

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

JUL - 3 2006

MATTHEW J. DYKMAN
CLERK

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/WDS/ACE

ZUNI RIVER BASIN
ADJUDICATION

Sub-area 7

Subfile No: ZRB-3-0104

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:

PETER A. MCCABE

("Defendant") concerning the Defendant's right(s) to use the public waters of the Zuni River Stream System, Sub-area 7, 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-area 7. 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-area 7, is as set forth below:

STOCK POND

Map Label: 7B-3-SP35
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): 137,211
Storage Impoundment Volume (ac-ft): 4.725

Pond Location: As shown on Hydrographic Survey Map 7B-3

S. 11 T. 08N R. 16W 1/4, 1/16, 1/64: SW SE NE

X(ft): 2,524,853 **Y(ft):** 1,431.483

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

Dam height (if greater than 9 ft):

WELL

Map Label: 7B-3-W07

OSE File No: G 2308

Priority Date: 3/3/2005

Purpose of Use: 72-12-1.1 DOMESTIC

Well Location: As shown on Hydrographic Survey Map 7B-3

S. 11 T. 08N R. 16W 1/4, 1/16, 1/64: SE SW SW

X (ft): 2,525,325 **Y (ft):** 1,430.758

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;

5. Defendant has no right to divert and use the public waters of the Zuni River Stream System, Sub-areas 7, 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 7, 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 7, 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 7, 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:

Peter McCabe
PETER A. MCCABE

6/11/06
DATE

ADDRESS:

PO Box 248
Pinehill, NM 87357

COUNSEL FOR THE DEFENDANT (IF REPRESENTED):

_____ DATE

COUNSEL FOR THE UNITED STATES:

Bradley S. Bridgewater

BRADLEY S. BRIDGEWATER
U.S. Department of Justice

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Denver, CO 80294
(303) 844-1359

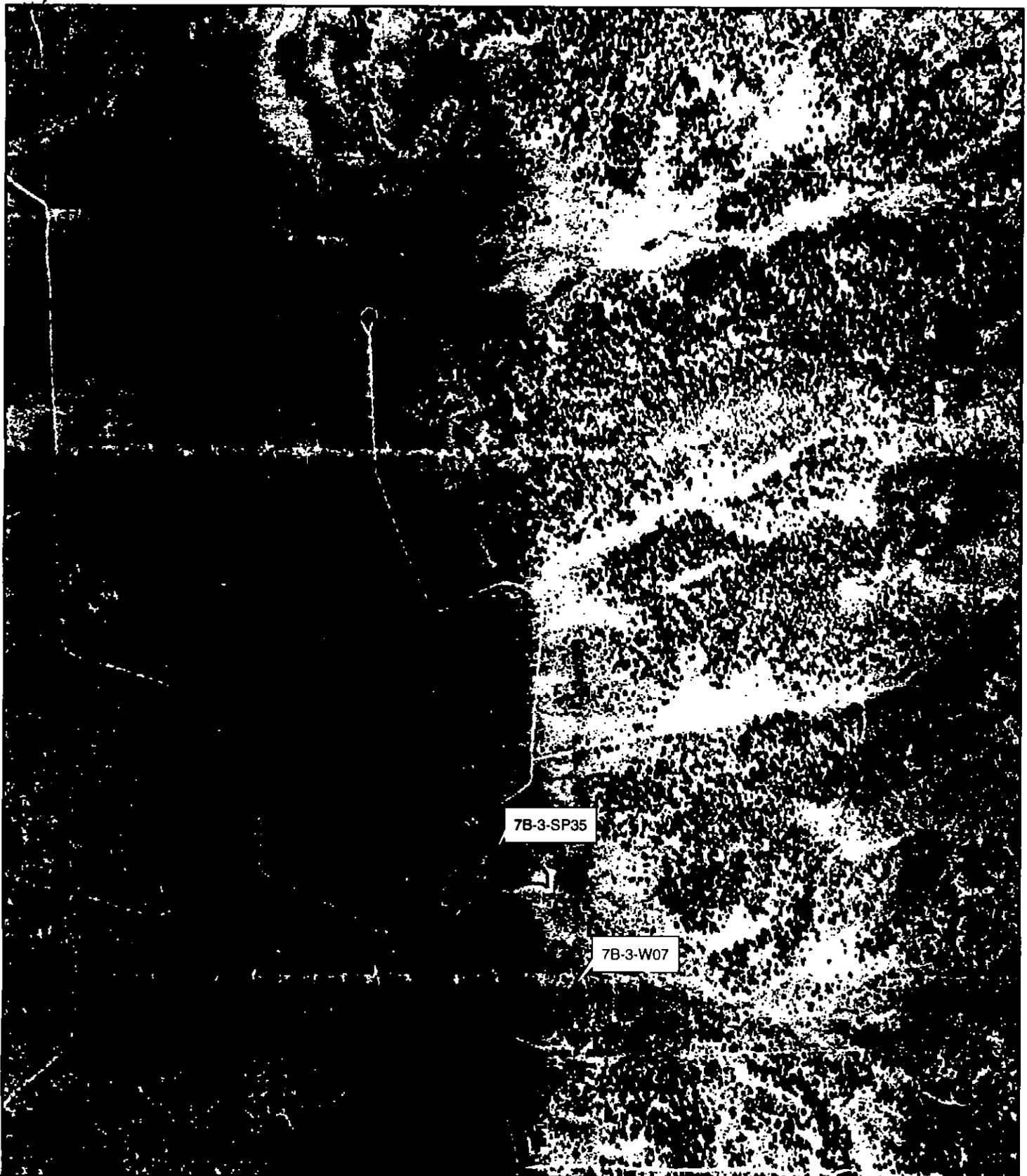
5/22/06
DATE

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

[Signature]

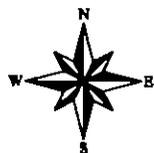
Special Assistant Attorney General
Office of the State Engineer
P.O. Box 25102
Santa Fe, NM 87504
(505) 827-6150

5/22/06
DATE



LEGEND

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



1 inch equals 800 feet



Zuni River Basin
Hydrographic Survey

Sub-Area 7
Subfile Number: ZRB-3-0104
PLSS: S11, T08N, R16W
Sheet 1 of 1

March 2006



Natural Resources Consulting Engineers, Inc.

Fort Collins, CO Oakland, CA Asmara, ERITREA

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