

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

06 NOV 30 PM 4: 09

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

Plaintiffs,
and

ZUNI RIVER BASIN
ADJUDICATION

ZUNI INDIAN TRIBE,
NAVAJO NATION,

Sub-areas 9 and 10

Plaintiffs in Intervention,
v.

Subfile No: ZRB-2-0041

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:

JOHN G. FEELY JR. & MARCIA MCCALL FAMILY REVOCABLE TRUST

("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:

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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 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: 10A-1-W05

OSE File No: None

Priority Date: 1/1/1946

Purpose of Use: DOMESTIC & LIVESTOCK

Well Location: As shown on Hydrographic Survey Map 10A-1

S. 28 T. 08N R. 18W 1/4, 1/16, 1/64: SW NE NW

X (ft): 2,450,467 Y (ft): 1,417,421

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

Amount of Water (ac-ft per annum): Historical beneficial use not to exceed 2.806 acre-feet per annum:

WELL

Map Label: 10B-1-W01

OSE File No: None

Priority Date: 1/1/1930

Purpose of Use: LIVESTOCK

Well Location: As shown on Hydrographic Survey Map 10B-1

S. 26 T. 08N R. 18W 1/4, 1/16, 1/64: SW SE NW

X (ft): 2,461,253 Y (ft): 1,416,053

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

Amount of Water (ac-ft per annum): 1.05

STOCK POND

Map Label: 10A-1-SP08

Purpose of Use: LIVESTOCK

Priority Date: 1/1/2001

Source of Water: Well

Point of Diversion: Fills from well 10A-1-W05 (Location X(ft): 2,450,467; Y(ft): 1,417,421);

Amount of Water:

Depth (ft): 8.0

Surface Area (sq.ft): 3,358

Storage Impoundment Volume (ac-ft): 0.370

Pond Location: As shown on Hydrographic Survey Map 10A-1

S. 28 T. 08N R. 18W 1/4, 1/16, 1/64: SW NE NW

X(ft): 2,450,374 Y(ft): 1,417,265

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10A-1-SP09
Purpose of Use: LIVESTOCK
Priority Date: 1/1/1950
Source of Water: Surface Runoff
Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 15.0
Surface Area (sq.ft): 31,912
Storage Impoundment Volume (ac-ft): 6.593

Pond Location: As shown on Hydrographic Survey Map 10A-1

S. 28 T. 08N R. 18W 1/4, 1/16, 1/64; NE SE SE

X(ft): 2,453,900 **Y(ft):** 1,417,982

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10A-1-SP13
Purpose of Use: LIVESTOCK
Priority Date: 1/1/1950
Source of Water: Surface Runoff
Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 18.0
Surface Area (sq.ft): 159,609
Storage Impoundment Volume (ac-ft): 39.572

Pond Location: As shown on Hydrographic Survey Map 10A-1

S. 34 T. 08N R. 18W 1/4, 1/16, 1/64: NW NE NW

X(ft): 2,455,455 Y(ft): 1,415,203

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10B-1-SP03

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1950

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 12.0

Surface Area (sq.ft): 35,002

Storage Impoundment Volume (ac-ft): 5.785

Pond Location: As shown on Hydrographic Survey Map 10B-1

S. 26 T. 08N R. 18W 1/4, 1/16, 1/64: NE NE NE

X(ft): 2,464,260 Y(ft): 1,420,427

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10B-1-SP04

Purpose of Use: LIVESTOCK

Priority Date: 1/1/1950

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 10.0

Surface Area (sq.ft): 13,721

Storage Impoundment Volume (ac-ft): 1.890

Pond Location: As shown on Hydrographic Survey Map 10B-1

S. 26 T. 08N R. 18W 1/4, 1/16, 1/64: NW SE SW

X(ft): 2,461,163 **Y(ft):** 1,418,158

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

Dam height (if greater than 9 ft):

STOCK POND

Map Label: 10B-1-SP05

Purpose of Use: LIVESTOCK

Priority Date: 1/1, 1950

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 10.0

Surface Area (sq.ft): 27,889

Storage Impoundment Volume (ac-ft): 3.841

Pond Location: As shown on Hydrographic Survey Map 10B-1

S. 26 T. 08N R. 18W 1/4, 1/16, 1/64: SW SE NE

X(ft): 2,461,824 **Y(ft):** 1,416,067

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

Dam height (if greater than 9 ft): 10.0

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 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

ACCEPTED: *Margie D. Felly as Trustee*
John G. Felly Jr. DATE: *11/8/06*
JOHN G. FELY JR. & MARCIA MCCALL
FAMILY REVOCABLE TRUST

ADDRESS: *2309 Cuthbert Ave. N.E.*
Albuquerque, N.M. 87106

COUNSEL FOR THE DEFENDANT (IF REPRESENTED):

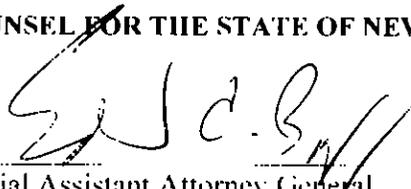
DATE: _____

COUNSEL FOR THE UNITED STATES:

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

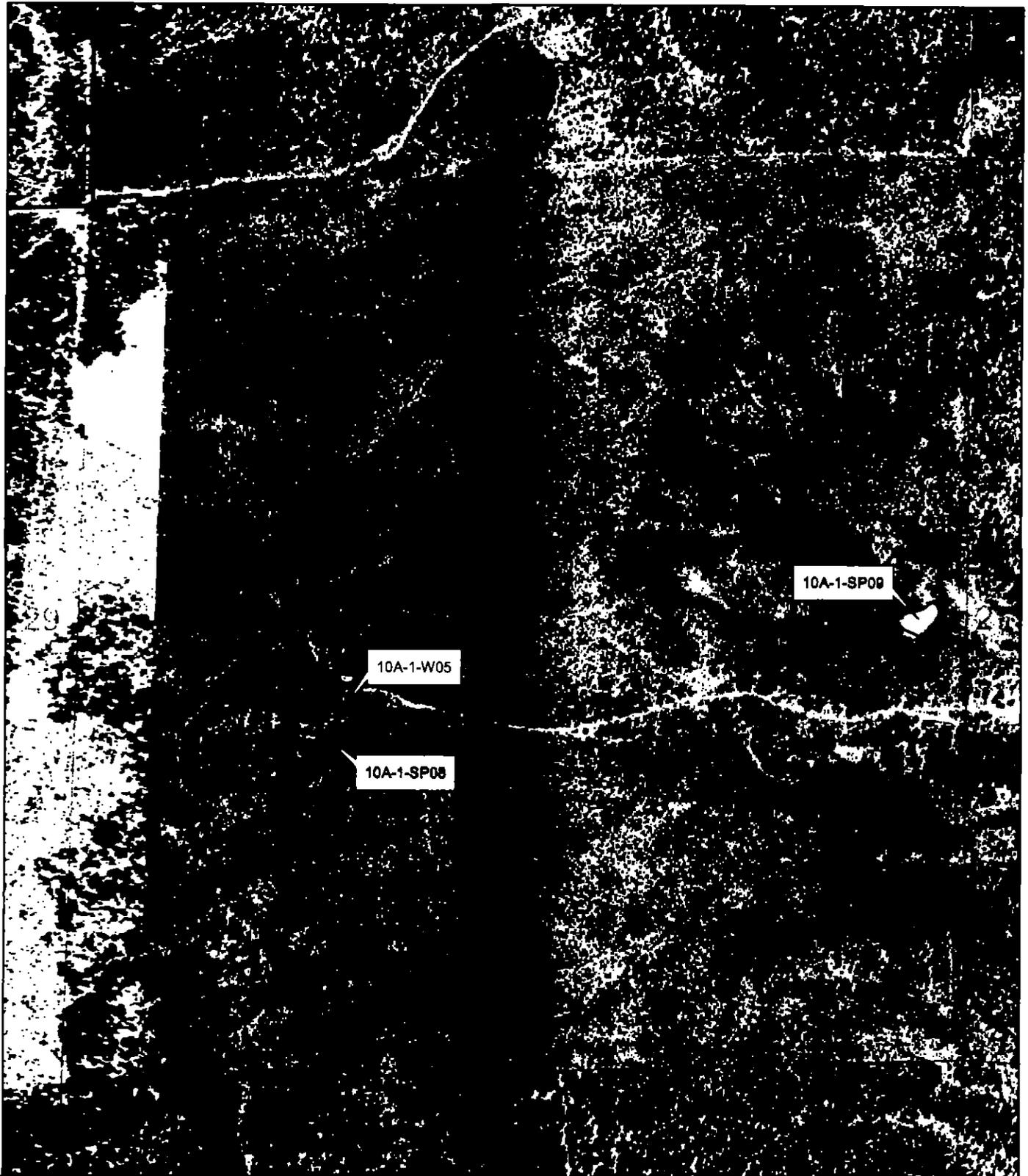
11/8/06
DATE: _____

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



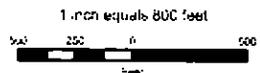
Special Assistant Attorney General
Office of the State Engineer
P.O. Box 25102
Santa Fe, NM 87504
(505) 827-6150

11/8/06
DATE



LEGEND

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



Zuni River Basin
Hydrographic Survey

Sub-Area 10
Subfile Number: ZRB-2-0041
PLSS: S28, T08N, R18W
Sheet 1 of 3

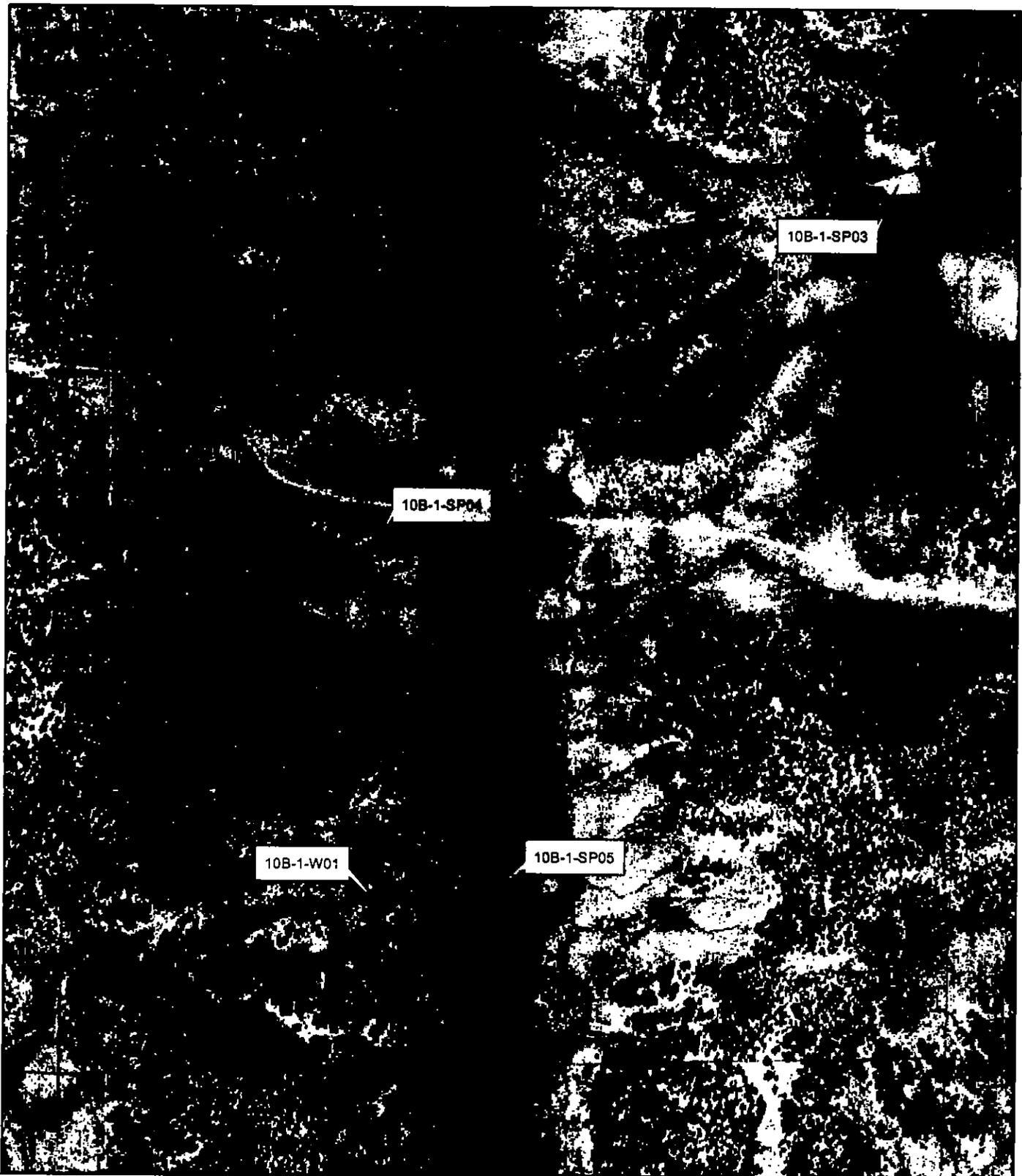
October 2005



Natural Resources Consulting Engineers, Inc.

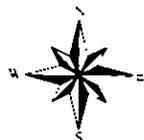
Fort Collins, CO Oakland, CA Asmara, ERITREA

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



LEGEND

- Weir
- Tower
- Stock Pond
- Sub-Area Boundary
- Section Boundary



1 inch equals 500 feet



Zuni River Basin
Hydrographic Survey

Sub-Area 10
Subfile Number: ZRB-2-0041
PLSS: S26, T08N, R18W
Sheet 2 of 3

October 2005



Natural Resources Consulting Engineers, Inc.

Fort Collins, CO Oakland, CA Asmara, ERITREA

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



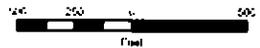
10A-1-SP13

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-2-0041
PLSS: S34, T08N, R18W
Sheet 3 of 3

October 2005



Natural Resources Consulting Engineers, Inc.

Fort Collins, CO Oakland, CA Asmara, ERITREA

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