

**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-4-0158**

**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

**KEVIN D. GAINES & TAMARA GAINES**

("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:** 2B-2-W001

**OSE File No:** G 1518

**Priority Date:** 8/1/2003

**Purpose of Use:** 72-12-1 DOMESTIC

**Well Location:** As shown on Hydrographic Survey Map 2B-2

**S. 29 T. 13N R. 17W 1/4, 1/16, 1/64: SW SW NW**

**X (ft): 2,473,528 Y (ft): 1,574,509**

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;

**WELL**

**Map Label:** 2B-2-W011  
**OSE File No:** G 2520  
**Priority Date:** 9/16/2006  
**Purpose of Use:** 72-12-1 DOMESTIC

**Well Location:** As shown on Hydrographic Survey Map 2B-2  
S. 29 T. 13N R. 17W 1/4, 1/16, 1/64: SW SW SE  
**X (ft):** 2,474,528 **Y (ft):** 1,573,622  
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

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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: Kevin D. Gaines 12/28/07  
KEVIN D. GAINES DATE  
Tamara Gaines 12/28/07  
TAMARA GAINES DATE

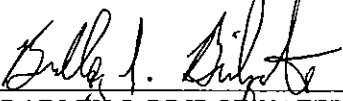
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 Gallup, NM 87305

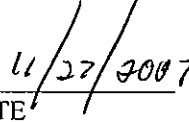
**COUNSEL FOR THE DEFENDANT (IF REPRESENTED):**

\_\_\_\_\_

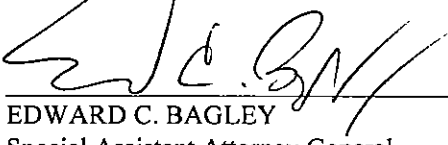
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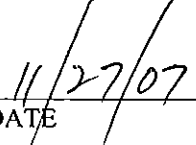
**COUNSEL FOR THE UNITED STATES:**

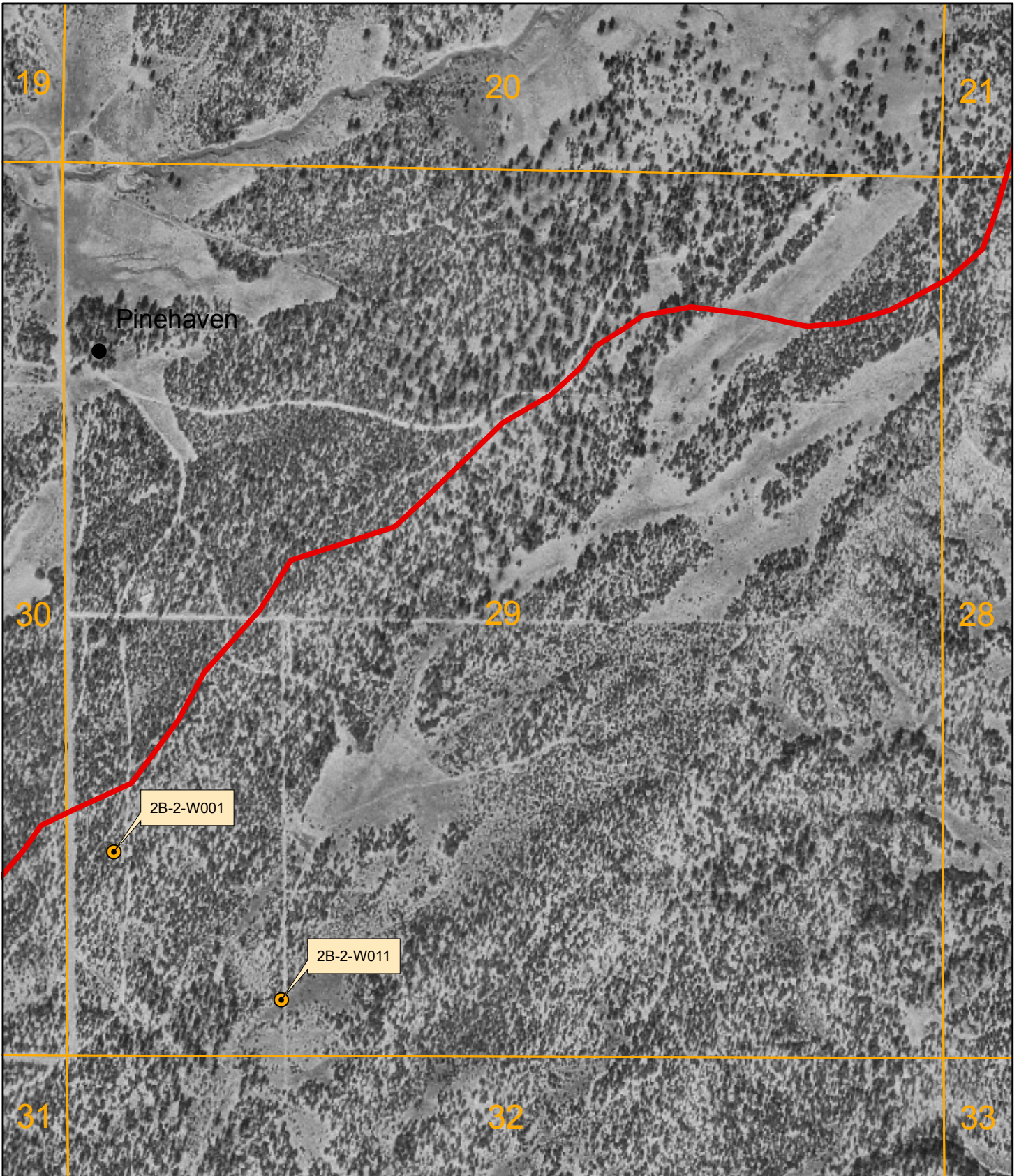
  
\_\_\_\_\_  
BRADLEY S. BRIDGEWATER  
U.S. Department of Justice  
1961 Stout Street – 8th Floor  
Denver, CO 80294  
(303) 844-1359

  
\_\_\_\_\_  
DATE

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



  
\_\_\_\_\_  
EDWARD C. BAGLEY  
Special Assistant Attorney General  
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(505) 827-6150

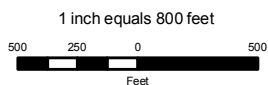
  
\_\_\_\_\_  
DATE



October 2006

**LEGEND**

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



Zuni River Basin  
Hydrographic Survey

**Sub-Area 2**  
Subfile Number: ZRB-4-0158  
PLSS: S29, T13N, R17W  
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.