

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

2013 AUG 22 AM 10:40

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

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,

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-MV/LFG

ZUNI RIVER BASIN
ADJUDICATION

Sub-areas 9 and 10

Subfile No. ZRB-2-0124

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:

FRANCES KANDL & NICHOLAS C. PEMANTLE

("Defendant") concerning the Defendant's right(s) to use the public waters of the Zuni River Stream System, Sub-areas 9 and 10, as set forth below FINDS:

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 9 and 10. 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-areas 9 and 10, is as set forth below:

WELL

Map Label: 10C-2-W04

OSE File No: G 01781

Priority Date: 12/31/1975

Purpose of Use: NON 72-12-1 LIVESTOCK WATERING

Well Location: As shown on Hydrographic Survey Map 10C-2

S. 12 T. 07N R. 17W 1/4, 1/16, 1/64: NW SW SW

X (ft): 2,496,168 Y (ft): 1,402,080

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

Amount of Water: 0.269 ac-ft per annum

WELL

Map Label: 10C-2-W05
OSE File No: G 01780
Priority Date: 1/1/1930
Purpose of Use: NON 72-12-1 LIVESTOCK WATERING
Well Location: As shown on Hydrographic Survey Map 10C-2
S. 26 T. 07N R. 17W 1/4, 1/16, 1/64: SE SE SE
X (ft): 2,495,965 Y (ft): 1,383,903
New Mexico State Plane Coordinate System, West Zone, NAD 1983
Amount of Water: 0.538 ac-ft per annum

WELL

Map Label: 10C-2-W06
OSE File No: None
Priority Date: 3/13/1994
Purpose of Use: NON 72-12-1 LIVESTOCK WATERING
Well Location: As shown on Hydrographic Survey Map 10C-2
S. 26 T. 07N R. 17W 1/4, 1/16, 1/64: SE SE NE
X (ft): 2,496,235 Y (ft): 1,383,941
New Mexico State Plane Coordinate System, West Zone, NAD 1983
Amount of Water: 0.538 ac-ft per annum

WELL

Map Label: 10C-3-W03
OSE File No: None
Priority Date: 3/13/1994

Purpose of Use: NON 72-12-1 LIVESTOCK WATERING

Well Location: As shown on Hydrographic Survey Map 10C-3

S. 2 T. 06N R. 17W 1/4, 1/16, 1/64: SE NE SW

X (ft): 2,494,595 **Y (ft):** 1,373,923

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

Amount of Water: 0.538 ac-ft per annum

STOCK POND

Map Label: 10C-2-SP07

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1945

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 7.0

Surface Area (sq.ft): 20,626

Storage Impoundment Volume (ac-ft): 1.989

Pond Location: As shown on Hydrographic Survey Map 10C-2

S. 12 T. 07N R. 17W 1/4, 1/16, 1/64: NW SE SW

X(ft): 2,497,791 **Y(ft):** 1,401,998

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

Dam height (if greater than 9 ft)

STOCK POND

Map Label: 10C-2-SP08

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1945

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 5.0

Surface Area (sq.ft): 25,331

Storage Impoundment Volume (ac-ft): 1.745

Pond Location: As shown on Hydrographic Survey Map 10C-2

S. 12 T. 07N R. 17W 1/4, 1/16, 1/64: NW SE SW

X(ft): 2,497,839 Y(ft): 1,401,793

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

Dam height (if greater than 9 ft)

STOCK POND

Map Label: 10C-2-SP09

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1945

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 3.0

Surface Area (sq.ft): 22,916

Storage Impoundment Volume (ac-ft): 0.947

Pond Location: As shown on Hydrographic Survey Map 10C-2

S. 12 T. 07N R. 17W 1/4, 1/16, 1/64: SW NE NE

X(ft): 2,498,277 Y(ft): 1,401,142

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

Dam height (if greater than 9 ft)

STOCK POND

Map Label: 10C-2-SP10
Purpose of Use: LIVESTOCK
Priority Date: 1/1/1945
Source of Water: Surface Runoff
Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 4.0
Surface Area (sq.ft): 7,495
Storage Impoundment Volume (ac-ft): 0.413

Pond Location: As shown on Hydrographic Survey Map 10C-2

S. 12 T. 07N R. 17W 1/4, 1/16, 1/64: SW SE NW

X(ft): 2,497,838 Y(ft): 1,400,240

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

Dam height (if greater than 9 ft)

STOCK POND

Map Label: 10C-2-SP11
Purpose of Use: LIVESTOCK
Priority Date: 1/1/1945
Source of Water: Surface Runoff
Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 3.0
Surface Area (sq.ft): 30,012

Storage Impoundment Volume (ac-ft): 1.240

Pond Location: As shown on Hydrographic Survey Map 10C-2

S. 12 T. 07N R. 17W 1/4, 1/16, 1/64: SE NE SW

X(ft): 2,500,216 Y(ft): 1,400,931

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

Dam height (if greater than 9 ft)

STOCK POND

Map Label: 10C-2-SP19

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1945

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 2.0

Surface Area (sq.ft): 3,928

Storage Impoundment Volume (ac-ft): 0.108

Pond Location: As shown on Hydrographic Survey Map 10C-2

S. 25 T. 07N R. 17W 1/4, 1/16, 1/64: NE NW SE

X(ft): 2,499,575 Y(ft): 1,387,386

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

Dam height (if greater than 9 ft)

STOCK POND

Map Label: 10C-2-SP20

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1945

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 2.0

Surface Area (sq.ft): 11,296

Storage Impoundment Volume (ac-ft): 0.311

Pond Location: As shown on Hydrographic Survey Map 10C-2

S. 25 T. 07N R. 17W 1/4, 1/16, 1/64: NE NW SE

X(ft): 2,499,488 Y(ft): 1,387,259

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

Dam height (if greater than 9 ft)

STOCK POND

Map Label: 10C-2-SP21

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1945

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 4.0

Surface Area (sq.ft): 26,301

Storage Impoundment Volume (ac-ft): 1.449

Pond Location: As shown on Hydrographic Survey Map 10C-2

S. 25 T. 07N R. 17W 1/4, 1/16, 1/64: SW SE SW

X(ft): 2,497,884 Y(ft): 1,383,441

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

Dam height (if greater than 9 ft)

STOCK POND

Map Label: 10C-3-SP08
Purpose of Use: LIVESTOCK
Priority Date: 1/1/1945
Source of Water: Well
Point of Diversion: Fills from well 10C-3-W03 (Location X(ft): 2,494,595; Y(ft): 1,373,923);
Amount of Water:
 Depth (ft): 2.0
 Surface Area (sq.ft): 7,203
 Storage Impoundment Volume (ac-ft): 0.198

Pond Location: As shown on Hydrographic Survey Map 10C-3

S. 2 T. 06N R. 17W 1/4, 1/16, 1/64: SE NE SW
X(ft): 2,494,514 Y(ft): 1,373,993
New Mexico State Plane Coordinate System, West Zone, NAD 1983

Dam height (if greater than 9 ft)

STOCK POND

Map Label: 10C-3-SP09
Purpose of Use: LIVESTOCK
Priority Date: 1/1/1945
Source of Water: Surface Runoff
Point of Diversion: Not Applicable
Amount of Water:
 Depth (ft): 4.5
 Surface Area (sq.ft): 31,161

Storage Impoundment Volume (ac-ft): 1.931

Pond Location: As shown on Hydrographic Survey Map 10C-3

S. 2 T. 06N R. 17W 1/4, 1/16, 1/64: SE SW SW

X(ft): 2,493,246 Y(ft): 1,372,842

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 9 and 10, except as set forth in this Consent Order and other orders entered by this Court in this cause.

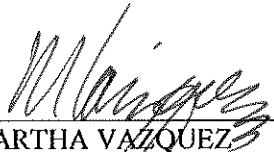
6. The Defendant, and Defendant's successors, representatives, heirs and assigns, should be enjoined from any diversion or use of the public waters of the Zuni River Stream System, Sub-areas 9 and 10, except in strict accordance with this Consent Order and other orders of the Court in this cause.

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 9 and 10, 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 9 and 10, except in strict accordance with this Consent Order and other orders of this Court in this cause. The Court enters this Consent Order


Re: USA vs. State of N.M., ex. rel. State Engineer
No. 01cv00072-MV/LFG
Zuni River Basin Adjudication, Sub-areas 9 & 10

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.


MARTHA VAZQUEZ
UNITED STATES DISTRICT JUDGE

Approved:


LORENZO P. GARCIA
UNITED STATES MAGISTRATE JUDGE

ACCEPTED 
FRANCES KANDL & NICHOLAS C. PEMANTLE
DATE 6/30/13

ADDRESS: 1152 Euclid Ave.
Berkeley, CA 94708

COUNSEL FOR THE DEFENDANT (IF REPRESENTED):

DATE

COUNSEL FOR THE UNITED STATES:



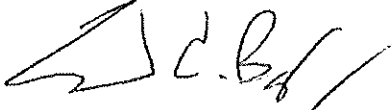
BRADLEY S. BRIDGEWATER

U.S. Department of Justice
South Terrace, Suite 370
999 18th Street
Denver, CO 80202
(303) 844-1359

4/23/2013

DATE

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

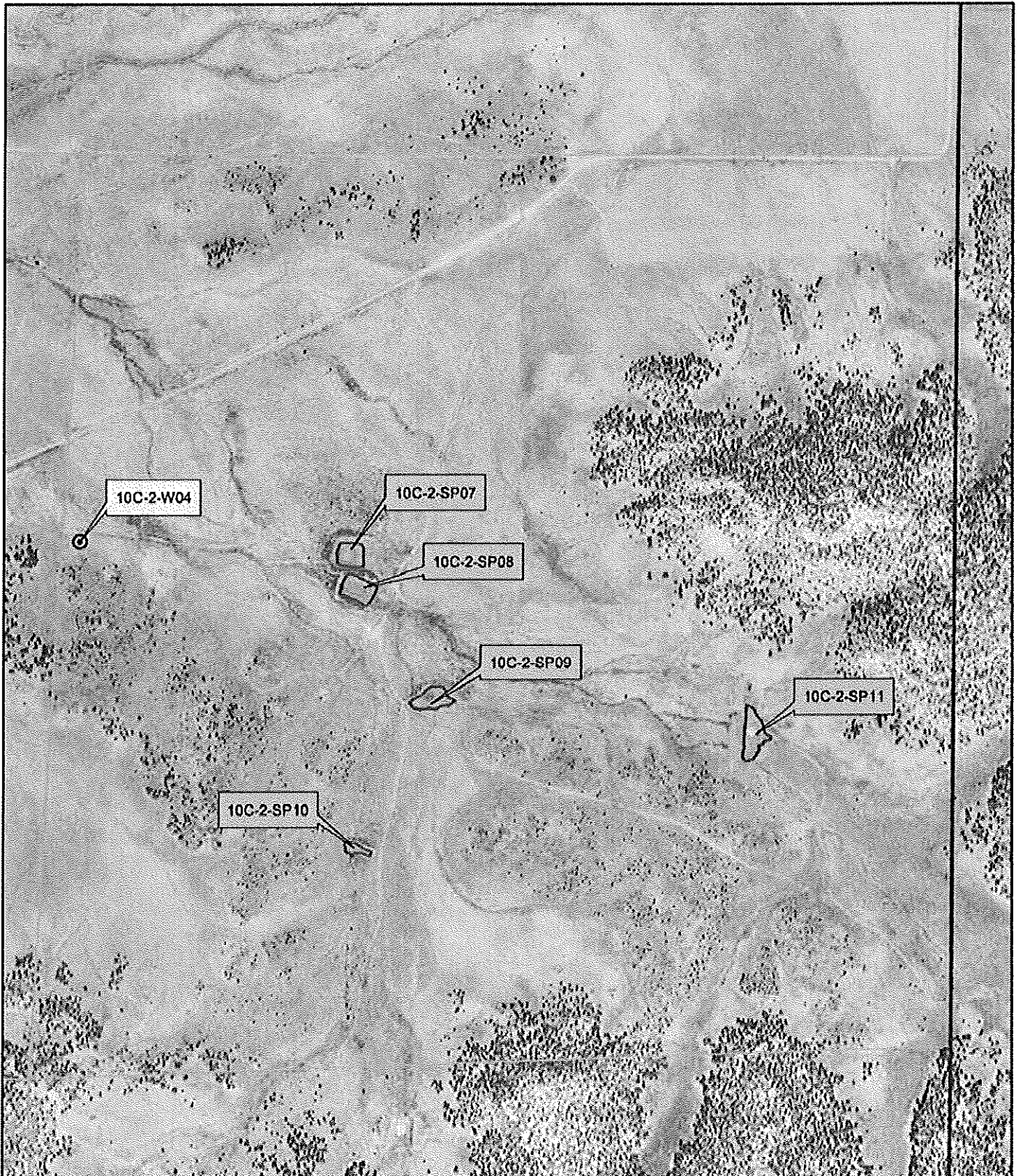


EDWARD C. BAGLEY

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

1/17/2013

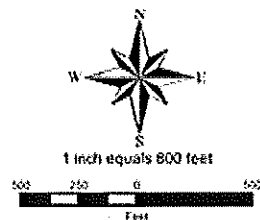
DATE



December 2005

LEGEND

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



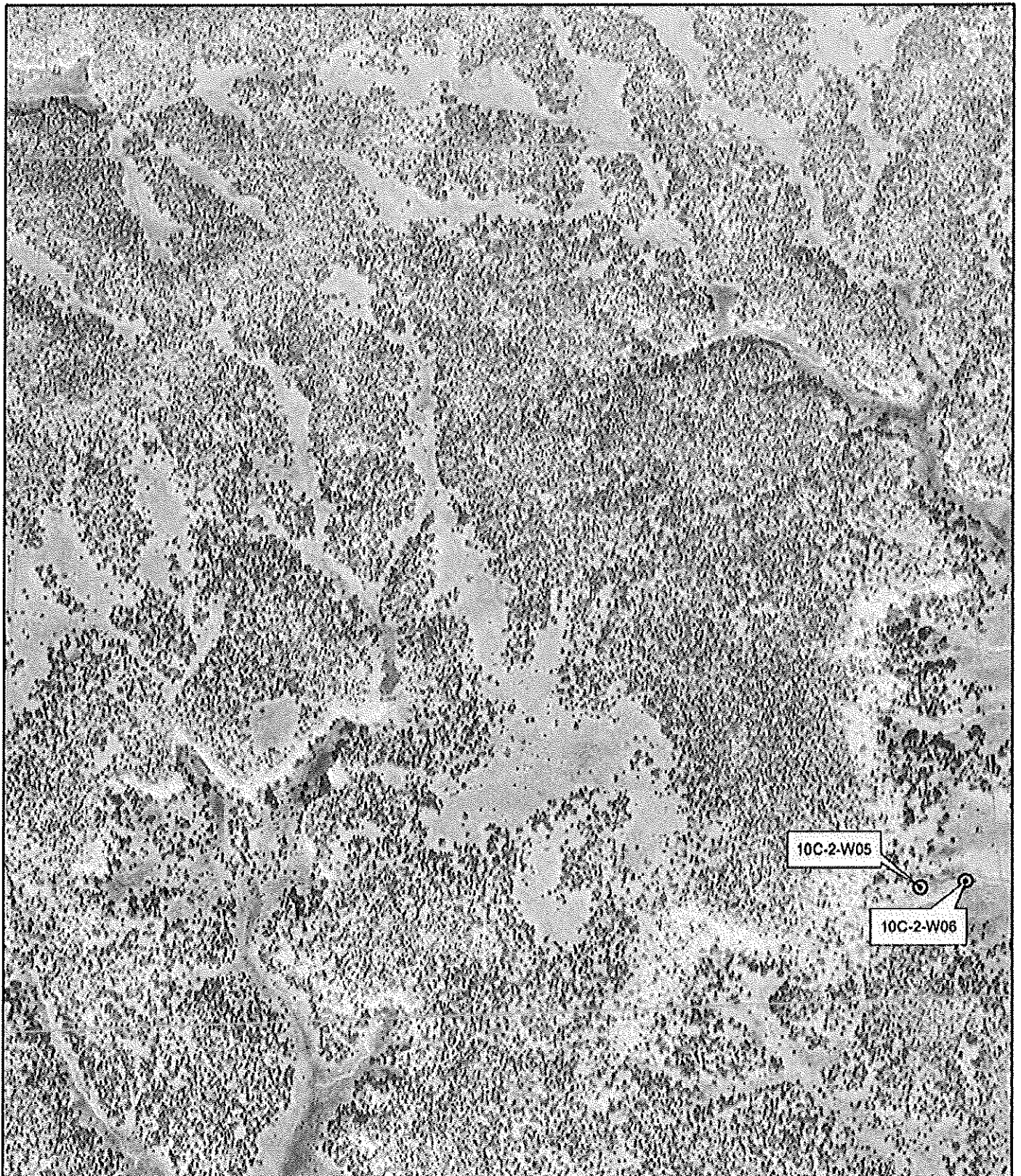
Zuni River Basin
Hydrographic Survey

Sub-Area 10
Subfile Number: ZRB-2-0124
PLSS: S12, T07N, R17W
Sheet 1 of 4



Natural Resources Consulting Engineers, Inc.

Fort Collins, CO Oakland, CA Asmara, ERITREA



December 2005

LEGEND

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



1 inch equals 600 feet



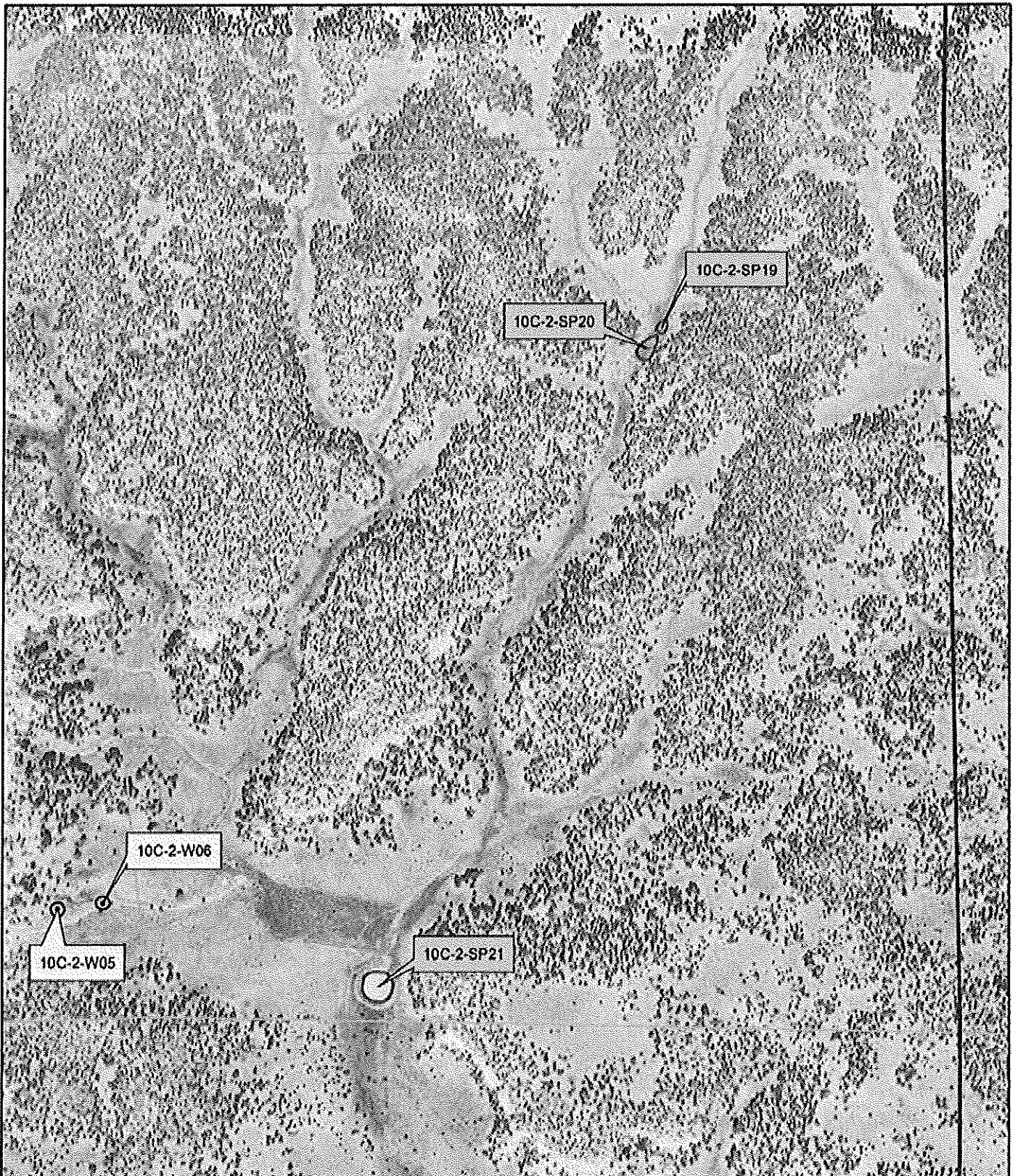
Zuni River Basin
Hydrographic Survey

Sub-Area 10
Subfile Number: ZRB-2-0124
PLSS: S26, T07N, R17W
Sheet 2 of 4



Natural Resources Consulting Engineers, Inc.

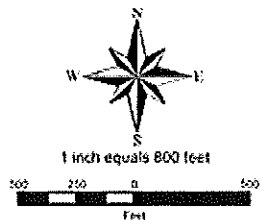
Fort Collins, CO Oakland, CA Asmara, ERITREA



December 2005

LEGEND

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



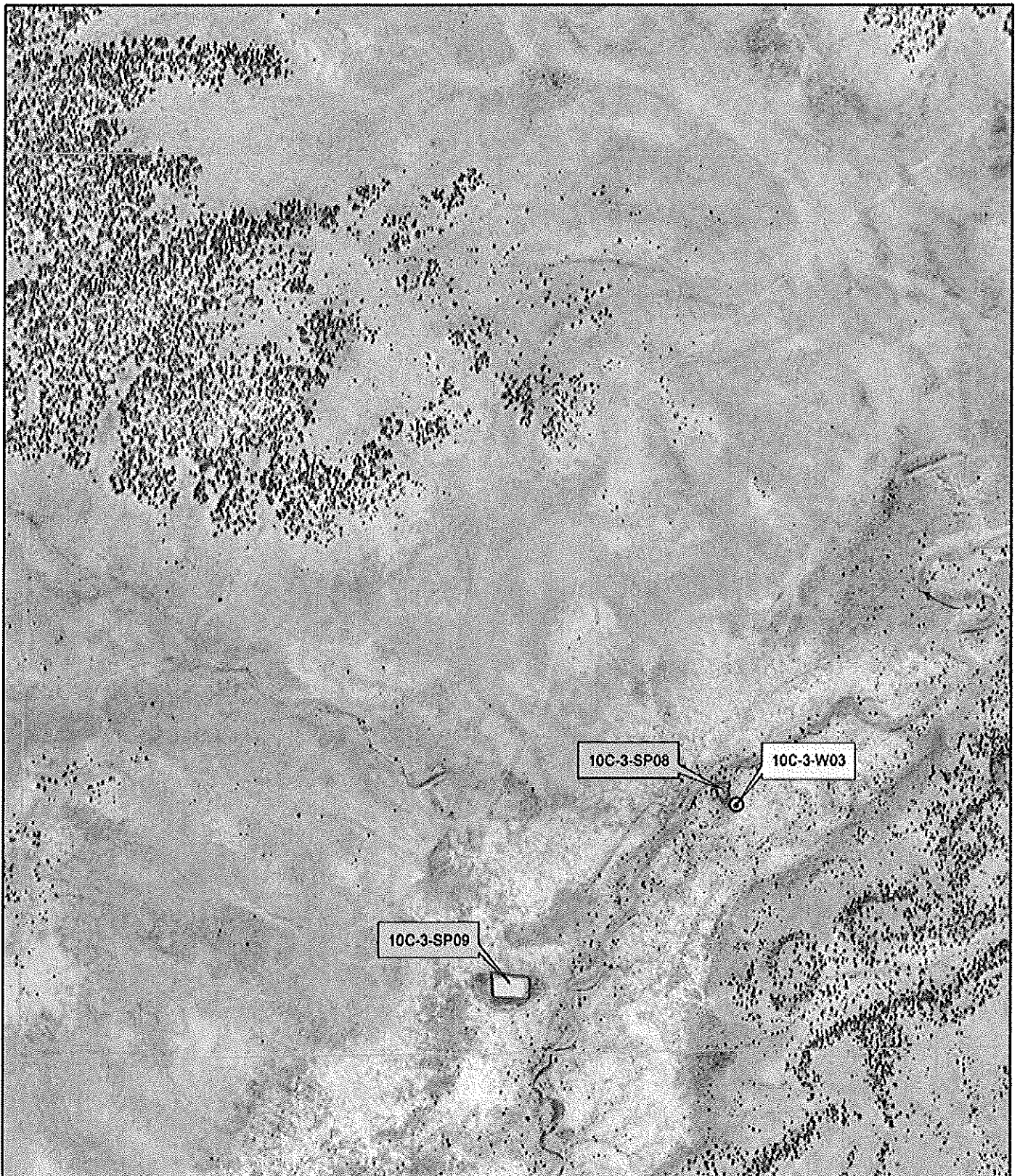
Zuni River Basin
Hydrographic Survey

Sub-Area 10
Subfile Number: ZRB-2-0124
PLSS: S25, T07N, R17W
Sheet 3 of 4



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December 2005

LEGEND

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



1 inch equals 800 feet



Zuni River Basin
Hydrographic Survey

Sub-Area 10
Subfile Number: ZRB-2-0124
PLSS: S02, T06N, R17W
Sheet 4 of 4



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