

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA, and
STATE OF NEW MEXICO, ex rel. STATE
ENGINEER,

Plaintiffs,
and

ZUNI INDIAN TRIBE, NAVAJO NATION,

Plaintiffs in Intervention,
v.

A & R PRODUCTIONS, et al.,

Defendants.

No. 01cv00072-BB/WDS

ZUNI RIVER BASIN
ADJUDICATION

Subfile No: ZRB-3-0090

ORDER GRANTING DEFAULT JUDGMENT

THIS MATTER is before the Court upon the following Motion for Default Judgment filed by Plaintiffs United States of America (“United States”) and State of New Mexico ex rel. State Engineer (“State”):

March 31, 2008 *Motion for Default Judgment*, Document No.1690

The Court, being fully advised, finds that the Plaintiffs’ motion is well-taken and should be GRANTED. Upon the record, the Court finds:

1. The Court has jurisdiction of the parties and the subject matter herein.
2. Each defendant named below has been legally served with process or has waived service of summons.
3. Each defendant named below has failed to comply with the applicable procedural and scheduling orders and to appear, answer, or otherwise defend in the

indicated subfile, and is adjudged to be in default.

4. The portions of the Zuni River Basin Adjudication Hydrographic Survey Report for Subarea 7 (January 2006, as amended), prepared by Natural Resources Consulting Engineers, Inc. under contract to the United States, relating to the water rights of each defendant named herein have been introduced into the record and the same are hereby incorporated as the evidentiary basis of the water rights described in the order.

5. The water rights of each defendant named below in the above-styled and captioned civil action are as follows:

DAVID S. KESSLER & LISA KESSLER

Subfile No: ZRB-3-0090

STOCK POND

Map Label: 7C-1-SP10
Purpose of Use: Recreation
Priority Date: 10/6/1997
Source of Water: Well
Point of Diversion: Fills from well 7C-1-W05 (Location X(ft): 2,560,828; Y(ft): 1,471,047);

Amount of Water:

Depth (ft): 3.0
Surface Area (sq.ft): 1,848
Storage Impoundment Volume (ac-ft): 0.076

Pond Location: As shown on Hydrographic Survey Map 7C-1

S. 1 T. 09N R. 15W 1/4, 1/16, 1/64: NW SW NE

X(ft): 2,560,324 Y(ft): 1,471,023

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 7C-1-SP11
Purpose of Use: Livestock
Priority Date: 10/6/1997
Source of Water: Surface Runoff
Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 1.5
Surface Area (sq.ft): 3,452
Storage Impoundment Volume (ac-ft): 0.071

Pond Location: As shown on Hydrographic Survey Map 7C-1

S. 1 T. 09N R. 15W 1/4, 1/16, 1/64: NW NE SW

X(ft): 2,560,830 **Y(ft):** 1,471,246

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

Dam height (if greater than 9 ft):

WELL

Map Label: 7C-1-W04
OSE File No: None
Priority Date: 1/1/1963
Purpose of Use: DOMESTIC

Well Location: As shown on Hydrographic Survey Map 7C-1

S. 1 T. 09N R. 15W 1/4, 1/16, 1/64: NW NE SW

X (ft): 2,560,845 **Y (ft):** 1,471,316

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 acre-feet per annum;

WELL

Map Label: 7C-1-W05

OSE File No: G 1633

Priority Date: 12/31/1992

Purpose of Use: DOMESTIC

Well Location: As shown on Hydrographic Survey Map 7C-1

S. 1 T. 09N R. 15W 1/4, 1/16, 1/64: NW SE NW

X (ft): 2,560,828 **Y (ft):** 1,471,047

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

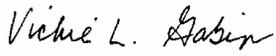
Amount of Water (ac-ft per annum): Historical beneficial use not to exceed 0.7 acre-feet per annum;

WHEREFORE IT IS HEREBY ORDERED AND ADJUDGED that the water rights of each defendant named above are as set forth herein, subject to the right of any other water rights claimant with standing to object prior to the entry of a final decree.

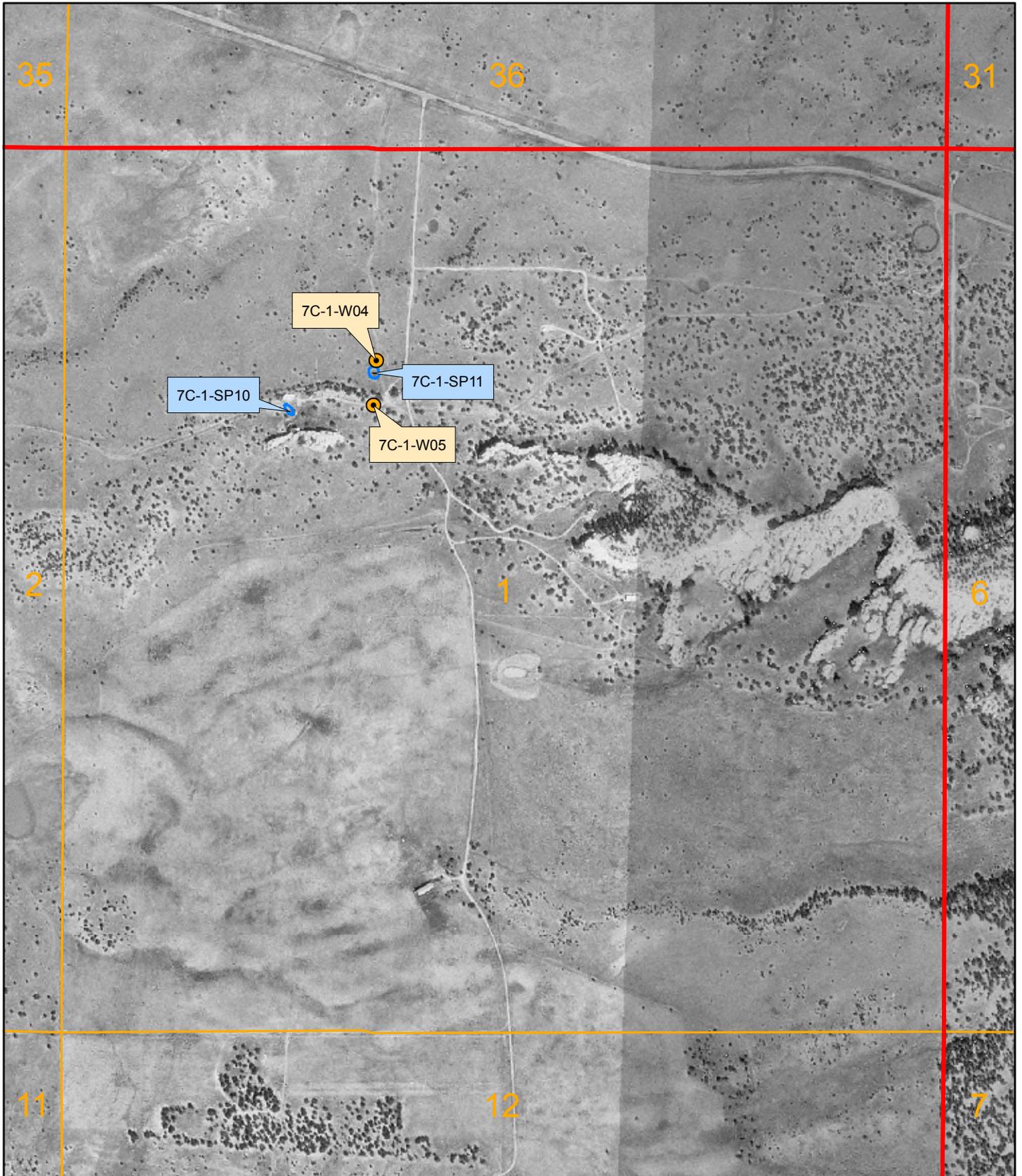
IT IS FURTHER ORDERED that each defendant named herein, and his or her successors, representatives, heirs and assigns, are HEREBY ENJOINED from any diversion or use of the waters of the Zuni River Stream System, except in strict accordance with this order or other orders of this Court in this civil action.


BRUCE D. BLACK
UNITED STATES DISTRICT JUDGE

Recommended for approval:



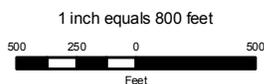
VICKIE L. GABIN
SPECIAL MASTER



March 2006

LEGEND

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



Zuni River Basin
Hydrographic Survey

Sub-Area 7
Subfile Number: ZRB-3-0090
PLSS: S01, T09N, R15W
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.