

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

FILED  
U.S. DISTRICT COURT  
DISTRICT OF NEW MEXICO

06 JUN -8 PM 2:50

CLERK'S OFFICE

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. )  
A & R PRODUCTIONS, et al., )  
Defendants. )

No. 01cv00072-BB-ACE

ZUNI RIVER BASIN  
ADJUDICATION

Subfile No. ZRB-3-0136

REQUEST FOR CONSULTATION

I hereby request consultation with the United States and the State of New Mexico ex rel. State Engineer concerning the Consent Order provided to DAVID A. RICE & JOSEPH A. RICE for Subfile No. ZRB-3-0136 in the above-captioned lawsuit. I disagree with the proposed Consent Order because: (Be as specific as possible. Attach additional pages, if necessary.)

PLEASE ATTACHMENT (1) & (2)

Signed: David A. Rice / Joseph A. Rice Date: 06/07/06

Print or type name: DAVID A. RICE / JOSEPH A. RICE

I can be reached at:

Address:

1044 Wade Circle N.E.  
Albuquerque, N.M., 87112

Daytime phone number: (505) 720-3816

Email address (if available): DAVIDRICE04@Comcast.NET

(Mail this form to "Attn: Zuni Adjudication, U.S. Department of Justice, 1961 Stout Street - 8<sup>th</sup> Floor, Denver, CO 80294," or fax it to (303) 844-1350)

722

**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**

**Subfile No: ZRB-3-0136**

**SUBFILE ANSWER**

COME(S) NOW DAVID A. RICE & JOSEPH A. RICE and answer(s) the  
complaint as follows:

<u>Subfile No:</u>	<u>Object</u>	<u>Claim No Right</u>
ZRB-3-0136		<input type="checkbox"/>

(Instructions: **Initial** in one of the two boxes to indicate whether you object to the description of water right(s) contained in the proposed Consent Order offered by the United States and the State, or whether you make no claim as to the water right(s) described in the proposed Consent Order. Provide the appropriate explanation below, and indicate what you have done to resolve your disagreement with the United States and the State, in the spaces provided below.)

I (We) object to the description of the water right(s) described by the proposed Consent Order for Subfile Number ZRB-3-0136 because:  
(explain) \_\_\_\_\_

SEE ATTACHMENTS (1) and (2)

(Attach additional pages if necessary)

I (We) made a good faith effort to resolve my (our) disagreement with the Consent Order proposed by the United States and the State by:  
(describe) \_\_\_\_\_

(Attach additional pages if necessary)

I (We) claim no right for the water right(s) described by the proposed Consent Order for Subfile Number ZRB-3-0136 because:  
(explain) \_\_\_\_\_

(Attach additional pages if necessary)

I (We) understand that by making this claim and filing this document I (we) am (are) not waiving my (our) rights to later raise, in an Amended Answer, any jurisdictional or affirmative defenses I (we) may have.



**Attachment 1**

Our existing permit with the New Mexico State Engineer, File Number G01955, allows us three (3) acre-feet per year for our property. This well was recently established and we are just now in the process of developing this property. Our plan is to build a single family dwelling on a permanent foundation suitable for year round occupancy. In support of this dwelling, we plan to plant trees (not to exceed 15 trees total), a lawn, and a small garden. Due to health reasons our plans have not happened as quickly as hoped but our development plans have not changed.

Because of these plans and our existing permitted water rights we hereby object to the water rights described by the proposed Consent Order. However, we will rescind our objection once the described water rights reflect the amount designated in our existing permitted water rights or at such time we can reach an agreement on the allowable amount.

Enclosed is a copy of our existing permit, attached hereto and made a part hereof as Attachment 2.

*David A. Rice* 06/07/06  
*Quhli-Rice* 06/07/2006

*JK*

File Number: G 01955

Hel-3551  
\$500  
S.F.

NEW MEXICO STATE ENGINEER OFFICE  
APPLICATION FOR PERMIT TO USE UNDERGROUND WATERS  
IN ACCORDANCE WITH SECTION 72-12-1 NEW MEXICO STATUTES

1. APPLICANT

Name: DAVID A. & JOSEPH A. RICE Work Phone: \_\_\_\_\_  
Contact: \_\_\_\_\_ Home Phone: 5057203816  
Address: 1044 MADE CIRCLE NW  
City: ALBUQUERQUE State: NM Zip: 87112

2. LOCATION OF WELL (E thru H optional)

- A.     1/4     1/4     1/4 Section: 14 Township: 08N Range: 16W N.M.P.M.  
in Cibola County
- B. X = 333404 feet, Y = 1459250 feet, N.M. Coordinate System  
West     Zone in the     Grant.  
U.S.G.S Quad Map
- C. Latitude     Longitude
- D. East     meters, North     meters, UTM\_Zone    , Datum
- E. Give State Engineer File Number if existing well
- F. On land owned by     APPLICANT
- G. Tract No.     Map No.     of the
- H. Lot No.     Block No.     of Unit/tract     of the  
    Subdivision recorded in     County.
- I. Other

03 DEC 12 PM 12:29  
NEW MEXICO STATE ENGINEER OFFICE

3. USE OF WATER

DOM: One household, non-commercial trees, lawn and garden not to exceed a total of one acre.

Trn Desc: G 01955  
Log Due Date: 12/11/2004  
Form: wr-01 page: 1

File Number: G 01955  
Trn Number: 289912

NEW MEXICO STATE ENGINEER OFFICE  
APPLICATION FOR PERMIT TO USE UNDERGROUND WATERS  
IN ACCORDANCE WITH SECTION 72-12-1 NEW MEXICO STATUTES

4. WELL INFORMATION (Change, Repair, Drill, Test, Supplement)

Name of well driller and driller license number:  
849 WILLIAMSON, JOHN S.

Approximate depth 350 feet, Outside diameter of casing 4.00 inches.

Change Location of existing well or replacement well

Repair or Deepen:

Clean out well to original depth

Deepen well from \_\_\_\_\_ to \_\_\_\_\_ feet

Other \_\_\_\_\_

Drill and test a well for \_\_\_\_\_ use.

Supplemental well

5. ADDITIONAL STATEMENTS OR EXPLANATIONS

ACKNOWLEDGEMENT FOR NATURAL PERSONS

I, David A. Rice affirm that the foregoing statements are true to  
(Please Print)  
the best of my knowledge and belief, By: \_\_\_\_\_

David A. Rice  
Signature

\_\_\_\_\_  
Signature

NEW MEXICO STATE ENGINEER OFFICE  
APPLICATION FOR PERMIT TO USE UNDERGROUND WATERS  
IN ACCORDANCE WITH SECTION 72-12-1 NEW MEXICO STATUTES

GENERAL CONDITIONS OF APPROVAL (A thru D)

- A The maximum amount of water that may be appropriated under this permit is 3 acre-feet in any year.
- B The well shall be drilled by a driller licensed in the State of New Mexico in accordance with Section 72-12-12 New Mexico Statutes Annotated. A licensed driller shall not be required for the construction of a driven well; provided, that the casing shall not exceed two and three-eighths (2 3/8) inches outside diameter (Section 72-12-12).
- C Driller's well record must be filed with the State Engineer within 10 days after the well is drilled or driven. Well record forms will be provided by the State Engineer upon request.
- D The casing shall not exceed 7 inches outside diameter except under specific conditions in which reasons satisfactory to the State Engineer are shown.
- E If the well under this permit is used at any time to serve more than one household or livestock in a commercial feed lot operation, or for drinking and sanitation purposes in conjunction with a commercial operation, the permittee shall notify the State Engineer Office in writing.
- F In the event this well is combined with other wells permitted under Section 72-12-1 New Mexico Statutes Annotated, the total outdoor use shall not exceed the irrigation of one acre of non-commercial trees, lawn, and garden, or the equivalent outside consumptive use, and the total appropriation for household and outdoor use from the entire water distribution system shall not exceed 3 acre-feet in any year.
- G If artesian water is encountered, all rules and regulations pertaining to the drilling and casing of artesian wells shall be complied with.
- H The amount and uses of water permitted under this Application are subject to such limitations as may be imposed by the courts or by lawful municipal and county ordinances which are more restrictive than applicable State Engineer Regulations and the conditions of this permit.

Trn Desc: G 01955  
Log Due Date: 12/11/2004  
Form: wr-01

File Number: G 01955  
Trn Number: 289912

page: 1

NEW MEXICO STATE ENGINEER OFFICE  
APPLICATION FOR PERMIT TO USE UNDERGROUND WATERS  
IN ACCORDANCE WITH SECTION 72-12-1 NEW MEXICO STATUTES

GENERAL CONDITIONS OF APPROVAL (Continued)

- I The permittee shall utilize the highest and best technology available to ensure conservation of water to the maximum extent practical.

SPECIFIC CONDITIONS OF APPROVAL

- 4 Use shall be limited to household, non-commercial trees, lawn and garden not to exceed one acre and/or stock use.

LOG This permit will automatically expire unless the well G 01955 is completed and the well record filed on or before 12/11/2004.

SEE GENERAL CONDITIONS OF APPROVAL.

ACTION OF STATE ENGINEER

This application is approved for the use indicated, subject to all general conditions and to specific conditions listed above.

Witness my hand and seal this 12 day of Dec A.D., 2003

John R. D. Antonio, Jr., P.E., State Engineer

By: [Signature]  
FOR SUB AFFAY

Trn Desc: G 01955  
Log Due Date: 12/11/2004  
Form: ws-01 page: 2

File Number: G 01955  
Trn Number: 289912

**Locator Tool Report**

**General Information:**

Application ID: 1                      Date: 12-12-2003                      Time: 12:18:48

WR File Number: G  
Purpose: POINT OF DIVERSION

Applicant First Name: DAVID A.  
Applicant Last Name: RICE

GW Basin: GALLUP  
County: CIBOLA

Critical Management Area Name(s): NONE  
Special Condition Area Name(s): NONE  
Land Grant Name: NON GRANT

**PLSS Description (New Mexico Principal Meridian):**

PLSS description is not available for this location.

**Coordinate System Details:**

**Geographic Coordinates:**

Latitude: 35 Degrees 0 Minutes 34.9 Seconds N  
Longitude: 108 Degrees 23 Minutes 22.9 Seconds W

**Universal Transverse Mercator Zone: 13N**

NAD 1983(92) (Meters)	N: 3,879,367	E: 190,661
NAD 1983(92) (Survey Feet)	N: 12,727,427	E: 625,520
NAD 1927 (Meters)	N: 3,879,189	E: 190,654
NAD 1927 (Survey Feet)	N: 12,726,909	E: 625,503

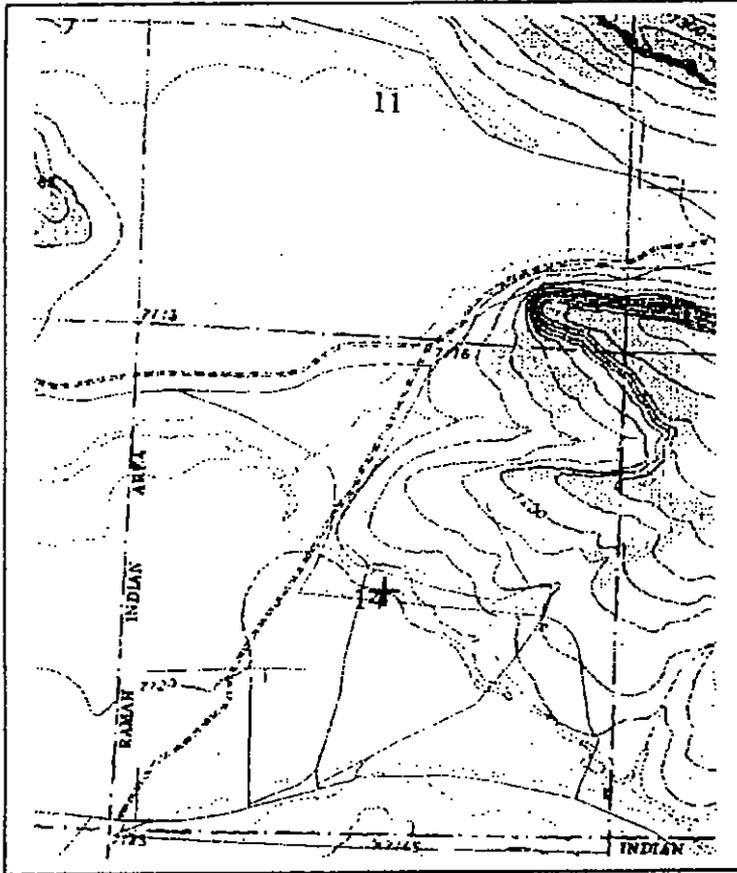
**State Plane Coordinate System Zone: New Mexico West**

NAD 1983(92) (Meters)	N: 444,794	E: 779,223
NAD 1983(92) (Survey Feet)	N: 1,459,295	E: 2,558,489
NAD 1927 (Meters)	N: 444,780	E: 101,622
NAD 1927 (Survey Feet)	N: 1,459,250	E: 333,404

G-1955

**NEW MEXICO OFFICE OF STATE ENGINEER**

**Locator Tool Report**



WR File Number: G

Scale: 1:18,521

Northing/Easting: UTM83 (Meter): N: 3,879,367 E: 190,661

Northing/Easting: SPCS83 (Feet): N: 1,459,295 E: 2,556,499

GW Basin: Gallup

MALCOLM G. GOLBERG  
ATTORNEY AT LAW  
2225 PENNSYLVANIA N.E.  
SUITE 102  
ALBUQUERQUE, NEW MEXICO 87110

14955

**QUITCLAIM DEED**

\_\_\_\_\_  
DAVID A. RICE, a single man, former husband of Grantee,  
by consideration paid, etc., etc., etc.  
\_\_\_\_\_  
SANDRA L. RICE, a single woman, former wife of Grantor,  
\_\_\_\_\_  
whose address is 6300 Katson, N.E.  
Albuquerque, New Mexico 87109  
the following described real estate in Valencia County, New Mexico:

A certain tract of land situate within Section 14, T8N,  
R16W, NMFN, Valencia County, New Mexico, and more parti-  
cularly described as follows: Beginning at the Northeast  
corner, whence the Northeast corner of said Section 14  
bears N20-32-57E 2976.267 feet, and from said beginning  
point running thence:  
S08-58-12W 638.930 feet to the Southeast corner, thence  
N88-55-57W 429.581 feet to the Southwest corner, thence  
N03-15-37W 634.673 feet to the Northwest corner, thence  
S88-55-57E 565.320 feet to the place of beginning.  
Contains 7.227 Acres.

WITNESS BY hand and seal this 13<sup>th</sup> day of October 1978  
\_\_\_\_\_  
(Seal) David A. Rice (Seal)  
\_\_\_\_\_  
(Seal) \_\_\_\_\_ (Seal)

**ACKNOWLEDGMENT FOR NATURAL PERSONS**

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of October 1978  
by DAVID A. RICE, a single man  
(Name or Name of Person or Persons Acknowledging)  
My commission expires 6-17-80  
(Seal) \_\_\_\_\_  
Notary Public

**ACKNOWLEDGMENT FOR CORPORATION**

STATE OF NEW MEXICO  
COUNTY OF \_\_\_\_\_  
The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
by \_\_\_\_\_  
(Name of Officer)  
\_\_\_\_\_  
(Title of Officer) of \_\_\_\_\_  
(Name of Corporation)  
corporation, or behalf of said  
corporation.  
My commission expires \_\_\_\_\_  
(Seal)

FOR RECORDER'S USE ONLY  
STATE OF NEW MEXICO  
COUNTY OF VALENCIA  
This instrument was filed for record on  
10:35 OCT 19 1978  
at \_\_\_\_\_  
of \_\_\_\_\_  
NANCY JONES, County Clerk  
Deputy Clerk  
Rm. # 2220

BOOK 258 PAGE 1758

03 DEC 12 PM 12:34  
RECEIVED  
COUNTY CLERK  
ALBUQUERQUE, N.M.