

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-ACE

ZUNI RIVER BASIN  
ADJUDICATION

Sub-areas 1, 2, and 3 excluding  
Ramah

Subfile No: ZRB-4-0038

**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:

**EUGENE P. BERGER & CHRISTOPHER R. BERGER & RALPH G. BERGER**

("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-1-W007

**OSE File No:** None

**Priority Date:** 1/1/1900

**Purpose of Use:** DOMESTIC

**Well Location:** As shown on Hydrographic Survey Map 3B-1

**S. 24 T. 13N R. 16W 1/4, 1/16, 1/64:** SW NW NE

**X (ft):** 2,527,196 **Y (ft):** 1,580,615

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*

BRUCE D. BLACK  
UNITED STATES DISTRICT JUDGE

Recommended for approval:

*Vickie L. Gabin*

VICKIE L. GABIN  
SPECIAL MASTER

ACCEPTED:

*Eugene P. Berger* 12/11/06  
EUGENE P. BERGER DATE

*Christopher R. Berger* 12-11-06  
CHRISTOPHER R. BERGER DATE

*Ralph G. Berger* 12/11/06  
RALPH G. BERGER DATE

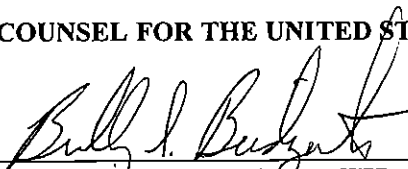
ADDRESS:

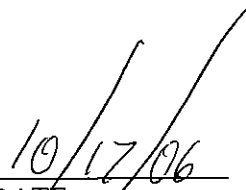
*2005 Mariposa*  
*Gallup, N.M. 87301*

COUNSEL FOR THE DEFENDANT (IF REPRESENTED):

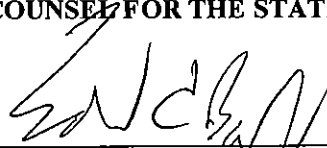
\_\_\_\_\_  
DATE

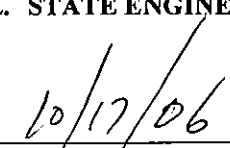
**COUNSEL FOR THE UNITED STATES:**

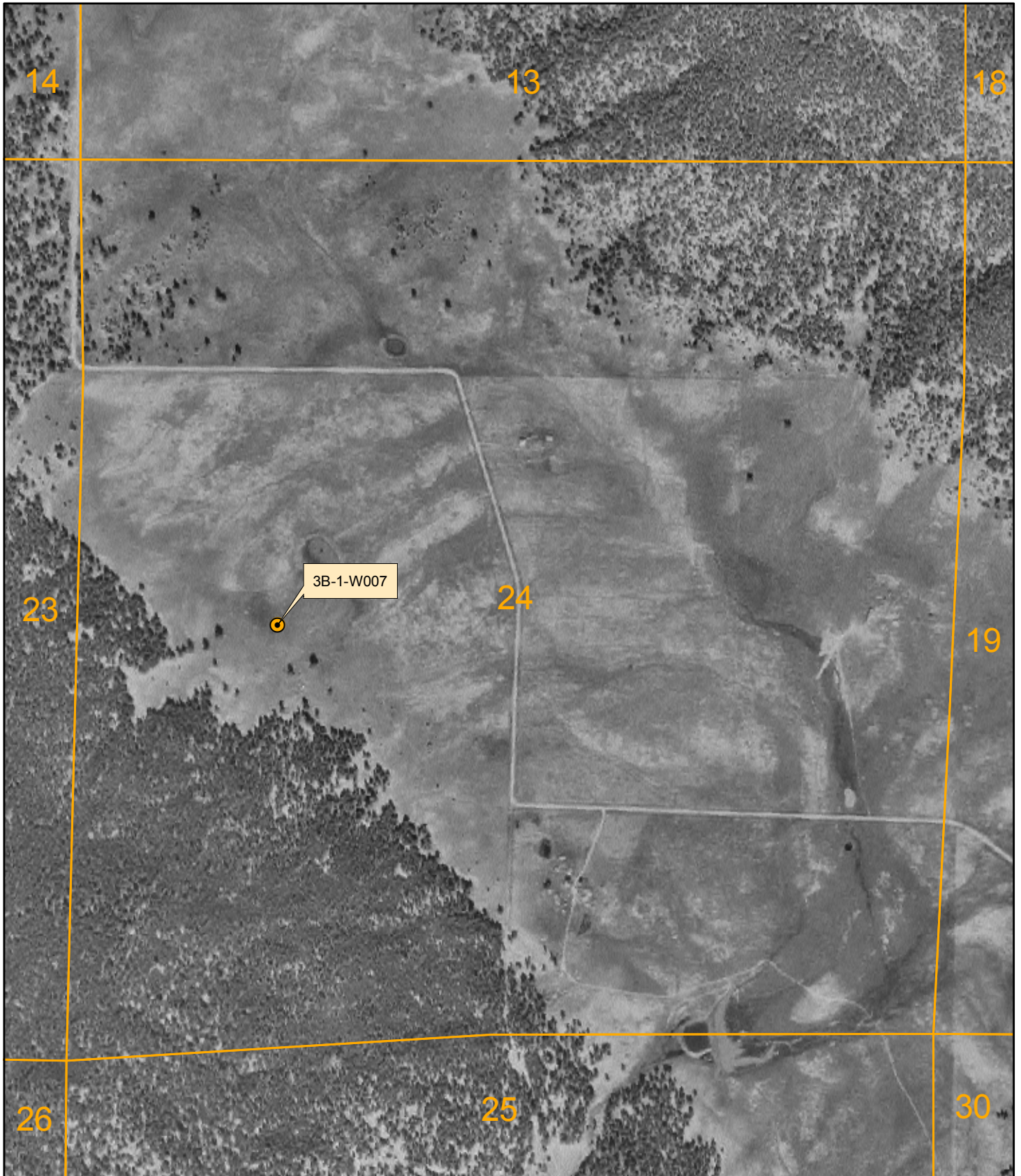
  
\_\_\_\_\_  
BRADLEY S. BRIDGEWATER  
U.S. Department of Justice  
1961 Stout Street – 8th Floor  
Denver, CO 80294  
(303) 844-1359

  
\_\_\_\_\_  
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



October 2006

**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-4-0038  
PLSS: S24, T13N, R16W  
Sheet 1 of 1



**Natural Resources Consulting Engineers, Inc.**

Fort Collins, CO Oakland, CA Asmara, ERITREA

Project Manager: L. Niel Allen, P.E., Ph.D.