

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

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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-BB/DWD/ACE

ZUNI RIVER BASIN  
ADJUDICATION

Sub-areas 9 and 10

Subfile No: ZRB-2-0073

**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:

**FRANK L. MONTANO**

("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:

624

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-W01

**OSE File No:** G 1634

**Priority Date:** 12/31/1952

**Purpose of Use:** LIVESTOCK

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

**S. 22 T. 08N R. 18W 1/4, 1/16, 1/64: NW NW NW**

**X (ft): 2,454,281 Y (ft): 1,425,451**

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

**Amount of Water (ac-ft): 0.560**

**WELL**

**Map Label:** 10A-1-W02

**OSE File No:** G 1630

**Priority Date:** 12/31/1982

**Purpose of Use:** LIVESTOCK

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

S. 22 T. 08N R. 18W 1/4, 1/16, 1/64: NW NW NW

**X (ft):** 2,454,305 **Y (ft):** 1,425.400

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

**Amount of Water (ac-ft):** 0.560

**WELL**

**Map Label:** 10A-1-W03

**OSE File No:** G 1637

**Priority Date:** 12/31/1994

**Purpose of Use:** 72-12-1.1 LIVESTOCK

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

S. 22 T. 08N R. 18W 1/4, 1/16, 1/64: SE SW NW

**X (ft):** 2,457,146 **Y (ft):** 1,421,653

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

**Amount of Water (ac-ft):** Historical beneficial use not to exceed 0.7 acre-feet per annum;

**WELL**

**Map Label:** 10A-1-W04

**OSE File No:** G 1272

**Priority Date:** 11/12/2002

**Purpose of Use:** 72-12-1.1 DOMESTIC & LIVESTOCK

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

S. 22 T. 08N R. 18W 1/4, 1/16, 1/64: SE SW NW

**X (ft):** 2,457,249 **Y (ft):** 1,421,428

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

**Amount of Water (ac-ft):** Historical beneficial use not to exceed 0.767 acre-feet per annum;

**WELL**

**Map Label:** 10B-3-W01

**OSE File No:** G 1033

**Priority Date:** 10/10/1999

**Purpose of Use:** 72-12-1.1 LIVESTOCK

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

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

**X (ft):** 2,479,819 **Y (ft):** 1,372,653

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

**Amount of Water (ac-ft):** Historical beneficial use not to exceed 0.7 acre-feet per annum;

**WELL**

**Map Label:** 10C-3-W01

**OSE File No:** G 1626

**Priority Date:** 5/31/1987

**Purpose of Use:** LIVESTOCK

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

S. 3 T. 06N R. 17W 1/4, 1/16, 1/64: SE NW SW

**X (ft):** 2,488,356      **Y (ft):** 1,374,020

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

**Amount of Water (ac-ft):** 0.583

**WELL**

**Map Label:** 9C-1-W01

**OSE File No:** G 1621

**Priority Date:** 12/31/1951

**Purpose of Use:** LIVESTOCK

**Well Location:** As shown on Hydrographic Survey Map 9C-1

**S. 24 T. 08N R. 19W 1/4, 1/16, 1/64: SW SE NW**

**X (ft):** 2,434,435      **Y (ft):** 1,421,723

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

**Amount of Water (ac-ft):** 0.583

**WELL**

**Map Label:** 9C-1-W02

**OSE File No:** G 1636

**Priority Date:** 12/31/1944

**Purpose of Use:** LIVESTOCK

**Well Location:** As shown on Hydrographic Survey Map 9C-1

**S. 24 T. 08N R. 19W 1/4, 1/16, 1/64: SW SE NW**

**X (ft):** 2,434,513      **Y (ft):** 1,421,629

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

**Amount of Water (ac-ft): 0.583**

**WELL**

**Map Label:** 9C-1-W03

**OSE File No:** G 1622

**Priority Date:** 12/31/1936

**Purpose of Use:** LIVESTOCK

**Well Location:** As shown on Hydrographic Survey Map 9C-1

S. 24 T. 08N R. 19W 1/4, 1/16, 1/64: SE SW NE

**X (ft):** 2,436.938 **Y (ft):** 1,421,569

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

**Amount of Water (ac-ft): 0.583**

**STOCK POND**

**Map Label:** 10A-1-SP01

**Purpose of Use:** Livestock

**Priority Date:** 12/31/1982

**Source of Water:** Well

**Point of Diversion:** Fills from well 10A-1-W02 (Location X(ft): 2,454,305; Y(ft): 1,425,400);

**Amount of Water:**

**Depth (ft):** 5.0

**Surface Area (sq.ft):** 4,509

**Storage Impoundment Volume (ac-ft):** 0.311

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

S. 22 T. 08N R. 18W 1/4, 1/16, 1/64: NW NW NW

**X(ft):** 2,454,304      **Y(ft):** 1,425,612

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

**Dam height (if greater than 9 ft):**

**STOCK POND**

**Map Label:** 10A-1-SP02

**Purpose of Use:** Livestock

**Priority Date:** 12/31/1982

**Source of Water:** Well

**Point of Diversion:** Fills from well 10A-1-W02 (Location X(ft): 2,454,305; Y(ft): 1,425,400);

**Amount of Water:**

**Depth (ft):** 2.0

**Surface Area (sq.ft):** 2,277

**Storage Impoundment Volume (ac-ft):** 0.063

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

**S. 22 T. 08N R. 18W 1/4, 1/16, 1/64: NW NW NW**

**X(ft):** 2,454,392      **Y(ft):** 1,425,615

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

**Dam height (if greater than 9 ft):**

**STOCK POND**

**Map Label:** 10A-1-SP03

**Purpose of Use:** Livestock

**Priority Date:** 1/1/1948

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 5.0

**Surface Area (sq.ft):** 5.617

**Storage Impoundment Volume (ac-ft):** 0.387

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

**S. 22 T. 08N R. 18W 1/4, 1/16, 1/64:** NE NW SW

**X(ft):** 2,457,281 **Y(ft):** 1,424,644

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

**Dam height (if greater than 9 ft):**

### STOCK POND

**Map Label:** 10A-1-SP04

**Purpose of Use:** Livestock

**Priority Date:** 1/1/1948

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 5.0

**Surface Area (sq.ft):** 10,128

**Storage Impoundment Volume (ac-ft):** 0.698

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

**S. 22 T. 08N R. 18W 1/4, 1/16, 1/64:** SE SW SE

**X(ft):** 2,457,486 **Y(ft):** 1,420,912

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

**Dam height (if greater than 9 ft):**

### STOCK POND

**Map Label:** 10A-1-SP05

**Purpose of Use:** Livestock  
**Priority Date:** 1/1/1954  
**Source of Water:** Surface Runoff  
**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 8.0  
**Surface Area (sq.ft):** 22,998  
**Storage Impoundment Volume (ac-ft):** 2.534

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

S. 22 T. 08N R. 18W 1/4, 1/16, 1/64: SE SW SE  
**X(ft):** 2,457,526 **Y(ft):** 1,420,670  
New Mexico State Plane Coordinate System, West Zone, NAD 1983

**Dam height (if greater than 9 ft):**

**STOCK POND**

**Map Label:** 10B-3-SP02  
**Purpose of Use:** Livestock  
**Priority Date:** 1/1/1950  
**Source of Water:** Surface Runoff  
**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 6.0  
**Surface Area (sq.ft):** 20,773  
**Storage Impoundment Volume (ac-ft):** 1.717

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

S. 4 T. 06N R. 17W 1/4, 1/16, 1/64: NE NE NW  
**X(ft):** 2,484,295 **Y(ft):** 1,377,686

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

**Dam height (if greater than 9 ft):**

**STOCK POND**

**Map Label:** 10B-3-SP03  
**Purpose of Use:** Livestock  
**Priority Date:** 1/1/1999  
**Source of Water:** Surface Runoff  
**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 5.0  
**Surface Area (sq.ft):** 8,962  
**Storage Impoundment Volume (ac-ft):** 0.617

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

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

**X(ft):** 2,479,905 **Y(ft):** 1,373,727

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

**Dam height (if greater than 9 ft):**

**STOCK POND**

**Map Label:** 10B-3-SP04  
**Purpose of Use:** Livestock  
**Priority Date:** 10/10/1999  
**Source of Water:** Well  
**Point of Diversion:** Fills from well 10B-3-W01 (Location X(ft): 2,479,818; Y(ft): 1,372,653);

**Amount of Water:**

**Depth (ft):** 3.0

**Surface Area (sq.ft): 478**

**Storage Impoundment Volume (ac-ft): 0.020**

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

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

**X(ft): 2,479,852 Y(ft): 1,372,696**

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

**Dam height (if greater than 9 ft):**

**STOCK POND**

**Map Label:** 10C-3-SP02

**Purpose of Use:** Livestock

**Priority Date:** 1/1/1984

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft): 5.5**

**Surface Area (sq.ft): 6,286**

**Storage Impoundment Volume (ac-ft): 0.476**

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

**S. 3 T. 06N R. 17W 1/4, 1/16, 1/64: NE SE SE**

**X(ft): 2,490,090 Y(ft): 1,375,792**

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

**Dam height (if greater than 9 ft):**

**STOCK POND**

**Map Label:** 10C-3-SP03

**Purpose of Use:** Livestock

**Priority Date:** 5/31/1987

**Source of Water:** Well

**Point of Diversion:** Fills from well 10C-3-W01 (Location X(ft): 2,488.355; Y(ft): 1,374.019);

**Amount of Water:**

**Depth (ft):** 4.0

**Surface Area (sq.ft):** 3,352

**Storage Impoundment Volume (ac-ft):** 0.185

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

S. 3 T. 06N R. 17W 1/4, 1/16, 1/64: SE NW SW

X(ft): 2,488,327 Y(ft): 1,374,007

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

**Dam height (if greater than 9 ft):**

### **STOCK POND**

**Map Label:** 9C-1-SP01

**Purpose of Use:** Livestock

**Priority Date:** 1/1/1948

**Source of Water:** Surface Runoff

**Point of Diversion:** Not Applicable

**Amount of Water:**

**Depth (ft):** 3.0

**Surface Area (sq.ft):** 7,447

**Storage Impoundment Volume (ac-ft):** 0.308

**Pond Location:** As shown on Hydrographic Survey Map 9C-1

S. 24 T. 08N R. 19W 1/4, 1/16, 1/64: SW SE SE

X(ft): 2,435,495 Y(ft): 1,421,215

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 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

(Personal Representation) attached  
Sandra McDaniel for  
ACCEPTED: Frank L. Montano 3-10-06  
FRANK L. MONTANO DATE

ADDRESS: P.O. Box 176  
Beekop nm 87305

COUNSEL FOR THE DEFENDANT (IF REPRESENTED):

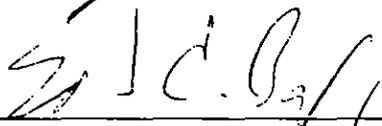
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DATE

COUNSEL FOR THE UNITED STATES:

Bradley S. Bridgewater  
BRADLEY S. BRIDGEWATER  
U.S. Department of Justice  
999 18th St., Suite 945 North  
Denver, CO 80202  
(303) 312-7318

12/22/05  
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

1/25/06

DATE

ELEVENTH JUDICIAL DISTRICT COURT  
COUNTY OF MCKINLEY  
STATE OF NEW MEXICO

DISTRICT COURT  
MCKINLEY COUNTY  
N.M.

2005 NOV -4 P 1:45

In the Matter of the Estate  
of  
FRANK L. MONTANO, Deceased.

No. PB-05-29-2

**ORDER FOR INFORMAL PROBATE OF WILL AND FOR  
INFORMAL APPOINTMENT OF PERSONAL REPRESENTATIVE**

SANDRA MONTANO McDANIEL has filed an Application for Informal Probate of the Last Will and Testament of FRANK L. MONTANO, deceased, and for informal appointment as the personal representative of the decedent's estate, and based on the statements in the Application the Court, FINDS:

1. The Application for Informal Probate of Will and for Informal Appointment of Personal Representative is complete.
2. The applicant has made oath or affirmation that the statements contained in the application are true to the best of applicant's knowledge and belief.
3. The applicant is an interested person as defined by the laws of this state.
4. Jurisdiction of this estate, proceeding and subject matter is proper.
5. Venue is proper because the decedent's residence at the time of death was Vanderwagen, McKinley County, New Mexico.

6. An original, duly executed and apparently unrevoked will of the decedent is in the possession of this Court, was properly executed and is valid.

7. Any notice required by the laws of this state has been given.

8. This probate proceeding was commenced within the time limit required by the laws of this state.

9. The applicant is nominated in the Last Will and Testament of decedent as the personal representative, without bond, and is qualified to act as a personal representative of the decedent, and has priority entitling applicant to the appointment.

OPTION

10. No personal representative has been appointed in any county in New Mexico.

11. That at least five (5) days have elapsed since the decedent's death.

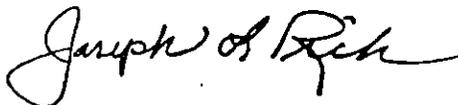
NOW, THEREFORE, IT IS ORDERED as follows:

1. The application is hereby granted.

2. The Last Will and Testament of FRANK L. MONTANO, deceased, is hereby informally probated.

3. SANDRA MONTANO McDANIEL is informally appointed personal representative of the estate of FRANK L. MONTANO, deceased, without bond, in an unsupervised administration.

4. Letters Testamentary shall be issued to SANDRA MONTANO  
McDANIEL upon qualification and acceptance.

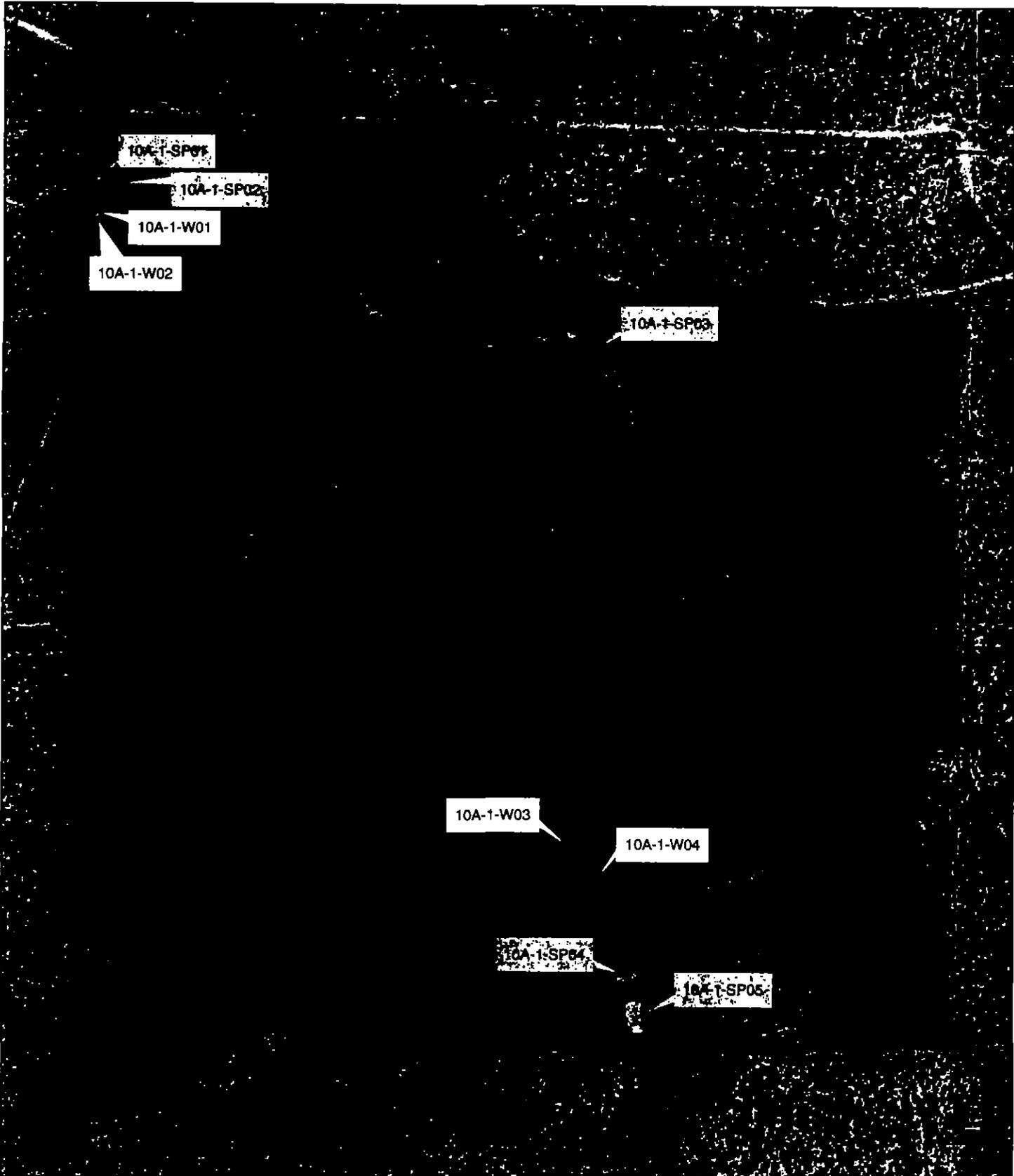


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District Judge

SUBMITTED BY:

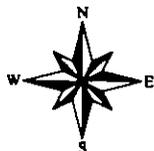
James Jay Mason  
MASON, ISAACSON & MACIK, P.A.  
104 East Aztec Avenue  
Gallup, New Mexico 87301  
Attorneys for Personal Representative



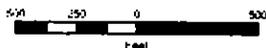
December 2005

**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-2-0073  
PLSS: S22, T08N, R18W  
Sheet 1 of 4



**Natural Resources Consulting Engineers, Inc.**

Fort Collins, CO    Oakland, CA    Asmara, ERITREA

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

10B-3-SP02

10B-3-SP03

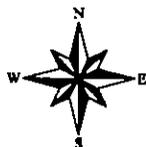
10B-3-SP04

10B-3-W01

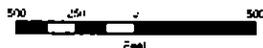
December 2005

**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-2-0073  
PLSS: S04, T06N, R17W  
Sheet 2 of 4



**Natural Resources Consulting Engineers, Inc.**

Fort Collins, CO    Oakland, CA    Asmara, ERITREA

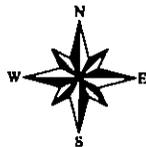
Project Manager: L. Niel Allen, P.E., Ph.D.



December 2005

**LEGEND**

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



1 inch equals 800 feet



Zuni River Basin  
Hydrographic Survey

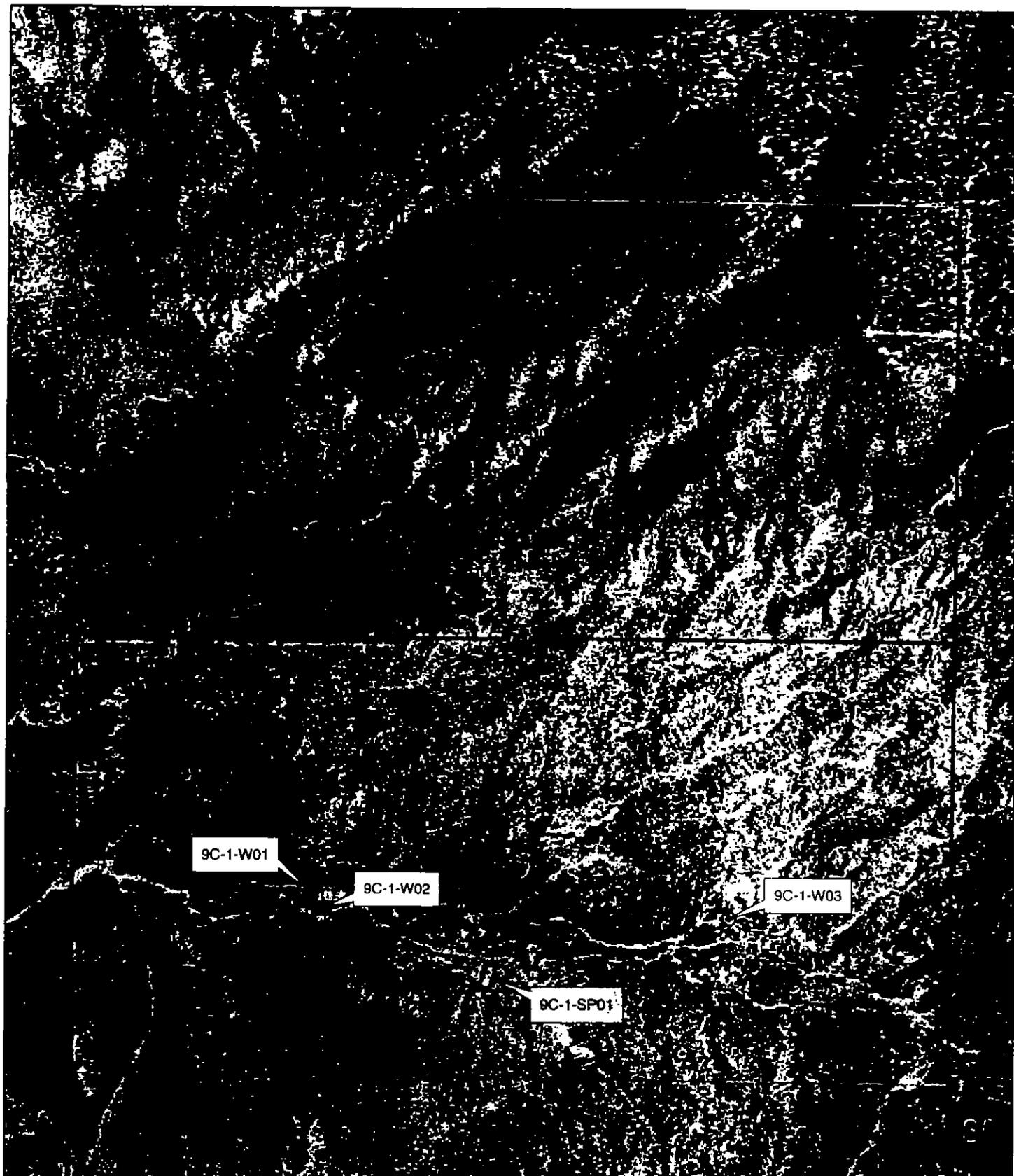
Sub-Area 10  
Subfile Number: ZRB-2-0073  
PLSS: S03, T06N, R17W  
Sheet 3 of 4



**Natural Resources Consulting Engineers, Inc.**

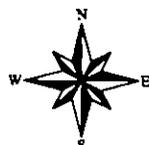
Fort Collins, CO    Oakland, CA    Asmara, ERITREA

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

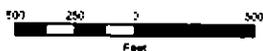


**LEGEND**

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



1 inch equals 800 feet



Zuni River Basin  
Hydrographic Survey

Sub-Area 9  
Subfile Number: ZRB-2-0073  
PLSS: S24, T08N, R19W  
Sheet 4 of 4

December 2005



**Natural Resources Consulting Engineers, Inc.**

Fort Collins, CO    Oakland, CA    Asmara, ERITREA

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