

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 9 and 10

Subfile No. ZRB-2-0091

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:

EDWARD ALLEN WAGNER & DONNA MARIE WAGNER

("Defendant") concerning the Defendant's right(s) to use the public waters of the Zuni River Stream System, Sub-areas 9 and 10, 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 9 and 10. 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 9 and 10, is as set forth below:

WELL

Map Label: 9C-5-W02

OSE File No: G 01152

Priority Date: 1/1/1930

Purpose of Use: NON 72-12-1 LIVESTOCK WATERING

Well Location: As shown on Hydrographic Survey Map 9C-5

S. 4 T. 05N R. 19W 1/4, 1/16, 1/64: NW NW NE

X (ft): 2,417,491 **Y (ft):** 1,347,064

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

Amount of Water: 1.841 ac-ft per annum

WELL

Map Label: 9C-5-W03

OSE File No: G 01150

Priority Date: 1/1/1950

Purpose of Use: NON 72-12-1 DOMESTIC & LIVESTOCK

Well Location: As shown on Hydrographic Survey Map 9C-5

S. 4 T. 05N R. 19W 1/4, 1/16, 1/64: SE SE SE

X (ft): 2,422,029 Y (ft): 1,341,729

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

Amount of Water: Historical beneficial use not to exceed 2.541 ac-ft per annum

WELL

Map Label: 9C-5-W04

OSE File No: G 01149

Priority Date: 1/1/1920

Purpose of Use: NON 72-12-1 LIVESTOCK WATERING

Well Location: As shown on Hydrographic Survey Map 9C-5

S. 12 T. 05N R. 19W 1/4, 1/16, 1/64: SW NE SW

X (ft): 2,433,770 Y (ft): 1,337,600

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

Amount of Water: 1.841 ac-ft per annum

WELL

Map Label: 9C-6-W01

OSE File No: G 01154

Priority Date: 1/1/1995

Purpose of Use: 72-12-1 DOMESTIC & LIVESTOCK WATERING

Well Location: As shown on Hydrographic Survey Map 9C-6

S. 25 T. 05N R. 19W 1/4, 1/16, 1/64: NW SW SE

X (ft): 2,433,364 Y (ft): 1,322,921

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

Amount of Water: Historical beneficial use not to exceed 2.541 ac-ft per annum

WELL

Map Label: 9C-6-W02

OSE File No: G 02277

Priority Date: 11/13/2004

Purpose of Use: 72-12-1 DOMESTIC & LIVESTOCK WATERING

Well Location: As shown on Hydrographic Survey Map 9C-6

S. 35 T. 05N R. 19W 1/4, 1/16, 1/64: NW NE SW

X (ft): 2,428,560 Y (ft): 1,319,092

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

Amount of Water: Historical beneficial use not to exceed 0.101 ac-ft per annum

STOCK POND

Map Label: 9B-5-SP01

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1972

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 5.0

Surface Area (sq.ft): 5,003

Storage Impoundment Volume (ac-ft): 0.345

Pond Location: As shown on Hydrographic Survey Map 9B-5

S. 19 T. 05N R. 19W 1/4, 1/16, 1/64: NE NE SE

X(ft): 2,411,177 Y(ft): 1,330,205

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 9C-5-SP05

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1940

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 5.0

Surface Area (sq.ft): 4,879

Storage Impoundment Volume (ac-ft): 0.336

Pond Location: As shown on Hydrographic Survey Map 9C-5

S. 1 T. 05N R. 19W 1/4, 1/16, 1/64: NW NE NE

X(ft): 2,434,915 Y(ft): 1,346,373

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 9C-6-SP03

Purpose of Use: LIVESTOCK
Priority Date: 1/1/1972
Source of Water: Surface Runoff
Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 5.0
Surface Area (sq.ft): 9,661
Storage Impoundment Volume (ac-ft): 0.665

Pond Location: As shown on Hydrographic Survey Map 9C-6

S. 26 T. 05N R. 19W 1/4, 1/16, 1/64: SE NE NE
X(ft): 2,432,242 **Y(ft):** 1,322,703
New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 9C-6-SP04
Purpose of Use: LIVESTOCK
Priority Date: 1/1/1972
Source of Water: Surface Runoff
Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 5.0
Surface Area (sq.ft): 5,077
Storage Impoundment Volume (ac-ft): 0.350

Pond Location: As shown on Hydrographic Survey Map 9C-6

S. 25 T. 05N R. 19W 1/4, 1/16, 1/64: SE SE NE
X(ft): 2,437,036 **Y(ft):** 1,320,958

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 9C-6-SP05
Purpose of Use: LIVESTOCK
Priority Date: 1/1/1998
Source of Water: Surface Runoff
Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 7.0
Surface Area (sq.ft): 10,378
Storage Impoundment Volume (ac-ft): 1.001

Pond Location: As shown on Hydrographic Survey Map 9C-6

S. 25 T. 05N R. 19W 1/4, 1/16, 1/64: NW NW NE

X(ft): 2,433,282 Y(ft): 1,325,024

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 9C-6-SP06
Purpose of Use: LIVESTOCK
Priority Date: 6/1/2006
Source of Water: Surface Runoff
Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 8.0

Surface Area (sq.ft): 35,714

Storage Impoundment Volume (ac-ft): 3.935

Pond Location: As shown on Hydrographic Survey Map 9C-6

S. 26 T. 05N R. 19W 1/4, 1/16, 1/64: SE NW NW

X(ft): 2,430,343 Y(ft): 1,322,754

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 9C-6-SP07

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1972

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 4.0

Surface Area (sq.ft): 2,981

Storage Impoundment Volume (ac-ft): 0.164

Pond Location: As shown on Hydrographic Survey Map 9C-6

S. 25 T. 05N R. 19W 1/4, 1/16, 1/64: SE NW NW

X(ft): 2,434,892 Y(ft): 1,322,597

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 9C-6-SP09

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1960
Source of Water: Surface Runoff
Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 12.0
Surface Area (sq.ft): 19,750
Storage Impoundment Volume (ac-ft): 3.264

Pond Location: As shown on Hydrographic Survey Map 9C-6

S. 15 T. 05N R. 19W 1/4, 1/16, 1/64: SE SW NE
X(ft): 2,425,787 **Y(ft):** 1,331,609
New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft): 12.0

STOCK POND

Map Label: 9C-6-SP10
Purpose of Use: LIVESTOCK
Priority Date: 1/1/1960
Source of Water: Surface Runoff
Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 3.0
Surface Area (sq.ft): 2,742
Storage Impoundment Volume (ac-ft): 0.113

Pond Location: As shown on Hydrographic Survey Map 9C-6

S. 26 T. 05N R. 19W 1/4, 1/16, 1/64: NE SW SE
X(ft): 2,430,867 **Y(ft):** 1,323,355
New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 9C-6-SP11
Purpose of Use: LIVESTOCK
Priority Date: 1/1/1972
Source of Water: Surface Runoff
Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 7.0
Surface Area (sq.ft): 13,316
Storage Impoundment Volume (ac-ft): 1.284

Pond Location: As shown on Hydrographic Survey Map 9C-6

S. 21 T. 05N R. 19W 1/4, 1/16, 1/64: NE NE NW

X(ft): 2,420,810 Y(ft): 1,330,409

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

Dam height (if greater than 9 ft):

5. Defendant has no right to divert and use the public waters of the Zuni River Stream System, Sub-areas 9 and 10, 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 9 and 10, 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 9 and 10, 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 9 and 10, 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.

Approved:



BRUCE D. BLACK
UNITED STATES DISTRICT JUDGE



Lorenzo F. Garcia
United States Magistrate Judge

ACCEPTED:



EDWARD ALLEN WAGNER & DONNA MARIE
WAGNER
Wagner

3/28/2012

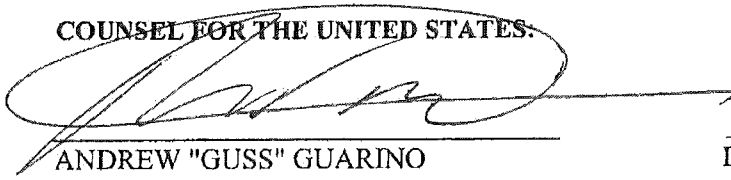
DATE

ADDRESS: P.O. Box 779 ^{swind address} 02 595 ANCON RANCH RD.
FENCE LAKE, NM 87315

COUNSEL FOR THE DEFENDANT (IF REPRESENTED):

DATE

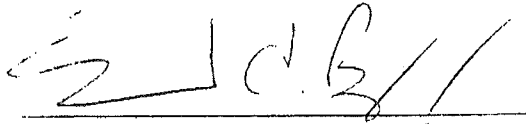
COUNSEL FOR THE UNITED STATES:



ANDREW "GUSS" GUARINO
DATE 3-13-2012

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DATE 3/13/2012

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