

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

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CLERK-SANTA FE

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,

No. 01cv00072-BB-ACE

Plaintiff's,
and

ZUNI RIVER BASIN
ADJUDICATION

ZUNI INDIAN TRIBE,
NAVAJO NATION,

Sub-area 7

Plaintiffs in Intervention,

v.

Subfile No: ZRB-3-0077

STATE OF NEW MEXICO COMMISSIONER
OF PUBLIC LANDS,

and
A & R PRODUCTIONS, et al.,

Defendants.

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:

GALE HENKE

("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-2-SP31
Purpose of Use: Livestock
Priority Date: 1/1/1940
Source of Water: Surface Runoff
Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 3.0
Surface Area (sq.ft): 3,828
Storage Impoundment Volume (ac-ft): 0.158

Pond Location: As shown on Hydrographic Survey Map 7B-2

S. 23 T. 09N R. 16W 1/4, 1/16, 1/64: NW NW NW

X(ft): 2,522,149 Y(ft): 1,456,741

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 7B-2-SP32

Purpose of Use: Livestock

Priority Date: 1/1/1940

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 3.0

Surface Area (sq.ft): 5,839

Storage Impoundment Volume (ac-ft): 0.241

Pond Location: As shown on Hydrographic Survey Map 7B-2

S. 23 T. 09N R. 16W 1/4, 1/16, 1/64: NW SW NW

X(ft): 2,522,396 Y(ft): 1,455,881

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 7B-2-SP33

Purpose of Use: Livestock

Priority Date: 1/1/1940

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 4.0

Surface Area (sq.ft): 73,534

Storage Impoundment Volume (ac-ft): 4.051

Pond Location: As shown on Hydrographic Survey Map 7B-2

S. 23 T. 09N R. 16W 1/4, 1/16, 1/64: NW SW SE

X(ft): 2,522,929 **Y(ft):** 1,454,936

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 7B-2-SP34

Purpose of Use: Livestock

Priority Date: 1/1/1940

Source of Water: Well

Point of Diversion: Fills from well 7B-2-W02 (Location X(ft): 2,522,621; Y(ft): 1,454,571);

Amount of Water:

Depth (ft): 2.0

Surface Area (sq.ft): 2,250

Storage Impoundment Volume (ac-ft): 0.062

Pond Location: As shown on Hydrographic Survey Map 7B-2

S. 23 T. 09N R. 16W 1/4, 1/16, 1/64: SW NW NE

X(ft): 2,522,649 **Y(ft):** 1,454,522

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

Dam height (if greater than 9 ft):

WELL

Map Label: 7B-2-W02

OSE File No: G 1298

Priority Date: 1/1/1929

Purpose of Use: DOMESTIC & LIVESTOCK

Well Location: As shown on Hydrographic Survey Map 7B-2

S. 23 T. 09N R. 16W 1/4, 1/16, 1/64: SW NW NE

X (ft): 2,522,621 **Y (ft):** 1,454,571

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

Amount of Water (ac-ft per annum): Historical beneficial use not to exceed 2.940 acre-feet per annum:

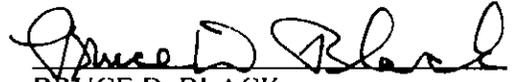
5. Defendant has no right to divert and use the public waters of the Zuni River Stream System, Sub-areas 7, except as set forth in this Consent Order and other orders entered by this Court in this cause.

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.

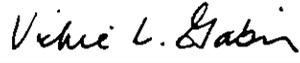
7. The water right(s) described herein, if any, are adjudicated as between the United States, the State, and the Defendant, subject to the right of any other water right claimant with standing to object prior to the entry of a final decree.

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

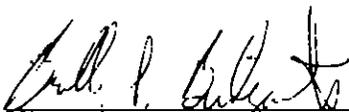
ACCEPTED:  Oct 12, 2006
GALE HENKE DATE

ADDRESS: 5528 Via Croyo NE
Albuquerque, NM 87111

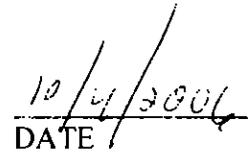
COUNSEL FOR THE DEFENDANT (IF REPRESENTED):

DATE

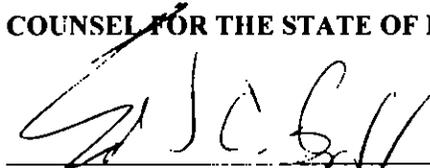
COUNSEL FOR THE UNITED STATES:



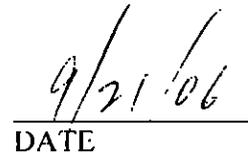
BRADLEY S. BRIDGEWATER
U.S. Department of Justice
1961 Stout Street - 8th Floor
Denver, CO 80294
(303) 844-1359


DATE

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



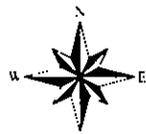
Special Assistant Attorney General
Office of the State Engineer
P.O. Box 25102
Santa Fe, NM 87504
(505) 827-6150


DATE



LEGEND

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



1 inch equals 800 feet



Zuni River Basin
Hydrographic Survey

Sub-Area 7
Subfile Number: ZRB-3-0077
PLSS: S23, T09N, R16W
Sheet 1 of 1

March 2005

NRCE



Natural Resources Consulting Engineers, Inc.

Fort Collins, CO Oakland, CA Asmara, ERITREA

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