

**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-4-0300

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:

JERRY W. TOELLNER & JUDITH G. TOELLNER

("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-4-W063

OSE File No: None

Priority Date: 3/13/1994

Purpose of Use: DOMESTIC

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

S. 18 T. 11N R. 15W 1/4, 1/16, 1/64: NE NE NE

X (ft): 2,537,880 **Y (ft):** 1,525,113

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: 3B-4-W161
OSE File No: G 2387
Priority Date: 8/5/2005
Purpose of Use: 72-12-1 DOMESTIC

Well Location: As shown on Hydrographic Survey Map 3B-4
S. 12 T. 11N R. 16W 1/4, 1/16, 1/64: SW SW NW
X (ft): 2,527,973 **Y (ft):** 1,526,352
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:

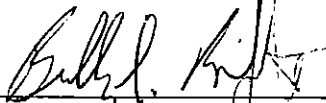
Vickie L. Gabin
VICKIE L. GABIN
SPECIAL MASTER

ACCEPTED: Jerry W. Toellner 10-23-08
JERRY W. TOELLNER DATE
Judith G Toellner 10-23-08
JUDITH G. TOELLNER DATE
ADDRESS: HC. 61 Box 842 17 E EIK Dr
Ramah NM 87321

COUNSEL FOR THE DEFENDANT (IF REPRESENTED):

DATE

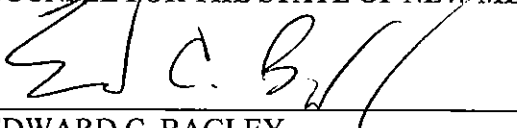
COUNSEL FOR THE UNITED STATES:



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

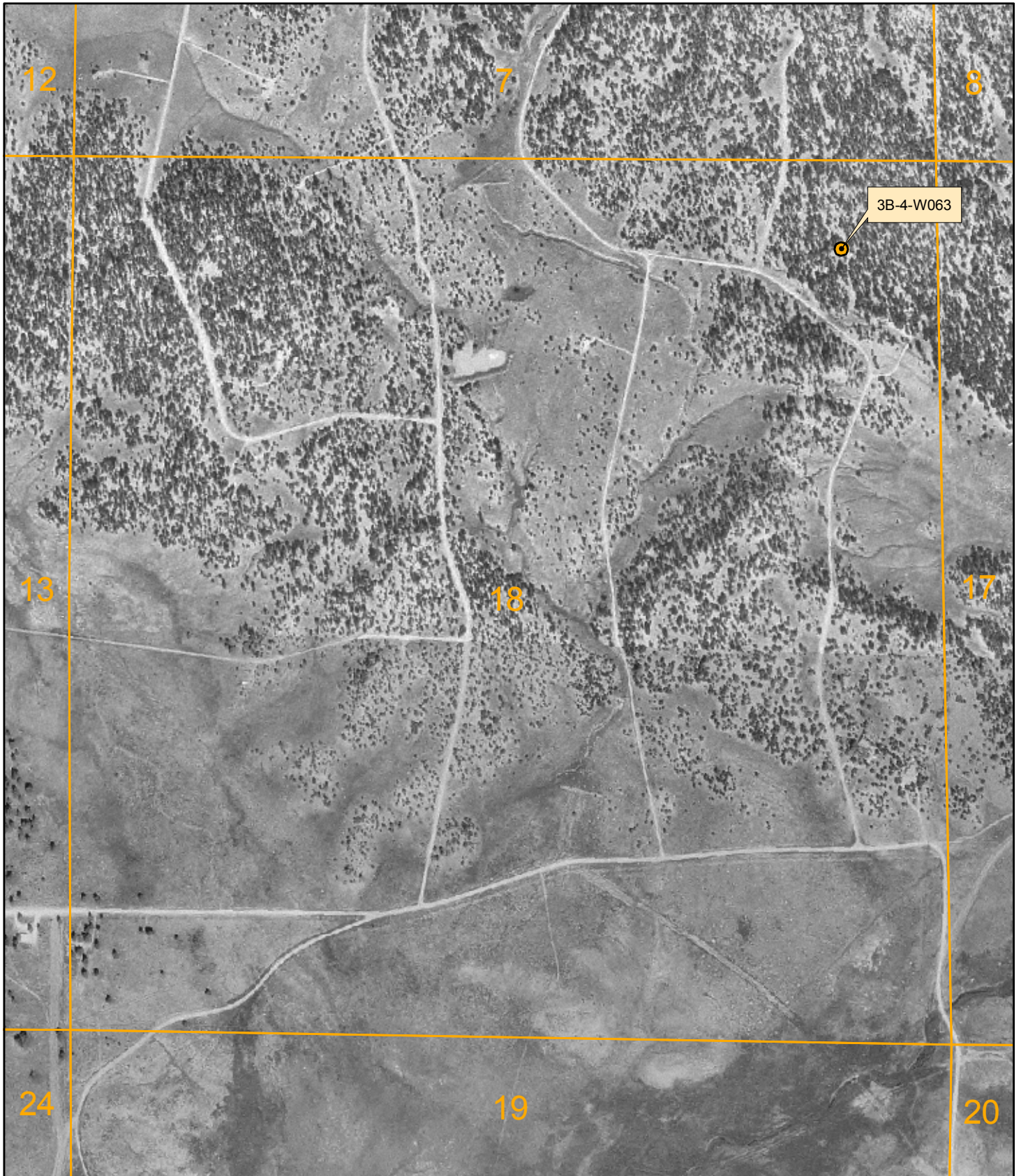
12/3/08
DATE

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





12/3/08
DATE

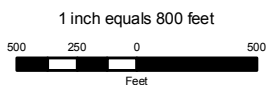
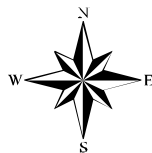


3B-4-W063

October 2006

LEGEND

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



Zuni River Basin
Hydrographic Survey

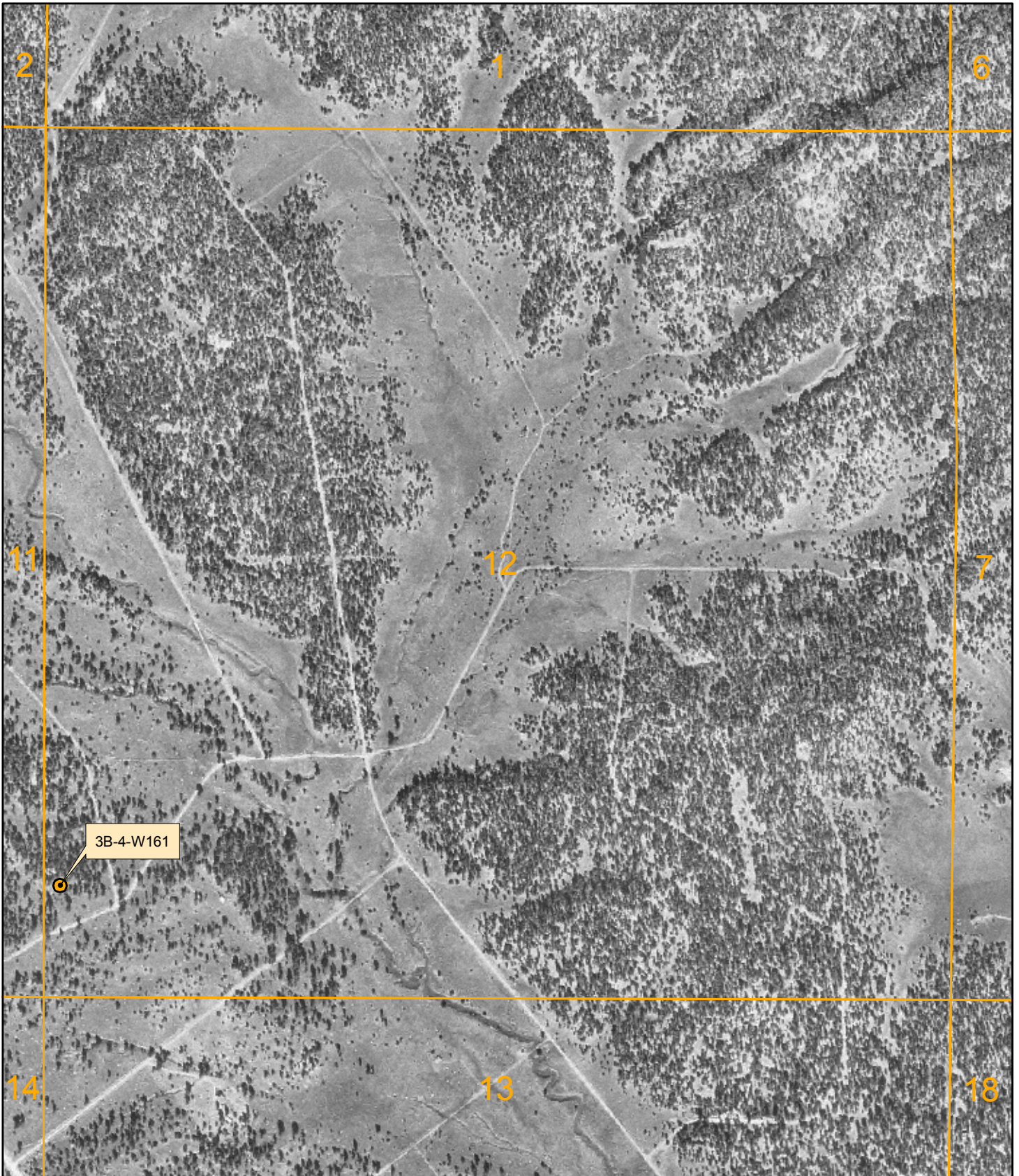
Sub-Area 3
Subfile Number: ZRB-4-0300
PLSS: S18, T11N, R15W
Sheet 1 of 2



Natural Resources Consulting Engineers, Inc.







Fort Collins, CO Oakland, CA Asmara, ERITREA

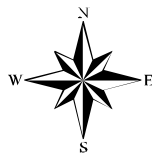
Project Manager: L. Niel Allen, P.E., Ph.D.



October 2006

LEGEND

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1 inch equals 800 feet



Zuni River Basin
Hydrographic Survey



Natural Resources Consulting Engineers, Inc.

Fort Collins, CO Oakland, CA Asmara, ERITREA

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

Sub-Area 3
Subfile Number: ZRB-4-0300
PLSS: S12, T11N, R16W
Sheet 2 of 2