

**FILED**  
at Santa Fe, N.M.

DEC 23 2005

**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.

MATTHEW J. DYKMAN  
CLERK

No. 01cv00072-BB/DWD/ACE

ZUNI RIVER BASIN  
ADJUDICATION

Sub-areas 4 and 8

Subfile No: ZRB-1-0081

**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:

**VICTOR PONGETTI**

("Defendant") concerning the Defendant's right(s) to use the public waters of the Zuni River Stream System. Sub-areas 4 and 8, as set forth below FINDS:

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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 4 and 8. 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 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 4 and 8, is as set forth below:

**STOCK POND**

**Map Label:** 8B-3-SP15  
**Purpose of Use:** LIVESTOCK  
**Priority date:** 1/1/1967  
**Source of Water:** Surface Runoff  
**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 2.5  
**Surface Area (sq.ft):** 8,755  
**Storage Impoundment Volume (ac-ft):** 0.301

**Pond Location:** As shown on Hydrographic Survey Map 8B-3

S. 15 T. 08N R. 13W 1/4, 1/16, 1/64: NW NE NE

**X(ft):** 2,613,974 **Y(ft):** 1,429,356

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

**Dam height (if greater than 9 ft):**

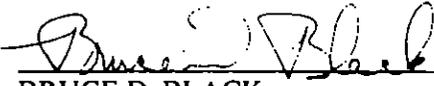
5. Defendant has no right to divert and use the public waters of the Zuni River Stream System, Sub-areas 4 and 8, except as set forth in this Consent Order and other orders entered by this Court in this cause.

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 4 and 8, except in strict accordance with this Consent Order and other orders of the Court in this cause.

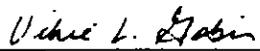
7. The water right(s) described herein, if any, are adjudicated as between the United States, the State, and the Defendant, subject to the right of any other water right claimant with standing to object prior to the entry of a final decree.

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 4 and 8, 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 4 and 8, 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  
UNITED STATES DISTRICT JUDGE

Recommended for approval:

  
\_\_\_\_\_  
VICKIE L. GABIN  
SPECIAL MASTER

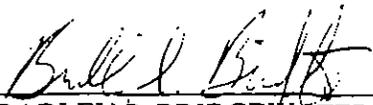
ACCEPTED:  \_\_\_\_\_ 10/21/05  
VICTOR PONGETTI DATE

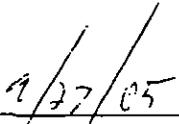
ADDRESS: 2727 SAN PEDRO NE, SUITE 115  
ALBUQUERQUE, NM 87110

COUNSEL FOR THE DEFENDANT (IF REPRESENTED):

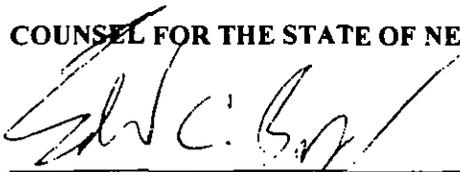
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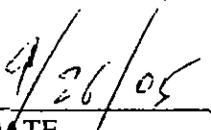
**COUNSEL FOR THE UNITED STATES:**

  
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\_\_\_\_\_  
DATE

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

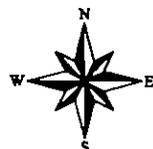
  
\_\_\_\_\_  
Special Assistant Attorney General  
Office of the State Engineer  
P.O. Box 25102  
Santa Fe, NM 87504  
(505) 827-6150

  
\_\_\_\_\_  
DATE



**LEGEND**

- ⊙ Well
- Town
- ▭ Stock Pond
- ▭ Sub-Area Boundary
- - - Section Boundary



1 inch equals 800 feet



Zuni River Basin  
Hydrographic Survey

Sub-Area 4  
Subfile Number: ZRB-1-0081  
PLSS: S17° T03N, R13W  
Sheet 1 of 1

January 2005



**Natural Resource Consulting Engineers, Inc.**

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