

S. 17 T. 10N R. 14W 1/4, 1/16, 1/64: NE NE SE

**X(ft):** 2,574,235 **Y(ft):** 1,492,689

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

#### Dam height (if greater than 9 ft):

#### STOCK POND

Map Label:4A-4-SP24Purpose of Use:LIVESTOCK

Priority date:	1/1/1970
Source of Water:	Surface Runoff
Point of Diversion:	Not Applicable

Amount of Water:

Depth (ft): 7.0 Surface Area (sq.ft): 5,540 Storage Impoundment Volume (ac-ft): 0.534

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

S. 17 T. 10N R. 14W 1/4, 1/16, 1/64: NW SE SE
X(ft): 2.572,092 Y(ft): 1,491.114
New Mexico State Plane Coordinate System. West Zone, NAD 1983

Dam height (if greater than 9 ft):

## STOCK POND

Map Label:	4A-4-SP25
Purpose of Use:	LIVESTOCK
Priority date:	1/1/1970
Source of Water:	Surface Runoff
Point of Diversion:	Not Applicable
Amount of Water:	
<b>-</b>	

Depth (ft): 9.0 Surface Area (sq.ft): 12,534 Storage Impoundment Volume (ac-ft): 1.554

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

S. 17 T. 10N R. 14W 1/4, 1/16, 1/64: SE NE NW

X(ft): 2,573,800 Y(ft): 1,490,613

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

### Dam height (if greater than 9 ft):

### STOCK POND

Map Label:	4A-4-SP26
Purpose of Use:	LIVESTOCK
Priority date:	1/1/1970
Source of Water:	Surface Runoff
Point of Diversion:	Not Applicable

## Amount of Water:

Depth (ft): 6.0 Surface Area (sq.ft): 10,937 Storage Impoundment Volume (ac-ft): 0.904

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

S. 17 T. 10N R. 14W 1/4, 1/16, 1/64: SE NE NE
 X(ft): 2.574,331 Y(ft): 1,490,351
 New Mexico State Plane Coordinate System, West Zone, NAD 1983

## Dam height (if greater than 9 ft):

## STOCK POND

Map Label:	4A-4-SP40
Purpose of Use:	LIVESTOCK
Priority date:	1/1/1907
Source of Water:	Surface Runoff
Point of Diversion:	Not Applicable

## Amount of Water:

Depth (ft): 7.0 Surface Area (sq.ft): 7,081 Storage Impoundment Volume (ac-ft): 0.683

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

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

**X(ft):** 2.574,944 **Y(ft):** 1,490,512

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

Dam height (if greater than 9 ft):

## STOCK POND

Map Label:	4A-4-SP63
Purpose of Use:	LIVESTOCK
Priority date:	1/1/1970
Source of Water:	Surface Runoff
Point of Diversion:	Not Applicable

Amount of Water:

Depth (ft): 2.0 Surface Area (sq.ft): 10,650 Storage Impoundment Volume (ac-ft): 0.293

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

S. 23 T. 10N R. 14W 1/4, 1/16, 1/64: NE NE NE
X(ft): 2,590,307 Y(ft): 1,488,158
New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft):

# STOCK POND

Map Label:	4A-4-SP72
Purpose of Use:	LIVESTOCK
Priority date:	1/1/1970
Source of Water:	Surface Runoff
Point of Diversion:	Not Applicable

Amount of Water:

Depth (ft): 5.0 Surface Area (sq.ft): 15,351 Storage Impoundment Volume (ac-ft): 1.057

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

S. 15 T. 10N R. 14W 1/4, 1/16, 1/64: SW NE SE
X(ft): 2,582.132 Y(ft): 1,489.827
New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft):

## STOCK POND

Map Label:	4A-4-SP96
Purpose of Use:	LIVESTOCK
Priority date:	1/1/1970
Source of Water:	Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 4.0 Surface Area (sq.ft): 3.265 Storage Impoundment Volume (ac-ft): 0.180

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

S. 10 T. 10N R. 14W 1/4, 1/16, 1/64: SE NW SE
X(ft): 2,583,599 Y(ft): 1,495,159
New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft):

## STOCK POND

Map Label:	4A-4-SP97	
Purpose of Use:	LIVESTOCK	
Priority date:	1/1/1970	
Source of Water:	Surface Runoff	

Point of Diversion: Not Applicable

## Amount of Water:

Depth (ft): 1.0 Surface Area (sq.ft): 491 Storage Impoundment Volume (ac-ft): 0.007

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

S. 23 T. 10N R. 14W 1/4, 1/16, 1/64: NE NW NE
 X(ft): 2.588,661 Y(ft): 1,487,796
 New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft):

## STOCK POND

Map Label:	4B-3-SP01
Purpose of Use:	LIVESTOCK
Priority date:	1/1/1970
Source of Water:	Surface Runoff

Point of Diversion: Not Applicable

### Amount of Water:

Depth (ft): 8.0 Surface Area (sq.ft): 3,131 Storage Impoundment Volume (ac-ft): 0.345

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

 S. 24
 T. 10N
 R. 14W
 1/4, 1/16, 1/64: NW
 NE
 SW

 X(ft):
 2,592,602
 Y(ft):
 1,486,944

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

#### Dam height (if greater than 9 ft):

## STOCK POND

Map Label:	4B-3-SP02		
Purpose of Use:	LIVESTOCK		
Priority date:	1/1/1970		
Source of Water:	Surface Runoff		
Point of Diversion:	Not Applicable		
Amount of Water:			
Depth (ft): 8.0			
Surface Area (sq.ft): 12,433			
Storage Impoundment Volume (ac-ft): 1.370			
Pond Location: As shown on Hydrographic Survey Map 4B-3			
<b>S.</b> 24 <b>T.</b> 10	N R. 14W 1/4, 1/16, 1/64: NW SE NW		
X(ft): 2.592.5	57 <b>Y(ft):</b> 1,486,381		
New Mexico State Plane Coordinate System. West Zone, NAD 1983			

Dam height (if greater than 9 ft):

Consent Order

## STOCK POND

Map Label:	4B-3-SP04	
Purpose of Use:	LIVESTOCK	
Priority date:	1/1/1952	
Source of Water:	Spring	
Point of Diversion:	Fills from spring 4B-3-SPR02 (Location X(ft): 2,592,342; Y(ft): 1,485,622)	
Amount of Water:		
Depth (ft):	6.0	
Surface Area (sq.ft): 42,055		
<b>a</b>		

Storage Impoundment Volume (ac-ft): 3.476

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

S.	24	Т.	10N	R.	14W	1/4, 1/16, 1/64:	SW	NW	NE
X(	(ft):	2,59	1.891		Y(ft):	1,485,349			
New Mexico State Plane Coordinate System, West Zone, NAD 1983									

Dam height (if greater than 9 ft):

## STOCK POND

Map Label:	4B-3-SP06	
Purpose of Use:	LIVESTOCK	
Priority date:	1/1/1970	
Source of Water:	Surface Runoff	
Point of Diversion:	Not Applicable	
Amount of Water:		

Depth (ft): 5.0 Surface Area (sq.ft): 645

#### Storage Impoundment Volume (ac-ft): 0.044

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

S. 24 T. 10N R. 14W 1/4, 1/16, 1/64: SW SE SW X(ft): 2,592,566 Y(ft): 1.483.040

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

Dam height (if greater than 9 ft):

## STOCK POND

Map Label:	4B-3-SP07
Purpose of Use:	LIVESTOCK
Priority date:	1/1/1970
Source of Water:	Surface Runoff
Point of Diversion:	Not Applicable

## Amount of Water:

Depth (ft): 5.0 Surface Area (sq.ft): 14,943 Storage Impoundment Volume (ac-ft): 1.029

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

S. 24 T. 10N R. 14W 1/4, 1/16, 1/64: NE SE SW

X(ft): 2,594,816 Y(ft): 1,486,125

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

## Dam height (if greater than 9 ft):

## STOCK POND

Map Label:	4B-3-SP08
Purpose of Use:	LIVESTOCK

Priority date:	1/1/1970
Source of Water:	Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

.

Depth (ft): 6.5 Surface Area (sq.ft): 3,328 Storage Impoundment Volume (ac-ft): 0.298

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

S. 24 T. 10N R. 14W 1/4, 1/16, 1/64: SW SE SE
X(ft): 2,592,780 Y(ft): 1,483,186
New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft):

## STOCK POND

Map Label:	4B-3-SP24
Purpose of Use:	LIVESTOCK
Priority date:	1/1/1970
Source of Water:	Surface Runoff
Point of Diversion:	Not Applicable

## Amount of Water:

Depth (ft): 1.0 Surface Area (sq.ft): 1.122 Storage Impoundment Volume (ac-ft): 0.015

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

S. 24 T. ION R. 14W 1/4, 1/16, 1/64: NW NE NW

**X(ft):** 2,591,931 **Y(ft):** 1,487,773

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

### Dam height (if greater than 9 ft):

### STOCK POND

Map Label:	4B-3-SP25
Purpose of Use:	LIVESTOCK
Priority date:	l/1/1 <b>97</b> 0
Source of Water:	Surface Runoff
Point of Diversion:	Not Applicable

## Amount of Water:

Depth (ft): 2.0 Surface Area (sq.ft): 145 Storage Impoundment Volume (ac-ft): 0.004

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

S. 24 T. 10N R. 14W 1/4, 1/16, 1/64: NW NW NE
 X(ft): 2.591.851 Y(ft): 1,487,795
 New Mexico State Plane Coordinate System, West Zone, NAD 1983

## Dam height (if greater than 9 ft):

## STOCK POND

Map Label:	4B-3-SP27
Purpose of Use:	LIVESTOCK
Priority date:	1/1/1970
Source of Water:	Surface Runoff
Point of Diversion:	Not Applicable

## Amount of Water:

Depth (ft): 2.0 Surface Area (sq.ft): 2,684 Storage Impoundment Volume (ac-ft): 0.074

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

S. 24 T. 10N R. 14W 1/4, 1/16, 1/64: NE NW NW

X(ft): 2,593,930 Y(ft): 1,488.054

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

Dam height (if greater than 9 ft):

## STOCK POND

Map Label:	4B-3-SP28
Purpose of Use:	LIVESTOCK
Priority date:	1/1/1970
Source of Water:	Surface Runoff
Point of Diversion:	Not Applicable

# Amount of Water:

Depth (ft): 2.0 Surface Area (sq.ft): 3,691 Storage Impoundment Volume (ac-ft): 0.102

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

S. 24 T. 10N R. 14W 1/4, 1/16, 1/64: NE SE NW
X(ft): 2,594,887 Y(ft): 1,486.832
New Mexico State Plane Coordinate System, West Zone, NAD 1983

## Dam height (if greater than 9 ft):

## <u>WELL</u>

.

Map Label:	4A-4-W02	
OSE File No:	G 1090	
Priority Date:	6/14/2001	
Purpose of Use:	72-12-1.1 LIVESTOCK	
Well Location: As shown on Hydrographic Survey Map 4A-4		
<b>S.</b> 17 <b>T.</b> 10N	<b>R.</b> 14W 1/4, 1/16, 1/64: NE NE NW	
X (ft): 2,574,087 Y (ft): 1,493.159		

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

Amount of Water (ac-ft per annum): Historical beneficial use not to exceed 0.896 acre-leet per annum;

#### <u>WELL</u>

Map Label:	4A-4-W14
OSE File No:	G 1722
Priority Date:	5/21/2004
Purpose of Use:	LIVESTOCK
<b>Well Location:</b> As shown on Hydrographic Survey Map 4A-4	
<b>S.</b> 15 <b>T.</b> 10N	R. 14W 1/4, 1/16, 1/64: NE SE SE
X (ft): 2,585,357 Y (ft): 1,491,292	

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

Amount of Water (ac-ft per annum): Historical beneficial use not to exceed 0.896 acre-feet per annum:

#### <u>WELL</u>

Map Label:	4B-3-W01
OSE File No:	None

Priority Date:3/13/1994Purpose of Use:LIVESTOCK

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

 S. 24
 T. 10N
 R. 14W
 1/4, 1/16, 1/64: NW
 SE
 NW

 X (ft):
 2,592,472
 Y (ft):
 1.486,506

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

Amount of Water (ac-ft per annum): 0.896

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

JCE D. BL

UNITED STATES DISTRICT JUDGE

Recommended for approval:

Vichie L. Dabin

VICKIE L. GABIN SPECIAL MASTER

ACCEPTED:

JOHN JACOBS, CONSERVATOR FOR THE ESTATE OF GLADIS MAY BARTLETT

ADDRESS: 840 S. Camino Seco, Dept. 100

Tucson, Arizona 85710

**COUNSEL FOR THE DEFENDANT (IF REPRESENTED):** 

5/15/2006 DATE

5-1-2006

Consent Order

Subfile No: ZRB-1-0135

## COUNSEL FOR THE UNITED STATES:

BRADLEY S. BRIDGEWATER U.S. Department of Justice 999 18th St., Suite 945 North Denver, CO 80202 (303) 312-7318

16/3006

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

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

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DATE













