

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

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/WPL

ZUNI RIVER BASIN
ADJUDICATION

Sub-areas 1, 2, and 3 excluding
Ramah

Subfile No. ZRB-4-0370

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:

LARRY O. SMITH JR. & ROSEMARY SMITH

("Defendant") concerning the Defendant's right(s) to use the public waters of the Zuni River Stream System, Sub-areas 1, 2, and 3 excluding Ramah, 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 1, 2, and 3 excluding Ramah. 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 1, 2, and 3 excluding Ramah, is as set forth below:

POND

Map Label: 3C-2-SP008
Purpose of Use: LIVESTOCK
Priority Date: 12/31/1961
Source of Water: Well
Point of Diversion: Fills from well
Amount of Water:
Depth (ft): 8.0

Surface Area (sq.ft): 7,285

Storage Impoundment Volume (ac-ft): 0.803

Pond Location: As shown on Hydrographic Survey Map 3C-2

S. 33 T. 13N R. 15W 1/4, 1/16, 1/64: NE NE SE

X(ft): 2,546,621 **Y(ft):** 1,571,622

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

Dam height (if greater than 9 ft):

POND

Map Label: 3C-2-SP009

Purpose of Use: LIVESTOCK

Priority Date: 12/31/1920

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 4.0

Surface Area (sq.ft): 3,689

Storage Impoundment Volume (ac-ft): 0.203

Pond Location: As shown on Hydrographic Survey Map 3C-2

S. 33 T. 13N R. 15W 1/4, 1/16, 1/64: SE NE SW

X(ft): 2,546,411 **Y(ft):** 1,569,166

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

Dam height (if greater than 9 ft):

POND

Map Label: 3C-2-SP010

Purpose of Use: LIVESTOCK

Priority Date: 12/31/1920

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 6.0

Surface Area (sq.ft): 6,477

Storage Impoundment Volume (ac-ft): 0.535

Pond Location: As shown on Hydrographic Survey Map 3C-2

S. 28 T. 13N R. 15W 1/4, 1/16, 1/64: SE SE SW

X(ft): 2,546,288 **Y(ft):** 1,573,124

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

Dam height (if greater than 9 ft):

POND

Map Label: 3C-2-SP011

Purpose of Use: LIVESTOCK

Priority Date: 12/31/1920

Source of Water: Surface Runoff

Point of Diversion: Not Applicable

Amount of Water:

Depth (ft): 6.0

Surface Area (sq.ft): 4,188

Storage Impoundment Volume (ac-ft): 0.346

Pond Location: As shown on Hydrographic Survey Map 3C-2

S. 28 T. 13N R. 15W 1/4, 1/16, 1/64: SE SE SW

X(ft): 2,545,951 **Y(ft):** 1,573,317

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

Dam height (if greater than 9 ft):

POND

Map Label: 3C-2-SP012

Purpose of Use: LIVESTOCK
Priority Date: 12/31/1920
Source of Water: Surface Runoff
Point of Diversion: Not Applicable
Amount of Water:

Depth (ft): 2.0

Surface Area (sq.ft): 4,782

Storage Impoundment Volume (ac-ft): 0.132

Pond Location: As shown on Hydrographic Survey Map 3C-2

S. 28 T. 13N R. 15W 1/4, 1/16, 1/64: SE SW NE

X(ft): 2,545,723 **Y(ft):** 1,573,563

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

Dam height (if greater than 9 ft):

POND

Map Label: 3C-2-SP013
Purpose of Use: LIVESTOCK
Priority Date: 12/31/2002
Source of Water: Surface Runoff
Point of Diversion: Not Applicable
Amount of Water:

Depth (ft): 5.0

Surface Area (sq.ft): 1,215

Storage Impoundment Volume (ac-ft): 0.084

Pond Location: As shown on Hydrographic Survey Map 3C-2

S. 28 T. 13N R. 15W 1/4, 1/16, 1/64: SE SW NW

X(ft): 2,544,641 **Y(ft):** 1,574,085

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

Dam height (if greater than 9 ft):

POND

Map Label: 3C-2-SP014
Purpose of Use: LIVESTOCK
Priority Date: 12/31/1930
Source of Water: Surface Runoff
Point of Diversion: Not Applicable
Amount of Water:

Depth (ft): 6.0

Surface Area (sq.ft): 2,283

Storage Impoundment Volume (ac-ft): 0.189

Pond Location: As shown on Hydrographic Survey Map 3C-2

S. 28 T. 13N R. 15W 1/4, 1/16, 1/64: SW NE SE

X(ft): 2,544,000 **Y(ft):** 1,574,273

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

Dam height (if greater than 9 ft):

POND

Map Label: 3C-2-SP015
Purpose of Use: LIVESTOCK
Priority Date: 12/31/1930
Source of Water: Surface Runoff
Point of Diversion: Not Applicable
Amount of Water:

Depth (ft): 3.0

Surface Area (sq.ft): 4,658

Storage Impoundment Volume (ac-ft): 0.192

Pond Location: As shown on Hydrographic Survey Map 3C-2

S. 28 T. 13N R. 15W 1/4, 1/16, 1/64: SW SE SW

X(ft): 2,543,759 **Y(ft):** 1,573,341

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

Dam height (if greater than 9 ft):

WELL

Map Label: 3C-2-W002

OSE File No: G 00617

Priority Date: 12/31/1914

Purpose of Use: NON 72-12-1 DOMESTIC & LIVESTOCK;
IRRIGATION

Well Location: As shown on Hydrographic Survey Map 3C-2

S. 33 T. 13N R. 15W 1/4, 1/16, 1/64: NE NW NE

X(ft): 2,545,634 **Y(ft):** 1,572,716

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

Amount of Water: 39.355 ac-ft per annum

WELL

Map Label: 3C-2-W003

OSE File No: G 00618

Priority Date: 6/30/1955

Purpose of Use: NON 72-12-1 DOMESTIC & LIVESTOCK;
IRRIGATION

Well Location: As shown on Hydrographic Survey Map 3C-2

S. 33 T. 13N R. 15W 1/4, 1/16, 1/64: NE NW NE

X(ft): 2,545,628 **Y(ft):** 1,572,693

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

Amount of Water: 39.355 ac-ft per annum

WELL

Map Label: 3C-2-W004

OSE File No: G 00620

Priority Date: 12/31/1907

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

Well Location: As shown on Hydrographic Survey Map 3C-2

S. 33 T. 13N R. 15W 1/4, 1/16, 1/64: NE NE SW

X(ft): 2,546,045 **Y(ft):** 1,571,998

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

Amount of Water: 38.655 ac-ft per annum

WELL

Map Label: 3C-2-W005

OSE File No: G 00621

Priority Date: 12/31/1967

Purpose of Use: NON 72-12-1 DOMESTIC & LIVESTOCK;
IRRIGATION

Well Location: As shown on Hydrographic Survey Map 3C-2

S. 33 T. 13N R. 15W 1/4, 1/16, 1/64: NE NE SW

X(ft): 2,546,045 **Y(ft):** 1,571,953

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

Amount of Water: 39.355 ac-ft per annum

WELL

Map Label: 3C-2-W006

OSE File No: G 02239

Priority Date: 7/28/2004
Purpose of Use: 72-12-1 LIVESTOCK WATERING
Well Location: As shown on Hydrographic Survey Map 3C-2
S. 33 T. 13N R. 15W 1/4, 1/16, 1/64: NE SW SE
X(ft): 2,545,565 **Y(ft):** 1,570,279
New Mexico State Plane Coordinate System, West Zone, NAD 1983
Amount of Water: Historical beneficial use not to exceed 0.249 ac-ft per annum

WELL

Map Label: 3C-2-W007
OSE File No: G 00616
Priority Date: 12/31/1971
Purpose of Use: NON 72-12-1 DOMESTIC & LIVESTOCK
Well Location: As shown on Hydrographic Survey Map 3C-2
S. 28 T. 13N R. 15W 1/4, 1/16, 1/64: SW NE SE
X(ft): 2,543,980 **Y(ft):** 1,574,171
New Mexico State Plane Coordinate System, West Zone, NAD 1983
Amount of Water: 0.949 ac-ft per annum

WELL

Map Label: 3C-2-W008
OSE File No: G 00615
Priority Date: 12/31/1920
Purpose of Use: NON 72-12-1 DOMESTIC & LIVESTOCK
Well Location: As shown on Hydrographic Survey Map 3C-2
S. 28 T. 13N R. 15W 1/4, 1/16, 1/64: SW SW SW
X(ft): 2,541,978 **Y(ft):** 1,572,878

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

Amount of Water: 0.949 ac-ft per annum

WELL

Map Label: 3C-2-W009

OSE File No: G 00619

Priority Date: 12/31/1940

Purpose of Use: NON 72-12-1 DOMESTIC & LIVESTOCK;
IRRIGATION

Well Location: As shown on Hydrographic Survey Map 3C-2

S. 33 T. 13N R. 15W 1/4, 1/16, 1/64: NE NE SW

X(ft): 2,546,183 **Y(ft):** 1,571,686

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

Amount of Water: 39.355 ac-ft per annum

WELL

Map Label: 3C-2-W017

OSE File No: G 02563

Priority Date: 9/14/2006

Purpose of Use: 72-12-1 LIVESTOCK WATERING

Well Location: As shown on Hydrographic Survey Map 3C-2

S. 33 T. 13N R. 15W 1/4, 1/16, 1/64: NW NW NE

X(ft): 2,542,670 **Y(ft):** 1,572,647

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

Amount of Water: Historical beneficial use not to exceed 0.249 ac-ft per annum


5. Defendant has no right to divert and use the public waters of the Zuni

River Stream System, Sub-areas 1, 2, and 3 excluding Ramah, 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 1, 2, and 3 excluding Ramah, 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 1, 2, and 3 excluding Ramah, 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 1, 2, and 3 excluding Ramah, 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.



MARTHA NAZQUEZ
UNITED STATES DISTRICT JUDGE

Approved:



JERRY H. RITTER
UNITED STATES MAGISTRATE JUDGE

ACCEPTED: Larry O Smith Jr 8-15-2017
LARRY O. SMITH JR. DATE

Rosemary Smith 8-15-2017
ROSEMARY SMITH DATE

ADDRESS: P.O. Box 2938
Gallup, NM 87305

COUNSEL FOR THE DEFENDANT (IF REPRESENTED):

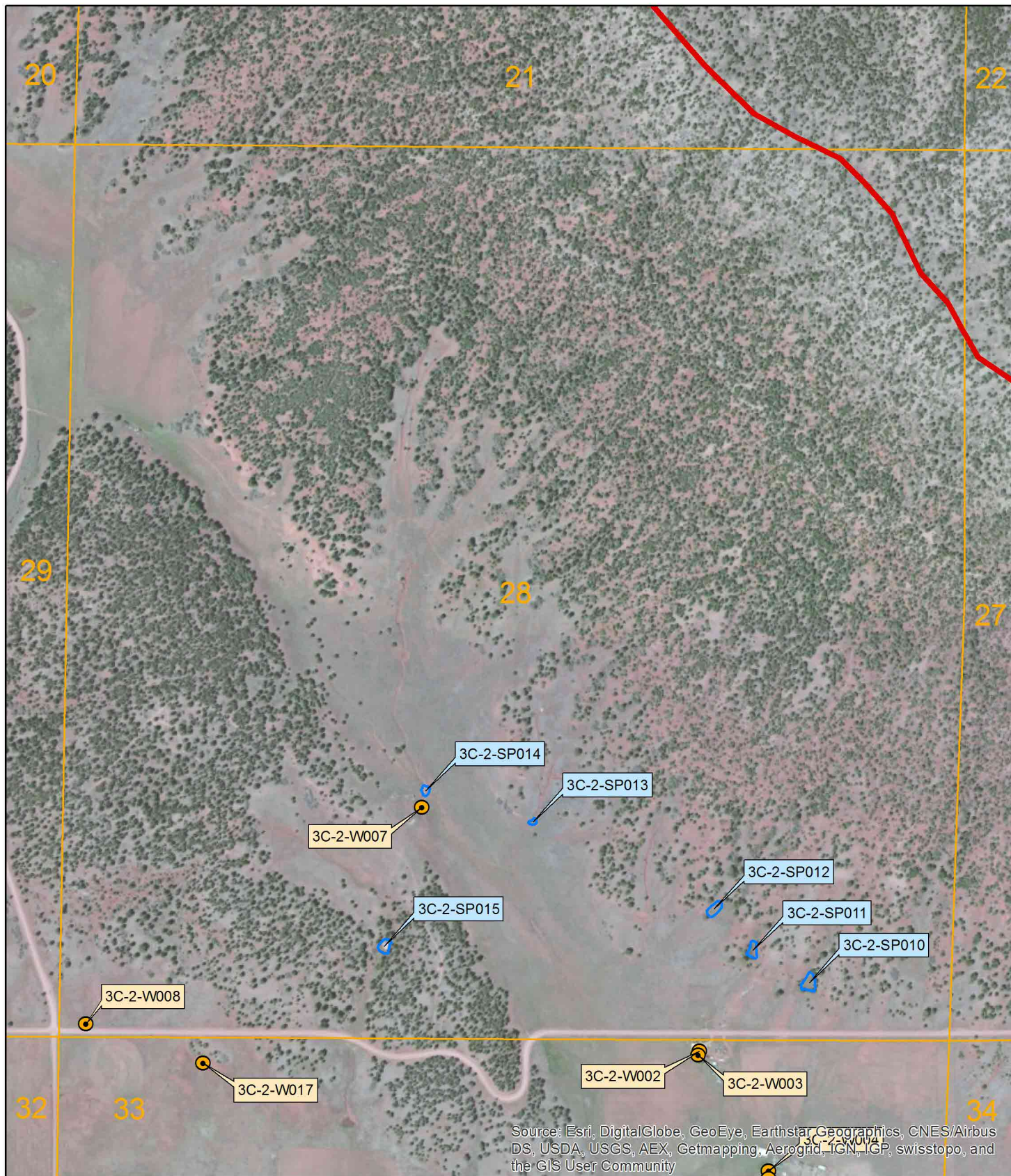
DATE

COUNSEL FOR THE UNITED STATES:

[Signature] 8-28-17
ANDREW "GUSS" GUARINO DATE
U.S. Department of Justice
South Terrace, Suite 370
999 18th Street
Denver, CO 80202
(303) 844-1343

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





[Signature] 8/28/2017
EDWARD C. BAGLEY DATE
Special Assistant Attorney General
Office of the State Engineer
P.O. Box 25102
Santa Fe, NM 87504
(505) 827-6150

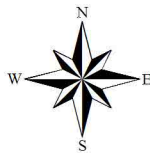


Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

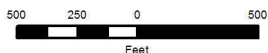
June 2015

LEGEND

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



1 inch = 800 feet



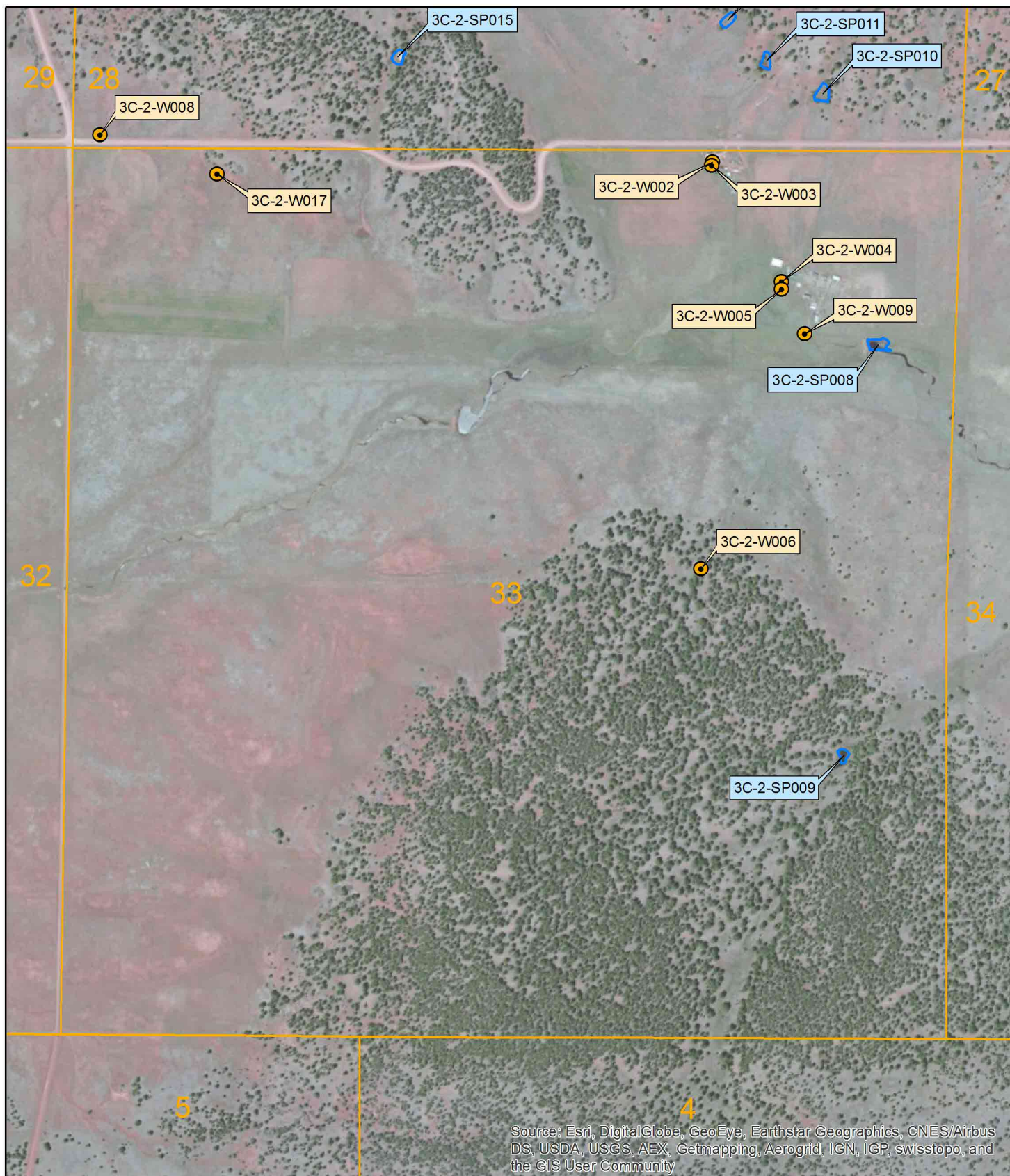
Zuni River Basin
Hydrographic Survey

Sub-Area 3
Subfile Number: ZRB-4-0370
PLSS: S28, T13N, R15W
Sheet 1 of 2



Natural Resources Consulting Engineers, Inc.

Fort Collins, CO Oakland, CA Asmara, ERITREA







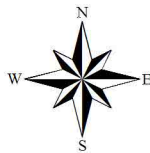
June 2015

Zuni River Basin
Hydrographic Survey

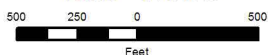
Sub-Area 3
Subfile Number: ZRB-4-0370
PLSS: S33, T13N, R15W
Sheet 2 of 2

LEGEND

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



1 inch = 800 feet



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Fort Collins, CO Oakland, CA Asmara, ERITREA