

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

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UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF NEW MEXICO, ex rel.
STATE ENGINEER, et al.,

Defendants.

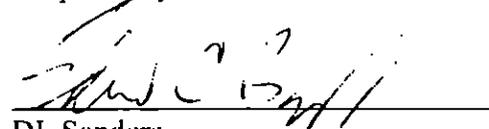
CIV No. 01 0072 BB/WWD-ACE

ZUNI RIVER BASIN

NOTICE OF FILING JOINT PROGRESS REPORT

THE UNITED STATES AND THE STATE OF NEW MEXICO, by and through their counsels of record, pursuant to the Special Master's Order in open Court of January 16, 2003, hereby file the attached Joint Technical Progress Report.

Respectfully submitted,



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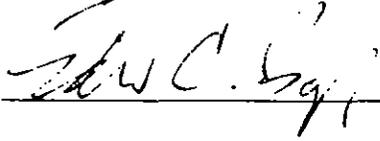
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Certificate of Service

I certify that on this 21st day of February, 2003, a true and correct copy of the foregoing Notice of Filing Joint Technical Progress Report and the Joint Technical Progress Report were mailed by first class mail to the attached list of counsel of record and pro se parties:



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**Joint Technical Progress Report
Zuni River Basin Hydrographic Survey**

February 20, 2003

On Monday, January 27, 2003, a conference call was held to discuss the Zuni River Basin Hydrographic Survey. Representatives/Consultants from the State of New Mexico and the United States participated in the conference call. The conference call was intended as an inception meeting between all involved parties to discuss the State of New Mexico Hydrographic Survey Specifications as related to the initiation of the hydrographic survey for the Zuni River Basin Adjudication. On Monday, February 10, 2003, a meeting was held at the Bureau of Indian Affairs office in Albuquerque, New Mexico to discuss the Zuni River Basin Hydrographic Survey. The following individuals were in attendance:

Bureau of Indian Affairs: Mr. Chris Banet

State of New Mexico: Mr. Mark Fesmire, P.E., J.D., Hydrographic Survey Bureau Chief
Mr. James McNees, Mapping Unit Supervisor
Dr. Dario Rodriguez, Information Systems Technology Master
Mr. Ted Bagley, Esq., State's Lead Attorney for the Zuni Adjudication
Mr. Chris Rodriguez, Hydrographic Survey Bureau

United States' Contractor, Natural Resources Consulting Engineers, Inc (NRCE):

Dr. Assad Safadi
Dr. Niel Allen

Discussions were held regarding the development of the court ordered Joint Progress Report on the Hydrographic Survey that is due to the court on Friday, February 21, 2003. The following topics were discussed:

- 1) Zuni River Surface Water Drainage Boundary
- 2) Hydrographic Survey Sub Areas
- 3) Procedure to Determine Areas Requiring Additional Aerial Photography
- 4) Variances to the OSE Technical Specifications for Hydrographic Surveys
- 5) Procedure and Protocol for the Hydrographic Survey
- 6) Existing Data and Information

The following information was developed by the United States' technical consultant (NRCE) and reviewed and approved by the State of New Mexico Office of the State Engineer (OSE).

1. Zuni River Surface Water Drainage Boundary

Exhibit 1 presents the Zuni River Surface Water Drainage Boundary Map. The map was developed by the United States' technical consultant and the OSE and illustrates the agreed upon delineation of the Zuni River surface water drainage boundary. Also shown are the agreed upon Township, Ranges, and Sections of the area. The map is not representative of the agreed upon adjudication boundary, for parties have not yet agreed upon the inclusion of the Carrizo Wash and Upper Puerco Basin areas. The issue is before the court.

2. Hydrographic Survey Sub Areas

Exhibit 2 presents the Zuni River Hydrographic Survey Sub Areas Map. It was agreed that the five areas previously described would be included in larger Sub Areas that encompass the entire Zuni River surface water drainage. Thus the map illustrates the ten Sub Areas that will be used to facilitate the hydrographic survey. Depending on availability of funding, the hydrographic survey would commence on one or more of the Sub Areas each year. Sub Areas 4 and 8 are expected to be completed in 2003. (This includes the previously identified Areas 1 and 2.)

3. Procedure to Determine Areas Requiring Additional Photography

Most areas in the Zuni River surface water drainage do not have irrigated fields. According to the New Mexico Hydrographic Survey Specifications, United States Geologic Service (USGS) digital orthophoto quarter quadrangle (DOQQ) images are suitable for mapping of domestic and stock wells and stock ponds. The locations of these features will be verified using a global positioning system (GPS). Areas that do have irrigation and thus may require new aerial photography will be identified by the United States in consultation with the OSE based on review of USGS DOQQ images and analysis of existing aerial photography and Landsat imagery. Landsat imagery can also be used to help locate stock ponds. A plan and schedule to acquire new aerial photography will be developed by the United States in consultation with the OSE by June 30, 2003. Hydrographic survey maps using USGS DOQQ maps will be updated when and if new USGS DOQQs become available.

4. Variances to Hydrographic Survey Technical Specifications

The Hydrographic Survey Technical Specifications prepared by the New Mexico Office of the State Engineer (OSE) Hydrographic Survey Bureau dated February 19, 2001 will be used by the United States for the Zuni River Basin Hydrographic Survey. Some variances have been accepted by the OSE and the United States to accommodate land ownership and water use characteristics of the Zuni River Basin. The variances as described below will not compromise the accuracy of the data, but will facilitate timely and efficient collection of data. Unless specifically granted herein or in writing by the OSE, all hydrographic surveys will comply with the OSE Hydrographic Survey Technical Specifications.

General Variances

The United States is responsible for duties assigned to the OSE in the Hydrographic Survey Technical Specifications, with the exception of items that require concurrence with OSE as specified in this document. Additional variances based on unforeseen unique conditions in the Zuni River Basin will not be unreasonably withheld by the OSE. With respect to federal and Indian claims, the Hydrographic Survey Technical Specifications will not be interpreted to conflict with applicable law. Conflicts that arise will be dealt with when they occur.

Specific Variances

Section 1 – Technical Specifications for Aerial Photography, Digital Orthophotography and Airborne Digital Imagery

1.b.i. The United States and the OSE will jointly determine areas that will require new aerial photography based on analysis of USGS DOQQs, existing aerial photography, Landsat imagery, land use, and physical inspection of the area.

1.g.i. Irrigated areas, adjacent residential areas, adjacent roadways, relevant hydrological feature including dams, diversion works, acequias, ditches, wasteways, arroyos, streams and rivers will be mapped using a GPS that meets the stated accuracy requirements. This method can be used when it is more cost-effective to map areas with a GPS rather than obtaining suitable digital orthophoto images for measurements and mapping.

1.g.ii. USGS digital ortho quarter quadrangle maps made from aerial photographs taken outside the May 1 through August 31 period can be used for mapping domestic and stock wells and stock tanks.

Section 3 Quantification of Irrigation Requirement

3.a. The United States will maintain the tabulation of cropping pattern and submit a copy to the OSE and the Water Use and Conservation Bureau.

3.b. The methodology and parties responsible for the calculation of consumptive irrigation requirements, the farm delivery requirements, and the project diversion requirements have not yet been agreed upon.

Section 5 – Technical Specifications for Abstracting Water Right Files

5.b. The abstractor shall have a minimum of 2 years experience abstracting water rights in the western United States and be acceptable to the OSE.

5. Procedure and Protocol for the Hydrographic Survey

The following procedure and protocol for the hydrographic survey was discussed and agreed upon by the United States technical contractor and the OSE. Refer to Exhibits 1 and 2, Zuni River Surface Water Drainage Boundary Map and the Zuni River Hydrographic Survey Sub Areas Map, respectively. The OSE will retain the right to consult and work with the United States technical contractor during the hydrographic survey. Any data generated during the hydrographic survey process will be shared between the United States and the OSE.

Task 1: Imagery Review

Imagery review involves the analysis of USGS digital orthophoto quarter quadrangle images and available Landsat and aerial photographs of the Sub Areas intended to be surveyed for a particular year. Prior to data acquisition and field work, review of these images will provide preliminary information on land and hydrographic features, including the location of access roads, water use areas, cultivated lands, stock ponds, domestic wells, etc. Any recent USGS DOQQ images that have become available will be acquired and examined for potential project use in Sub Areas consisting primarily of domestic and stock wells and stock tanks.

Task 2: Aerial Photography

This task involves an assessment of specific Sub Areas in order to determine areas requiring new aerial photography to complete the hydrographic survey for the following year. Field verification will be conducted as needed to accurately evaluate these regions. Contracting, scheduling, and coordination of flights would also take place, followed by the post-processing or rectification of the aerial photographs. Any new aerial photography deemed necessary would be generated in compliance with the New Mexico Hydrographic Survey Specifications. Flights would be scheduled to occur between May 1 and August 31. Note that for 2003, the hydrographic survey will commence in areas not requiring new aerial photography.

Task 3: Acquisition of Documents

During this task, information on property ownership will be acquired, and all water right records and priority dates will be abstracted. Coordination would occur between the United States' technical consultants and the OSE to explore the sharing of database management forms, software, and other relevant utilities that have been used in the adjudication of other basins in New Mexico.

Task 4: Domestic Wells

Domestic wells present a particular difficulty for this adjudication. As the Gallup Underground Administrative Basin was not declared until very recently, in 1994, it is likely that the majority, and probably a significant majority of the domestic wells in the Zuni area were dug prior to that. These are pre-basin wells which will, for the most part, have no permits or declarations associated with them. Abstracting of OSF permit files will therefore not reflect their existence. Locating such wells from aerial photography, Landsat imaging or DOQQs will be similarly impossible. For that reason, an order from the Court will be sought to either exclude domestic wells from this adjudication as being de minimus uses, or require that a person with a domestic well make their claim by returning the claim form described in Task 5 by a reasonable date, following extensive publication and service of notice of that deadline, or be deemed to have waived their claim.

Task 5: Claim Forms

This task involves the preparation and mailing of claim forms to individual property owners within the relevant Sub Areas. The information gathered in Task 3 would be used to produce the claim forms. The claim forms would require claimants to identify the elements of the water right they are claiming. An order would be sought from the Court requiring claimants to supply the information and mail the completed forms back to be reviewed, compiled, and recorded for use during field verification process. The Court's order would provide that failure of the claimant to provide the information would be the basis for the court assessment of costs of evaluating that claim against the claimant.

Task 6: Public Meetings

A public meeting would be conducted to coincide with the mailing of the claim forms in each Sub Area. The meeting date and time would be publicized through appropriate means. The meeting would be informative in nature, providing information to the claimants on the field verification process, anticipated schedules, and general information on the hydrographic survey and water rights adjudication process. It is anticipated that an additional public meeting will be conducted during the field verification task.

Task 7: Field Office

During this task, the location for the field office would be established. Field office staffing and mobilization procedures would take place. Equipment required to complete the field work would be procured, including such things as GPS instrumentation, computers, laptops, communication devices, and general office supplies. Once established, the location of the field office would be publicized. The field office will be open to the public on a limited schedule during the technical field work that would include a minimum of a week day and Saturday for claimants to prepare claim forms, provide information to the United States, and address questions.

Task 8: Field Work

As stated in the New Mexico Hydrographic Survey Specifications, field verification would be conducted between May 1 and September 30. All necessary maps, photo enlargements, and GIS databases would be prepared prior to the process. Attempts to schedule with property owners would be made beforehand to gain access to property. All field work would be performed consistent with the New Mexico Hydrographic Survey Specifications. To serve the interest of all involved parties, representatives from OSE may accompany the United States technical contractor during the field investigations.

Task 9: Publication of the Hydrographic Survey

When tasks one through eight have been accomplished for a particular set of Sub Areas and the hydrographic survey for that subsection is complete, water rights will be quantified and hydrographic survey maps and reports will be prepared in accordance with the New Mexico Hydrographic Survey Specifications. The resulting hydrographic survey for that section shall then be filed with the Court.

Task 10: Continuation of Hydrographic Survey Activities Subsequent to the Filing of the Hydrographic Survey

After the hydrographic survey for a section is filed with the Court, hydrographic survey technical activities and adjudication support will continue. Necessary support will be provided for the development of offers of judgment. If an offer of judgment is not agreed to by a claimant, additional field verification and other work necessary for further claim review will be undertaken, conducted out of field offices set up for that purpose. If agreement is not reached with a claimant, hydrographic survey technical support will continue as needed through litigation.

Schedule

A proposed schedule for completion of the hydrographic survey for Sub Areas 4 and 8 is illustrated on the attached Gantt chart. Assuming two to three Sub Areas would be surveyed each season, the chart becomes representative of the schedule that would be followed in ensuing years. As indicated on the schedule, 18 months is allocated for completion of the survey for the first two Sub Areas. However, starting and finishing dates are subject to change, pending Federal funding, and other contingencies. Prior to the completion of the first Sub Areas, work would begin on the second set of Sub Areas. In doing so, a set of Sub Areas would be completed each year. The tasks shown on the schedule and described above reflect the anticipated procedures and protocol for conducting the hydrographic survey of the Zuni River Basin in New Mexico adjudication area.

Signatures

This Joint Technical Progress Report has been prepared jointly and is agreed upon by technical representatives from the United States and the OSE.

Assad S. Safadi

Assad S. Safadi, Ph.D.
Technical Consultant for the United States

Feb. 20, 2003

Date

Mark Fesmire

for Mark Fesmire, J.D., P.E.
Technical Representative State of New Mexico OSE

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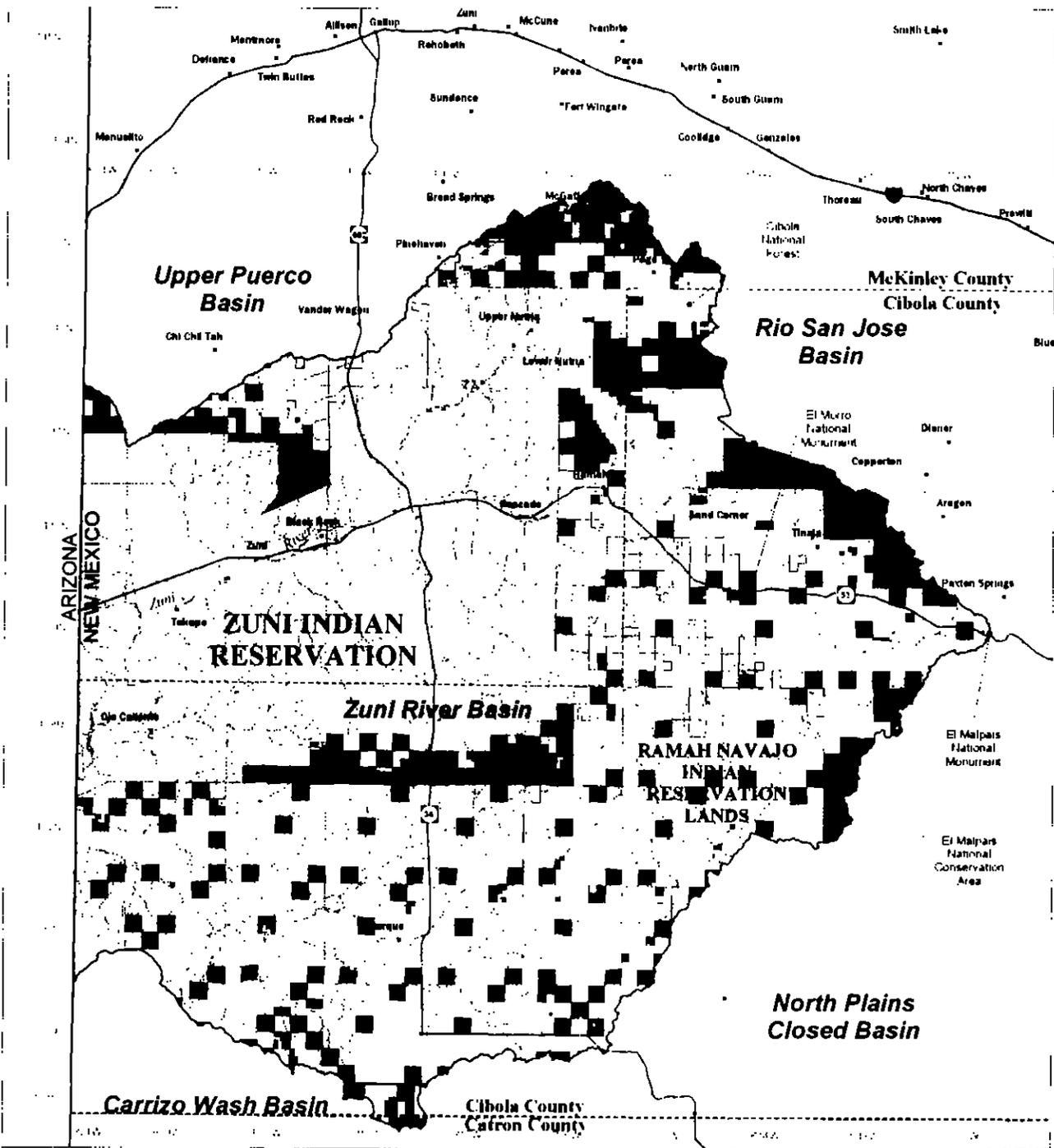
Date

Zuni River Basin New Mexico
Hydrographic Survey
2003

Sub Areas 4 and 8

Task Name	January	February	March	April	May	June	July	August	September	October	November	December	January	February	March	April	May	June	
TASK 1: IMAGERY REVIEW DOQQ and Landsat Photo Analysis																			
TASK 2: AERIAL PHOTOGRAPHY Determine Areas Requiring New Aerial Photos Contract, Schedule, Coordinate Flights Perform Rectification Processes																			
TASK 3: ACQUISITION OF DOCUMENTS Determine Property Ownership Abstract Water Rights and Priority Dates																			
TASK 4: DOMESTIC WELLS Publication & Services of Notices Claim Form Return Period																			
TASK 5: CLAIM FORMS Prepare Petition, Maps, Etc. Mail Forms to Claimants Receive, Compile, Review																			
TASK 6: PUBLIC MEETINGS Publicize Meeting Hold Meeting Publicize Second Meeting (if Needed) Hold Second Meeting (if Needed)																			
TASK 7: FIELD OFFICE Determine Location Mobilization Notify Claimants of Location																			
TASK 8: FIELD WORK Prepare Field Maps Schedule with Property Owners Conduct Field Verifications																			
TASK 9: PUBLICATION OF THE HYDROGRAPHIC SURVEY Quantity Water Requirements Prepare Hydrographic Survey Maps and Report File with the Court																			
TASK 10: CONTINUATION OF HYDROGRAPHIC SURVEY ACTIVITIES																			

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United States OFE
February 20, 2003



LEGEND

- ZUNI SURFACE WATER BOUNDARY
- SURFACE WATER BOUNDARIES
- COUNTY BOUNDARY
- - - INDIAN RESERVATION BOUNDARY
- RIVER CREEK APPROX.
- TOWNSHIP/RANGE GRID
- TOWN
- INTERSTATE HIGHWAY
- STATE ROADS
- BLM LAND
- NATIONAL FOREST LAND
- INDIAN LAND
- NATIONAL PARK LAND
- PRIVATE LAND
- STATE LAND

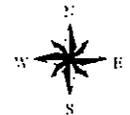
ZUNI RIVER SURFACE WATER DRAINAGE BOUNDARY MAP

**Exhibit 1
Zuni River Basin
Hydrographic Survey**

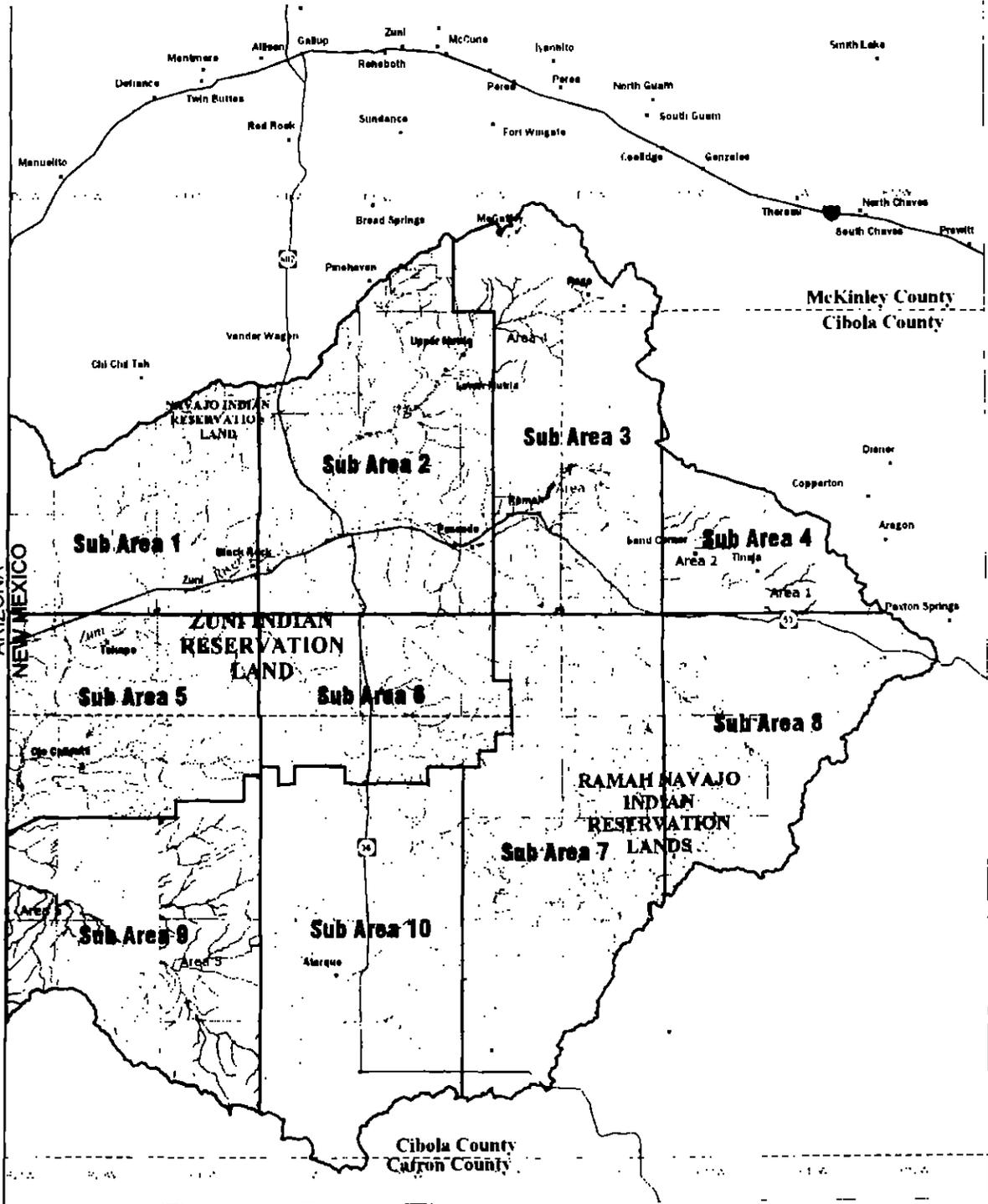


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February 20, 2003



VICINITY MAP



ZUNI RIVER HYDROGRAPHIC SURVEY SUB AREAS MAP

- LEGEND**
- ZUNI SURFACE WATER BOUNDARY
 - - - COUNTY BOUNDARY
 - INDIAN RESERVATION BOUNDARY
 - RIVER CREEK ARROYO
 - TOWNSHIP/RANGE GRID
 - TOWN
 - INTERSTATE HIGHWAY
 - STATE ROADS
 - SUB AREA BOUNDARY

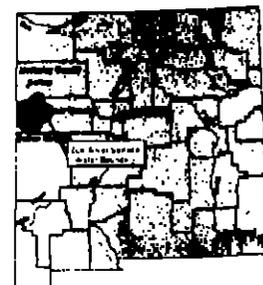


Exhibit 2
Zuni River Basin
Hydrographic Survey



Scale 1:175,000

February 25, 2003



VICINITY MAP