

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,

No. 01cv00072-MV/LFG

Plaintiffs,  
and

ZUNI RIVER BASIN  
ADJUDICATION

ZUNI INDIAN TRIBE,  
NAVAJO NATION,

Sub-areas 9 and 10

Plaintiffs in Intervention,

v.

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

Subfile No. ZRB-2-0124

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:

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.

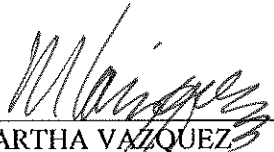
6. The Defendant, and Defendant's successors, representatives, heirs and assigns, should be enjoined from any diversion or use of the public waters of the Zuni River Stream System, Sub-areas 9 and 10, except in strict accordance with this Consent Order and other orders of the Court in this cause.

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

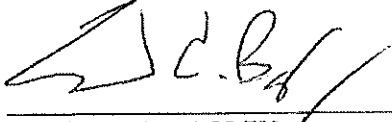
COUNSEL FOR THE UNITED STATES:

  
\_\_\_\_\_  
BRADLEY S. BRIDGEWATER

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

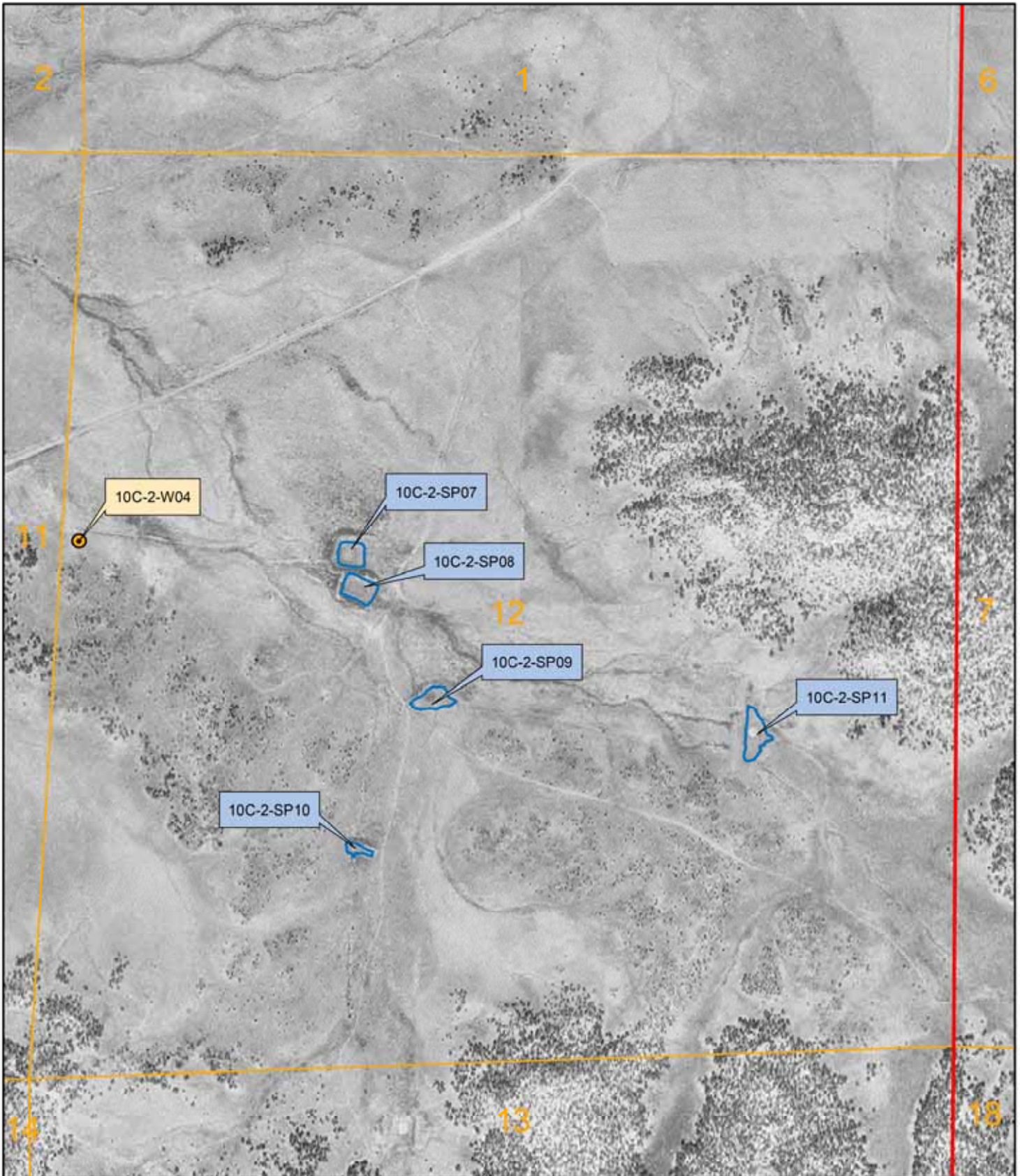
4/23/2013  
\_\_\_\_\_  
DATE

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



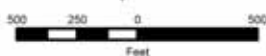
December 2005

**LEGEND**

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



1 inch equals 800 feet



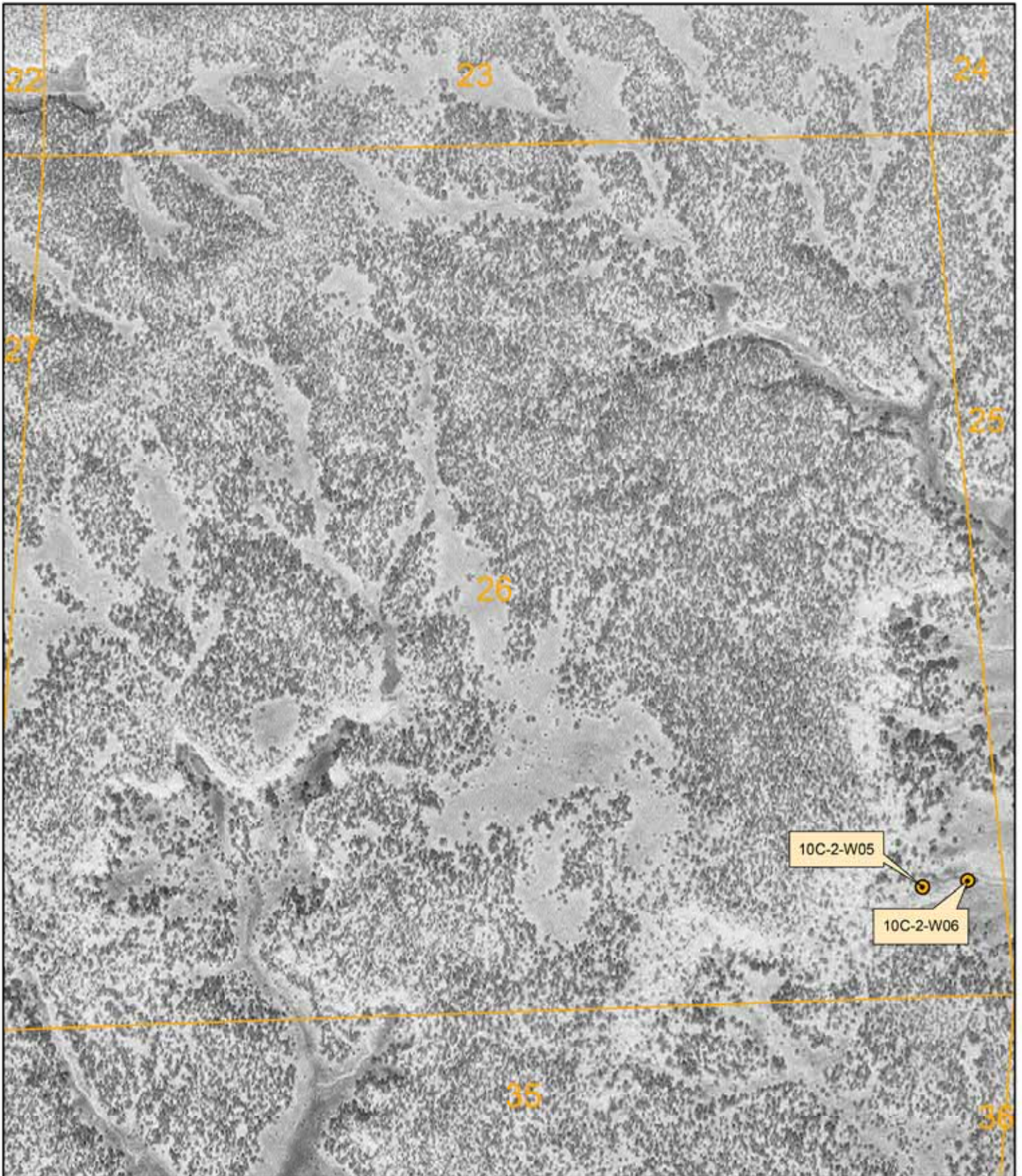
Zuni River Basin  
Hydrographic Survey

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 800 feet



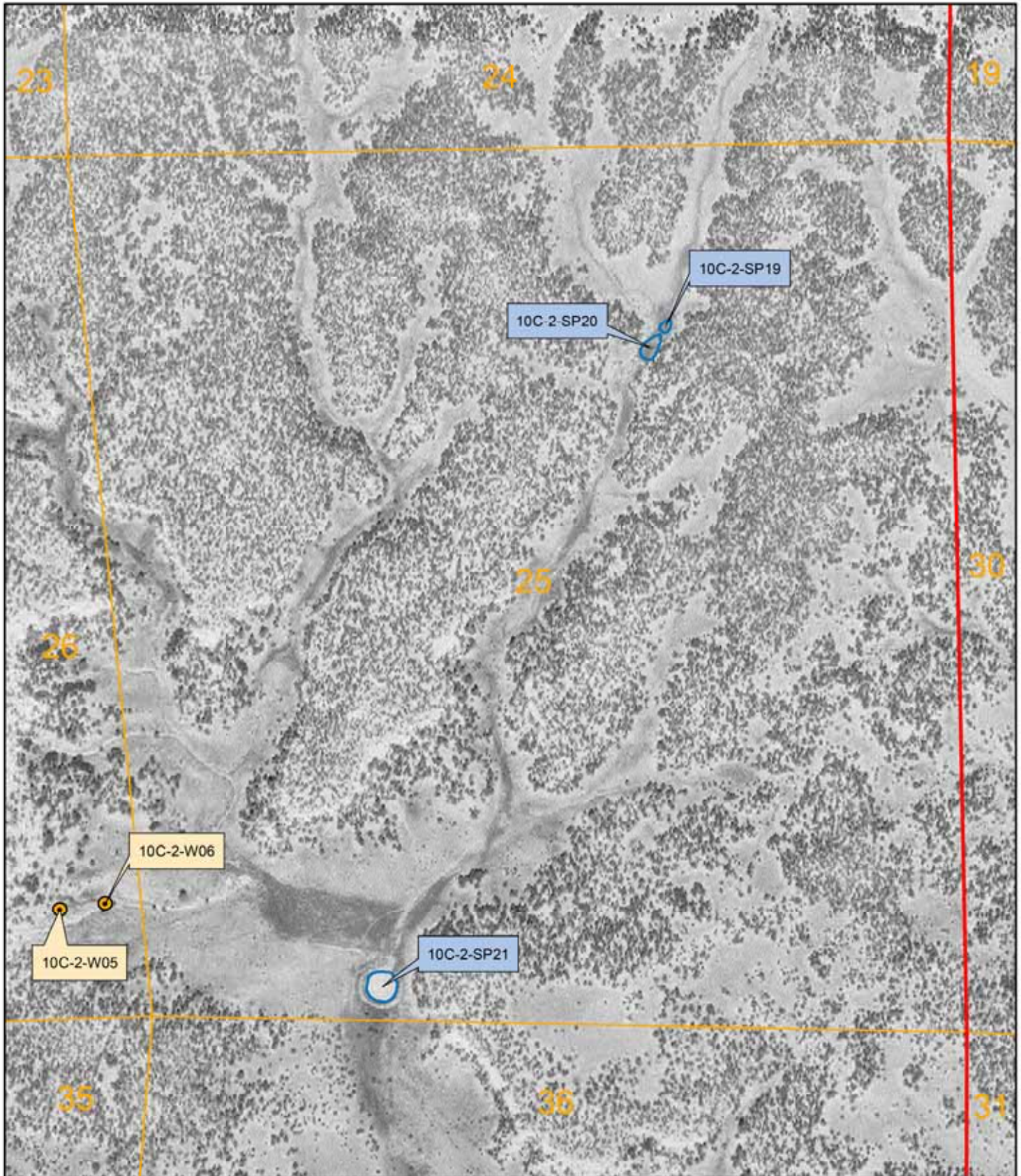
Zuni River Basin  
Hydrographic Survey

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



**LEGEND**

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



1 inch equals 800 feet



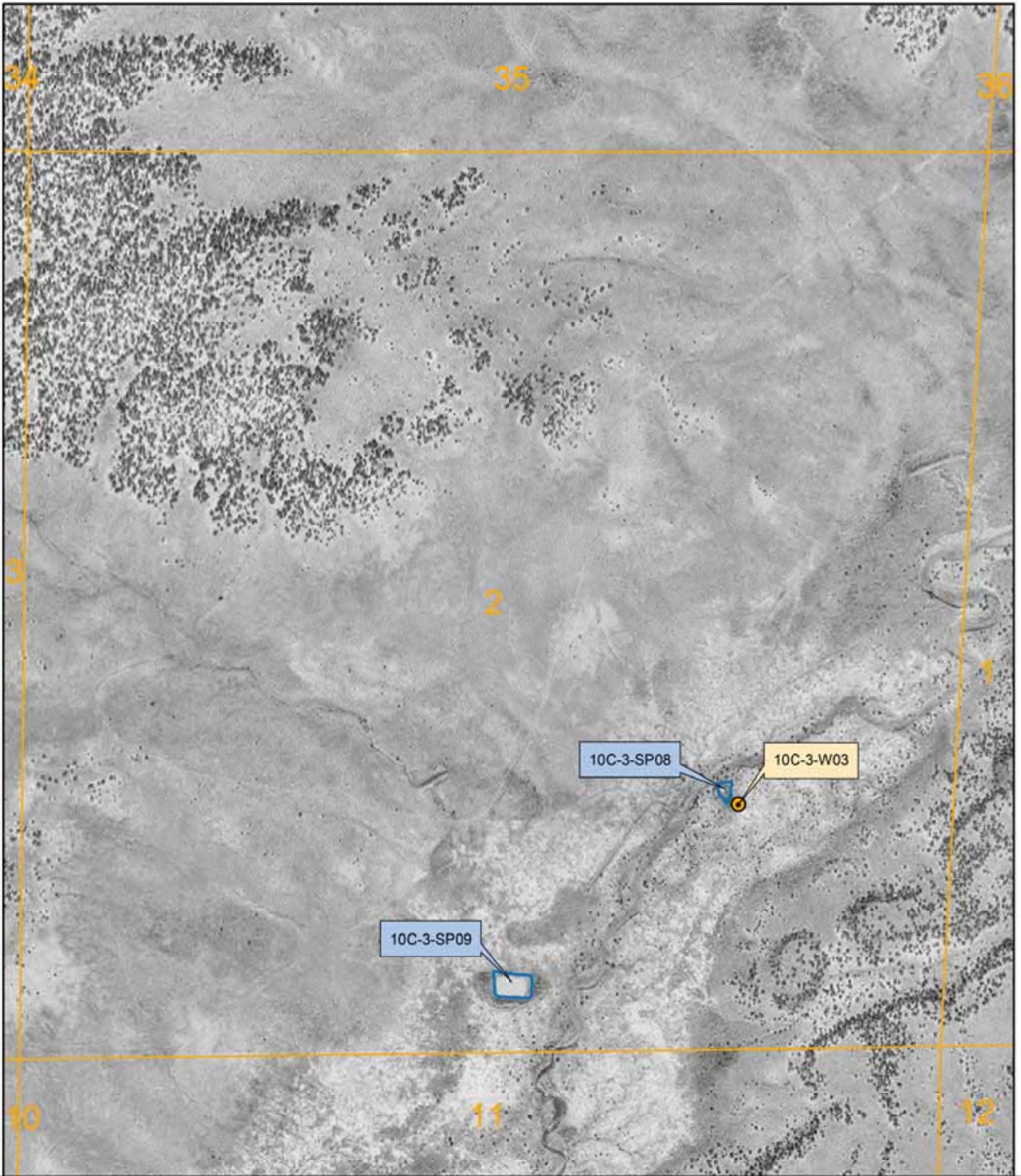
Zuni River Basin  
Hydrographic Survey

December 2005  
Sub-Area 10  
Subfile Number: ZRB-2-0124  
PLSS: S25, T07N, R17W  
Sheet 3 of 4








**Natural Resources Consulting Engineers, Inc.**

Fort Collins, CO    Oakland, CA    Asmara, ERITREA



**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

December 2005



**Natural Resources Consulting Engineers, Inc.**

Fort Collins, CO    Oakland, CA    Asmara, ERITREA