

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

FILED
at Santa Fe, NM

DEC 23 2005

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,

No. 01cv00072-BB/DWD/ACE

Plaintiffs,
and

ZUNI RIVER BASIN
ADJUDICATION

ZUNI INDIAN TRIBE,
NAVAJO NATION,

Sub-areas 4 and 8

Plaintiffs in Intervention,
v.

STATE OF NEW MEXICO COMMISSIONER
OF PUBLIC LANDS,
and
A & R PRODUCTIONS, et al.,

Subfile No: ZRB-1-0059

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:

LEWIS MARCHAND AND ETHELENE MARCHAND

("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:

WELL

Map Label: 4B-3-W08

OSE File No: G 1798

Priority Date: 3/23/1989

Purpose of Use: DOMESTIC

Well Location: As shown on Hydrographic Survey Map 4B-3

S. 19 T. 10N R. 13W 1/4, 1/16, 1/64: NW SW SE

X (ft): 2,596,660 Y (ft): 1,485,940

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

Amount of Water (ac-ft): Historical beneficial use not to exceed 0.1 acre-feet per annum;

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
BRUCE D. BLACK
UNITED STATES DISTRICT JUDGE

Recommended for approval:

Vickie L. Gabin
VICKIE L. GABIN
SPECIAL MASTER

Ethelene Marchand
ACCEPTED: Lewis Marchand 10-23-05
LEWIS MARCHAND AND ETHELENE DATE
MARCHAND
ADDRESS: 12430 N.W. 39th Ave
Gainesville, Florida 32606

COUNSEL FOR THE DEFENDANT (IF REPRESENTED):

10-23-
DATE

COUNSEL FOR THE UNITED STATES:

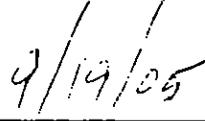
Bradley S. Bridgewater
BRADLEY S. BRIDGEWATER
U.S. Department of Justice
999 18th St., Suite 945 North
Denver, CO 80202
(303) 312-7318

9/27/05
DATE

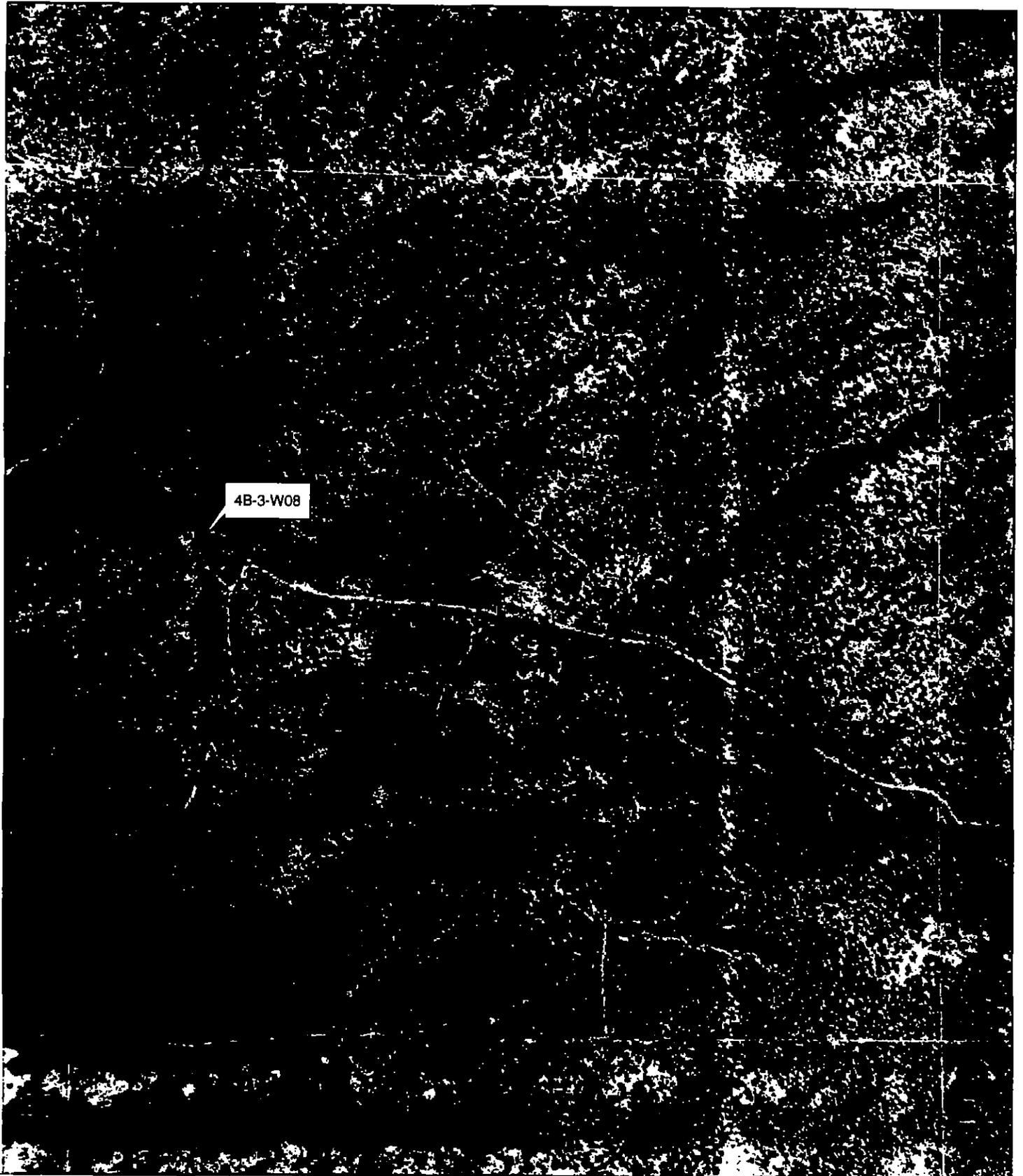
COUNSEL FOR THE STATE OF NEW MEXICO EX REL. STATE ENGINEER:



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



DATE

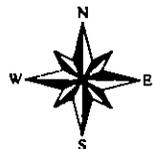


4B-3-W08

January 2005

LEGEND

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



1 inch equals 800 feet



Zuni River Basin
Hydrographic Survey

Sub-Area 4
Subfile Number: ZRB-1-0059
PLSS: S19, T10N, R13W
Sheet 1 of 1



Natural Resources Consulting Engineers, Inc.

Fort Collins, CO Oakland, CA Asmara, ERITREA

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