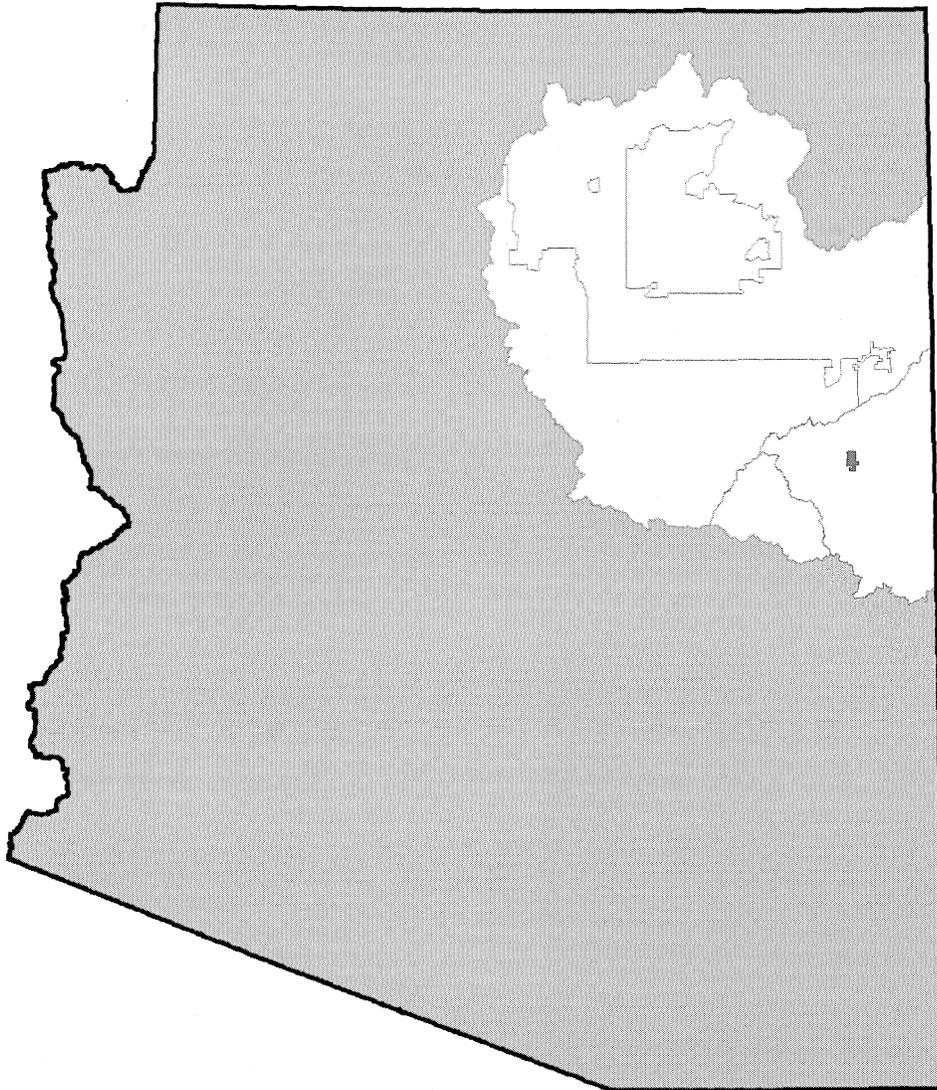


# TECHNICAL ASSESSMENT OF THE ZUNI INDIAN TRIBE WATER RIGHTS SETTLEMENT

*In re The General Adjudication of the  
Little Colorado River System and Source*

## Volume II (Appendices)



Arizona Department of Water Resources

May 15, 2006

## VOLUME II

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**ZUNI INDIAN TRIBE WATER RIGHTS SETTLEMENT AGREEMENT  
IN THE LITTLE COLORADO RIVER BASIN**

THIS SETTLEMENT AGREEMENT dated as of June 7, 2002, is entered into by the Zuni Indian Tribe on behalf of itself and its members; the United States of America on behalf of the Zuni Indian Tribe and its members; the State of Arizona; the Arizona Game and Fish Commission; the Arizona State Land Department; the Arizona State Parks Board; the St. Johns Irrigation and Ditch Co.; the Lyman Water Co.; the Round Valley Water Users' Association; the Salt River Project Agricultural Improvement and Power District; the Tucson Electric Power Company; the City of St. Johns; the Town of Eagar; and the Town of Springerville. When enforceable, this Settlement Agreement resolves the water rights claims of the Zuni Indian Tribe, its members, and the United States on their behalf in the Little Colorado River basin in Arizona.

**ARTICLE 1 – RECITALS**

1.1 The continued development of the Little Colorado River basin, being dependent upon reliable allocation of Arizona's water resources, has been jeopardized by unresolved litigation regarding water rights based upon federal, state, and other law. These include claims by the Zuni Indian Tribe and its members to a tribal water right sufficient to maintain the Zuni Heaven Reservation for long-standing religious and sustenance activities, as recognized and protected by Congress in Pub. L. No. 98-498, Conveyance of Lands to the Zuni Indian Tribe, 98 Stat. 1533 (August 28, 1984), as amended by Pub. L. No. 101-486, 104 Stat. 1174 (Oct. 31, 1990). In addition, the validity of certain non-Indian claims to water and the liability of other water users and the United States to the Zuni Indian Tribe have been raised. These issues are the subject of extensive and complex litigation pending in the Arizona state courts.

1.2 It is acknowledged by all of the Parties that the resolution of these conflicts must recognize vested water rights arising under federal law, state law, the Norviel Decree, and through contractual relationships with St. Johns Irrigation & Ditch Co., Lyman Water Co., and Round Valley Water Users' Association.

1.3 The Parties have agreed to permanently settle the water rights of the Zuni Tribe in the Little Colorado River basin in Arizona, to finally resolve pending litigation on water rights and damage claims, and to seek funding for the implementation of the Settlement Agreement.

1.4 The Parties agree to cooperate in good faith at all times from and after the day this Settlement Agreement is executed to facilitate the successful completion of all conditions precedent to make this Settlement Agreement enforceable. In addition, the Parties agree to seek State legislation allowing for the severance and transfer of surface water rights to the Zuni Tribe for the purposes set forth in this Settlement Agreement.

1.5 It is the policy of the United States, in keeping with its trust responsibility to Indian tribes, to promote Indian self-determination, religious freedom, political integrity, and economic self-sufficiency, and to settle, wherever possible, the water rights claims of Indian tribes without lengthy and costly litigation.

1.6 The objective of this Settlement Agreement is to resolve all outstanding water-related litigation and to settle, once and forever, the water rights of the Zuni Tribe to surface water

and underground water within the Little Colorado River basin in the state of Arizona based upon federal, state, and other laws by providing to the Zuni Tribe sufficient water from various sources to satisfy the purposes of the 1984 Act, as amended, establishing the Zuni Heaven Reservation.

1.7 The Zuni Tribe intends to reestablish and maintain the wetland environment that previously existed within its Zuni Heaven Reservation, Kolhu/wala:wa, including restoration of water to its Sacred Lake, Hadin Kyaya. The restoration project will include aggradation of the Little Colorado River, enhancement of river flows, and reintroduction and maintenance of native animal and plant species essential for religious and sustenance activities. To accomplish these wetland restoration goals, the Zuni Tribe will use a minimum of 5,500 acre-feet of water per annum. The sources of water to be used to accomplish the settlement goals include the appropriation of unappropriated surface water flows reaching the Zuni Heaven Reservation, water from Zuni Lands upstream of the Zuni Heaven Reservation, acquired surface water rights, and underground water. Pursuant to this Settlement Agreement and with the cooperation of the Parties, the Zuni Tribe will acquire rights to 3,600 acre-feet per annum of surface water and will waive its water rights claims when it has acquired rights to 2,350 acre-feet per annum of surface water. The Zuni Tribe will also have a right to use up to 1,500 acre-feet per annum of underground water from the Zuni Pumping Lands for its restoration activities at the Zuni Heaven Reservation and to provide water for the Sacred Lake.

1.8 It is the objective of the Parties to provide for the Zuni Tribe's acquisition of surface water on a voluntary basis so that the wetland restoration goals for the Zuni Heaven Reservation will be met without disrupting existing surface water or underground water use by other water users within the Little Colorado River basin in Arizona.

NOW, THEREFORE, in consideration of the promises and agreements hereinafter set forth, the Parties agree as follows:

## ARTICLE 2 - DEFINITIONS

This Settlement Agreement employs abbreviated terms that have the following meanings:

- 2.1 "Act" means, unless otherwise indicated, legislation by Congress that authorizes federal action required to carry out this Settlement Agreement in the form of Exhibit 2.1.
- 2.2 "AFA" means acre-foot per annum.
- 2.3 "AGAF" means Arizona Game and Fish Department or Commission, or both.
- 2.4 "ASLD" means the Arizona State Land Department.
- 2.5 "CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 9601 *et seq.*, as it now exists or as it may be amended.
- 2.6 "Deadline" means December 31, 2004, unless and until the Parties jointly agree in writing to another Deadline.

- 2.7 “Decree Court” means the court with jurisdiction over the judgment and decree entered in accordance with this Settlement Agreement.
- 2.8 “*de minimis* use” means a surface water use for domestic purposes not to exceed one acre-foot per annum, for stockwatering uses or wildlife uses, or a pond having a capacity of not more than 15 acre-feet that is used primarily for watering livestock or wildlife.
- 2.9 “DWR” means the Arizona Department of Water Resources.
- 2.10 “Eastern LCR” means the portion of the LCR basin in Arizona upstream of the confluence of Silver Creek and the LCR, as identified on Exhibit 2.10.
- 2.11 “Eastern LCR Decree” means that portion of the decree entered in the LCR Adjudication that includes water rights in the Eastern LCR.
- 2.12 “Effective Date” means the date on which all of the Parties except the United States have executed the Settlement Agreement and any exhibits that call for their signatures.
- 2.13 “Enforcement Date” means the date on which all of the actions described in Article 3 have been completed.
- 2.14 “exempt well” means a well having a pumping capacity of 35 gpm or less. For purposes of determining whether a well is exempt, a series of wells serving the same Facility shall be counted as a single well.
- 2.15 “existing” means, when referring to a water use, that the use began before or on the Enforcement Date. When referring to a well, “existing” means that the well is completed before or on the Enforcement Date or drilling of the well commenced before or on the Enforcement Date and the well is completed within the time authorized by its permit. A replacement well is also considered an existing well if it does not exceed the capacity of the existing well it is replacing. When referring to a decree, “existing” means the decree was entered before or on the Enforcement Date.
- 2.16 “Facility” as used in the definition of “exempt well” and “well” means all buildings, equipment, structures and lands served by a common water conveyance system, which buildings, equipment, structures, lands and common water conveyance system are owned and operated by or under common control of the same person, persons, or entity and are located on a single site or on contiguous or adjacent sites, and are operated as a single complex with water used primarily for one purpose.
- 2.17 “Fund” means the fund described in paragraph 7.1 of this Settlement Agreement and in section 6 of Exhibit 2.1.

- 2.18 “groundwater” means all water beneath the surface of the earth other than surface water and other than recharged water subject to recovery under state law.
- 2.19 “Hazardous Substance” means those substances included within the definition of that term under 42 U.S.C. § 9601(14), as it now exists or as it may be amended.
- 2.19.A “Judgment and Decree” means Exhibit 11.9.
- 2.20 “LCR” means the Little Colorado River and its tributaries in Arizona.
- 2.21 “LCR Adjudication” refers to *In Re: The General Adjudication of All Rights to Use Water in the Little Colorado River System and Source*, Superior Court No. 6417, Apache County, Arizona.
- 2.22 “LWC” means Lyman Water Co.
- 2.23 “new” means any occurrence or action taken after the Enforcement Date. A new well is any well that is not an existing well.
- 2.24 “Norviel Decree” means a series of judgments and orders entered in Apache County Superior Court Case No. 569 adjudicating rights to water in the Norviel Decree Area.
- 2.25 “Norviel Decree Area” means the portion of the Eastern LCR basin subject to the jurisdiction of the Norviel Decree, as identified on Exhibit 2.10.
- 2.26 “oil” means those substances included within the definition of that term under 33 U.S.C. § 2701 (23), as it now exists or as it may be amended.
- 2.27 “Oil Pollution Act ” means the Oil Pollution Act of 1990, 33 U.S.C. §§ 2701 *et seq.*, as it now exists or as it may be amended.
- 2.28 “Party” is the singular form of “Parties,” which means the persons and entities represented by the signatories to this Settlement Agreement.
- 2.29 “RCRA” means the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 *et seq.*, as it now exists or as it may be amended.
- 2.30 “reservoir” means a surface water impoundment other than a *de minimis* use.
- 2.31 “Sacred Lake” means the lake located within the Zuni Heaven Reservation that has been used by the Zuni Tribe for religious purposes.
- 2.32 “Settlement Agreement” means this document including all exhibits.
- 2.33 “SJIC” means St. Johns Irrigation and Ditch Company.
- 2.34 “SRP” means Salt River Project Agricultural Improvement and Power District.

- 2.35 “Stream Rehabilitation Program” means AGAF’s management objectives for the LCR, in which AGAF shall acquire riverine or riparian habitat with physical and biological features essential to the establishment or continued existence of threatened, endangered or sensitive species, and convert associated water rights to wildlife purposes in order to specifically benefit those threatened, endangered or sensitive species that have historically occupied or currently occupy the Eastern LCR.
- 2.36 “surface water” means all water that is appropriable under State law.
- 2.37 “SWR” means surface water right.
- 2.38 “TEP” means Tucson Electric Power Co.
- 2.39 “underground water” means any water beneath the surface of the earth regardless of its legal characterization as appropriable or non-appropriable under any applicable law.
- 2.40 “United States,” unless otherwise indicated, means the United States in its capacity as trustee for the Zuni Tribe or its members or otherwise acting on behalf of the Zuni Tribe or its members.
- 2.41 “well” means a man-made opening in the earth through which water may be withdrawn. It includes a combination of wells serving the same Facility.
- 2.42 “Wetland Restoration Project” means the restoration to near original condition and the maintenance of wetland areas on the Zuni Heaven Reservation, and may include a reservoir or other short-term storage facility. The Wetland Restoration Project shall use plant and animal species indigenous to the area.
- 2.43 “Zuni Fee Lands” means lands in Arizona in the LCR basin owned on the Enforcement Date by the Zuni Tribe, whether in its own name or through any related entity, but not held in trust by the United States.
- 2.44 “Zuni Heaven Reservation” see “Zuni Indian Reservation in Arizona”.
- 2.45 “Zuni Indian Reservation in Arizona,” also referred to as “Zuni Heaven Reservation,” “Reservation,” and “Kolhu:wala:wa,” means the following property in Apache County, Arizona:
- Sections 26, 27, 28, 33, 34, and 35, Township 15 North, Range 26 East, Gila and Salt River Base and Meridian; and
- Sections 2, 3, 4, 9, 10, 11, 13, 14, 15, 16, 23, 26, and 27, Township 14 North, Range 26 East, Gila and Salt River Base and Meridian.

- 2.46 “Zuni Indian Tribe” also referred to as the “Tribe” or the “Zuni Tribe,” means a body politic and federally recognized Indian nation, and its members.
- 2.47 “Zuni Lands” means the following lands in Arizona that on the Enforcement Date are
- A. within the Zuni Heaven Reservation; or
  - B. held in trust by the United States for the benefit of the Tribe; or
  - C. Zuni Fee Lands.
- 2.48 “Zuni Protection Area” means the area of land described by that name on Exhibit 2.48.
- 2.49 “Zuni Pumping Lands” means the area of land described by that name on Exhibit 2.48.

## ARTICLE 3 – CONDITIONS PRECEDENT

3.1 This Settlement Agreement is effective and binding on the Effective Date. This Settlement Agreement is enforceable when and if, by the Deadline, the events described in subparagraphs 3.1.A – 3.1.L occur:

- A. The Act is approved by Congress in substantially the same form as Exhibit 2.1. Any act of Congress that materially amends Exhibit 2.1 prior to the Enforcement Date of this Settlement Agreement without the written consent of the Parties adversely affected by the amendment shall relieve all Parties of their obligations under this Settlement Agreement; and
- B. The appropriations required by paragraphs 7.5 and 7.6 are deposited in the Fund; and
- C. The Zuni Tribe or the United States acquires either SWRs or options to purchase SWRs, subject to the Norviel Decree, sufficient to provide at least 2,350 AFA, as measured at Lyman Reservoir; and
- D. The Norviel Decree Judge conditionally approves the severance and transfer of rights to water subject to the Norviel Decree, sufficient to provide at least 2,350 AFA, as measured at Lyman Reservoir, for use by the Zuni Tribe on the Zuni Heaven Reservation; and
- E. The Zuni Tribe and LWC execute an agreement, in consultation with SJIC and the City of St. Johns, relating to the process of severance and transfer of SWRs acquired by the Zuni Tribe or the United States, and the pass-through, use or storage of Zuni Tribe SWRs in Lyman Lake and the operation of Lyman Dam, and, if necessary, LWC amends any operating procedures or by-laws in furtherance of their agreement; and
- F. The Parties agree and stipulate to AGAF abstracts for the following water uses existing on the Effective Date: Becker Lake, Becker Lands, Cross L, Lee Valley Reservoir, Nelson Reservoir and Lands, Sipes, Slade, Wenima Wildlife Area, Ocote and Enders, if that property has been acquired by AGAF on or before the Effective Date. When the Parties agree to the form and content of the AGAF abstracts, subparagraphs 4.1.B and 4.2.B shall be amended to incorporate the abstracts and the agreements with respect to the abstracts. At a minimum, amended subparagraph 4.2.B shall provide that AGAF reserves the right to challenge the imposition, by DWR or a court of competent jurisdiction, of attributes less favorable to it than those set forth in the attached abstracts, and that the Parties reserve the right to challenge the imposition, by DWR or a court of competent jurisdiction, of attributes more favorable to AGAF than those set forth in the attached abstracts; and
- G. The Parties agree to the location of the observation well used to determine static water levels in subparagraph 5.7.D and that well is installed before the Enforcement Date; and

- H. The Zuni Tribe, the State of Arizona, and Apache County execute an intergovernmental agreement that satisfies all of the conditions in paragraph 6.2; and
- I. The Zuni Tribe acquires title to the section of land adjacent to the Zuni Heaven Reservation described as Section 34, Township 14 North, Range 26 East, Gila and Salt River Base and Meridian; and
- J. The Settlement Agreement and all exhibits requiring signatures are executed; and
- K. The Decree Court approves this Settlement Agreement by a final judgment and decree that is substantially the same form as Exhibit 11.9; and
- L. The Secretary of the United States Department of the Interior publishes in the Federal Register a statement of finding that conditions in subparagraphs 3.1.A – 3.1.K have occurred.

3.2 The Zuni Tribe may, in its discretion, waive the conditions in subparagraphs 3.1.C or 3.1.D, or both. Once waived by the Tribe, these subparagraphs shall have no force or effect and shall not be conditions precedent to the Enforcement Date.

3.3 Other than to take all necessary steps to cause the events described in this Article 3 and paragraph 7.3 to occur, no Party shall be required to perform any of the obligations, or be entitled to any of the benefits, under this Settlement Agreement before the Enforcement Date. After the Enforcement Date, the Parties shall be bound by all provisions of this Settlement Agreement.

3.4 Subject to paragraph 3.2, if each of the events listed in subparagraphs 3.1.A – 3.1.L has not occurred by the Deadline, this Settlement Agreement shall be of no further force or effect and any monies in the Fund, together with any income earned, must be returned to the depositing entity.

## ARTICLE 4 – SURFACE WATER RIGHTS AND ADJUDICATION

### 4.1 Adjudicating Existing Surface Water Uses in the Eastern LCR Basin Based on State Law.

- A. **Zuni Abstracts.** All existing non-*de minimis* surface water uses on Zuni Lands owned as of the Effective Date are described in abstracts attached as Exhibits 4.1.A(1) *et seq.* Surface water uses on lands acquired between the Effective Date and the Enforcement Date shall be abstracted as agreed upon by the Parties unless these water uses are conditionally severed and transferred pursuant to subparagraph 4.6.D(4). At the time the Decree Court directs, these abstracts shall be used by DWR to propose water rights attributes for Zuni Lands in the manner described in subparagraph 4.1.D. Zuni Tribe *de minimis* uses shall be subject to subparagraphs 4.1.D – 4.1.F.
- B. **AGAF Abstracts.** Certain existing surface water uses on lands owned by AGAF, described in abstracts prepared in accordance with subparagraph 3.1.F, shall be attached as exhibits to an amendment to this Settlement Agreement. At the time the Decree Court directs, those abstracts shall be used by DWR to propose water rights attributes for AGAF lands in the manner described in subparagraph 4.1.D.
- C. **Other Abstracts.** LWC and SJIC surface water uses are described in abstracts attached as Exhibits 4.1.C(1) *et seq.* At the time the Decree Court directs, these abstracts shall be used by DWR to propose water rights attributes for LWC and SJIC lands in the manner described in subparagraph 4.1.D.
- D. **Preliminary Determinations.** For all surface water uses in the Eastern LCR basin, at the time the Decree Court directs, DWR shall prepare a preliminary report assessing and proposing attributes for each surface water use at issue as follows:
  - (1) The Decree Court shall direct the scope of each report, stating the specific geographic area that will be included in each report.
  - (2) The basis for DWR’s assessment shall be the abstracts referenced in subparagraphs 4.1.A, 4.1.B, and 4.1.C, the “Inventory of Water Uses” published by DWR in the fall of 1994, data contained in the Norviel Decree, the letters contained in Exhibit 4.1.D(2), and existing documentation on file with DWR.
  - (3) Existing information shall be supplemented as needed with additional research and investigation including reliance on remote sensing data.
- E. DWR shall give notice that the preliminary report is available and allow comment as prescribed in A.R.S. § 45-456(H). Then, in accordance with A.R.S. § 45-256(H), DWR shall revise the preliminary report as may be appropriate, and file with the Decree Court a final report.

- F. DWR shall file a final report in accordance with A.R.S. §§ 45-256(B) and (H). Water rights claimants in the LCR basin may object to the final report or any part of the final report as provided in A.R.S. § 45-256(B). Based on the evidence, the Decree Court shall determine the proper attributes of each water right.

#### 4.2 Permissible Adjudication Objections.

- A. **Zuni Abstracted Uses.** The Parties stipulate and agree to the entry of a decree for the Zuni Tribe abstracted water uses described in Exhibits 4.1.A(1) *et seq.* on terms no more favorable than those set forth in the attached abstracts. The United States and the Zuni Tribe reserve the right to challenge the imposition, by DWR or a court of competent jurisdiction, of attributes less favorable to the Zuni Tribe than those set forth in the attached abstracts. The Parties reserve the right to challenge the imposition, by DWR or a court of competent jurisdiction, of attributes more favorable to the Zuni Tribe than those set forth in the attached abstracts.
- B. **AGAF Abstracted Uses.** This subparagraph 4.2.B shall be amended as provided in subparagraph 3.1.F when the Parties have executed an amendment to this Agreement approving AGAF abstracts.
- C. **Other Abstracted Uses.** The Parties stipulate and agree to the entry of a decree for the LWC and SJIC abstracted water uses described in Exhibits 4.1.C(1) *et seq.* on terms no more favorable than those set forth in the attached abstracts. LWC and SJIC reserve the right to challenge the imposition, by DWR or a court of competent jurisdiction, of attributes less favorable to them than those set forth in the attached abstracts. The Parties reserve the right to challenge the imposition, by DWR or a court of competent jurisdiction, of attributes more favorable to LWC or SJIC than those set forth in the attached abstracts.
- D. **Zuni Tribe Adjudication Objections.** The Zuni Tribe and the United States shall not object to *de minimis* water uses or to SWRs based upon an existing decree. The Zuni Tribe and the United States may object to the adjudication of water uses in the LCR basin, other than those water uses described in the previous sentence, only if:
  - (1) the objection is permitted under subparagraph 4.2.A, 4.2.B or 4.2.C;  
or

- (2) the objection is based on state law and the surface water use being adjudicated would reduce or otherwise limit the Zuni Tribe's ability to use its state law-based SWRs, or its SWR described in subparagraph 4.6.B, on Zuni Lands or other lands acquired by or for the Zuni Tribe after the Enforcement Date; provided, however, that at no time shall the Zuni Tribe or the United States object based upon a federal right to surface water or a federal right to underground water.

#### 4.3 New Surface Water Appropriations.

- A. The Judgment and Decree shall contain findings that as of the Effective Date there is no additional surface water available to appropriate in the Norviel Decree Area. Therefore, the Eastern LCR Decree shall prohibit the filing of new applications to appropriate surface water in the Norviel Decree Area for uses commenced after the Effective Date, unless those new surface water uses are located in closed basins.
- B. In the portion of the Eastern LCR that is not currently under the jurisdiction of the Norviel Decree, new appropriations of surface water may be initiated in accordance with state law and the Eastern LCR Decree.

4.4 The Judgment and Decree shall provide that no new reservoirs or dams shall be constructed on the LCR between Lyman Dam and the western boundary of the Zuni Heaven Reservation without the written consent of the Tribe unless

- A. the new dam or reservoir is used for *de minimis* uses, effluent impoundments, tailwater ponds or impoundments of underground water; or
- B. the reservoir is wholly contained within a closed basin; or
- C. the reservoir has no permanent water storage and is operated solely for flood control purposes; or
- D. the water stored in the new reservoir results from a change of use, change in point of diversion, or severance and transfer; provided, however, that the Zuni Tribe retains any state-law objections to severance and transfers.

4.5 The Judgment and Decree shall provide that Zion Dam, formerly known as Udall Reservoir, may be repaired or rebuilt only with the written consent of the Tribe.

#### 4.6 Zuni Tribe SWRs.

- A. As described in subparagraph 4.1.A, the existing surface water uses on Zuni Lands owned on the Effective Date are set forth in abstracts and, subject to subparagraph 4.2.A, are recognized by the other Parties.
- B. The Tribe's SWR for unappropriated flows is set forth in an abstract attached as Exhibit 4.6.B and the Parties shall not object to this abstract. This abstract

shall be filed with the Decree Court and shall be approved by the Decree Court in conjunction with the approval of this Settlement Agreement.

- C. As described in paragraph 7.7, AGAF shall sever and transfer certain SWRs to the Zuni Tribe or to the United States for use on the Zuni Heaven Reservation.
  
- D. In addition to the water available to the Zuni Tribe and to the United States under subparagraphs 4.6.A and 4.6.B, the Zuni Tribe or the United States is entitled to purchase up to 3,600 AFA minus any state contribution of SWRs in accordance with paragraph 7.7, as measured at Lyman Reservoir, from willing sellers in the Norviel Decree Area. If the Zuni Tribe acquires SWRs below Lyman Dam, then the SWR shall be measured, for purposes of this Settlement Agreement, by the amount of water that would be available at Lyman Reservoir.
  - (1) **Purchase of SWR.** Promptly after the Effective Date, the Parties shall communicate the terms of this Settlement Agreement to other SWR holders in the Norviel Decree Area, including offers to purchase land or water rights subject to the Norviel Decree upon terms and conditions as determined by the Zuni Tribe or by the United States. The Parties shall cooperate in good faith in any solicitation process, such as by sharing lists of SWR holders and addresses and providing related information that may be requested by one Party and in the possession of another Party.
  
  - (2) **Priority.** The priority date of the SWRs purchased by the Zuni Tribe for severance, transfer and delivery to the Zuni Heaven Reservation shall be the priority date of those SWRs as set forth in the Norviel Decree.
  
  - (3) **Party Cooperation.** After the Enforcement Date, each Party agrees to not unreasonably withhold its written consent and approval for severance and transfers under subparagraph 4.6.D(5) and paragraph 7.7. Before the Enforcement Date, each Party agrees to not unreasonably withhold its written consent and approval to conditional severance and transfers under subparagraph 4.6.D(4) and paragraph 7.7. Furthermore, the Parties agree not to object to the severance and transfer of SWRs to the Zuni Tribe or to the United States for the Wetland Restoration Project on the ground that the uses contemplated in connection with the Wetland Restoration Project are not irrigation uses.

- (4) **Conditional Severance and Transfers.** Before the Enforcement Date, the Zuni Tribe, the United States, or AGAF may apply to the Norviel Decree Court for a conditional severance and transfer of any SWRs purchased for the Tribe's benefit in accordance with this Settlement Agreement. Conditional severance and transfers do not become final and non-conditional until the Enforcement Date.
- (5) **Severance and Transfers.** After the Enforcement Date, the Zuni Tribe shall apply to sever and transfer a SWR in accordance with Arizona law.

E. Nothing in this Settlement Agreement precludes the Zuni Tribe from purchasing or severing and transferring SWRs, in addition to those specified in subparagraph 4.6.D, in accordance with state law.

**4.7 Surface Water Quality Monitoring.** AGAF shall periodically, but no less than twice annually, sample and test surface water at AGAF's Wenima property. AGAF shall test in accordance with Exhibit 4.7, which may be amended by the mutual agreement of the Zuni Tribe and AGAF. AGAF will provide results of each test to the Zuni Tribe within 15 days of when AGAF obtains final results.

**4.8 Timing for Surface Water Quality Monitoring.** After 30 years after the Enforcement Date, AGAF may terminate its obligations under paragraph 4.7.

## ARTICLE 5 – UNDERGROUND WATER

5.1 Existing Wells. The Zuni Tribe and the United States shall not object to, dispute, or challenge in the LCR Adjudication or in any other judicial or administrative forum or proceeding, the withdrawal or use of underground water in the Eastern LCR basin, whether the source is appropriable or non-appropriable, from existing wells. This prohibition includes, but is not limited to, the withdrawal or use of underground water that interferes with surface water flow.

5.2 Cataloging Existing Wells. To aid the Parties in identifying existing wells in the Eastern LCR, DWR shall compile a catalog that identifies all existing wells by well registration number, legal description and owner. This catalog, and its subsequent amendments, shall be listed in the Eastern LCR Decree.

- A. Exempt wells. Exempt wells shall not be cataloged.
- B. Non-Exempt Wells. DWR shall compile the catalog using existing well registrations and the letters contained in Exhibit 4.1.D(2). In addition, for existing wells that are not currently registered, a voluntary well registration program shall be created to allow registration and inclusion in the catalog. DWR shall verify the location of all non-exempt registered wells through the use of global positioning system units.
- C. Catalog. Once the locations of the registered wells have been verified and after the Enforcement Date, DWR shall submit the catalog of non-exempt wells to the Decree Court with notice as ordered by the Decree Court.
- D. Objections. The only objection the Zuni Tribe or the United States may assert in connection with the catalog of non-exempt wells is that a well description is inaccurate. Owners of wells may object that the catalog contains an improper description of a well they own. No other objections shall be permitted. The Decree Court shall resolve any objections as to the accuracy of the list.
- E. Procedures. The procedures described by subparagraphs 5.2.B – 5.2.D must be conducted on a sequential basis by DWR and the Decree Court, focusing on a relatively small group of wells or a limited geographic area at one time.
- F. Time Limit. The catalog in the Eastern LCR Decree of non-exempt wells must be completed within 3 years after the Enforcement Date. The catalog may be supplemented, however, upon application to the Decree Court, for existing wells that were omitted.

5.3 Zuni Use of Underground Water. The Parties recognize and shall not object to, dispute or challenge in the LCR Adjudication or in any other judicial or administrative forum or proceeding, the Zuni Tribe's withdrawal or use of 1,500 AFA of underground water from wells on the Zuni Pumping Lands if the water is used on those lands.

5.4 Except as provided in this Settlement Agreement, the Parties recognize and shall not object to, dispute, or challenge in the LCR Adjudication or in any other judicial or administrative forum or proceeding, the Zuni Tribe's withdrawal of underground water on Zuni Lands in accordance with applicable law.

5.5 Exempt Wells. The Zuni Tribe and the United States shall not object to, dispute or challenge any exempt well in the LCR basin.

5.6 New Non-Exempt Wells Outside the Zuni Protection Area. The Zuni Tribe and the United States shall not object to, dispute, or challenge in any judicial or administrative forum or proceeding the construction of any new well outside the Zuni Protection Area unless the new well is being constructed on lands owned by or for the Zuni Tribe. The Zuni Tribe and the United States shall not object to, dispute or challenge, in the LCR Adjudication or in any other judicial or administrative forum or proceeding, the withdrawal of underground water from any new non-exempt well located outside the Zuni Protection Area unless all of the conditions in subparagraphs 5.6.A through 5.6.C are met. The Zuni Tribe and the United States bear the same burdens of proof and persuasion that any state party would when objecting to, disputing or challenging another state party's water use in the LCR basin.

- A. Such wells are interfering, as defined by applicable state law, with the Zuni Tribe's SWR, other than with the flow rights described in subparagraph 4.6.B; and
- B. The Zuni Tribe SWR at issue was appurtenant to the place of use before the new well was drilled; and
- C. The objection, dispute, or challenge relates to a stream or other surface water condition established before the new well was drilled.

5.7 New Wells Inside the Zuni Protection Area. Inside the Zuni Protection Area, the Zuni Tribe and the United States retain claims against new non-exempt wells or withdrawals from those new wells, under state or federal law, for groundwater rights and for injury to surface water rights, injury to groundwater rights and injury to water quality, with the following qualifications:

- A. Burden of Proof. The Zuni Tribe and the United States shall bear the same burdens of proof and persuasion that any state party would when objecting to, disputing, or challenging another state party's water use in the LCR basin.

- B. **Pumping Protection Agreement Exception.** The Zuni Tribe and the United States shall enter into a Pumping Protection Agreement with any landowner in the Zuni Protection Area who agrees to limit the capacity of new wells on his land to a total of 500 gpm per section of land, or a prorated amount if the lands are less than one section. This Pumping Protection Agreement shall be in the form of Exhibit 5.7.B. If the landowner, the Zuni Tribe and the United States enter into a Pumping Protection Agreement, then the Zuni Tribe and the United States shall waive any right to make a claim against or object to new wells or to withdrawals of underground water, in any judicial or administrative forum or proceeding, that are consistent with the terms of that Pumping Protection Agreement. Executed Pumping Protection Agreements shall be filed with the Decree Court.
- C. **Zuni Pumping Limitation.** If the Zuni Tribe or the United States withdraw more than 1,500 AFA (as determined by a continuous 3 year rolling average of the amount pumped during each calendar year) from the Zuni Pumping Lands, then the Zuni Tribe and the United States waive permanently any and all rights to make a claim against or object to, dispute or challenge new wells or withdrawals of underground water in the Zuni Protection Area. The Zuni Tribe or the United States shall report the Tribe's annual pumping to the Decree Court by April 15 of each year.
- D. **Claim Initiation.** The Zuni Tribe and the United States shall not assert any claims against, object to, dispute or challenge new wells or withdrawals of underground water from new wells in the Zuni Protection Area unless the Static Water Level Decline is more than 50 feet. The determination of Static Water Level Decline is subject to the following definitions and directives:
- (1) "Static Water Level Decline" means the decline in the underground water level, determined by comparing the average annual static water level with the existing static water level in the regional aquifer (presently referred to as the "C Aquifer").
  - (2) The point of measurement shall always be an observation well existing on the Enforcement Date located in accordance with subparagraph 3.1.G, or, in the future, a reasonably chosen replacement well.
  - (3) All static water level measurements, including the existing static water level measurement, shall be taken annually on or about March 1; provided that the well has not been operated at any time during the four months immediately preceding the date of measurement. The existing static water level shall be determined by the first static water level measurement taken following the Effective Date of this Settlement Agreement. The average annual static water level shall be determined on the basis of a continuous 3 year rolling average of the annual static water level measurement in the well.

- (4) The Zuni Tribe or the United States shall report the static water level measurements to the Decree Court by April 15 of each year. The Zuni Tribe shall provide reasonable access to the measurement well for verification and monitoring purposes.

5.8 Other Agreements. The Zuni Tribe and the United States have entered into agreements with SRP, TEP and ASLD that recognize certain intended uses of underground water. These agreements are attached to this Settlement Agreement as Exhibits 5.8.A, 5.8.B and 5.8.C. To the extent that the agreements are inconsistent with this Settlement Agreement, the terms of the agreements must prevail as among the parties to the agreements.

5.9 Vested Rights. Except as described in paragraph 5.3, recognizing the Zuni Tribe's use of 1,500 AFA of underground water, this Settlement Agreement does not create any vested right to groundwater under state law, or any priority to the use of groundwater that would be superior to any other right or use of groundwater under state law, whether through this Settlement Agreement, by incorporation of any abstract, agreement or stipulation prepared under this Settlement Agreement, or through Congressional legislation approving, confirming or ratifying this Settlement Agreement or any abstract, agreement or stipulation prepared under this Settlement Agreement. Notwithstanding the preceding sentence, the rights of parties to the agreements referred to in paragraph 5.8, as among themselves, shall be as stated in those agreements. Furthermore, if a priority system to groundwater is established, all Parties retain the right to assert their respective priorities.

5.10 State and Federal Water Quality Data. When a Party submits water quality data for wells in the Eastern LCR basin pumping underground water to the Arizona Department of Environmental Quality ("ADEQ"), DWR, or the United States Environmental Protection Agency ("USEPA"), that Party shall provide the Zuni Tribe with a copy. When the Zuni Tribe or the United States submits water quality data for wells on Zuni Lands to the ADEQ, DWR, or USEPA, the Zuni Tribe shall provide any Party who has previously provided data to the Zuni Tribe pursuant to this paragraph 5.10 with a copy. The copies will be provided within 15 working days from the date the data is provided to the department or agency.

5.11 Underground Water Quality Monitoring.

- A. SRP will undertake, at its own expense, to monitor the following wells and provide this water quality testing data to the Zuni Tribe:
  - (1) SRP will provide one initial test from well 42W.
  - (2) SRP will test wells 26W, 43W, 45W, 46W, 47W, and 48W on a triennial basis.

**B. Well Testing**

- (1) SRP will test using the following EPA Methods  
VOCs 8260AZ  
Semi-VOCs 8270AZ  
Mercury 7470A  
Metals 6010B
- (2) For VOCs and Semi-VOCs, GC/MS will be run to scan for detection of pesticides and herbicides. If any herbicide or pesticide is detected, the laboratory will provide an estimated concentration of the substance.
- (3) For each sampling event, SRP will test for 13 priority pollutant metals: antimony, arsenic, beryllium, cadmium, chromium, copper, lead, mercury, nickel, selenium, silver, thallium, and zinc.
- (4) SRP will provide a Sampling and Analysis Plan (SAP) for the program. SRP will only sample a well if the sampling protocol can be followed at the time of sampling. SRP will make reasonable efforts to follow the sampling protocol.
- (5) All sample analysis will be conducted by SRP or by another laboratory licensed by the State of Arizona's Environmental Laboratory Licensure Program.
- (6) SRP will test wells only if SRP is given the necessary access to take the appropriate samples. SRP will make reasonable efforts to gain access to well sites.
- (7) Monitoring will commence within one year after the Enforcement Date. That initial sampling date will determine when any future monitoring is due.

5.12 Timing for Underground Water Quality Monitoring. After 30 years after the Enforcement Date any Party may terminate its obligations under paragraphs 5.10 and 5.11.

ARTICLE 6 – TRUST LANDS

6.1 Lands to be Taken Into Trust.

A. Upon satisfaction of the conditions in paragraph 6.2, the Parties shall not object to actions necessary to authorize and direct the Secretary of the Interior to take the legal title of the following lands in Arizona, as shown on Exhibit 6.1.A, and hold such title in trust for the benefit of the Zuni Tribe:

(1) In T.14N., R.27E., Gila and Salt River Base and Meridian:

Section 13: SW $\frac{1}{4}$ , S $\frac{1}{2}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$ , W $\frac{1}{2}$  SE $\frac{1}{4}$ , SE $\frac{1}{4}$  SE $\frac{1}{4}$

Section 23: N $\frac{1}{2}$ , N $\frac{1}{2}$  SW $\frac{1}{4}$ , N $\frac{1}{2}$  SE $\frac{1}{4}$ , SE $\frac{1}{4}$  SE $\frac{1}{4}$ , N $\frac{1}{2}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$ ,  
SE $\frac{1}{4}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$

Section 24: NW $\frac{1}{4}$ , SW $\frac{1}{4}$ , S $\frac{1}{2}$  NE $\frac{1}{4}$ , N $\frac{1}{2}$  SE $\frac{1}{4}$

Section 25: N $\frac{1}{2}$  NE $\frac{1}{4}$ , SE $\frac{1}{4}$  NE $\frac{1}{4}$ , NE $\frac{1}{4}$  SE $\frac{1}{4}$

(2) In T.14N., R.28E., Gila and Salt River Base and Meridian:

Section 19: W $\frac{1}{2}$  E $\frac{1}{2}$  NW $\frac{1}{4}$ , W $\frac{1}{2}$  NW $\frac{1}{4}$ , W $\frac{1}{2}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$ ,  
NW $\frac{1}{4}$  SW $\frac{1}{4}$ , S $\frac{1}{2}$  SW $\frac{1}{4}$

Section 29: SW $\frac{1}{4}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$ , NW $\frac{1}{4}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$ , S $\frac{1}{2}$  N $\frac{1}{2}$  SW $\frac{1}{4}$ ,  
S $\frac{1}{2}$  SW $\frac{1}{4}$ , S $\frac{1}{2}$  NW $\frac{1}{4}$  SE $\frac{1}{4}$ , SW $\frac{1}{4}$  SE $\frac{1}{4}$

Section 30: W $\frac{1}{2}$ , SE $\frac{1}{4}$

Section 31: N $\frac{1}{2}$  NE $\frac{1}{4}$ , N $\frac{1}{2}$  S $\frac{1}{2}$  NE $\frac{1}{4}$ , S $\frac{1}{2}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , E $\frac{1}{2}$   
SW $\frac{1}{4}$ , N $\frac{1}{2}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$ , SE $\frac{1}{4}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$ , E $\frac{1}{2}$  SW $\frac{1}{4}$   
SW $\frac{1}{4}$ , SW $\frac{1}{4}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$

B. Upon satisfaction of the conditions in paragraph 6.2, the Parties shall not object to actions necessary to authorize and direct the Secretary of the Interior to take the legal title of the following lands in Arizona, as shown on Exhibit 6.1.A, and hold such title in trust for the benefit of the Zuni Tribe upon acquisition by the Zuni Tribe:

(1) In T.14N., R.26E., Gila and Salt River Base and Meridian:

Section 25: N $\frac{1}{2}$  NE $\frac{1}{4}$ , N $\frac{1}{2}$  S $\frac{1}{2}$  NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , N $\frac{1}{2}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$ , NE $\frac{1}{4}$   
NW $\frac{1}{4}$  SW $\frac{1}{4}$

(2) In T.14N., R.27E., Gila and Salt River Base and Meridian:

Section 14: SE $\frac{1}{4}$  SW $\frac{1}{4}$ , SE $\frac{1}{4}$

Section 16: S $\frac{1}{2}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$

Section 19: S $\frac{1}{2}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$

Section 20: S $\frac{1}{2}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$ , E $\frac{1}{2}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$

Section 21: N $\frac{1}{2}$  NE $\frac{1}{4}$ , E $\frac{1}{2}$  NE $\frac{1}{4}$  NW $\frac{1}{4}$ , SE $\frac{1}{4}$  NW $\frac{1}{4}$ , W $\frac{1}{2}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$ ,  
N $\frac{1}{2}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$ , SW $\frac{1}{4}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$ , E $\frac{1}{2}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$ ,  
SW $\frac{1}{4}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$ , W $\frac{1}{2}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$

Section 22: SW $\frac{1}{4}$  NE $\frac{1}{4}$  NE $\frac{1}{4}$ , NW $\frac{1}{4}$  NE $\frac{1}{4}$ , S $\frac{1}{2}$  NE $\frac{1}{4}$ , N $\frac{1}{2}$  NW $\frac{1}{4}$ ,  
SE $\frac{1}{4}$  NW $\frac{1}{4}$ , N $\frac{1}{2}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$ , SE $\frac{1}{4}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$ , N $\frac{1}{2}$  N $\frac{1}{2}$   
SE $\frac{1}{4}$ , N $\frac{1}{2}$  NE $\frac{1}{4}$  SW $\frac{1}{4}$   
Section 24: N $\frac{1}{2}$  NE $\frac{1}{4}$ , S $\frac{1}{2}$  SE $\frac{1}{4}$   
Section 29: N $\frac{1}{2}$  N $\frac{1}{2}$   
Section 30: N $\frac{1}{2}$  N $\frac{1}{2}$ , N $\frac{1}{2}$  S $\frac{1}{2}$  NW $\frac{1}{4}$ , N $\frac{1}{2}$  SW $\frac{1}{4}$  NE $\frac{1}{4}$   
Section 36: SE $\frac{1}{4}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$ , NE $\frac{1}{4}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$

(3) In T.14N., R.28E., Gila and Salt River Base and Meridian:

Section 18: S $\frac{1}{2}$  NE $\frac{1}{4}$ , NE $\frac{1}{4}$  SW $\frac{1}{4}$ , NE $\frac{1}{4}$  NW $\frac{1}{4}$  SW $\frac{1}{4}$ , S $\frac{1}{2}$  NW $\frac{1}{4}$   
SW $\frac{1}{4}$ , S $\frac{1}{2}$  SW $\frac{1}{4}$ , N $\frac{1}{2}$  SE $\frac{1}{4}$ , N $\frac{1}{2}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$ , SE $\frac{1}{4}$  SE $\frac{1}{4}$   
Section 30: S $\frac{1}{2}$  NE $\frac{1}{4}$ , W $\frac{1}{2}$  NW $\frac{1}{4}$  NE $\frac{1}{4}$   
Section 32: N $\frac{1}{2}$  NW $\frac{1}{4}$  NE $\frac{1}{4}$ , SW $\frac{1}{4}$  NE $\frac{1}{4}$ , S $\frac{1}{2}$  SE $\frac{1}{4}$  NE $\frac{1}{4}$ , NW $\frac{1}{4}$ ,  
SW $\frac{1}{4}$ , N $\frac{1}{2}$  SE $\frac{1}{4}$ , SW $\frac{1}{4}$  SE $\frac{1}{4}$ , N $\frac{1}{2}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$ , SW $\frac{1}{4}$  SE $\frac{1}{4}$   
SE $\frac{1}{4}$

- C. Upon satisfaction of the conditions in paragraph 6.2, the Parties shall not object to actions necessary to authorize and direct the Secretary of the Interior to take the legal title of the following lands in Arizona, as shown on Exhibit 6.1.A, and hold such title in trust for the benefit of the Zuni Tribe and make such lands part of the Zuni Indian Reservation in Arizona upon acquisition by the Zuni Tribe:

Section 34, T.14 N., R.26 E., Gila and Salt River Base and Meridian.

6.2 Conditions Precedent to Taking Lands Into Trust. The United States shall take the legal title of the lands identified in subparagraphs 6.1.A, 6.1.B, and 6.1.C and hold such title in trust for the benefit of the Zuni Tribe and also shall make the lands identified in subparagraph 6.1.C part of the Zuni Indian Reservation in Arizona when all of the following conditions are satisfied:

- A. The Zuni Tribe, the State of Arizona, and Apache County execute an intergovernmental agreement that includes all of the following provisions:
- (1) For lands taken into trust pursuant to subparagraphs 6.1.A, 6.1.B, and 6.1.C, the Zuni Tribe shall not claim federal reserved rights to either underground water or surface water.
  - (2) The rights to surface water for the lands taken into trust pursuant to subparagraphs 6.1.A and 6.1.C are subject to the terms of this Settlement Agreement, including but not limited to, subparagraph 4.1.A. For lands taken into trust pursuant to subparagraph 6.1.B, the Zuni Tribe retains any rights or claims to surface water associated with these lands under state law, subject to the terms of this Settlement Agreement. Moreover, any water rights appurtenant to lands taken into trust pursuant to subparagraphs 6.1.A, 6.1.B, and 6.1.C shall not be subject to forfeiture or abandonment.

- (3) For lands taken into trust pursuant to subparagraphs 6.1.A, 6.1.B, and 6.1.C, the ability to withdraw groundwater shall be subject to Article 5.
- (4) For lands taken into trust pursuant to subparagraphs 6.1.A and 6.1.B, the Zuni Tribe shall pay in lieu payments equal to all ad valorem property taxes assessed by any state, county, or local taxing entity that would otherwise be applicable to those lands, if they were not in trust status.
- (5) The Zuni Tribe and the United States shall not unreasonably withhold consent for easements and rights-of-way for roads, utilities, and other necessary accommodations for adjoining landowners across the lands identified in subparagraphs 6.1.A and 6.1.B unless such easements and rights-of-way will cause significant and substantial harm to the Wetland Restoration Project. If such harm is anticipated, the Zuni Tribe shall negotiate in good faith with the person or entity seeking the easements or rights-of-way for a reasonable accommodation of their mutual interests.
- (6) The Zuni Tribe shall adopt a water code regulating water uses on the trust lands identified in subparagraphs 6.1.A and 6.1.B that is reasonably equivalent to state water law, including but not limited to, statutes relating to dam safety and groundwater management. Until the Zuni Tribe adopts a water code, state law controls water use and water regulation on the lands referred to in subparagraphs 6.1.A and 6.1.B.
- (7) The Zuni Tribe shall exercise jurisdiction over wildlife management on the trust lands identified in subparagraphs 6.1.A and 6.1.B. If the Zuni Tribe authorizes hunting, trapping or fishing, other than for Zuni religious practices, tribal law will establish a permit and fee system reasonably equivalent to state law. Zuni Tribe jurisdiction over these lands shall provide for wildlife resource management that is at least as stringent as comparable state law, except for religious practices exercised by the Tribe.
- (8)
  - (a) The Parties agree that the lands identified in subparagraphs 6.1.A and 6.1.B must be treated as other state lands, and not as Indian Country, for purposes of jurisdiction under the Clean Air Act and the Safe Drinking Water Act. The Zuni Tribe will not seek to regulate, or accept any delegation of authority to regulate, air quality or water quality on, under, or above these trust lands.
  - (b) The United States Environmental Protection Agency shall have authority to administer all programs under the Clean

Water Act for the lands identified in subparagraphs 6.1.A and 6.1.B. The Zuni Tribe will not seek to regulate, or accept any delegation of authority to regulate, water quality on, under, or above these trust lands. In issuing any permits for the lands identified in subparagraphs 6.1.A and 6.1.B, the United States Environmental Protection Agency shall incorporate only standards promulgated by the United States Environmental Protection Agency or the Arizona Department of Environmental Quality, and not tribal standards.

- (9) With respect to Zuni Fee Lands within the LCR basin that are outside of the lands described in subparagraphs 6.1.A, 6.1.B, and 6.1.C, the State of Arizona and Apache County acknowledge that portions of such lands, including but not limited to, the Tribe's pilgrimage route, are associated with the Tribe's religious practices. When acting in a proprietary capacity with respect to such lands, the State of Arizona and Apache County shall not unreasonably withhold any necessary approvals for the Zuni Tribe to use such lands for religious, sustenance and related purposes. When acting in either a governmental or proprietary capacity with respect to such lands, the State of Arizona and Apache County agree that they shall consult with the Zuni Tribe with regard to the Zuni Tribe's use of such lands for religious, sustenance and related purposes before taking action that knowingly affects such use, and shall cooperate with the Zuni Tribe, to the extent permitted by State law, to accommodate such use.
  - (10) The Tribe waives its sovereign immunity from suit in the Superior Court of Apache County, Arizona for the limited purposes of enforcing the terms of the intergovernmental agreement, and any intergovernmental agreement required to be entered into by the Tribe under the terms of the intergovernmental agreement; however, any such waiver of immunity from suit shall exclude claims for monetary awards, except as specifically provided in the intergovernmental agreement.
- B. The Secretary of the Interior publishes in the Federal Register a written certification to the Governor of the State of Arizona that all of the conditions in this paragraph 6.2 have been satisfied for the lands described in subparagraphs 6.1.A – 6.1.C.

## ARTICLE 7 – DEVELOPMENT FUND; CONTRIBUTIONS

7.1 Establishment of the Fund. In accordance with the Act, an account to be managed by the Secretary of the Interior shall be established in the Treasury of the United States, referred to as the Zuni Indian Tribe Development Fund. The Fund shall consist of the amounts to be contributed in paragraphs 7.5 and 7.6. The Secretary shall deposit into the Fund any other monies paid to the Secretary on behalf of the Zuni Tribe pursuant to the Settlement Agreement.

7.2 Investment of the Fund. The Secretary shall invest amounts in the Fund in accordance with

- A. the Act of April 1, 1880 (21 Stat. 70, ch. 41, 25 U.S.C. § 161);
- B. the first section of the Act approved June 24, 1938, as amended (25 U.S.C. § 162a).

7.3 Management of and Withdrawal From the Fund. The Secretary shall manage the Fund, make investments from the Fund, and make monies available from the Fund for distribution to the Zuni Tribe consistent with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. § 4001 *et seq.*) (“Trust Fund Reform Act”) and the Settlement Agreement. Notwithstanding the foregoing, before the Enforcement Date, up to \$3,500,000 of the monies under paragraph 7.5 shall be distributed to the Zuni Tribe solely upon a written request stating the need for the funds for water rights or options purchases. If the Zuni Tribe exercises its right to withdraw monies from the Fund, neither the Secretary nor the Secretary of the Treasury shall retain any oversight over or liability for the accounting, disbursement or investment of the monies withdrawn from the Fund, except as provided in the withdrawal plan.

7.4 Availability of Monies From the Fund

- A. Those monies allocated by the Secretary to the accounts in the Fund established under subsection 6(a) of the Act shall draw interest consistent with paragraphs 7.2 and 7.3 upon appropriation.
- B. Except as provided in paragraph 7.3 and subparagraph 7.4.C, the monies contributed in accordance with paragraphs 7.5 and 7.6 shall be available for expenditure or withdrawal only after the Enforcement Date.
- C. If this Settlement Agreement has become null and void under Article 3, the United States shall be entitled to set-off any monies expended or withdrawn as provided in paragraph 7.3, together with any interest accrued thereon, against any claims asserted by the Zuni Tribe against the United States related to water rights at the Zuni Heaven Reservation. Any water rights acquired with these monies shall be credited against any water rights secured by the Zuni Tribe or by the United States for the Zuni Heaven Reservation in the Little Colorado River General Stream Adjudication or in any future settlement of these claims.

7.5 United States Appropriation. The United States shall appropriate \$19,250,000 for use by the Zuni Tribe or by the United States. After the monies authorized in this paragraph 7.5 have been appropriated and the same has been deposited in the Fund, the United States shall have no further obligation for any operation, maintenance or repair costs for the Zuni Wetland Restoration Project or water deliveries thereto; provided, however, that this provision shall not affect programmatic support from the United States for the implementation of this Settlement Agreement and shall not affect any potential United States liability for actions it takes in furtherance of this Settlement Agreement.

7.6 Arizona Appropriation. The State of Arizona shall appropriate \$1,613,000 for use by the Zuni Tribe or by the United States. From this appropriation, \$613,000 must be used in conformity with the purposes of the Water Protection Fund (see A.R.S. § 45-2101). Any grants approved by the Water Protection Fund Commission to the Zuni Tribe from and after March 1, 2000, up to a maximum of \$613,000, must be credited against this obligation. This paragraph 7.6 is not intended to alter the terms of any past or future agreements between the Zuni Tribe and the Arizona Water Protection Fund Commission.

7.7 AGAF Contribution. As part of the State of Arizona's contribution to this settlement, AGAF shall expand an ongoing Stream Rehabilitation Program ("Program") above the Zuni Heaven Reservation. The objectives of the Program are to provide habitat for endangered, threatened, or candidate species and other wildlife and to enhance stream flow. These goals have been achieved by acquiring agricultural land with irrigation water rights under the Norviel Decree, and then dedicating these rights to wildlife uses. As a contribution to this settlement, it is AGAF's goal to sever and transfer 1,000 AFA of surface water for use at the Zuni Tribe's Wetland Restoration Project. AGAF's contribution to this settlement is subject to the following qualifications:

- A. Water for Zuni Wetland Restoration Project. AGAF shall spend \$5,000,000 from Heritage Program funds or other sources to acquire additional lands with irrigation rights or surface water rights alone for inclusion in the Program. AGAF shall determine, in its sole discretion, what portion of the water rights appurtenant to lands presently dedicated to the Program, or acquired in the future, are not required for wildlife purposes ("Excess Rights"). To the extent permissible under state law, AGAF shall sever and transfer up to 1,000 AFA of Excess Rights, as measured at Lyman Reservoir, to the Zuni Tribe or to the United States for wetland irrigation use at the Zuni Tribe's Wetland Restoration Project. All water deliverable to the Wetland Restoration Project under this paragraph 7.7 must be deliverable via a natural tributary or the LCR, or both, and must provide benefit for wildlife at the wetland. Despite paragraphs 8.1 and 8.2, if the Zuni Tribe does not use the Excess Rights as required in this subparagraph 7.7.A, the Excess Rights shall revert back to AGAF, and the Parties shall not object to the reversion.
- B. Timing. Subject to the terms stated in subparagraphs 7.7.C – 7.7.G, and the lawful purposes associated with the funds used to purchase existing and later acquired properties, AGAF shall have 15 years from the Effective Date to sever and transfer to the Zuni Tribe or to the United States the rights to

receive 1,000 AFA, which shall be severed from existing and later acquired properties.

C. Contingencies.

- (1) The Zuni Tribe and the United States acknowledge that the transferred water rights may yield less than 1,000 AFA of water at Lyman Reservoir due to factors beyond AGAF's control. For example, AGAF cannot assure that property meeting criteria for AGAF controlled funds and having sufficient Excess Rights can be acquired, or that water rights can be severed and transferred to the Zuni Tribe or the United States within the allotted time for performance. AGAF's obligations under this Settlement Agreement shall be deemed satisfied upon either
  - (a) the severance and transfer to the Zuni Tribe or to the United States of the rights to 1,000 AFA, as measured at Lyman Reservoir, from properties currently owned or to be acquired in the future by AGAF; or
  - (b) the expenditure of a total of \$6,000,000 under the Program. If AGAF has satisfied this subparagraph (b) but not subparagraph (a), then AGAF shall continue severing and transferring the Excess Rights in connection with future acquisitions, if any, under the Program until a total of 1,000 AFA of water rights have been severed and transferred to the Zuni Tribe or to the United States.

D. Program Acquisitions. Unless the Zuni Tribe and AGAF otherwise agree, the land and water rights that count towards the five to six million dollar expenditure include acquisitions in which the Zuni Tribe and AGAF have agreed, prior to an acquisition, that

- (1) the value of the water rights as a percentage of the total appraised value of each acquisition, as determined according to the buyer's final appraisal, is at least 25% of the total appraised value of the acquisition; and

- (2) any portion of the Excess Rights associated with an acquisition is physically capable of reaching Lyman Reservoir in a year equivalent to typical hydrologic conditions as defined by median flow. If AGAF and the Zuni Tribe do not agree that the Excess Rights can reach Lyman Reservoir, then either may seek the opinion of an independent hydrologist that AGAF and the Zuni Tribe approve. The Zuni Tribe shall not withhold its agreement to include the acquisition if the independent hydrologist certifies that water is physically capable of reaching Lyman Reservoir. If the independent hydrologist does not certify that water is physically capable of reaching Lyman reservoir, then the property will not count towards AGAF's contribution, unless the Zuni Tribe otherwise agrees to include the acquisition towards AGAF's contribution.
- E. **Severance and Transfer.** Severance and transfer of Excess Rights for the Program must follow subparagraph 4.6.D(4) before the Enforcement Date and subparagraph 4.6.D(5) after the Enforcement Date. AGAF shall conduct any studies required in support of its application. The Arizona Attorney General's Office shall petition the Court for a conditional severance and transfer of Excess Rights at Wenima, an existing AGAF rehabilitation site above Lyman Reservoir, as soon as practicable, in order to establish an efficient transfer procedure. The Parties shall cooperate in seeking approval of this petition, as set forth in subparagraph 4.6.D(3).
- F. **Party Assistance.** Many of the water rights that could be acquired by AGAF in the future are located within areas served by LWC, SJIC, or Round Valley Water Users' Association. These Parties agree to assist AGAF in evaluation of water rights or parcels of available land with water rights for inclusion in the Program.
- G. **Consultation with Zuni.** AGAF shall consult specifically with the Zuni Tribe about a proposed acquisition and seek the Zuni Tribe's advice on the amount of water the Zuni Tribe estimates will return to the LCR by converting existing rights to wildlife purposes. AGAF shall notify the Zuni Tribe at the start of the public review process of any proposed acquisition that may qualify towards AGAF's obligation under this Settlement Agreement. AGAF shall provide the Zuni Tribe with management plans and other appropriate documents as may exist during the public review process, and provide the Zuni Tribe the opportunity to review and comment on the proposed acquisition and present its views to AGAF prior to a final decision by AGAF.

7.8 **SRP Contribution.** SRP shall contribute a total of \$1,000,000.00 to be used towards providing a water supply to the Sacred Lake and the re-establishment of riparian vegetation on the Zuni Heaven Reservation. This contribution may not be used for land acquisition. To satisfy its contribution, SRP shall make an initial payment of \$500,000.00 to the Tribe within 60 days after the Enforcement Date. The second and final payment of \$500,000.00 is due one year after the date of the initial payment.

7.9 ASLD Contribution. ASLD shall release and quitclaim to the Zuni Tribe or the United States all of ASLD's right, title and interest in the surface water rights in Section 32, Township 14 North, Range 28 East, Gila and Salt River Base and Meridian, that are more particularly described in SOC # 39-86042 and Exhibit 4.1.A(1) *et seq.*

## ARTICLE 8 – AUTHORIZED USES

8.1 Authorized Water Uses on Zuni Fee Lands. The Zuni Tribe may use water appurtenant to its Zuni Fee Lands outside the Zuni Heaven Reservation for any purpose permissible under state law.

8.2 Authorized Water Uses on the Reservation. Water rights made available under this Settlement Agreement and used on the Zuni Heaven Reservation shall be held in trust by the United States in perpetuity, and shall not be subject to forfeiture or abandonment. State law does not apply to water uses on the Zuni Heaven Reservation. Furthermore, the State of Arizona may not regulate or tax such water or uses of such water, but the Decree Court or the Norviel Decree Court may assess administrative fees for delivery of such water. Subject to paragraph 7.7, the Zuni Tribe shall use water made available to it under this Settlement Agreement on the Zuni Heaven Reservation for any use it deems advisable. The Zuni Tribe or the United States shall not, however, sell, lease, transfer, or transport water made available to it for use on the Zuni Heaven Reservation to any other place; provided, however, that water may be severed and transferred from the Zuni Heaven Reservation to other Zuni Lands, if the severance and transfer is accomplished in accordance with state law. Once transferred to any lands held in fee, that water shall be subject to state law.

## ARTICLE 9 – OTHER CONSIDERATIONS

9.1 **Disclaimer.** Nothing in this Settlement Agreement shall be construed as establishing any standard to be used for the quantification of Federal reserved rights, aboriginal claims, or any other Indian claims to water or lands in any judicial or administrative forum or proceeding.

9.2 **Evidentiary Effect of Negotiations.** This Settlement Agreement has been arrived at in the process of good faith negotiation for the purpose of resolving legal disputes, including pending litigation, and all Parties agree that no conduct, statements, offers or compromises made in the course thereof shall be construed as admissions against interest or be used in any legal forum or proceeding other than one for approval, confirmation, interpretation, or enforcement of this Settlement Agreement.

9.3 **Effect of Execution by the State of Arizona.**

- A. **Execution by the Governor.** Execution of this Settlement Agreement by the Governor of the State of Arizona constitutes the commitment of the State to assist in carrying out the provisions of the Settlement Agreement to the extent it may do so in accordance with its responsibility and authority under the law.
- B. **Execution by State Agencies.** Execution of this Settlement Agreement by ASLD, AGAF, and the Arizona State Parks Board signifies that provisions of this Settlement Agreement affecting the State as an adjudication claimant have been approved by ASLD, AGAF, and the Arizona State Parks Board, and these agencies assume the obligations of and are entitled to the benefits of this Settlement Agreement.
- C. **Exceptions.** It is not intended that this Settlement Agreement shall limit the enforcement or regulatory authority of any State agency or shall be determinative of any decision to be made by any State agency in any administrative, adjudicatory or rule making proceeding not inconsistent with this Settlement Agreement. Except as provided in this Settlement Agreement, nothing in this paragraph 9.3 shall be construed as a waiver of any rights that the State of Arizona has as to its natural resources.

9.4 **Contingent on Appropriation of Funds.** The expenditure or advance of any money or the performance of any obligation by the United States under this Settlement Agreement is contingent upon appropriation of funds therefor. If funds are not appropriated, the United States shall accrue no liability.

9.5 **Further Negotiations Regarding Future Operation of Lyman Lake.** The Zuni Tribe, the United States, and LWC agree that, in conjunction with the negotiation of the agreement described in subparagraph 3.1.E, they shall negotiate with the Arizona State Parks Board regarding terms and conditions on which they would agree to maintain a minimum pool in Lyman Lake for recreational use.

9.6 Negotiations with SJIC. The Zuni Tribe, the United States, and SJIC agree to negotiate an operating agreement that recognizes the Zuni Tribe's participation as a shareholder in SJIC in a manner similar to any other shareholder in SJIC, and further recognizes that the Tribe shall bear any expenses associated with delivery of the Zuni Tribe's SWRs through SJIC facilities.

9.7 SJIC and City of St. Johns Claims. By entering into this Settlement Agreement, neither the City of St. Johns nor SJIC waives any rights or is estopped from making any claims they may have under state law, excluding punitive damages, against any Party to this Settlement Agreement resulting from water discharges from Lyman Dam to supply water to lands owned by or for the Zuni Tribe. The Zuni Tribe hereby waives any claim of sovereign immunity for purposes of any such suit or claims under this paragraph 9.7.

9.8 Officials Not to Benefit. No member of or delegate to Congress or Resident Commissioner shall be admitted to any share or part of this Settlement Agreement or to any benefit that may arise from this Settlement Agreement. This restriction shall not be construed to extend to this Settlement Agreement if made with a corporation or company for its general benefit.

9.9 State Law Requirements. This Settlement Agreement is subject to the provisions of A.R.S. § 38-511.

9.10 Counterparts. This Settlement Agreement may be executed in duplicate originals, each of which shall constitute an original Settlement Agreement.

9.11 Consultation. Upon request by the Zuni Tribe, the Parties agree to consult with the Zuni Tribe if any data provided to the Zuni Tribe under paragraphs 4.7, 5.10, and 5.11 demonstrates the presence of a Hazardous Substance or oil.

## ARTICLE 10 – ADMINISTRATION

10.1 Jurisdiction. Notwithstanding paragraph 8.2, the Decree Court retains jurisdiction over the Judgment and Decree and the Settlement Agreement. Unless barred by Arizona law, any hearings pertaining to the Decree shall be conducted in Apache County.

10.2 New and Existing Uses. Water uses under the Norviel Decree shall be administered in accordance with that decree, until modified by the Decree Court.

10.3 Zuni Calls. The Zuni Tribe or the United States shall not enforce the priority of non-Norviel Decree water rights that it holds against Norviel Decree water rights.

10.4 Governing Law. This Settlement Agreement shall be construed in accordance with the laws of the State of Arizona and applicable federal law.

10.5 Successors and Assigns. This Settlement Agreement and the attached waivers and agreements shall, unless otherwise indicated, be binding on and inure to the benefit of the Parties, and their respective successors and assigns.

10.6 Enforcement by Non-Parties. The provisions of subparagraph 4.2.D and Articles 5 and 11 of this Settlement Agreement are intended to protect and benefit all landowners and water users in the LCR basin, whether or not they are parties to the Settlement Agreement or to the LCR Adjudication; the benefits to such non-parties are a consideration for this Settlement Agreement; such non-parties are intended third-party beneficiaries of this Settlement Agreement; and such provisions may be enforced or asserted by any landowner or water user in the LCR basin.

10.7 Integration. This Settlement Agreement incorporates all the exhibits and sets forth the entire agreement of the Parties with respect to the subject matter hereof. This Settlement Agreement, exclusive of Exhibits 5.8.A, 5.8.B., and 5.8.C, may be amended only by written agreement executed by the Parties. The agreements in Exhibits 5.8.A, 5.8.B, and 5.8.C may be amended by the written agreement of the parties to those agreements.

## ARTICLE 11 – WAIVERS

11.1 **Parties Waiver.** The waiver and release described in this paragraph shall be in the form set out in Exhibit 11.1. Except as provided in paragraph 11.5, the State Parties (which, for the purpose of this paragraph 11.1 and paragraph 11.5, are defined as the State of Arizona, acting solely in its proprietary capacity, and all other parties to the Settlement Agreement, except the Zuni Indian Tribe and the United States) shall execute a waiver and release for claims against the Zuni Tribe and the United States for:

- A. Any and all past and present claims for injuries to their water rights or water quality (including water rights in groundwater, surface water, and effluent) accruing from time immemorial through the Enforcement Date that the State Parties may have against the Tribe or against the United States, under the laws of the United States, the State of Arizona, or otherwise, caused by diversions of surface water in the Eastern LCR basin or withdrawals of groundwater on Zuni Lands.
- B. Future claims for injuries to water quality accruing after the Enforcement Date on any lands within the Eastern LCR basin caused by the following actions on Zuni Lands:
  - (1) the lawful diversion or use of surface water; or
  - (2) the lawful withdrawal or use of underground water; or
  - (3) the Parties' performance of their obligations under this Settlement Agreement; or
  - (4) discharge of oil associated with routine physical or mechanical maintenance of wells or diversions structures; or
  - (5) discharge of oil associated with routine start-up and operation of well pumps; or
  - (6) any combination thereof.

11.2 **Waiver of Claims by the Zuni Tribe and the United States.** The waiver and release described in this paragraph shall be in the form set out in Exhibit 11.2. Except as provided in paragraph 11.4, the Zuni Tribe and the United States shall execute a waiver and release for claims against the state, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation, under Federal, State, or other law for any and all:

- A. Past, present, and future claims to water rights (including water rights in groundwater, surface water, and effluent) for Zuni Lands from time immemorial through the Enforcement Date and any time thereafter, except for claims within the Zuni Protection Area as provided in Article 5;
- B. Past and present claims for injuries to water rights (including water rights in groundwater, surface water, and effluent and including claims for damages for deprivation of water rights and any claims for changes to underground water table levels) for Zuni Lands from time immemorial through the Enforcement Date;

- C. Past, present, and future claims for water rights and injuries to water rights (including water rights in groundwater, surface water, and effluent and including any claims for damages for deprivation of water rights and any claims for changes to underground water table levels) from time immemorial through the Enforcement Date and any time thereafter, for lands outside of Zuni Lands but located within the LCR basin, based upon aboriginal occupancy of lands by the Zuni Tribe or its predecessors;
- D. Past and present claims for injuries to water quality accruing from time immemorial through the Enforcement Date for lands within the LCR basin; and
- E. Future claims for injuries to water quality accruing after the Enforcement Date on any lands within the Eastern LCR basin caused by
  - (1) the lawful diversion or use of surface water; or
  - (2) the lawful withdrawal or use of underground water, except within the Zuni Protection Area as provided in Article 5; or
  - (3) the Parties' performance of their obligations under this Settlement Agreement; or
  - (4) discharge of oil associated with routine physical or mechanical maintenance of wells or diversions structures; or
  - (5) discharge of oil associated with routine start-up and operation of well pumps; or
  - (6) any combination thereof.

11.3 Waiver of Claims by the Zuni Tribe against the United States. The waiver and release described in this paragraph 11.3 shall be in the form set out in Exhibit 11.3. Except as provided in paragraph 11.4 and 11.6, the Zuni Tribe shall execute a waiver and release for claims against the United States, including any agencies, officials, or employees thereof, for any and all:

- A. Past, present, and future claims to water rights (including water rights in groundwater, surface water, and effluent) for Zuni Lands, from time immemorial through the Enforcement Date and any time thereafter;
- B. Past and present claims for injuries to water rights (including water rights in groundwater, surface water, and effluent and any claims for damages for deprivation of water rights) for Zuni Lands from time immemorial through the Enforcement Date;
- C. Past, present, and future claims for water rights and injuries to water rights (including water rights in groundwater, surface water, and effluent and any claims for damages for deprivation of water rights) from time immemorial through the Enforcement Date and any time thereafter, for lands outside of Zuni Lands but located within the LCR basin, based upon aboriginal occupancy of lands by the Zuni Tribe or its predecessors; and

- D. Past and present claims for failure to protect, acquire, or develop water rights, or failure to protect water quality of the Zuni Tribe within the LCR basin in Arizona from time immemorial through the Enforcement Date.

11.4 Retention of Claims by Zuni Tribe and the United States. Notwithstanding the waivers and releases described in paragraphs 11.2 and 11.3, the Zuni Tribe and the United States shall retain the right to assert the following claims:

- A. Claims for breach or enforcement of the terms of this Settlement Agreement or of rights recognized in this Settlement Agreement or in the Act, including claims for future injuries to such rights; or
- B. Except as provided in subparagraph 11.2.C, claims for water rights, including injuries to those water rights, for lands acquired after the Enforcement Date, subject to the terms of this Settlement Agreement, including but not limited to, subparagraph 4.2.D and paragraph 5.6; or
- C. Claims for groundwater rights and injuries to surface water, groundwater and water quality, as provided in Article 5; or
- D. Claims for future injuries to water quality, as described below:
  - (1) Claims accruing after the Enforcement Date for injuries to water quality that are not waived in subparagraph 11.2 E; or
  - (2) Except as provided in subparagraphs 11.2.E(4) and (5), claims for injuries to water quality accruing after the Enforcement Date against any person or entity that is responsible for initially disposing of or initially releasing a Hazardous Substance or oil, even if the migration of that Hazardous Substance or oil to lands owned by or for the Zuni Tribe is caused by that person's or entity's lawful diversion of surface water or lawful withdrawal of underground water; or
  - (3) Notwithstanding subparagraph 11.2.E, claims accruing at least 30 years after the Enforcement Date under CERCLA for injuries to water quality caused by release of a Hazardous Substance; or
  - (4) Notwithstanding subparagraph 11.2.E., claims accruing at least 30 years after the Enforcement Date under the Oil Pollution Act for injuries to water quality caused by the discharge of oil, except for claims for injuries caused by the discharge of oil associated with routine physical or mechanical maintenance of wells or diversions structures and the discharge of oil associated with routine start up and operation of well pumps; or
  - (5) Notwithstanding subparagraph 11.2.E, claims accruing at least 30 years after the Enforcement Date under Subtitle I of RCRA for

injuries to water quality caused by the discharge of petroleum from underground storage tanks.

11.5 Notwithstanding the waivers and releases described in paragraph 11.1, the State Parties shall retain the right to assert the following claims against the Zuni Tribe and the United States:

- A. Claims for breach or enforcement of the terms of this Settlement Agreement or of rights recognized in this Settlement Agreement or in the Act, including claims for future injuries to such rights; or
- B. Claims for water rights, including injuries to those water rights, subject to the terms of this Settlement Agreement, including but not limited to, subparagraphs 4.2.A and 4.6.A; or
- C. Claims for future injuries to water quality, as described below:
  - (1) Claims accruing after the Enforcement Date for injuries to water quality that are not waived in subparagraph 11.1 B; or
  - (2) Except as provided in subparagraphs 11.1.B(4) and (5), claims for injuries to water quality accruing after the Enforcement Date against the Tribe or the United States if the Tribe or the United States is responsible for initially disposing of or initially releasing a Hazardous Substance or oil, even if the migration of that Hazardous Substance or oil is caused by the Tribe's or the United States' lawful diversion of surface water or lawful withdrawal of underground water.
  - (3) Notwithstanding subparagraph 11.1.B, claims accruing at least 30 years after the Enforcement Date under CERCLA for injuries to water quality caused by release of a Hazardous Substance; or
  - (4) Notwithstanding subparagraph 11.1.B., claims accruing at least 30 years after the Enforcement Date under the Oil Pollution Act for injuries to water quality caused by the discharge of oil, except for claims for injuries caused by the discharge of oil associated with routine physical or mechanical maintenance of wells or diversions structures and the discharge of oil associated with routine start up and operation of well pumps; or
  - (5) Notwithstanding subparagraph 11.1.B, claims accruing at least 30 years after the Enforcement Date under Subtitle I of RCRA for injuries to water quality caused by the discharge of petroleum from underground storage tanks.
- D. Nothing in this waiver and release of claims affects the State Parties' ability to make any claims of water rights or injuries to water rights or water quality (including water rights in groundwater, surface water, and effluent) against

any other Indian tribe, band, or community or against the United States on behalf of any such tribe, band, or community.

11.6 **Other Federal Claims.** Nothing in this Settlement Agreement shall be construed to affect the water right claims or entitlements to water for federal lands of federal agencies, or of any Indian tribe, band or community, other than Zuni Tribe. Furthermore, nothing in this Settlement Agreement waives the ability of any such federal agency, Indian tribe, band or community, or the United States on their behalf, to enforce or otherwise protect those water right claims or entitlements to the extent permitted by law. The Zuni Tribe and the United States retain all claims of water rights or injuries to water rights or water quality (including water rights in groundwater, surface water, and effluent) against any other Indian tribe, band or community or against the United States on behalf of any such tribe, band or community.

11.7 **Environmental Regulation.** Nothing in this Settlement Agreement shall be construed to affect any right of the United States or of the State of Arizona to take any actions, including enforcement actions, under any statutes, regulations, or any other applicable laws relating to water quality or the environment, even where such actions incidentally benefit the Zuni Tribe. For purposes of this paragraph, the United States means any federal department, agency or component thereof, acting in its sovereign capacities, except when acting solely on behalf of the Zuni Tribe.

11.8 **Claim Accrual.** For purposes of this Article 11, a claim or cause of action accrues when any party knows or reasonably should know that it has been damaged, unless another statutory standard applies.

11.9 **Judgment and Decree.** The Parties to this Settlement Agreement shall file a Judgment and Decree in the LCR Adjudication in the form of Exhibit 11.9. The United States and the Zuni Tribe shall be permitted to support any claim of any party to this Settlement Agreement filed in the LCR Adjudication from which the Zuni Tribe's water rights under this Settlement Agreement are derived.

11.10 **Interpretation.** Nothing in the waiver and release shall prevent the Zuni Tribe or the United States from participating with other entities in further activities to augment the water supply available to the LCR basin.

11.11 **Tribal Member Entitlements.** Any entitlement to water (including groundwater, surface water and effluent) of any individual member of the Zuni Tribe for Zuni Lands shall be satisfied out of the water resources provided to the Zuni Tribe in this Settlement Agreement.

**ARTICLE 12 – NOTICE AND SIGNATURES**

**12.1 Notices.** Any notice or other communication given under this Settlement Agreement must be in writing and delivered by overnight courier service or certified mail, return receipt requested, postage prepaid and properly addressed to the Parties at the addresses listed below (or to any other or further addresses the Parties may subsequently designate by notice in this manner). All these notices and communication shall be effective when delivery to the required recipient is completed in accordance with this paragraph:

**To the United States of America:**

**Asst. Secretary for Indian Affairs  
U.S. Department of the Interior  
1849 C St. NW 4104 MIB  
Washington, DC 20240-0001**

**Chief  
U.S. Dept. of Justice  
Indian Resources Section  
P.O. Box 44378  
L'Enfant Plaza Station  
Washington, DC 20026-4378**

**cc:**

**Regional Director  
Bureau of Indian Affairs  
P.O. Box 26567  
Albuquerque, NM 87125-6567**

**To the Zuni Tribe:**

**Office of the Governor  
Zuni Indian Tribe  
P.O. Box 339  
Zuni, NM 87327-0339**

**To the State of Arizona**

**Office of the Governor  
1700 W. Washington  
Phoenix, AZ 85007**

**Office of the Attorney General  
Attn: Water Rts. Adjudication Team  
1275 W. Washington  
Phoenix, AZ 85007**

**Director  
Department of Water Resources  
500 North Third St.  
Phoenix, AZ 85004**

**To Arizona Game and Fish Commission:**

**Director  
Arizona Game and Fish Commission**

	2221 W. Greenway Phoenix, AZ 85023
To Arizona State Land Department:	State Land Commissioner Arizona State Land Department 1616 W. Adams Phoenix, AZ 85007
To the Arizona State Parks Board:	Executive Director Arizona State Parks Board 1300 West Washington Phoenix, Arizona 85007
To St. Johns Irrigation and Ditch Co.:	St. Johns Irrigation and Ditch Co. P.O. Box 38 St. Johns, AZ 85936
To Lyman Water Co.:	Lyman Water Company President P.O. Box 397 St. Johns, AZ 85936
	Lyman Water Company Secretary P.O. Box 521 St. Johns, AZ 85936
cc:	David A. Brown Brown & Brown Law Offices, P.C. 1546 E. White Mountain Blvd. P.O. Box 3128 Pinetop, AZ 85935
To Round Valley Water Users' Association:	Round Valley Water Users' Assn. President P.O. Box 69 Eagar, AZ 85925
cc:	David A. Brown Brown & Brown Law Offices, P.C. 1546 E. White Mountain Blvd. P.O. Box 3128 Pinetop, AZ 85935
To Salt River Project Agricultural Improvement and Power District:	General Manager Salt River Project Agricultural Improvement and Power District

P.O. Box 52025  
Phoenix, AZ 85072-2025

To Tucson Electric Power Company:

Corporate Secretary  
Tucson Electric Power Company:  
P.O. Box 711  
Tucson, AZ 85702

To the City of St. Johns:

City of St. Johns  
P.O. Box 455  
St. Johns, AZ 85936

To the Town of Eagar:

Town of Eagar  
P.O. Box 1300  
Eagar, AZ 85925

cc:

David A. Brown  
Brown & Brown Law Offices, P.C.  
1546 E. White Mountain Blvd.  
P.O. Box 3128  
Pinetop, AZ 85935

To the Town of Springerville:

Town of Springerville  
P.O. Box 390  
Springerville, AZ 85938

cc:

David A. Brown  
Brown & Brown Law Offices, P.C.  
1546 E. White Mountain Blvd.  
P.O. Box 3128  
Pinetop, AZ 85935

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement dated as of the day and year written above.

THE UNITED STATES OF AMERICA

By: *Jane A. Norton*

THE ZUNI INDIAN TRIBE

By: *Abel B. Bonilla*

THE STATE OF ARIZONA

By: *Janice Lee*

THE ARIZONA GAME AND FISH COMMISSION

By: *Steve K. Furr*

THE ARIZONA STATE LAND DEPARTMENT

By: *Michael E. Liable*

THE ARIZONA STATE PARKS BOARD

By: *J. P. ...*

ST. JOHNS IRRIGATION & DITCH COMPANY

By: *A. ...*

LYMAN WATER COMPANY

By: Jim Hauer

ROUND VALLEY WATER USERS'  
ASSOCIATION

By: Richard A. Wall

SALT RIVER PROJECT AGRICULTURAL  
IMPROVEMENT AND POWER DISTRICT

By: William R. Schuler

TUCSON ELECTRIC POWER COMPANY

By: P.A. DeLoe

CITY OF ST. JOHNS

By: Russell Perry

TOWN OF EAGAR

By: Louise L. Lusk

TOWN OF SPRINGVILLE

By: Gay Dym

**ZUNI INDIAN TRIBE WATER RIGHTS SETTLEMENT  
AGREEMENT IN THE LITTLE COLORADO RIVER BASIN  
EXHIBITS**

Exhibit 2.1.....	Legislation
Exhibit 2.10.....	Eastern LCR Basin (Norviel Decree Area)
Exhibit 2.48.....	Zuni Protection Area/Zuni Pumping Lands
Exhibit 4.1A(1) <i>et seq.</i> .....	Zuni Abstracts
Exhibit 4.1.C(1) <i>et seq.</i> .....	LWC and SJIC Abstracts
Exhibit 4.1.D(2).....	Local Landowner Letters
Exhibit 4.6.B.....	Zuni Abstract for unappropriated flows
Exhibit 4.7.....	AGAF Monitoring Plan
Exhibit 5.7.B.....	Pumping Protection Agreement (Form)
Exhibit 5.8.A.....	SRP Agreement
Exhibit 5.8.B.....	TEP Agreement
Exhibit 5.8.C.....	ASLD Agreement
Exhibit 6.1.A.....	Proposed Trust Lands
Exhibit 11.1.....	Waiver by Parties
Exhibit 11.2.....	Waiver by Zuni Tribe and U.S.
Exhibit 11.3.....	Waiver by Zuni Tribe against U.S.
Exhibit 11.9.....	Judgment and Decree

# **APPENDIX B**

**AMENDMENT NO. 1**

**TO THE ZUNI INDIAN TRIBE WATER RIGHTS SETTLEMENT  
AGREEMENT IN THE LITTLE COLORADO RIVER BASIN**

This Amendment is entered into this 8<sup>th</sup> day of July, 2004, by the Zuni Indian Tribe on behalf of itself and its members; the United States of America in its capacity as trustee for the Zuni Indian Tribe and its members; the State of Arizona; the Arizona Game and Fish Commission; the Arizona State Land Department; the Arizona State Parks Board; the St. Johns Irrigation and Ditch Co.; the Lyman Water Co.; the Round Valley Water Users' Association; the Salt River Project Agricultural Improvement and Power District; Tucson Electric Power Co.; the City of St. Johns; the Town of Eagar; and the Town of Springerville. In order to conform the Zuni Indian Tribe Water Rights Settlement Agreement of 2002 to the Zuni Indian Tribe Water Rights Settlement Act of 2003, the Agreement is amended as follows:

**1.0** Page 3, Paragraph 2.6 is amended to read as follows:

2.6 "Deadline" means December 31, 2006, unless and until the Parties jointly agree in writing to another Deadline.

**2.0** Page 4, Paragraph 2.13 is amended to read as follows:

2.13 "Enforcement Date" means the date on which all of the actions described in Article 3 have been completed. The "Enforcement Date" is the same as the Effective Date described in Section 9 of the Act.

**3.0** Page 6, Paragraph 2.40 is amended to read as follows:

2.40 "United States" means the United States of America in its capacity as trustee for the Zuni Tribe or its members or otherwise acting on behalf of the Zuni Tribe or its members unless otherwise indicated in a particular paragraph or subparagraph of the Settlement Agreement. In paragraph 11.2.3, subparagraph 11.4.B(4), and paragraph 11.7 of this Agreement, the "United States" means the United States of America, including all of its departments, agencies, and instrumentalities acting in all capacities, including as trustee for the Zuni Tribe and its members, but not in its capacity as a trustee for Indian tribes other than the Zuni Tribe.

**4.0** Page 18, Paragraph 5.9 is amended to read as follows:

5.9 Except as described in paragraph 5.3 (recognizing the Zuni Tribe's use of 1,500 acre-feet per annum of underground water) this Settlement Agreement does not create any vested right to groundwater under federal or state law, or any priority to the use of groundwater that would be superior to any other right or use of groundwater under state law, whether through this Settlement Agreement, by incorporation of any abstract, agreement or stipulation prepared under this Settlement Agreement or through Congressional legislation approving, confirming or ratifying this Settlement Agreement

or any abstract, agreement or stipulation prepared under this Settlement Agreement. Notwithstanding the preceding sentence, the rights of parties to the agreements referred to in paragraph 5.8, as among themselves, shall be as stated in those agreements. Furthermore, if a priority system to groundwater is established, all Parties retain the right to assert their respective priorities.

**5.0** Page 22, Subparagraph 6.2.A(5) is amended to read as follows:

- (5) The land taken into trust under subparagraphs 6.1.A and 6.1.B shall be subject to existing easements and rights-of-way. Notwithstanding any other provision of law, the Secretary of the Interior, in consultation with the Tribe, shall grant additional rights-of-way or expansions of existing rights-of-way for roads, utilities, and other accommodations to adjoining landowners if:
- (a) The proposed right-of way is necessary to the needs of the applicant;
  - (b) The proposed right-of-way will not cause significant and substantial harm to the Tribe's wetland restoration project or religious practices; and
  - (c) The proposed right-of-way acquisition will comply with the procedures in part 169 of title 25, Code of Federal Regulations, not inconsistent with this subsection and other generally applicable federal laws unrelated to the acquisition of interests across trust lands.

If the criteria described in subparagraphs (a) through (c) are not met, the Secretary of the Interior may propose an alternative right-of-way, or other accommodation that complies with the criteria.

**6.0** Page 22, Subparagraph 6.2.A(6) is amended to read as follows:

- (6) Not later than 3 years after the Enforcement Date, the Zuni Tribe shall adopt a water code, to be approved by the Secretary of the Interior, for regulation of water use on the lands identified in subparagraphs 6.1.A and 6.1.B that is reasonably equivalent to state water law (including statutes relating to dam safety and groundwater management). Until such date as the Zuni Tribe adopts a water code described in the preceding sentence, the Secretary of the Interior, in consultation with the State of Arizona, shall administer water use and water regulation on lands described in subparagraphs 6.1.A and 6.1.B in a manner that is reasonably equivalent to state law (including statutes relating to dam safety and groundwater management).

**7.0** Page 24, Subparagraph 7.1 is amended to read as follows:

**7.1** Establishment of the Fund. In accordance with the Act, an account to be managed by the Secretary of the Interior shall be established in the Treasury of the United States, referred to as the Zuni Indian Tribe Water Rights Development Fund. The Fund shall consist of the amounts to be contributed in paragraphs 7.5 and 7.6. The

Secretary shall deposit into the Fund any other monies paid to the Secretary on behalf of the Zuni Tribe pursuant to the Settlement Agreement.

**8.0** Page 33, Paragraph 11.1 is amended to read as follows:

**11.1 State Parties Waiver.** The waiver and release described in this paragraph shall be in the form set out in Exhibit 11.1. Except as provided in paragraph 11.5, the State Parties (which, for the purpose of this paragraph 11.1 and paragraph 11.5, are defined as the State of Arizona, acting solely in its proprietary capacity, and all other parties to the Agreement, except the Zuni Indian Tribe and the United States) shall execute a waiver and release of claims against the Zuni Tribe and the United States, under Federal, State or other law for:

- A. All past and present claims for injuries to water rights or water quality (including injuries to water rights in groundwater, surface water, and effluent) accruing from time immemorial through the Enforcement Date that the State Parties may have against the Tribe or against the United States, caused by diversions of surface water in the Eastern LCR basin or withdrawals of groundwater on Zuni Lands; and
- B. All future claims for injuries to water quality accruing after the Enforcement Date on any lands within the Eastern LCR basin caused by the following actions on Zuni Lands:
  - (1) The lawful diversion or use of surface water;
  - (2) The lawful withdrawal or use of underground water;
  - (3) The Parties' performance of their obligations under the Settlement Agreement;
  - (4) The discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;
  - (5) The discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or
  - (6) Any combination of the causes described in subparagraphs (1) through (5).

**9.0** Page 33, Paragraph 11.2 is amended to read as follows:

**11.2.1 Waiver of Water Quantity Claims by the Zuni Tribe and the United States.** The waiver and release described in this paragraph shall be in the form set out in Exhibit 11.2.1. Except as provided in paragraph 11.4, the Zuni Tribe on behalf of itself and its members and the Secretary of the Interior on behalf of the United States in its capacity as trustee for the Zuni Tribe and its members shall execute a waiver and release of claims against the state, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation, under Federal, State, or other law for:

- A. All past, present, and future claims to water rights (including water rights in groundwater, surface water, and effluent) for Zuni Lands from time immemorial through the Enforcement Date and any time thereafter, except for claims within the Zuni Protection Area as provided in Article 5;
- B. All past and present claims for injuries to water rights (including injuries to water rights in groundwater, surface water, and effluent and including claims for damages for deprivation of water rights and any claims for changes to underground water table levels) for Zuni Lands, from time immemorial through the Enforcement Date; and
- C. All past, present, and future claims for water rights and injuries to water rights (including water rights in groundwater, surface water, and effluent and including any claims for damages for deprivation of water rights and any claims for changes to underground water table levels) from time immemorial through the Enforcement Date and any time thereafter, for lands outside of Zuni Lands but located within the LCR basin, based upon aboriginal occupancy of lands by the Zuni Tribe or its predecessors.

**10.0** Page 34, Add Paragraph 11.2.2 to read as follows:

11.2.2 Waiver of Water Quality Claims and Interference with Trust Claims by the Tribe. The waiver and release described in this paragraph shall be in the form set out in Exhibit 11.2.2. Except as provided in subparagraph 11.4.A and paragraphs 11.6 and 11.7, the Zuni Tribe shall execute a waiver and release of claims against the state, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation, under Federal, State, or other law for:

- A. All past and present claims, including natural resource damage claims under CERCLA, the Oil Pollution Act, or any other applicable statute, for injury to water quality accruing from time immemorial through the Enforcement Date for lands within the LCR basin;
- B. The right to request that the United States bring any past and present claims for injuries to water quality under the natural resource damage provisions of CERCLA, the Oil Pollution Act, or any other applicable statute, for lands within the LCR basin accruing from time immemorial through the Enforcement Date;
- C. All future claims, including natural resource damage claims under CERCLA, the Oil Pollution Act, or any other applicable statute, for injury or threat of injury to water quality accruing after the Enforcement Date, for any lands within the Eastern LCR basin, caused by:

- (1) The lawful diversion or use of surface water;
- (2) The lawful withdrawal or use of underground water, except within the Zuni Protection Area as provided in Article 5 of this Settlement Agreement;
- (3) The Parties' performance of any obligations under this Settlement Agreement;
- (4) The discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;
- (5) The discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or
- (6) Any combination of the causes described in subparagraphs (1) through (5);

D. The right to request that the United States bring any future claims for injuries or threat of injury to water quality under the natural resource damage provisions of CERCLA, the Oil Pollution Act, or any other applicable statute, accruing after the Enforcement Date, for any lands within the Eastern LCR basin, caused by:

- (1) The lawful diversion or use of surface water;
- (2) The lawful withdrawal or use of underground water, except within the Zuni Protection Area as provided in Article 5 of this Settlement Agreement;
- (3) The Parties' performance of any obligations under this Settlement Agreement;
- (4) The discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;
- (5) The discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or
- (6) Any combination of the causes described in subparagraphs (1) through (5); and

E. All claims of interference with the trust responsibility of the United States to the Zuni Tribe arising out of the negotiation of this Settlement Agreement or the Act.

**11.0** Page 34, Add Paragraph 11.2.3 to read as follows:

**11.2.3 Waiver of Water Quality Claims by the United States.** The waiver and release described in this paragraph shall be in the form set out in Exhibit 11.2.3. The United States shall execute a waiver and release, subject to the retentions in subparagraph 11.4.B and paragraphs 11.6 and 11.7, of all claims against the state, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation, under Federal, State, or other law for:

- A. All past and present common law claims accruing from time immemorial through the Enforcement Date arising from or relating to water quality in which the injury asserted is to the Tribe's interest in water, trust land, and natural resources in the LCR basin;
- B. All past and present natural resource damage claims accruing through the Enforcement Date arising from or relating to water quality in which the claim is based on injury to natural resources or threat to natural resources in the LCR basin, only for those cases in which the United States, through the Secretary of the Interior or other designated federal official, would act on behalf of the Tribe as a natural resource trustee pursuant to the National Contingency Plan, as set forth, as of the date of enactment of the Zuni Indian Tribe Water Rights Settlement Act of 2003, in section 300.600(b)(2) of title 40, Code of Federal Regulations;
- C. All future common law claims arising from or relating to water quality in which the injury or threat of injury asserted is to the Tribe's interest in water, trust land, and natural resources in the Eastern LCR basin accruing after the Enforcement Date caused by:
  - (1) The lawful diversion or use of surface water;
  - (2) The lawful withdrawal or use of underground water, except within the Zuni Protection Area as provided in Article 5 of this Settlement Agreement;
  - (3) The Parties' performance of any obligations under this Settlement Agreement;
  - (4) The discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;
  - (5) The discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or
  - (6) Any combination of the causes described in subparagraphs (1) through (5); and
- D. All future natural resource damage claims accruing after the Enforcement Date arising from or relating to water quality in which the claim is based on injury to natural resources or threat to natural resources in the Eastern LCR basin, only for those cases in which the United States, through the Secretary of the Interior or other designated Federal official, would act on behalf of the Tribe as a natural resource trustee pursuant to the National Contingency Plan, as set forth, as of the date of enactment of the Zuni Indian Tribe Water Rights Settlement Act of 2003, in section 300.600(b)(2) of title 40, Code of Federal Regulations, caused by:

- (1) The lawful diversion or use of surface water;
- (2) The lawful withdrawal or use of underground water, except within the Zuni Protection Area as provided in Article 5 of this Settlement Agreement;
- (3) The Parties' performance of their obligations under this Settlement Agreement;
- (4) The discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;
- (5) The discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or
- (6) Any combination of the causes described in subparagraphs (1) through (5).

**12.0** Paragraph 11.3, Page 34 is amended to read as follows:

**11.3 Waiver of Claims by the Zuni Tribe against the United States.** The waiver and release described in this paragraph 11.3 shall be in the form set out in Exhibit 11.3. Except as provided in subparagraph 11.4.A and paragraph 11.6, the Zuni Tribe shall execute a waiver and release of claims against the United States, including any agencies, officials, or employees thereof, for:

- A. All past, present and future claims to water rights (including water rights in groundwater, surface water, and effluent) for Zuni Lands, from time immemorial through the Enforcement Date and any time thereafter;
- B. All past and present claims for injuries to water rights (including injuries to water rights in groundwater, surface water, and effluent and any claims for damages for deprivation of water rights) for Zuni Lands, from time immemorial through the Enforcement Date;
- C. All past, present, and future claims for water rights and injuries to water rights (including water rights in groundwater, surface water, and effluent and any claims for damages for deprivation of water rights) from time immemorial through the Enforcement Date and any time thereafter, for lands outside of Zuni Lands but located within the LCR basin, based upon aboriginal occupancy of lands by the Zuni Tribe or its predecessors;
- D. All past and present claims for failure to protect, acquire, or develop water rights of, or failure to protect water quality for, the Zuni Tribe within the LCR basin in Arizona from time immemorial through the Enforcement Date; and
- E. All claims for breach of the trust responsibility of the United States to the Zuni Tribe arising out of the negotiation of this Settlement Agreement or the Act.

13.0 Page 35, Paragraph 11.4 is amended to read as follows:

11.4 Retention of Claims by the Zuni Tribe and the United States.

- A. Retention of Claims by the Zuni Tribe. Notwithstanding the waivers and releases described in paragraphs 11.2.1, 11.2.2, and 11.3, the Zuni Tribe shall retain the right to assert the following claims:
- (1) Claims for breach or enforcement of the terms of this Settlement Agreement or of rights recognized in this Settlement Agreement or in the Act, including claims for future injuries to such rights;
  - (2) Except as provided in subparagraph 11.2.1.C, claims for water rights, including injuries to those water rights, for lands acquired by or on behalf of the Zuni Tribe after the Enforcement Date, subject to the terms of this Settlement Agreement, including but not limited to, subparagraph 4.2.D and paragraph 5.6;
  - (3) Claims for groundwater rights and injuries to surface water, groundwater and water quality, as provided in Article 5; and
  - (4) Claims for future injuries to water quality, as described below:
    - (a) Claims accruing after the Enforcement Date for injuries to water quality that are not waived in subparagraphs 11.2.2.C and D;
    - (b) Except as provided in subparagraphs 11.2.2.C(4) and (5), and 11.2.2.D(4) and (5), claims for injuries to water quality accruing after the Enforcement Date against any person or entity that is responsible for initially disposing of or initially releasing a Hazardous Substance or oil, even if the migration of that Hazardous Substance or oil to lands owned by or for the Zuni Tribe is caused by that person's or entity's lawful diversion of surface water or lawful withdrawal of underground water;
    - (c) Notwithstanding subparagraphs 11.2.2.C and D, claims accruing at least 30 years after the Enforcement Date under CERCLA for injuries to water quality caused by release of a Hazardous Substance, and the right to request that the United States bring such claims solely on its behalf; and
    - (d) Notwithstanding subparagraphs 11.2.2.C and D, claims accruing at least 30 years after the Enforcement Date under the Oil Pollution Act for injuries to water quality caused by the discharge of oil, except for claims for injuries caused by the discharge of oil

associated with routine physical or mechanical maintenance of wells or diversion structures and the discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law, and the right to request that the United States bring such claims solely on its behalf.

- B. Retention of Certain Claims by the United States. The United States retains, in addition to those claims preserved in paragraph 11.7, the following claims, notwithstanding the waivers and releases described in paragraphs 11.2.1 and 11.2.3:
- (1) Claims for breach or enforcement of the terms of this Settlement Agreement or of rights recognized in this Settlement Agreement or in the Act, including claims for future injuries to such rights;
  - (2) Except as provided in subparagraph 11.2.1.C, claims for water rights, including injuries to those water rights, for lands acquired by or on behalf of the Zuni Tribe after the Enforcement Date, subject to the terms of this Settlement Agreement, including but not limited to, subparagraph 4.2.D and paragraph 5.6;
  - (3) Claims for groundwater rights and injuries to surface water, groundwater and water quality, as provided in Article 5; and
  - (4) Claims for future injuries to water quality, as described below:
    - (a) Claims accruing after the Enforcement Date for injuries to water quality that are not waived in subparagraphs 11.2.3.C and D; and
    - (b) Claims brought at the request of the Tribe pursuant to subparagraphs 11.4.A(4)(c) and (d).

**14.0** Page 36, Paragraph 11.5 is amended to read as follows:

**11.5** Retention of Claims by the State Parties. Notwithstanding the waivers and releases described in paragraph 11.1, the State Parties shall retain the right to assert the following claims against the Zuni Tribe and the United States:

- A. Claims for breach or enforcement of the terms of this Settlement Agreement or of rights recognized in this Settlement Agreement or in the Act, including claims for future injuries to such rights;
- B. Claims for water rights, including injuries to those water rights, subject to the terms of this Settlement Agreement, including but not limited to subparagraphs 4.2.A and 4.6A; and

C. Claims for future injuries to water quality, as described below:

- (1) Claims accruing after the Enforcement Date for injuries to water quality that are not waived in subparagraph 11.1.B;
- (2) Except as provided in subparagraphs 11.1.B(4) and (5), claims for injuries to water quality accruing after the Enforcement Date against the Tribe or the United States if the Tribe or the United States is responsible for initially disposing of or initially releasing a Hazardous Substance or oil, even if the migration of that Hazardous Substance or oil is caused by the Tribe's or the United States' lawful diversion of surface water or lawful withdrawal of underground water;
- (3) Notwithstanding subparagraph 11.1.B, claims accruing at least 30 years after the Enforcement Date under CERCLA for injuries to water quality caused by release of a Hazardous Substance; and
- (4) Notwithstanding subparagraph 11.1.B, claims accruing at least 30 years after the Enforcement Date under the Oil Pollution Act for injuries to water quality caused by the discharge of oil, except for claims for injuries caused by the discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures and the discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law.

D. Nothing in this waiver and release of claims affects the State Parties' ability to make any claims of water rights or injuries to water rights or water quality (including water rights in groundwater, surface water, and effluent) against any other Indian tribe, band, or community or against the United States on behalf of any such tribe, band or community.

15.0 Page 37, Paragraph 11.6 is amended to read as follows:

11.6 Other Federal Claims. Nothing in this Settlement Agreement quantifies or otherwise affects the water rights, claims, or entitlements to water for federal lands of federal agencies, or of any Indian tribe, band, or community, other than the Zuni Indian Tribe. Furthermore, nothing in this Settlement Agreement waives the ability of any federal agency, Indian tribe, band or community, or the United States on their behalf, to enforce or otherwise protect those water right claims or entitlements to the extent permitted by law. The Zuni Tribe and the United States retain all claims of water rights or injuries to water rights or water quality (including water rights in groundwater, surface water, and effluent) against any other Indian tribe, band or community or against the United States on behalf of any such tribe, band or community.

**16.0** Page 37, Paragraph 11.7 is amended to read as follows:

11.7 Savings Clause. Except as provided in paragraphs 11.2.1 and 11.2.3, nothing in this Settlement Agreement affects any right of the United States, or the State of Arizona, to take any actions, including enforcement actions, under any laws (including regulations) relating to human health, safety and the environment.

**17.0** Page 37, Paragraph 11.11 is amended to read as follows:

11.11 Tribal Member Entitlements. The benefits realized by the Tribe and its members under this Settlement Agreement, including retention of any claims and rights, shall constitute full and complete satisfaction of all members' claims for:

- A. Water rights under federal, state, and other laws (including claims for water rights in groundwater, surface water, and effluent) for Zuni Lands from time immemorial through the Enforcement Date and any time thereafter; and
- B. Injuries to water rights under federal, state and other laws (including claims for water rights in groundwater, surface water, and effluent, claims for damages for deprivation of water rights, and claims for changes to underground water table levels) for Zuni Lands from time immemorial through the Enforcement Date.

**18.0** Exhibit 2.1 is removed and replaced with the Zuni Indian Tribe Water Rights Settlement Act of 2003, Pub. L. No. 108-34, 117 Stat. 782 (2003).

**19.0** Exhibit 11.1 is removed and replaced with Exhibit 11.1 (revised), which is Attachment No. 1 to this document.

**20.0** Exhibit 11.2 is removed and replaced with Exhibit 11.2.1 , which is Attachment No. 2 to this document.

**21.0** Exhibit 11.2.2 is added and is Attachment No. 3 to this document.

**22.0** Exhibit 11.2.3 is added and is Attachment No. 4 to this document.

**23.0** Exhibit 11.3 is removed and replaced with Exhibit 11.3 (revised), which is Attachment No. 5 to this document.

**24.0** The Exhibit List is amended to read as follows:

Exhibit 11.1 (revised).....Waiver by State Parties  
Exhibit 11.2.1.....Water Quantity Waiver by Zuni Tribe and U.S.  
Exhibit 11.2.2.....Water Quality and Interference with Trust Waiver by Zuni Tribe  
Exhibit 11.2.3.....Water Quality Waiver by U.S.  
Exhibit 11.3 (revised).....Waiver by Zuni Tribe against U.S.

DATED THIS 8<sup>th</sup> DAY OF July, 2004.

IN WITNESS WHEREOF, the Parties have executed this Amendment dated as of the day and year written above.

THE UNITED STATES OF AMERICA  
SECRETARY OF THE INTERIOR

By: Gale Norton

THE ZUNI INDIAN TRIBE

By: Carl J. [Signature]

THE STATE OF ARIZONA

By: J. [Signature]

THE ARIZONA GAME AND FISH COMMISSION

By: Diane S. Shaupe

THE ARIZONA STATE PARKS BOARD

By: [Signature]

THE ARIZONA STATE LAND DEPARTMENT

By: [Signature]

ST. JOHNS IRRIGATION & DITCH COMPANY

By: [Signature]

LYMAN WATER COMPANY

By: Jim Hawer

ROUND VALLEY WATER USERS' ASSOCIATION

By: Richard H. Wall

SALT RIVER PROJECT AGRICULTURAL  
IMPROVEMENT AND POWER DISTRICT

By: William P. Schradu

TUCSON ELECTRIC POWER COMPANY

By: [Signature]

CITY OF ST. JOHNS

By: \_\_\_\_\_

TOWN OF EAGAR

By: Louise L. Rusk

TOWN OF SPRINGERVILLE

By: Kay Dyson

ROUND VALLEY WATER USERS' ASSOCIATION

By: Richard H. Wall

SALT RIVER PROJECT AGRICULTURAL  
IMPROVEMENT AND POWER DISTRICT

By: \_\_\_\_\_

TUCSON ELECTRIC POWER COMPANY

By: [Signature]

CITY OF ST. JOHNS

By: [Signature]

TOWN OF EAGAR

By: [Signature]

TOWN OF SPRINGVILLE

By: [Signature]

# APPENDIX C

**PUBLIC LAW 108-34—JUNE 23, 2003**

**ZUNI INDIAN TRIBE WATER RIGHTS  
SETTLEMENT ACT OF 2003**

Public Law 108-34  
108th Congress

An Act

June 23, 2003  
[S. 222]

To approve the settlement of the water rights claims of the Zuni Indian Tribe in Apache County, Arizona, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Zuni Indian  
Tribe Water  
Rights  
Settlement  
Act of 2003.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Zuni Indian Tribe Water Rights Settlement Act of 2003".

**SEC. 2. FINDINGS AND PURPOSES.**

(a) **FINDINGS.**—Congress makes the following findings:

(1) It is the policy of the United States, in keeping with its trust responsibility to Indian tribes, to promote Indian self-determination, religious freedom, political and cultural integrity, and economic self-sufficiency, and to settle, wherever possible, the water rights claims of Indian tribes without lengthy and costly litigation.

(2) Quantification of rights to water and development of facilities needed to use tribal water supplies effectively is essential to the development of viable Indian reservation communities, particularly in arid western States.

(3) On August 28, 1984, and by actions subsequent thereto, the United States established a reservation for the Zuni Indian Tribe in Apache County, Arizona upstream from the confluence of the Little Colorado and Zuni Rivers for long-standing religious and sustenance activities.

(4) The water rights of all water users in the Little Colorado River basin in Arizona have been in litigation since 1979, in the Superior Court of the State of Arizona in and for the County of Apache in Civil No. 6417, In re The General Adjudication of All Rights to Use Water in the Little Colorado River System and Source.

(5) Recognizing that the final resolution of the Zuni Indian Tribe's water claims through litigation will take many years and entail great expense to all parties, continue to limit the Tribe's access to water with economic, social, and cultural consequences to the Tribe, prolong uncertainty as to the availability of water supplies, and seriously impair the long-term economic planning and development of all parties, the Tribe and neighboring non-Indians have sought to settle their disputes to water and reduce the burdens of litigation.

(6) After more than 4 years of negotiations, which included participation by representatives of the United States, the Zuni Indian Tribe, the State of Arizona, and neighboring non-Indian

communities in the Little Colorado River basin, the parties have entered into a Settlement Agreement to resolve all of the Zuni Indian Tribe's water rights claims and to assist the Tribe in acquiring surface water rights, to provide for the Tribe's use of groundwater, and to provide for the wetland restoration of the Tribe's lands in Arizona.

(7) To facilitate the wetland restoration project contemplated under the Settlement Agreement, the Zuni Indian Tribe acquired certain lands along the Little Colorado River near or adjacent to its Reservation that are important for the success of the project and will likely acquire a small amount of similarly situated additional lands. The parties have agreed not to object to the United States taking title to certain of these lands into trust status; other lands shall remain in tribal fee status. The parties have worked extensively to resolve various governmental concerns regarding use of and control over those lands, and to provide a successful model for these types of situations, the State, local, and tribal governments intend to enter into an Intergovernmental Agreement that addresses the parties' governmental concerns.

(8) Pursuant to the Settlement Agreement, the neighboring non-Indian entities will assist in the Tribe's acquisition of surface water rights and development of groundwater, store surface water supplies for the Zuni Indian Tribe, and make substantial additional contributions to carry out the Settlement Agreement's provisions.

(9) To advance the goals of Federal Indian policy and consistent with the trust responsibility of the United States to the Tribe, it is appropriate that the United States participate in the implementation of the Settlement Agreement and contribute funds for the rehabilitation of religious riparian areas and other purposes to enable the Tribe to use its water entitlement in developing its Reservation.

(b) PURPOSES.—The purposes of this Act are—

(1) to approve, ratify, and confirm the Settlement Agreement entered into by the Tribe and neighboring non-Indians;

(2) to authorize and direct the Secretary of the Interior to execute and perform the Settlement Agreement and related waivers;

(3) to authorize and direct the United States to take legal title and hold such title to certain lands in trust for the benefit of the Zuni Indian Tribe; and

(4) to authorize the actions, agreements, and appropriations as provided for in the Settlement Agreement and this Act.

### SEC. 3. DEFINITIONS.

In this Act:

(1) EASTERN LCR BASIN.—The term "Eastern LCR basin" means the portion of the Little Colorado River basin in Arizona upstream of the confluence of Silver Creek and the Little Colorado River, as identified on Exhibit 2.10 of the Settlement Agreement.

(2) FUND.—The term "Fund" means the Zuni Indian Tribe Water Rights Development Fund established by section 6(a).

(3) INTERGOVERNMENTAL AGREEMENT.—The term "Intergovernmental Agreement" means the intergovernmental agreement between the Zuni Indian Tribe, Apache County, Arizona and

the State of Arizona described in article 6 of the Settlement Agreement.

(4) **PUMPING PROTECTION AGREEMENT.**—The term “Pumping Protection Agreement” means an agreement, described in article 5 of the Settlement Agreement, between the Zuni Tribe, the United States on behalf of the Tribe, and a local landowner under which the landowner agrees to limit pumping of groundwater on his lands in exchange for a waiver of certain claims by the Zuni Tribe and the United States on behalf of the Tribe.

(5) **RESERVATION; ZUNI HEAVEN RESERVATION.**—The term “Reservation” or “Zuni Heaven Reservation”, also referred to as “Kolhu:wala:wa”, means the following property in Apache County, Arizona: Sections 26, 27, 28, 33, 34, and 35, Township 15 North, Range 26 East, Gila and Salt River Base and Meridian; and Sections 2, 3, 4, 9, 10, 11, 13, 14, 15, 16, 23, 26, and 27, Township 14 North, Range 26 East, Gila and Salt River Base and Meridian.

(6) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(7) **SETTLEMENT AGREEMENT.**—The term “Settlement Agreement” means that agreement dated June 7, 2002, together with all exhibits thereto. The parties to the Settlement Agreement include the Zuni Indian Tribe and its members, the United States on behalf of the Tribe and its members, the State of Arizona, the Arizona Game and Fish Commission, the Arizona State Land Department, the Arizona State Parks Board, the St. Johns Irrigation and Ditch Co., the Lyman Water Co., the Round Valley Water Users’ Association, the Salt River Project Agricultural Improvement and Power District, the Tucson Electric Power Company, the City of St. Johns, the Town of Eagar, and the Town of Springerville.

(8) **SRP.**—The term “SRP” means the Salt River Project Agricultural Improvement and Power District, a political subdivision of the State of Arizona.

(9) **TEP.**—The term “TEP” means Tucson Electric Power Company.

(10) **TRIBE, ZUNI TRIBE, OR ZUNI INDIAN TRIBE.**—The terms “Tribe”, “Zuni Tribe”, or “Zuni Indian Tribe” means the body politic and federally recognized Indian nation, and its members.

(11) **ZUNI LANDS.**—The term “Zuni Lands” means all the following lands, in the State of Arizona, that, on the effective date described in section 9(a), are—

- (A) within the Zuni Heaven Reservation;
- (B) held in trust by the United States for the benefit of the Tribe or its members; or
- (C) held in fee within the Little Colorado River basin by or for the Tribe.

#### SEC. 4. AUTHORIZATION, RATIFICATIONS, AND CONFIRMATIONS.

(a) **SETTLEMENT AGREEMENT.**—To the extent the Settlement Agreement does not conflict with the provisions of this Act, such Settlement Agreement is hereby approved, ratified, confirmed, and declared to be valid. The Secretary is authorized and directed to execute the Settlement Agreement and any amendments approved by the parties necessary to make the Settlement Agreement consistent with this Act. The Secretary is further authorized

to perform any actions required by the Settlement Agreement and any amendments to the Settlement Agreement that may be mutually agreed upon by the parties to the Settlement Agreement.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Zuni Indian Tribe Water Rights Development Fund established in section 6(a), \$19,250,000, to be allocated by the Secretary as follows:

(1) \$3,500,000 for fiscal year 2004, to be used for the acquisition of water rights and associated lands, and other activities carried out, by the Zuni Tribe to facilitate the enforceability of the Settlement Agreement, including the acquisition of at least 2,350 acre-feet per year of water rights before the deadline described in section 9(b).

(2) \$15,750,000, of which \$5,250,000 shall be made available for each of fiscal years 2004, 2005, and 2006, to take actions necessary to restore, rehabilitate, and maintain the Zuni Heaven Reservation, including the Sacred Lake, wetlands, and riparian areas as provided for in the Settlement Agreement and under this Act.

(c) **OTHER AGREEMENTS.**—Except as provided in section 9, the following 3 separate agreements, together with all amendments thereto, are approved, ratified, confirmed, and declared to be valid:

(1) The agreement between SRP, the Zuni Tribe, and the United States on behalf of the Tribe, dated June 7, 2002.

(2) The agreement between TEP, the Zuni Tribe, and the United States on behalf of the Tribe, dated June 7, 2002.

(3) The agreement between the Arizona State Land Department, the Zuni Tribe, and the United States on behalf of the Tribe, dated June 7, 2002.

#### SEC. 5. TRUST LANDS.

(a) **NEW TRUST LANDS.**—Upon satisfaction of the conditions in paragraph 6.2 of the Settlement Agreement, and after the requirements of section 9(a) have been met, the Secretary shall take the legal title of the following lands into trust for the benefit of the Zuni Tribe:

(1) In T. 14 N., R. 27 E., Gila and Salt River Base and Meridian:

(A) Section 13: SW 1/4, S 1/2 NE 1/4 SE 1/4, W 1/2 SE 1/4, SE 1/4 SE 1/4;

(B) Section 23: N 1/2, N 1/2 SW 1/4, N 1/2 SE 1/4, SE 1/4 SE 1/4, N 1/2 SW 1/4 SE 1/4, SE 1/4 SW 1/4 SE 1/4;

(C) Section 24: NW 1/4, SW 1/4, S 1/2 NE 1/4, N 1/2 SE 1/4; and

(D) Section 25: N 1/2 NE 1/4, SE 1/4 NE 1/4, NE 1/4 SE 1/4.

(2) In T. 14 N., R. 28 E., Gila and Salt River Base and Meridian:

(A) Section 19: W 1/2 E 1/2 NW 1/4, W 1/2 NW 1/4, W 1/2 NE 1/4 SW 1/4, NW 1/4 SW 1/4, S 1/2 SW 1/4;

(B) Section 29: SW 1/4 SW 1/4 NW 1/4, NW 1/4 NW 1/4 SW 1/4, S 1/2 N 1/2 SW 1/4, S 1/2 SW 1/4, S 1/2 NW 1/4 SE 1/4, SW 1/4 SE 1/4;

(C) Section 30: W 1/2, SE 1/4; and

(D) Section 31: N 1/2 NE 1/4, N 1/2 S 1/2 NE 1/4, S 1/2 SE 1/4 NE 1/4, NW 1/4, E 1/2 SW 1/4, N 1/2 NW 1/4 SW 1/4, SE 1/4 NW 1/4 SW 1/4, E 1/2 SW 1/4 SW 1/4, SW 1/4 SW 1/4 SW 1/4.

(b) FUTURE TRUST LANDS.—Upon satisfaction of the conditions in paragraph 6.2 of the Settlement Agreement, after the requirements of section 9(a) have been met, and upon acquisition by the Zuni Tribe, the Secretary shall take the legal title of the following lands into trust for the benefit of the Zuni Tribe:

(1) In T. 14 N., R. 26E., Gila and Salt River Base and Meridian: Section 25: N 1/2 NE 1/4, N 1/2 S 1/2 NE 1/4, NW 1/4, N 1/2 NE 1/4 SW 1/4, NE 1/4 NW 1/4 SW 1/4.

(2) In T. 14 N., R. 27 E., Gila and Salt River Base and Meridian:

(A) Section 14: SE 1/4 SW 1/4, SE 1/4;  
 (B) Section 16: S 1/2 SW 1/4 SE 1/4;  
 (C) Section 19: S 1/2 SE 1/4 SE 1/4;  
 (D) Section 20: S 1/2 SW 1/4 SW 1/4, E 1/2 SE 1/4 SE 1/4;

(E) Section 21: N 1/2 NE 1/4, E 1/2 NE 1/4 NW 1/4, SE 1/4 NW 1/4, W 1/2 SW 1/4 NE 1/4, N 1/2 NE 1/4 SW 1/4, SW 1/4 NE 1/4 SW 1/4, E 1/2 NW 1/4 SW 1/4, SW 1/4 NW 1/4 SW 1/4, W 1/2 SW 1/4 SW 1/4;

(F) Section 22: SW 1/4 NE 1/4 NE 1/4, NW 1/4 NE 1/4, S 1/2 NE 1/4, N 1/2 NW 1/4, SE 1/4 NW 1/4, N 1/2 SW 1/4 NW 1/4, SE 1/4 SW 1/4 NW 1/4, N 1/2 N 1/2 SE 1/4, N 1/2 NE 1/4 SW 1/4;

(G) Section 24: N 1/2 NE 1/4, S 1/2 SE 1/4;

(H) Section 29: N 1/2 N 1/2;

(I) Section 30: N 1/2 N 1/2, N 1/2 S 1/2 NW 1/4, N 1/2 SW 1/4 NE 1/4; and

(J) Section 36: SE 1/4 SE 1/4 NE 1/4, NE 1/4 NE 1/4 SE 1/4.

(3) In T. 14 N., R. 28 E., Gila and Salt River Base and Meridian:

(A) Section 18: S 1/2 NE 1/4, NE 1/4 SW 1/4, NE 1/4 NW 1/4 SW 1/4, S 1/2 NW 1/4 SW 1/4, S 1/2 SW 1/4, N 1/2 SE 1/4, N 1/2 SW 1/4 SE 1/4, SE 1/4 SE 1/4;

(B) Section 30: S 1/2 NE 1/4, W 1/2 NW 1/4 NE 1/4; and

(C) Section 32: N 1/2 NW 1/4 NE 1/4, SW 1/4 NE 1/4, S 1/2 SE 1/4 NE 1/4, NW 1/4, SW 1/4, N 1/2 SE 1/4, SW 1/4 SE 1/4, N 1/2 SE 1/4 SE 1/4, SW 1/4 SE 1/4 SE 1/4.

(c) NEW RESERVATION LANDS.—Upon satisfaction of the conditions in paragraph 6.2 of the Settlement Agreement, after the requirements of section 9(a) have been met, and upon acquisition by the Zuni Tribe, the Secretary shall take the legal title of the following lands in Arizona into trust for the benefit of the Zuni Tribe and make such lands part of the Zuni Indian Tribe Reservation in Arizona: Section 34, T. 14 N., R. 26 E., Gila and Salt River Base and Meridian.

(d) LIMITATION ON SECRETARIAL DISCRETION.—The Secretary shall have no discretion regarding the acquisitions described in subsections (a), (b), and (c).

(e) **LANDS REMAINING IN FEE STATUS.**—The Zuni Tribe may seek to have the legal title to additional lands in Arizona, other than the lands described in subsection (a), (b), or (c), taken into trust by the United States for the benefit of the Zuni Indian Tribe pursuant only to an Act of Congress enacted after the date of enactment of this Act specifically authorizing the transfer for the benefit of the Zuni Tribe.

(f) **FINAL AGENCY ACTION.**—Any written certification by the Secretary under subparagraph 6.2.B of the Settlement Agreement constitutes final agency action under the Administrative Procedure Act and is reviewable as provided for under chapter 7 of title 5, United States Code.

(g) **NO FEDERAL WATER RIGHTS.**—Lands taken into trust pursuant to subsection (a), (b), or (c) shall not have Federal reserved rights to surface water or groundwater.

(h) **STATE WATER RIGHTS.**—The water rights and uses for the lands taken into trust pursuant to subsection (a) or (c) must be determined under subparagraph 4.1.A and article 5 of the Settlement Agreement. With respect to the lands taken into trust pursuant to subsection (b), the Zuni Tribe retains any rights or claims to water associated with these lands under State law, subject to the terms of the Settlement Agreement.

(i) **FORFEITURE AND ABANDONMENT.**—Water rights that are appurtenant to lands taken into trust pursuant to subsection (a), (b), or (c) shall not be subject to forfeiture and abandonment.

(j) **AD VALOREM TAXES.**—With respect to lands that are taken into trust pursuant to subsection (a) or (b), the Zuni Tribe shall make payments in lieu of all current and future State, county, and local ad valorem property taxes that would otherwise be applicable to those lands if they were not in trust.

(k) **AUTHORITY OF TRIBE.**—For purposes of complying with this section and article 6 of the Settlement Agreement, the Tribe is authorized to enter into—

(1) the Intergovernmental Agreement between the Zuni Tribe, Apache County, Arizona, and the State of Arizona; and

(2) any intergovernmental agreement required to be entered into by the Tribe under the terms of the Intergovernmental Agreement.

(l) **FEDERAL ACKNOWLEDGEMENT OF INTERGOVERNMENTAL AGREEMENTS.**—

(1) **IN GENERAL.**—The Secretary shall acknowledge the terms of any intergovernmental agreement entered into by the Tribe under this section.

(2) **NO ABROGATION.**—The Secretary shall not seek to abrogate, in any administrative or judicial action, the terms of any intergovernmental agreement that are consistent with subparagraph 6.2.A of the Settlement Agreement and this Act.

(3) **REMOVAL.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), if a judicial action is commenced during a dispute over any intergovernmental agreement entered into under this section, and the United States is allowed to intervene in such action, the United States shall not remove such action to the Federal courts.

(B) **EXCEPTION.**—The United States may seek removal if—

(i) the action concerns the Secretary's decision regarding the issuance of rights-of-way under section 8(c);

(ii) the action concerns the authority of a Federal agency to administer programs or the issuance of a permit under—

(I) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(II) the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(III) the Clean Air Act (42 U.S.C. 7401 et seq.); or

(IV) any other Federal law specifically addressed in intergovernmental agreements; or

(iii) the intergovernmental agreement is inconsistent with a Federal law for the protection of civil rights, public health, or welfare.

(m) **RULE OF CONSTRUCTION.**—Nothing in this Act shall be construed to affect the application of the Act of May 25, 1918 (25 U.S.C. 211) within the State of Arizona.

(n) **DISCLAIMER.**—Nothing in this section repeals, modifies, amends, changes, or otherwise affects the Secretary's obligations to the Zuni Tribe pursuant to the Act entitled "An Act to convey certain lands to the Zuni Indian Tribe for religious purposes" approved August 28, 1984 (Public Law 98-408; 98 Stat. 1533) (and as amended by the Zuni Land Conservation Act of 1990 (Public Law 101-486; 104 Stat. 1174)).

#### **SEC. 6. DEVELOPMENT FUND.**

##### **(a) ESTABLISHMENT OF THE FUND.—**

(1) **IN GENERAL.**—There is established in the Treasury of the United States a fund to be known as the "Zuni Indian Tribe Water Rights Development Fund", to be managed and invested by the Secretary, consisting of—

(A) the amounts authorized to be appropriated in section 4(b); and

(B) the appropriation to be contributed by the State of Arizona pursuant to paragraph 7.6 of the Settlement Agreement.

(2) **ADDITIONAL DEPOSITS.**—The Secretary shall deposit in the Fund any other monies paid to the Secretary on behalf of the Zuni Tribe pursuant to the Settlement Agreement.

(b) **MANAGEMENT OF THE FUND.**—The Secretary shall manage the Fund, make investments from the Fund, and make monies available from the Fund for distribution to the Zuni Tribe consistent with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.) (referred to in this section as the "Trust Fund Reform Act"), this Act, and the Settlement Agreement.

(c) **INVESTMENT OF THE FUND.**—The Secretary shall invest amounts in the Fund in accordance with—

(1) the Act of April 1, 1880 (21 Stat. 70, ch. 41, 25 U.S.C. 161);

(2) the first section of the Act of June 24, 1938 (52 Stat. 1037, ch. 648, 25 U.S.C. 162a); and

(3) subsection (b).

(d) AVAILABILITY OF AMOUNTS FROM THE FUND.—The funds authorized to be appropriated pursuant to section 3104(b)(2) and funds contributed by the State of Arizona pursuant to paragraph 7.6 of the Settlement Agreement shall be available for expenditure or withdrawal only after the requirements of section 9(a) have been met.

(e) EXPENDITURES AND WITHDRAWAL.—

(1) TRIBAL MANAGEMENT PLAN.—

(A) IN GENERAL.—The Zuni Tribe may withdraw all or part of the Fund on approval by the Secretary of a tribal management plan as described in the Trust Fund Reform Act.

(B) REQUIREMENTS.—In addition to the requirements under the Trust Fund Reform Act, the tribal management plan shall require that the Zuni Tribe spend any funds in accordance with the purposes described in section 4(b).

(2) ENFORCEMENT.—The Secretary may take judicial or administrative action to enforce the provisions of any tribal management plan to ensure that any monies withdrawn from the Fund under the plan are used in accordance with this Act.

(3) LIABILITY.—If the Zuni Tribe exercises the right to withdraw monies from the Fund, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the expenditure or investment of the monies withdrawn.

(4) EXPENDITURE PLAN.—

(A) IN GENERAL.—The Zuni Tribe shall submit to the Secretary for approval an expenditure plan for any portion of the funds made available under this Act that the Zuni Tribe does not withdraw under this subsection.

(B) DESCRIPTION.—The expenditure plan shall describe the manner in which, and the purposes for which, funds of the Zuni Tribe remaining in the Fund will be used.

(C) APPROVAL.—On receipt of an expenditure plan under subparagraph (A), the Secretary shall approve the plan if the Secretary determines that the plan is reasonable and consistent with this Act.

(5) ANNUAL REPORT.—The Zuni Tribe shall submit to the Secretary an annual report that describes all expenditures from the Fund during the year covered by the report.

(f) FUNDS FOR ACQUISITION OF WATER RIGHTS.—

(1) WATER RIGHTS ACQUISITIONS.—Notwithstanding subsection (e), the funds authorized to be appropriated pursuant to section 4(b)(1)—

(A) shall be available upon appropriation for use in accordance with section 4(b)(1); and

(B) shall be distributed by the Secretary to the Zuni Tribe on receipt by the Secretary from the Zuni Tribe of a written notice and a tribal council resolution that describe the purposes for which the funds will be used.

(2) RIGHT TO SET OFF.—In the event the requirements of section 9(a) have not been met and the Settlement Agreement has become null and void under section 9(b), the United States shall be entitled to set off any funds expended or withdrawn from the amount appropriated pursuant to section 4(b)(1), together with any interest accrued, against any claims asserted

by the Zuni Tribe against the United States relating to water rights at the Zuni Heaven Reservation.

(3) **WATER RIGHTS.**—Any water rights acquired with funds described in paragraph (1) shall be credited against any water rights secured by the Zuni Tribe, or the United States on behalf of the Zuni Tribe, for the Zuni Heaven Reservation in the Little Colorado River General Stream Adjudication or in any future settlement of claims for those water rights.

(g) **NO PER CAPITA DISTRIBUTIONS.**—No part of the Fund shall be distributed on a per capita basis to members of the Zuni Tribe.

**SEC. 7. CLAIMS EXTINGUISHMENT; WAIVERS AND RELEASES.**

(a) **FULL SATISFACTION OF MEMBERS' CLAIMS.**—

(1) **IN GENERAL.**—The benefits realized by the Tribe and its members under this Act, including retention of any claims and rights, shall constitute full and complete satisfaction of all members' claims for—

(A) water rights under Federal, State, and other laws (including claims for water rights in groundwater, surface water, and effluent) for Zuni Lands from time immemorial through the effective date described in section 9(a) and any time thereafter; and

(B) injuries to water rights under Federal, State, and other laws (including claims for water rights in groundwater, surface water, and effluent, claims for damages for deprivation of water rights, and claims for changes to underground water table levels) for Zuni Lands from time immemorial through the effective date described in section 9(a).

(2) **NO RECOGNITION OR ESTABLISHMENT OF INDIVIDUAL WATER RIGHT.**—Nothing in this Act recognizes or establishes any right of a member of the Tribe to water on the Reservation.

(b) **TRIBE AND UNITED STATES AUTHORIZATION AND WATER QUANTITY WAIVERS.**—The Tribe, on behalf of itself and its members and the Secretary on behalf of the United States in its capacity as trustee for the Zuni Tribe and its members, are authorized, as part of the performance of their obligations under the Settlement Agreement, to execute a waiver and release, subject to paragraph 11.4 of the Settlement Agreement, for claims against the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation, under Federal, State, or other law for any and all—

(1) past, present, and future claims to water rights (including water rights in groundwater, surface water, and effluent) for Zuni Lands from time immemorial through the effective date described in section 9(a) and any time thereafter, except for claims within the Zuni Protection Area as provided in article 5 of the Settlement Agreement;

(2) past and present claims for injuries to water rights (including water rights in groundwater, surface water, and effluent and including claims for damages for deprivation of water rights and any claims for changes to underground water table levels) for Zuni Lands from time immemorial through the effective date described in section 9(a); and

(3) past, present, and future claims for water rights and injuries to water rights (including water rights in groundwater,

surface water, and effluent and including any claims for damages for deprivation of water rights and any claims for changes to underground water table levels) from time immemorial through the effective date described in section 9(a), and any time thereafter, for lands outside of Zuni Lands but located within the Little Colorado River basin in Arizona, based upon aboriginal occupancy of lands by the Zuni Tribe or its predecessors.

(c) **TRIBAL WAIVERS AGAINST THE UNITED STATES.**—The Tribe is authorized, as part of the performance of its obligations under the Settlement Agreement, to execute a waiver and release, subject to paragraphs 11.4 and 11.6 of the Settlement Agreement, for claims against the United States (acting in its capacity as trustee for the Zuni Tribe or its members, or otherwise acting on behalf of the Zuni Tribe or its members), including any agencies, officials, or employees thereof, for any and all—

(1) past, present, and future claims to water rights (including water rights in groundwater, surface water, and effluent) for Zuni Lands, from time immemorial through the effective date described in section 9(a) and any time thereafter;

(2) past and present claims for injuries to water rights (including water rights in groundwater, surface water, and effluent and any claims for damages for deprivation of water rights) for Zuni Lands from time immemorial through the effective date described in section 9(a);

(3) past, present, and future claims for water rights and injuries to water rights (including water rights in groundwater, surface water, and effluent and any claims for damages for deprivation of water rights) from time immemorial through the effective date described in section 9(a), and any time thereafter, for lands outside of Zuni Lands but located within the Little Colorado River basin in Arizona, based upon aboriginal occupancy of lands by the Zuni Tribe or its predecessors;

(4) past and present claims for failure to protect, acquire, or develop water rights of, or failure to protect water quality for, the Zuni Tribe within the Little Colorado River basin in Arizona from time immemorial through the effective date described in section 9(a); and

(5) claims for breach of the trust responsibility of the United States to the Zuni Tribe arising out of the negotiation of the Settlement Agreement or this Act.

(d) **TRIBAL WAIVER OF WATER QUALITY CLAIMS AND INTERFERENCE WITH TRUST CLAIMS.**—

(1) **CLAIMS AGAINST THE STATE AND OTHERS.**—

(A) **INTERFERENCE WITH TRUST RESPONSIBILITY.**—The Tribe, on behalf of itself and its members, is authorized, as part of the performance of its obligations under the Settlement Agreement, to waive and release all claims against the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation under Federal, State, or other law, for claims of interference with the trust responsibility of the United States to the Zuni Tribe arising out of the negotiation of the Settlement Agreement or this Act.

(B) **INJURY OR THREAT OF INJURY TO WATER QUALITY.**—The Tribe, on behalf of itself and its members, is authorized, as part of the performance of its obligations under

the Settlement Agreement, to waive and release, subject to paragraphs 11.4, 11.6, and 11.7 of the Settlement Agreement, all claims against the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation under Federal, State, or other law, for—

(i) any and all past and present claims, including natural resource damage claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), or any other applicable statute, for injury to water quality accruing from time immemorial through the effective date described in section 9(a), for lands within the Little Colorado River basin in the State of Arizona; and

(ii) any and all future claims, including natural resource damage claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), or any other applicable statute, for injury or threat of injury to water quality, accruing after the effective date described in section 9(a), for any lands within the Eastern LCR basin caused by—

(I) the lawful diversion or use of surface water;

(II) the lawful withdrawal or use of underground water, except within the Zuni Protection Area, as provided in article 5 of the Settlement Agreement;

(III) the Parties' performance of any obligations under the Settlement Agreement;

(IV) the discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;

(V) the discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or

(VI) any combination of the causes described in subclauses (I) through (V).

(2) CLAIMS OF THE UNITED STATES.—The Tribe, on behalf of itself and its members, is authorized to waive its right to request that the United States bring—

(A) any claims for injuries to water quality under the natural resource damage provisions of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) or any other applicable statute, for lands within the Little Colorado River Basin in the State of Arizona, accruing from time immemorial through the effective date described in section 9(a); and

(B) any future claims for injuries or threat of injury to water quality under the natural resource damage provisions of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Oil Pollution Act of 1990 (33 U.S.C. 2701 et

seq.), or any other applicable statute, accruing after the effective date described in section 9(a), for any lands within the Eastern LCR basin, caused by—

- (i) the lawful diversion or use of surface water;
- (ii) the lawful withdrawal or use of underground water, except within the Zuni Protection Area, as provided in article 5 of the Settlement Agreement;
- (iii) the Parties' performance of any obligations under the Settlement Agreement;
- (iv) the discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;
- (v) the discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or
- (vi) any combination of the causes described in clauses (i) through (v).

(3) LIMITATIONS.—Notwithstanding the authorization for the Tribe's waiver of future water quality claims in paragraph (1)(B)(ii) and the waiver in paragraph (2)(B), the Tribe, on behalf of itself and its members, retains any statutory claims for injury or threat of injury to water quality under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), as described in subparagraph 11.4(D) (3) and (4) of the Settlement Agreement, that accrue at least 30 years after the effective date described in section 9(a).

(e) WAIVER OF UNITED STATES WATER QUALITY CLAIMS RELATED TO SETTLEMENT LAND AND WATER.—

(1) PAST AND PRESENT CLAIMS.—As part of the performance of its obligations under the Settlement Agreement, the United States waives and releases, subject to the retentions in paragraphs 11.4, 11.6 and 11.7 of the Settlement Agreement, all claims against the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation for—

(A) all past and present common law claims accruing from time immemorial through the effective date described in section 9(a) arising from or relating to water quality in which the injury asserted is to the Tribe's interest in water, trust land, and natural resources in the Little Colorado River basin in the State of Arizona; and

(B) all past and present natural resource damage claims accruing through the effective date described in section 9(a) arising from or relating to water quality in which the claim is based on injury to natural resources or threat to natural resources in the Little Colorado River basin in Arizona, only for those cases in which the United States, through the Secretary or other designated Federal official, would act on behalf of the Tribe as a natural resource trustee pursuant to the National Contingency Plan, as set forth, as of the date of enactment of this Act, in section 300.600(b)(2) of title 40, Code of Federal Regulations.

(2) FUTURE CLAIMS.—As part of the performance of its obligations under the Settlement Agreement, the United States

waives and releases, subject to the retentions in paragraphs 11.4, 11.6 and 11.7 of the Settlement Agreement, the State of Arizona, or any agency or political subdivision thereof, or any other person, entity, corporation, or municipal corporation for—

(A) all future common law claims arising from or relating to water quality in which the injury or threat of injury asserted is to the Tribe's interest in water, trust land, and natural resources in the Eastern LCR basin in Arizona accruing after the effective date described in section 9(a) caused by—

(i) the lawful diversion or use of surface water;  
(ii) the lawful withdrawal or use of underground water, except within the Zuni Protection Area, as provided in article 5 of the Settlement Agreement;

(iii) the Parties' performance of any obligations under the Settlement Agreement;

(iv) the discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;

(v) the discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or

(vi) any combination of the causes described in clauses (i) through (v); and

(B) all future natural resource damage claims accruing after the effective date described in section 9(a) arising from or relating to water quality in which the claim is based on injury to natural resources or threat to natural resources in the Eastern LCR basin in Arizona, only for those cases in which the United States, through the Secretary or other designated Federal official, would act on behalf of the Tribe as a natural resource trustee pursuant to the National Contingency Plan, as set forth, as of the date of enactment of this Act, in section 300.600(b)(2) of title 40, Code of Federal Regulations, caused by—

(i) the lawful diversion or use of surface water;

(ii) the lawful withdrawal or use of underground water, except within the Zuni Protection Area as provided in article 5 of the Settlement Agreement;

(iii) the Parties' performance of their obligations under this Settlement Agreement;

(iv) the discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;

(v) the discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or

(vi) any combination of the causes described in clauses (i) through (v).

(f) EFFECT.—Subject to subsections (b) and (e), nothing in this Act or the Settlement Agreement affects any right of the United States, or the State of Arizona, to take any actions, including enforcement actions, under any laws (including regulations) relating to human health, safety and the environment.

## SEC. 8. MISCELLANEOUS PROVISIONS.

(a) **WAIVER OF SOVEREIGN IMMUNITY.**—If any party to the Settlement Agreement or a Pumping Protection Agreement files a lawsuit only relating directly to the interpretation or enforcement of this Act, the Settlement Agreement, an agreement described in paragraph (1), (2), or (3) of section 4(c), or a Pumping Protection Agreement, naming the United States or the Tribe as a party, or if any other landowner or water user in the Little Colorado River basin in Arizona files a lawsuit only relating directly to the interpretation or enforcement of article 11, the rights of de minimis users in subparagraph 4.2.D or the rights of underground water users under article 5 of the Settlement Agreement, naming the United States or the Tribe as a party—

(1) the United States, the Tribe, or both may be added as a party to any such litigation, and any claim by the United States or the Tribe to sovereign immunity from such suit is hereby waived, other than with respect to claims for monetary awards except as specifically provided for in the Settlement Agreement; and

(2) the Tribe may waive its sovereign immunity from suit in the Superior Court of Apache County, Arizona for the limited purposes of enforcing the terms of the Intergovernmental Agreement, and any intergovernmental agreement required to be entered into by the Tribe under the terms of the Intergovernmental Agreement, other than with respect to claims for monetary awards except as specifically provided in the Intergovernmental Agreement.

(b) **TRIBAL USE OF WATER.**—

(1) **IN GENERAL.**—With respect to water rights made available under the Settlement Agreement and used on the Zuni Heaven Reservation—

(A) such water rights shall be held in trust by the United States in perpetuity, and shall not be subject to forfeiture or abandonment;

(B) State law shall not apply to water uses on the Reservation;

(C) the State of Arizona may not regulate or tax such water rights or uses (except that the court with jurisdiction over the decree entered pursuant to the Settlement Agreement or the Norviel Decree Court may assess administrative fees for delivery of this water);

(D) subject to paragraph 7.7 of the Settlement Agreement, the Zuni Tribe shall use water made available to the Zuni Tribe under the Settlement Agreement on the Zuni Heaven Reservation for any use it deems advisable;

(E) water use by the Zuni Tribe or the United States on behalf of the Zuni Tribe for wildlife or instream flow use, or for irrigation to establish or maintain wetland on the Reservation, shall be considered to be consistent with the purposes of the Reservation; and

(F)(i) not later than 3 years after the deadline described in section 9(b), the Zuni Tribe shall adopt a water code to be approved by the Secretary for regulation of water use on the lands identified in subsections (a) and (b) of section 5 that is reasonably equivalent to State water law (including statutes relating to dam safety and groundwater management); and

Deadline.

(ii) until such date as the Zuni Tribe adopts a water code described in clause (i), the Secretary, in consultation with the State of Arizona, shall administer water use and water regulation on lands described in that clause in a manner that is reasonably equivalent to State law (including statutes relating to dam safety and groundwater management).

(2) LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Zuni Tribe or the United States shall not sell, lease, transfer, or transport water made available for use on the Zuni Heaven Reservation to any other place.

(B) EXCEPTION.—Water made available to the Zuni Tribe or the United States for use on the Zuni Heaven Reservation may be severed and transferred from the Reservation to other Zuni Lands if the severance and transfer is accomplished in accordance with State law (and once transferred to any lands held in fee, such water shall be subject to State law).

(c) RIGHTS-OF-WAY.—

(1) NEW AND FUTURE TRUST LAND.—The land taken into trust under subsections (a) and (b) of section 5 shall be subject to existing easements and rights-of-way.

(2) ADDITIONAL RIGHTS-OF-WAY.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary, in consultation with the Tribe, shall grant additional rights-of-way or expansions of existing rights-of-way for roads, utilities, and other accommodations to adjoining landowners if—

(i) the proposed right-of-way is necessary to the needs of the applicant;

(ii) the proposed right-of-way will not cause significant and substantial harm to the Tribe's wetland restoration project or religious practices; and

(iii) the proposed right-of-way acquisition will comply with the procedures in part 169 of title 25, Code of Federal Regulations, not inconsistent with this subsection and other generally applicable Federal laws unrelated to the acquisition of interests across trust lands.

(B) ALTERNATIVES.—If the criteria described in clauses (i) through (iii) of subparagraph (A) are not met, the Secretary may propose an alternative right-of-way, or other accommodation that complies with the criteria.

(d) CERTAIN CLAIMS PROHIBITED.—The United States shall make no claims for reimbursement of costs arising out of the implementation of this Act or the Settlement Agreement against any Indian-owned land within the Tribe's Reservation, and no assessment shall be made in regard to such costs against such lands.

(e) VESTED RIGHTS.—Except as described in paragraph 5.3 of the Settlement Agreement (recognizing the Zuni Tribe's use of 1,500 acre-feet per annum of groundwater) this Act and the Settlement Agreement do not create any vested right to groundwater under Federal or State law, or any priority to the use of groundwater that would be superior to any other right or use of groundwater under Federal or State law, whether through this Act, the

Settlement Agreement, or by incorporation of any abstract, agreement, or stipulation prepared under the Settlement Agreement. Notwithstanding the preceding sentence, the rights of parties to the agreements referred to in paragraph (1), (2), or (3) of section 4(c) and paragraph 5.8 of the Settlement Agreement, as among themselves, shall be as stated in those agreements.

(f) OTHER CLAIMS.—Nothing in the Settlement Agreement or this Act quantifies or otherwise affects the water rights, claims, or entitlements to water of any Indian tribe, band, or community, other than the Zuni Indian Tribe.

(g) NO MAJOR FEDERAL ACTION.—

(1) IN GENERAL.—Execution of the Settlement Agreement by the Secretary as provided for in section 4(a) shall not constitute major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

(2) SETTLEMENT AGREEMENT.—In implementing the Settlement Agreement, the Secretary shall comply with all aspects of—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(C) all other applicable environmental laws (including regulations).

#### SEC. 9. EFFECTIVE DATE FOR WAIVER AND RELEASE AUTHORIZATIONS.

(a) IN GENERAL.—The waiver and release authorizations contained in subsections (b) and (c) of section 7 shall become effective as of the date the Secretary causes to be published in the Federal Register a statement of all the following findings:

(1) This Act has been enacted in a form approved by the parties in paragraph 3.1.A of the Settlement Agreement.

(2) The funds authorized by section 4(b) have been appropriated and deposited into the Fund.

(3) The State of Arizona has appropriated and deposited into the Fund the amount required by paragraph 7.6 of the Settlement Agreement.

(4) The Zuni Indian Tribe has either purchased or acquired the right to purchase at least 2,350 acre-feet per annum of surface water rights, or waived this condition as provided in paragraph 3.2 of the Settlement Agreement.

(5) Pursuant to subparagraph 3.1.D of the Settlement Agreement, the severance and transfer of surface water rights that the Tribe owns or has the right to purchase have been conditionally approved, or the Tribe has waived this condition as provided in paragraph 3.2 of the Settlement Agreement.

(6) Pursuant to subparagraph 3.1.E of the Settlement Agreement, the Tribe and Lyman Water Company have executed an agreement relating to the process of the severance and transfer of surface water rights acquired by the Zuni Tribe or the United States, the pass-through, use, or storage of the Tribe's surface water rights in Lyman Lake, and the operation of Lyman Dam.

(7) Pursuant to subparagraph 3.1.F of the Settlement Agreement, all the parties to the Settlement Agreement have

Federal Register,  
publication.

agreed and stipulated to certain Arizona Game and Fish abstracts of water uses.

(8) Pursuant to subparagraph 3.1.G of the Settlement Agreement, all parties to the Settlement Agreement have agreed to the location of an observation well and that well has been installed.

(9) Pursuant to subparagraph 3.1.H of the Settlement Agreement, the Zuni Tribe, Apache County, Arizona and the State of Arizona have executed an Intergovernmental Agreement that satisfies all of the conditions in paragraph 6.2 of the Settlement Agreement.

(10) The Zuni Tribe has acquired title to the section of land adjacent to the Zuni Heaven Reservation described as Section 34, Township 14 North, Range 26 East, Gila and Salt River Base and Meridian.

(11) The Settlement Agreement has been modified if and to the extent it is in conflict with this Act and such modification has been agreed to by all the parties to the Settlement Agreement.

(12) A court of competent jurisdiction has approved the Settlement Agreement by a final judgment and decree.

(b) **DEADLINE FOR EFFECTIVE DATE.**—If the publication in the Federal Register required under subsection (a) has not occurred by December 31, 2006, sections 4 and 5, and any agreements entered into pursuant to sections 4 and 5 (including the Settlement Agreement and the Intergovernmental Agreement) shall not thereafter be effective and shall be null and void. Any funds and the interest accrued thereon appropriated pursuant to section 4(b)(2) shall revert to the Treasury, and any funds and the interest accrued thereon appropriated pursuant to paragraph 7.6 of the Settlement Agreement shall revert to the State of Arizona.

Approved June 23, 2003.

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**LEGISLATIVE HISTORY—S. 222:**

SENATE REPORTS: No. 108-18 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 149 (2003):

Mar. 13, considered and passed Senate.

June 3, considered and rejected in House.

June 5, considered and passed House.

○

# **APPENDIX D**

1                                   **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

2                                   **IN AND FOR THE COUNTY OF APACHE**

MAR 6 2006

3  
4   IN RE: THE GENERAL ADJUDICATION  
5   OF ALL RIGHTS TO USE WATER IN  
6   THE LITTLE COLORADO RIVER  
7   SYSTEM AND SOURCE

No. 6417

Contested Case No.

**ORDER FOR SPECIAL  
PROCEEDINGS TO APPROVE AN  
INDIAN WATER RIGHTS  
SETTLEMENT AND STIPULATION**

9  
10                   Contested Case Name: In re Proposed Zuni Indian Tribe Water Rights Settlement.

11                   Descriptive Summary: Order of Judge Eddward P. Ballinger, Jr., approving application  
12                   filed March 1, 2006 to commence special proceedings to consider the proposed  
13                   settlement of the claimed water rights of the Zuni Indian Tribe and the United States for  
14                   the benefit of the Tribe.

15                   Date of Filing: March 2, 2006.

16                   Number of Pages: 7; Exhibit A – 5; Exhibit B – 11; Exhibit C – 4:

17  
18                   This matter came before the Court on March 1, 2006, upon the application of the Zuni  
19                   Indian Tribe (“Tribe”), the United States of America in its capacity as trustee for the Tribe, the  
20                   Arizona Game and Fish Commission, the Arizona State Land Department, the Arizona State  
21                   Parks Board, St. Johns Irrigation & Ditch Company, the Lyman Water Company, Round  
22                   Valley Water Users’ Association, Salt River Project Agricultural Improvement and Power  
23                   District, Tucson Electric Power Company, the City of St. Johns, the Town of Eagar, and the  
24                   Town of Springerville (“Applicants”) for an order for special proceedings to approve a  
25                   Settlement Agreement dated June 7, 2002, as amended, and a Stipulation dated March 1,  
26                   2006, pursuant to the Administrative Order issued by the Arizona Supreme Court on  
27                   September 27, 2000 relating to special procedures for the approval of settlements of Indian

1 water rights or water rights for other federal reservation(s) or federal lands (“Special  
2 Administrative Order”).

3 The Applicants seek special proceedings to obtain a final Judgment and Decree  
4 approving the Zuni Indian Tribe Water Rights Settlement Agreement of 2002, as amended  
5 (“Settlement Agreement”) and a Stipulation dated March 1, 2006. The Applicants are parties  
6 to the Settlement Agreement and the Stipulation. The Settlement Agreement and the  
7 Stipulation resolve the rights of the Tribe and the United States to underground water and  
8 surface water from the Little Colorado River and its tributaries in Arizona, as these terms are  
9 defined by the Settlement Agreement.

10 The Court, having considered the Application for Special Proceedings *ex parte*, as is  
11 authorized by paragraph B(1) of the Special Administrative Order, finds the following:

12 1. The Applicants, who are parties to this adjudication, have reached a proposed  
13 settlement of all claims of the Tribe and the United States for the benefit of the Tribe for water  
14 rights in the Little Colorado River basin in Arizona. The terms of the Settlement Agreement  
15 were approved, ratified and confirmed by the United States Congress in the Zuni Indian Tribe  
16 Water Rights Settlement Act, Public Law 108-34, 117 Stat. 788 (2003) (“Settlement Act”).

17 2. The Application for Special Proceedings satisfies the requirements of paragraph  
18 B(1) of the Special Administrative Order issued by the Arizona Supreme Court as it contains:  
19 (1) the Stipulation of the Applicants, which sets forth the terms of the Settlement Agreement  
20 and incorporates and attaches as exhibits thereto copies of the Settlement Agreement and an  
21 agreement between the Tribe, the United States and Lyman Water Company, as well as a  
22 proposed Judgment and Decree adjudicating the water rights of the Tribe and the United  
23 States for the benefit of the Tribe, as established in the Settlement Agreement; (2) a request  
24 that the Court enter an order approving the Stipulation and the proposed final Judgment and  
25 Decree; (3) a description of the special circumstances that prevent the consideration of the  
26 proposed settlement in the normal course of the Little Colorado River Adjudication; (4) a  
27 proposed order to commence the special proceedings, attaching a description of the terms of

1 the Settlement Agreement, a copy of the Special Administrative Order and a proposed Notice  
2 of Settlement; and (5) information indicating the location of copies of the settlement  
3 agreement and supporting documents available for review.

4 3. The Settling Parties have satisfied paragraph A of the Special Administrative  
5 Order which specifies the conditions warranting special procedures to consider the proposed  
6 settlement:

7 a. The water rights claims of the United States for the benefit of the Tribe,  
8 which are described in statement of claimant numbers 39-91736 through 39-91752, are within  
9 the jurisdiction of the Court under the principles of Arizona v. San Carlos Apache Tribe of  
10 Arizona, 463 U.S. 545 (1983) and United States v. Superior Court, 144 Ariz. 265, 697 P.2d  
11 658 (1985).

12 b. All parties to the Settlement Agreement, other than the United States, the  
13 Tribe, and the State of Arizona are claimants in this adjudication proceeding whose claims are  
14 adverse to statement of claimant numbers 39-91736 through 39-91752 by the United States for  
15 the benefit of the Tribe.

16 c. The Settlement Agreement establishes the water rights of the Tribe and  
17 the United States for the benefit of the Tribe in the Little Colorado River Basin in Arizona. A  
18 description of the water rights of the Tribe and the United States for the benefit of the Tribe,  
19 as established in the Settlement Agreement, is set forth in Exhibit A to this Order, which is  
20 incorporated herein by reference.

21 d. The terms of the Settlement Agreement were approved, ratified and  
22 confirmed by the United States Congress in the Zuni Indian Tribe Water Rights Settlement  
23 Act, Public Law 108-34, 117 Stat. 788 (2003), but Congress' confirmation is conditioned  
24 upon approval of the proposed settlement by the Court.

25 e. Special circumstances exist that prevent the consideration of the  
26 Settlement Agreement and the Stipulation in the normal course of the adjudication. Those  
27 special circumstances are that the enforceability of the Settlement Agreement, approved by

1 Congress in the Settlement Act, is conditioned upon the entry of an order by the Court, no  
2 later than December 31, 2006, approving the Settlement Agreement. Section 9 (a) (12) of the  
3 Settlement Act and Paragraph 3.1.K of the Settlement Agreement provide that the Settlement  
4 Agreement will not be effective unless it is approved in this proceeding on or before  
5 December 31, 2006. Under the normal course of the Little Colorado River Adjudication, the  
6 claims for water rights of the Tribe and the United States for the benefit of the Tribe would  
7 not be considered by the Court before December 31, 2006.

8         4.       The proposed settlement of all of the claims for water rights of the Tribe and the  
9 United States for the benefit of the Tribe is a lengthy and complex agreement involving many  
10 parties, many separate documents and attachments, exchanges of water, and both monetary  
11 and non-monetary consideration. The Hydrographic Survey Report concerning present and  
12 potential water uses of the Zuni Indian Tribe, which would be prepared by the Arizona  
13 Department of Water Resources (“ADWR”) in the normal course of the adjudication to assist  
14 the Court and parties, has not been scheduled to be commenced. Without the expert assistance  
15 of ADWR, it will be difficult for the Court and other parties to the Little Colorado River  
16 adjudication to understand and evaluate the proposed settlement. As a consequence, it is  
17 appropriate for the Court to order ADWR to prepare a factual analysis and/or technical  
18 assessment of the proposed settlement as is authorized by paragraph B(3)(f) of the Supreme  
19 Court’s Special Administrative Order.

20                       NOW, THEREFORE, IT IS ORDERED as follows:

21         1.       The Application for Special Proceedings to consider the proposed settlement of  
22 all of the claims for water rights of the Tribe and the United States for the benefit of the Tribe  
23 is granted. The conditions warranting special procedures have been satisfied. The Applicants  
24 shall serve by mail copies of their Application for Special Proceedings and this Order upon all  
25 persons listed in the Court-approved mailing list for the Little Colorado River Adjudication.  
26  
27

1           2.     Special proceedings with respect to the Settlement Agreement shall be  
2 conducted in accordance with the Special Administrative Order, a copy of which is attached  
3 hereto as Exhibit B.

4           3.     The Court will consider the proposed settlement under the criteria enumerated  
5 by the Arizona Supreme Court in paragraph D (6) of its Special Administrative Order. If this  
6 Court approves the Settlement Agreement and the Stipulation and enters a final Judgment and  
7 Decree adjudicating the water rights of the Tribe and the United States for the benefit of the  
8 Tribe, the judgment shall be binding upon all parties to the Little Colorado River Adjudication  
9 except to the extent that the express terms of the Settlement Agreement and the Stipulation  
10 provide that non-signing parties will not be bound by the Settlement Agreement and the  
11 Stipulation.

12           4.     ADWR shall file with the Court no later than May 15, 2006 a factual analysis  
13 and/or technical assessment of the Indian water rights subject to the Settlement Agreement.  
14 ADWR's report shall at least include the following: (1) a review of the terms of the  
15 settlement; (2) a summary of the statements of claimant filed by or for the benefit of the Zuni  
16 Indian Tribe; (3) a brief description of the history, physical characteristics, and natural  
17 resources of the Zuni Heaven Reservation, emphasizing those facts, events, and plans which  
18 may be important in ascertaining the water rights of the reservation; (4) the potential changes  
19 in water resources in the Little Colorado River system and source as a result of the proposed  
20 settlement; (5) the potential impact of the proposed settlement upon categories of other  
21 claimants in the adjudication; and (6) the potential impact of the proposed settlement upon  
22 rights to use groundwater underlying or in the vicinity of the reservation and upon the  
23 groundwater regulatory program administered by ADWR. The Applicants are ordered to meet  
24 with ADWR and to provide ADWR with information and documents necessary for ADWR to  
25 complete its factual analysis and technical assessment. Upon filing the report with the Court,  
26 ADWR is ordered to serve a copy of the report upon each person appearing on the Court-  
27 approved mailing list for the Little Colorado River Adjudication.

1           5.     After the filing of the ADWR report, the Applicants shall conduct an  
2 informational meeting to provide interested parties in the Little Colorado River Adjudication  
3 and the public with information about the proposed settlement. The meeting will include a  
4 statement that such meeting has been ordered by the Court, a disclaimer indicating that the  
5 Applicants' interests in the proposed settlement may be adverse to the interests of other parties  
6 in the Little Colorado River Adjudication, a description of the terms and conditions of the  
7 proposed settlement, an announcement of the availability of the ADWR factual analysis and/or  
8 technical assessment, and an announcement of the date objections to the proposed settlement  
9 must be filed. At the meeting, the Applicants shall make copies of this Order (including  
10 exhibits) available to those persons who are present. The meeting will be held at 7:00 p.m. on  
11 June 1, 2006, at the Apache County Board of Supervisors' Room, Apache County Annex  
12 Bldg., 75 West Cleveland, St. Johns, Arizona.

13           6.     The Applicants shall serve by first-class mail a notice upon all claimants (and all  
14 assignees and transferees of claimants, to the extent they appear in ADWR's records) in the  
15 Little Colorado River general stream adjudication, notifying them of the application to  
16 approve the proposed settlement involving the water rights of the Zuni Indian Tribe; the  
17 pendency of this special proceeding; the time, date, and location of the informational meeting  
18 described in the preceding paragraph; and advising them where complete copies of the  
19 application for special proceedings and this Order may be found. Notice will also be provided  
20 by publication in papers of general circulation in every county located within the Little  
21 Colorado River System and Source for two (2) weeks. The Court approves the use of the  
22 Notice of Settlement attached hereto as Exhibit C.

23           7.     Objections to the application to approve the proposed settlement shall be filed  
24 with the Clerk of the Court in and for Apache County no later than **June 29, 2006**.

25           8.     Any Applicant may file a response to an objection no later than **August 8, 2006**.

26           9.     ADWR shall make the Application for Special Proceedings with exhibits,  
27 including the Stipulation, the Settlement Agreement, the Settlement Act, and the proposed  
final Judgment and Decree, as well as this Order with exhibits and ADWR's report described

1 in paragraph four above, available for public inspection and copying at its headquarters during  
2 its normal business hours and at its website: <http://www.azwater.gov/dwr>. ADWR shall also  
3 make its report described in paragraph four above available for public inspection and copying  
4 at the offices of the Clerks of the Superior Court in every county in the Little Colorado River  
5 System and Source. The Applicants shall make the Application for Special Proceedings with  
6 exhibits, including the Stipulation, the Settlement Agreement, the Settlement Act, and the  
7 proposed Judgment and Decree, as well as this Order with exhibits available for public  
8 inspection and copying at the offices of the Clerks of the Superior Court in every county in the  
9 Little Colorado River System and Source.

10 10. The pretrial orders of the Court apply to these special proceedings to the extent  
11 that they are consistent with the Supreme Court's Special Administrative Order.

12  
13 DATED this 2d day of March, 2006.

14  
15   
16 \_\_\_\_\_  
17 EDDWARD P. BALLINGER, JR.  
18 JUDGE OF THE SUPERIOR COURT  
19  
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27

# **APPENDIX E**

# Appendix E-1

1 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

1 2006

2 IN AND FOR THE COUNTY OF APACHE

3  
4 IN RE: THE GENERAL ADJUDICATION  
5 OF ALL RIGHTS TO USE WATER IN  
6 THE LITTLE COLORADO RIVER  
7 SYSTEM AND SOURCE

No. 6417

8  
9 APPLICATION FOR AN ORDER FOR  
10 SPECIAL PROCEEDINGS TO  
11 APPROVE AN INDIAN WATER  
12 RIGHTS SETTLEMENT AND  
13 STIPULATION

14 Descriptive Summary: In accordance with the Administrative Order issued by the  
15 Supreme Court of Arizona on September 27, 2000, in which the Court adopted special  
16 procedures for the approval of Indian water rights settlements, this is an application for an  
17 order for special proceedings to approve an Indian Water Rights Settlement Agreement dated  
18 June 7, 2002, as amended, and a Stipulation dated March 1, 2006, to which the undersigned  
19 are parties. The Settlement Agreement and the Stipulation settle the claims to federally  
20 reserved and other water rights in the Little Colorado River Basin in Arizona by the Zuni  
21 Indian Tribe and the United States for the benefit of the Zuni Indian Tribe.

22 Statement of Claimant Numbers: Salt River Project: 39-82193 through 39-82206 and 39-  
23 87393; United States for Zuni Indian Tribe: 39-91736 through 39-91752; the Lyman Water  
24 Company: 39-89196; Round Valley Water Users' Association: 39-89112; Town of Eagar: 39-  
25 84465 through 39-84471; Arizona Game and Fish Commission: 39-80693, 39-80963, 39-  
26 83748, 39-83751, 39-83753, 39-83757, 39-83758, 39-83761, 39-83766, 39-88135, 39-88136,  
27 39-88146, 39-88147, 39-88148, 39-88149, 39-88273, 39-88275, 39-88277, 39-88280, 39-  
39-88600, 39-89158, 39-89160, 39-89292, 39-89293, 39-89297, 39-89298, 39-91712, 39-92045,  
39-92046; Arizona State Land Department: 39-86042, and numerous others; Arizona State  
Parks Board: 39-03-84421; St. Johns Irrigation & Ditch Company: 39-85024; City of St.  
Johns: 39-89123 through 39-89126 and 39-91702 through 39-91706; Town of Springerville:  
39-84149; Tucson Electric Power Company: 39-080889 through 39-080913.

28 Date of Filing: Original sent by overnight mail for filing on March 1, 2006.

29 Number of Pages: 8; Exhibit A - 11; Exhibit B - 5; Exhibit C - 7

30 In accordance with the Administrative Order issued by the Supreme Court of  
31 Arizona on September 27, 2000, in which the Court adopted special procedures for the  
32 approval of Indian water rights settlements, this is an Application for an Order for Special  
33 Proceedings to obtain a final Judgment and Decree approving the Zuni Indian Tribe Water

1 Rights Settlement Agreement of 2002, as amended (“Settlement Agreement”) and a  
2 Stipulation dated March 1, 2006.

3 The Applicants are the Zuni Indian Tribe (“Tribe”), the United States of  
4 America in its capacity as trustee for the Tribe, the Arizona Game and Fish Commission, the  
5 Arizona State Land Department, the Arizona State Parks Board, St. Johns Irrigation & Ditch  
6 Company, the Lyman Water Company, Round Valley Water Users’ Association, Salt River  
7 Project Agricultural Improvement and Power District, Tucson Electric Power Company, the  
8 City of St. Johns, the Town of Eagar, and the Town of Springerville. The Applicants are also  
9 parties to the Settlement Agreement and to the Stipulation.

10 The Settlement Agreement settles the rights of the Tribe and of the United  
11 States for the benefit of the Tribe to underground water and to surface water from the Little  
12 Colorado River and its tributaries in Arizona, as these terms are defined by the Settlement  
13 Agreement. The Stipulation, which summarizes and incorporates the terms of the Settlement  
14 Agreement, is attached as Exhibit A to this Application. The Settlement Agreement is  
15 attached as Exhibit 1 to the Stipulation. A proposed Judgment and Decree, which is  
16 substantially similar to the proposed Judgment and Decree attached to the Settlement  
17 Agreement as Exhibit 11.9, is attached as Exhibit B to this Application.

18 An Order for Special Proceedings to Approve the Settlement Agreement and the  
19 Stipulation should be issued for the following reasons:

20 1. Special circumstances prevent the consideration of the Settlement Agreement  
21 and the Stipulation in the normal course of the Adjudication. The Tribe’s claims, which were  
22 filed by the United States for the benefit of the Tribe, are based on the federal reserved water  
23 rights doctrine. These claims are not subject to the doctrine of prior appropriation as are other  
24 state based water rights.

25 2. The water rights claims of the United States for the benefit of the Zuni Indian  
26 Tribe, which are described in statement of claimant numbers 39-91736 through 39-91752, are  
27 within the jurisdiction of the Court under the principles of Arizona v. San Carlos Apache

1 Tribe of Arizona, 463 U.S. 545 (1983) and United States v. Superior Court, 144 Ariz. 265,  
2 697 P.2d 658 (1985).

3           3. The claims of the United States for the benefit of the Tribe, which are  
4 described in statement of claimant numbers 39-91736 through 39-91752, are the subject of the  
5 Settlement Agreement. All parties to the Settlement Agreement, other than the United States,  
6 the Tribe, and the State of Arizona, are claimants in this adjudication proceeding whose  
7 claims are adverse to statement of claimant numbers 39-91736 through 39-91752 by the  
8 United States for the benefit of the Tribe.

9           4. The terms of the Settlement Agreement were approved, ratified and  
10 confirmed by the United States Congress in the Zuni Indian Tribe Water Rights Settlement  
11 Act, Public Law 108-34, 117 Stat. 788 (2003) (“Settlement Act”).

12           5. Section 9(a) (12) of the Settlement Act and Paragraph 3.1.K of the Settlement  
13 Agreement provide that the Settlement Agreement will not be effective unless it is approved  
14 in this proceeding on or before December 31, 2006.

15           The Settlement Agreement and the Stipulation should be approved for the  
16 following reasons:

17           1. The Settlement Agreement and the Stipulation are fair, adequate, reasonable,  
18 and consistent with applicable law, considering all of the circumstances surrounding the  
19 settlement and all of the consideration provided under the settlement.

20           2. The water rights of the Tribe and the United States for the benefit of the Tribe  
21 that are resolved by the Settlement Agreement and described in the Stipulation are no more  
22 extensive than the Tribe or the United States for the benefit of the Tribe would have been able  
23 to prove at trial.

24           3. The Settlement Agreement and the Stipulation were reached in good faith.

25           4. The Settlement Act is consistent with the requirements of the United States  
26 Constitution.

27

1           Copies of the Settlement Agreement, the Stipulation and the proposed Judgment  
2 and Decree will be mailed to and available for inspection in the offices of the Arizona  
3 Department of Water Resources and the Clerks of the Superior Court in every Arizona County  
4 located within the Little Colorado River System and Source promptly upon issuance of the  
5 Order for Special Proceedings.

6           Attached as Exhibit C to this Application is a proposed form of order directing  
7 that special proceedings be conducted to approve the Settlement Agreement and the  
8 Stipulation, and to adjudicate the federally reserved and other water rights of the Tribe and of  
9 the United States for the benefit of the Tribe.

10           WHEREFORE,

11           The Applicants request that this Court enter an Order for Special Proceedings to  
12 Approve an Indian Water Rights Settlement and a Stipulation, substantially in the form  
13 attached as Exhibit C to this Application.

14           The Applicants also request that this Court approve the Settlement Agreement  
15 and the Stipulation and enter a final judgment and decree, consistent with the proposed  
16 Judgment and Decree attached hereto as Exhibit B and which is substantially in the form of  
17 the proposed Judgment and Decree attached to the Settlement Agreement as Exhibit 11.9,  
18 adjudicating the water rights of the Tribe and the United States for the benefit of the Tribe to  
19 the water supplies within its jurisdiction as provided by the terms of the Settlement  
20 Agreement. The Judgment and Decree shall be binding upon all parties to the Little Colorado  
21 River Adjudication except to the extent that the express terms of the Settlement Agreement  
22 and the Stipulation provide that non-signing parties will not be bound by the Settlement  
23 Agreement and the Stipulation.

24     ...

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27     ...

1 RESPECTFULLY SUBMITTED this 1<sup>st</sup> day of March, 2006.

2 UNITED STATES DEPARTMENT OF JUSTICE

3  
4 By: Vanessa Boyd Willard  
5 Vanessa Boyd Willard, Esq.  
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27 Attorney for the Arizona Game and Fish  
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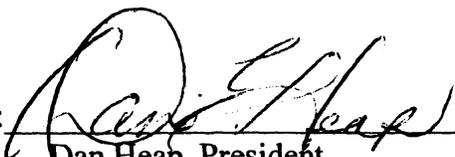
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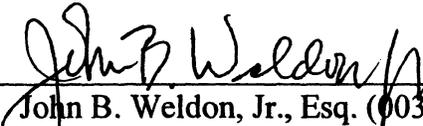
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ST. JOHNS IRRIGATION & DITCH CO.

By:   
Dan Heap, President

SALMON, LEWIS & WELDON, P.L.C.

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~~ORIGINAL AND ONE COPY of the foregoing  
mailed via overnight delivery on this \_\_\_\_\_ day of  
\_\_\_\_\_, 2006 for filing to:~~

~~Clerk of the Apache County Superior Court  
Attn: Water Case 6417  
70 West Third South  
St. Johns, AZ 85936~~

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AND COPIES of the foregoing sent via first-class mail  
on March 1, 2006 to:

The Hon. Eddward P. Ballinger, Jr.  
Judge of the Superior Court  
18380 N. 40<sup>th</sup> St., Ste. 120  
Phoenix, AZ 85032

AND COPIES of the foregoing sent via first-class mail  
this 13<sup>th</sup> day of March, 2006 to all parties  
appearing on the Court-approved mailing list for this  
Adjudication dated June 15, 2005

Cheryl Kilcline

# **Appendix E-2**

MAR 1 2006

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

**IN AND FOR THE COUNTY OF APACHE**

**IN RE: THE GENERAL ADJUDICATION  
OF ALL RIGHTS TO USE WATER IN  
THE LITTLE COLORADO RIVER  
SYSTEM AND SOURCE**

No. 6417

**STIPULATION AND REQUEST FOR  
ENTRY OF JUDGMENT AND  
DECREE**

THIS STIPULATION, dated this 1<sup>st</sup> day of March, 2006, is entered into among the Zuni Indian Tribe, the United States of America in its capacity as trustee for the Zuni Indian Tribe, the Arizona Game and Fish Commission, the Arizona State Land Department, the Arizona State Parks Board, St. Johns Irrigation & Ditch Company, the Lyman Water Company, Round Valley Water Users' Association, Salt River Project Agricultural Improvement and Power District, Tucson Electric Power Company, the City of St. Johns, the Town of Eagar, and the Town of Springerville.

**WHEREAS,**

1. Certain water rights claimed by the Zuni Indian Tribe ("Tribe") and the United States for the benefit of the Tribe ("United States") are to be permanently settled by agreement among the parties to this Stipulation ("Parties"). The terms of the Zuni Indian Tribe Water Rights Settlement Agreement of 2002, as amended, ("Settlement Agreement") were approved, ratified and confirmed by the United States Congress in the Zuni Indian Tribe Water Rights Settlement Act, Public Law 108-34, 117 Stat. 788 (2003) ("Settlement Act"). A copy of the Settlement Agreement is attached as Exhibit 1 to this Stipulation and is incorporated herein by reference. The terms that are used in this Stipulation and defined in Article 2 of the Settlement Agreement have the meaning set forth in the Settlement Agreement. A proposed Judgment and Decree, which is substantially in the form of the

1 proposed Judgment and Decree that is attached to the Settlement Agreement as Exhibit 11.9,  
2 is attached as Exhibit B to the Application for an Order for Special Proceedings to Approve  
3 an Indian Water Rights Settlement and Stipulation.

4           2. The purpose of the Settlement Agreement is to resolve water rights litigation  
5 and to provide resources to restore wetlands and the Sacred Lake on the Zuni Heaven  
6 Reservation. The Reservation was authorized by Congress to protect and to recognize long-  
7 standing religious and sustenance activities by the Tribe on certain lands along the Little  
8 Colorado River and the Zuni River in the vicinity of St. Johns, Arizona. Public Law 98-498,  
9 98 Stat. 1533 (1984), as amended by Public Law 101-486, 104 Stat. 1174 (1990).

10           3. The primary benefits of the Settlement Agreement for the Tribe and the United  
11 States are a resolution of litigation; a recognition of the Tribe's water rights; the restoration of  
12 a wetland area and lake that have special significance to the Tribe; the fulfillment of the  
13 United States' trust responsibility to the Tribe; and a waiver of the State parties' claims  
14 against the Tribe and the United States as well as a waiver of the Tribe's claims against the  
15 United States.

16           4. The primary benefits of the Settlement Agreement for the State of Arizona and  
17 other non-federal parties are a resolution of litigation; the Tribe's and the United States'  
18 agreement not to object to existing surface water and underground water uses; the facilitation  
19 of State programs to rehabilitate streams, enhance riparian habitats, protect fish and wildlife  
20 resources, and provide recreational opportunities; and a waiver of the Tribe's and the United  
21 States' claims against the non-federal parties.

22           5. As described in Paragraph 1.7 of the Settlement Agreement, the Tribe will use at  
23 least 5,500 acre feet of surface water per annum for wetland restoration on the Reservation in  
24 accordance with the Settlement Agreement. The Tribe will use existing surface water rights  
25 appurtenant to its fee lands, and, within the scope of the Settlement Agreement, it has the  
26 right to acquire up to 3,600 acre feet of water per annum of existing court decreed upstream  
27 surface water. The Tribe may sever and transfer its water rights for use on the Reservation in

1 accordance with the Settlement Agreement and State law. The Tribe's existing surface water  
2 rights are described in abstracts, which are attached to the Settlement Agreement as Exhibits  
3 4.1.A (1) et seq.. The Tribe's abstracted rights will be adjudicated along with other  
4 claimants' rights in the normal course of the adjudication. The Parties have agreed not to  
5 object to the attributes of the Tribe's water rights described in these abstracts as set forth in  
6 Paragraph 4.2.A of the Settlement Agreement.

7           6. For wetland restoration purposes on the Reservation, the Tribe will receive an  
8 appropriation of 5,500 acre feet per annum from the unappropriated flows of the Little  
9 Colorado River with a priority date of August 28, 1984 as described in Paragraph 4.6.B of the  
10 Settlement Agreement and in the abstract attached to the Settlement Agreement as Exhibit  
11 4.6.B.

12           7. As provided in Paragraphs 4.6 (D) and (E) of the Settlement Agreement, the  
13 Tribe or the United States may purchase surface water rights from willing sellers in the  
14 Norviel Decree area. The Tribe, the United States and the Lyman Water Company have  
15 executed a Water Right, Entitlement and Perpetual Delivery Agreement ("Entitlement and  
16 Delivery Agreement"). Pursuant to the Entitlement and Delivery Agreement, the Tribe and  
17 the United States for the benefit of the Tribe shall hold all right, title and interest to a  
18 permanent water right and entitlement to receive, on an annual basis, twelve percent (12%) of  
19 LWC Delivered Water as defined in Paragraph 5 of the Entitlement and Delivery Agreement,  
20 at the priority date of Lyman Reservoir under the Norviel Decree. Twelve percent (12%) of  
21 LWC Delivered Water has historically provided 972 AFA of water. Nothing in the  
22 Entitlement and Delivery Agreement restricts, enlarges or otherwise determines the subject  
23 matter jurisdiction of any state or federal court. A copy of the Entitlement and Delivery  
24 Agreement is attached to this Stipulation as Exhibit 2 and is incorporated herein by reference.

25           8. The Lyman Water Company and St. Johns Irrigation Company have prepared  
26 abstracts of their surface water rights, which are attached to the Settlement Agreement as  
27 Exhibits 4.1.C (1) et seq. The companies' abstracted rights will be adjudicated along with

1 other parties' rights in the normal course of the adjudication. The Parties have agreed not to  
2 object to the attributes of the companies' water rights described in these abstracts as set forth  
3 in Paragraph 4.2.C of the Settlement Agreement.

4           9. The Arizona Game and Fish Commission will also prepare abstracts of its  
5 surface water rights in the manner described in Paragraph 3.1.F of the Settlement Agreement.  
6 The Commission's abstracted rights will be adjudicated along with other parties' rights in the  
7 normal course of the adjudication. The Parties will agree not to object to the attributes of the  
8 Commission's water rights described in these abstracts as set forth in Paragraph 4.2.B of the  
9 Settlement Agreement. The Parties will amend the Settlement Agreement as required by  
10 Paragraph 3.1.F of the Settlement Agreement.

11           10. No new surface water appropriations will be allowed in the Norviel Decree  
12 Area as described in Paragraph 4.3 of the Settlement Agreement.

13           11. No new reservoirs or dams will be constructed on the Little Colorado River  
14 between Lyman Dam and the western boundary of the Reservation without the written  
15 consent of the Tribe except under certain conditions described in Paragraph 4.4 of the  
16 Settlement Agreement.

17           12. The Parties will not object to the Tribe's withdrawal or use of 1,500 acre feet  
18 per annum of underground water from wells on the Zuni Pumping Lands if the water is used  
19 on those lands, in accordance with Paragraph 5.3 of the Settlement Agreement. The Zuni  
20 Pumping Lands, which are adjacent to the Reservation, are described in Exhibit 2.48 to the  
21 Settlement Agreement.

22           13. The Tribe will not object to water uses from all existing wells and from new  
23 exempt wells as set forth in Paragraphs 5.1 and 5.5 of the Settlement Agreement.

24           14. For new wells located outside the Zuni Protection Area, the Tribe and the  
25 United States will not object to the withdrawal of water from new non-exempt wells unless  
26 the withdrawal of water interferes with the Tribe's surface water rights as described in  
27

1 Paragraph 5.6 of the Settlement Agreement. The Zuni Protection Area, which is adjacent to  
2 the Reservation, is set forth in Exhibit 2.48 to the Settlement Agreement.

3 15. For new wells located inside the Zuni Protection Area, the Tribe and the United  
4 States will not object to the withdrawal of water unless the Static Water Level Decline is more  
5 than 50 feet as described in Paragraph 5.7.D of the Settlement Agreement.

6 16. Any owner of land located within the Zuni Protection Area may sign a Pumping  
7 Protection Agreement and agree to limit the capacity of new wells on his or her land to a total  
8 of 500 gallons per minute for each section of land, or a prorated amount if the lands are less  
9 than one section. If a landowner enters into a Pumping Protection Agreement, the Tribe and  
10 the United States will not object to wells or withdrawals of underground water from wells on  
11 his or her land that are consistent with the terms of the Pumping Protection Agreement. The  
12 Pumping Protection Agreement Form is attached to the Settlement Agreement as Exhibit  
13 5.7.B.

14 17. The Tribe and the United States have also entered into agreements with Salt  
15 River Project, Tucson Electric Power Company and the Arizona State Land Department that  
16 recognize certain intended uses of underground water. These agreements are acknowledged  
17 in Section 5.8 of the Settlement Agreement.

18 18. The United States will take certain lands into trust for the benefit of the Tribe to  
19 aid its wetland restoration project in accordance with Article 6 of the Settlement Agreement.  
20 With respect to these new trust lands, the Tribe will cooperate with the State of Arizona and  
21 local governments through an Intergovernmental Agreement addressing certain  
22 environmental, water, tax and land use issues.

23 19. The Tribe will receive \$21,863,000, which will be used for water rights  
24 acquisition, and wetland restoration and maintenance in accordance with Article 7 of the  
25 Settlement Agreement. As provided by the Settlement Act, the United States will contribute  
26 \$19,250,000 for water rights acquisition, facility construction and other related costs. The  
27 State of Arizona will contribute \$1,613,000 for wetland restoration. The Salt River Project

1 will contribute \$1,000,000 for restoration of the Sacred Lake and cultivation of riparian  
2 vegetation on the Reservation. In addition, the Arizona Game and Fish Commission will  
3 spend up to \$6,000,000 to acquire irrigated land and water rights, which it may sever and  
4 transfer to the Tribe. Pursuant to these expenditures by the Arizona Game and Fish  
5 Commission, up to 1,000 acre-feet of water per annum will be delivered to the Tribe for the  
6 benefit of wildlife.

7           20. As set forth in Article 8 of the Settlement Agreement, water rights made  
8 available to the Tribe under the Settlement Agreement and used on the Zuni Heaven  
9 Reservation will be held in trust by the United States in perpetuity, and will not be subject to  
10 forfeiture and abandonment. State law does not apply to water uses on the Zuni Heaven  
11 Reservation. Subject to paragraph 7.7 of the Settlement Agreement, the Tribe will use water  
12 made available to it under the Settlement Agreement on the Zuni Heaven Reservation for any  
13 use it deems advisable. The Tribe or the United States will not, however, sell, lease, transfer,  
14 or transport water made available to it for use on the Zuni Heaven Reservation to any other  
15 place; provided, however, that water may be severed and transferred from the Zuni Heaven  
16 Reservation to other Zuni Lands, if the severance and transfer is accomplished in accordance  
17 with state law. Once transferred to any lands held in fee, that water will be subject to state  
18 law.

19           21. Neither the Tribe nor the United States will enforce the priority of non-Norviel  
20 Decree water rights that it holds against Norviel Decree water rights pursuant to Paragraph  
21 10.3 of the Settlement Agreement.

22           22. The State parties will execute a waiver of past, present, and future claims for  
23 injuries to water rights or water quality against the Tribe and the United States, as described  
24 in the waiver, which is attached to the Settlement Agreement as Exhibit 11.1(revised).

25           23. The Tribe and the United States for the benefit of the Tribe will execute waivers  
26 of past, present and future claims to water rights, injuries to water rights and injuries to water  
27

1 quality, as described in the waivers, which are attached to the Settlement Agreement as  
2 Exhibits 11.2.1, 11.2.2 and 11.2.3.

3           24. The Tribe will execute a waiver of its right to request that the United States  
4 bring past, present, and future claims of injury to water quality, and claims of interference  
5 with the trust responsibility of the United States, as described in the waivers, which are  
6 attached to the Settlement Agreement as Exhibits 11.2.2 and 11.3 (revised).

7           25. The water supplies that are the subject of the Settlement Agreement between  
8 the Parties are subject to the jurisdiction of this Court.

9           26. The Parties to this Stipulation have submitted the Settlement Agreement to this  
10 Court for its approval pursuant to Section 9 (a) (12) of the Settlement Act and the Arizona  
11 Supreme Court's Administrative Order dated September 27, 2000, in which the Court adopted  
12 special procedures for the approval of Indian water rights settlements.

13                   NOW THEREFORE,

14           1. The Parties to this Stipulation request that this Court approve this Stipulation  
15 and the Settlement Agreement, which is attached hereto as Exhibit 1.

16           2. The Parties to this Stipulation also request that after completion of the  
17 conditions set forth in Section 9 of the Settlement Act and Paragraph 3.1 of the Settlement  
18 Agreement, this Court enter a Judgment and Decree, consistent with the proposed Judgment  
19 and Decree attached as Exhibit B to the Application for an Order for Special Proceedings to  
20 Approve an Indian Water Rights Settlement and Stipulation, which is substantially in the form  
21 of the proposed Judgment and Decree attached to the Settlement Agreement as Exhibit 11.9,  
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23 to the water supplies within its jurisdiction as provided by the terms of the Settlement  
24 Agreement. The Judgment and Decree shall be binding upon all parties to the Little Colorado  
25 River Adjudication except to the extent that the express terms of the Stipulation and  
26 Settlement Agreement provide that non-signing parties will not be bound by the Stipulation  
27 and Settlement Agreement.

1 RESPECTFULLY SUBMITTED this 1<sup>st</sup> day of March, 2006.

2 UNITED STATES DEPARTMENT OF JUSTICE

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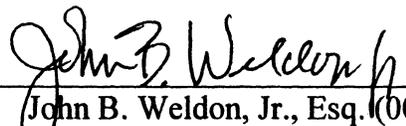
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St. Johns, AZ 85936

~~AND COPIES of the foregoing sent via first-class mail~~

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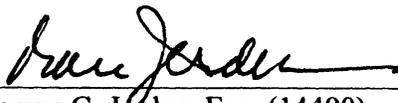
ST. JOHNS IRRIGATION & DITCH CO.

By: \_\_\_\_\_  
Dan Heap, President

SALMON, LEWIS & WELDON, P.L.C.

By: \_\_\_\_\_  
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TUCSON ELECTRIC POWER COMPANY

By:  \_\_\_\_\_  
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ORIGINAL AND ONE COPY of the foregoing  
mailed via overnight delivery on this 1<sup>st</sup> day of  
March, 2006 for filing to:

Clerk of the Apache County Superior Court  
Attn: Water Case 6417  
70 West Third South  
St. Johns, AZ 85936  
AND COPIES of the foregoing sent via first-class mail

1 on March, 2006 to:

2 The Hon. Eddward P. Ballinger, Jr.  
3 Judge of the Superior Court  
4 18380 N: 40<sup>th</sup> St., Ste. 120  
5 Phoenix, AZ 85032

6 AND COPIES of the foregoing sent via first-class mail  
7 this 15<sup>th</sup> day of March, 2006 to all parties  
8 appearing on the Court-approved mailing list for this  
9 Adjudication dated June 15, 2005.

10 Cheryl Kilcline

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# **Appendix E-3**

1                                   **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
2                                   **IN AND FOR THE COUNTY OF APACHE**

3  
4       **IN RE THE GENERAL**  
5       **ADJUDICATION OF ALL RIGHTS**  
6       **TO USE WATER IN THE LITTLE**  
7       **COLORADO RIVER SYSTEM AND**  
8       **SOURCE**

No. 6417

CONTESTED CASE NO.

**ZUNI INDIAN TRIBE WATER**  
**RIGHTS SETTLEMENT**  
**JUDGMENT AND DECREE**

9  
10  
11           The Court has considered the Zuni Indian Tribe Water Rights Settlement Agreement in  
12 the Little Colorado River Basin, dated June 7, 2002 (“Settlement Agreement”), permanently  
13 resolving certain water rights claims of the Zuni Indian Tribe on behalf of itself and its  
14 members (hereinafter referred to as the “Tribe”) and of the United States for the benefit of the  
15 Tribe and its members that are subject to the Court’s jurisdiction in this case, a copy of which  
16 Settlement Agreement is attached as Exhibit 1 to the Stipulation and Request for Entry of  
17 Judgment and Decree.

18           The Court has also considered the Water Right, Entitlement and Perpetual Delivery  
19 Agreement between the Lyman Water Company, the Zuni Indian Tribe and the United States  
20 for the benefit of the Tribe, dated February 27, 2006 (“Entitlement and Delivery Agreement”),  
21 a copy of which Entitlement and Delivery Agreement is attached as Exhibit 2 to the  
22 Stipulation and Request for Entry of Judgment and Decree.

23           The Court finds that the conditions precedent to the enforcement of the Settlement  
24 Agreement, set forth in subparagraphs 3.1.A – 3.1.J of the Settlement Agreement, have been  
25 satisfied.

26           The Court further finds that, as of the Effective Date of the Settlement Agreement,  
27 there is no surface water available for new appropriations in the Norviel Decree Area.

1           NOW THEREFORE, it is hereby adjudged and decreed as follows:

2           1.     The terms used in this Judgment and Decree shall be defined as stated in the  
3 Settlement Agreement.

4           2.     The Settlement Agreement is hereby approved.

5           3.     Pursuant to the terms of subparagraph 4.6.B of the Settlement Agreement and  
6 the abstract attached to the Settlement Agreement as Exhibit 4.6.B, the Tribe and the United  
7 States have the permanent right to the on-Reservation use of a total of 5,500 AFA of surface  
8 water from the Little Colorado River. The priority date associated with the right of the Tribe  
9 and the United States for the benefit of the Tribe to this surface water is August 28, 1984.

10          4     The Zuni Tribe shall apply to sever and transfer any surface water rights it  
11 acquires pursuant to subparagraph 4.6.D (5) of the Settlement Agreement.

12          5.     The Entitlement and Delivery Agreement is hereby approved.

13          6.     Pursuant to the Entitlement and Delivery Agreement, the Tribe and the United  
14 States for the benefit of the Tribe shall hold all right, title and interest to a permanent water  
15 right and entitlement to receive, on an annual basis, twelve percent (12%) of LWC Delivered  
16 Water as defined in Paragraph 5 of the Entitlement and Delivery Agreement, at the priority  
17 date of Lyman Reservoir under the Norviel Decree. Twelve percent (12%) of LWC  
18 Delivered Water has historically provided 972 AFA of water. Nothing in the Entitlement and  
19 Delivery Agreement restricts, enlarges or otherwise determines the subject matter jurisdiction  
20 of any state or federal court.

21          7.     Except as described in paragraph 5.3 of the Settlement Agreement, relating to  
22 the Zuni Tribe's use of 1,500 AFA of underground water, the Settlement Agreement does not  
23 create any vested right to groundwater under state law, or any priority to the use of  
24 groundwater that would be superior to any other right or use of groundwater under state law,  
25 whether through the Settlement Agreement, by incorporation of any abstract, agreement or  
26 stipulation prepared under the Settlement Agreement, or through Congressional legislation  
27 approving, confirming or ratifying the Settlement Agreement or any abstract, agreement or

1 stipulation prepared under the Settlement Agreement. Notwithstanding the preceding  
2 sentence, the rights of parties to the agreements referred to in paragraph 5.8 of the Settlement  
3 Agreement, as among themselves, shall be as stated in those agreements.

4 8. In accordance with the terms of Article 8 of the Settlement Agreement and  
5 section 8 (b) of the Act, water rights made available under the Settlement Agreement and used  
6 on the Zuni Heaven Reservation shall not be subject to forfeiture or abandonment. State law  
7 does not apply to water uses on the Reservation. Furthermore, the State of Arizona may not  
8 regulate or tax this water or uses of this water, but this Court or the Norviel Decree Court may  
9 assess administrative fees for delivery of this water. Subject to paragraph 7.7 of the  
10 Settlement Agreement, the Zuni Indian Tribe and the United States shall use water made  
11 available to them under the Settlement Agreement on the Zuni Heaven Reservation for any  
12 use they deem appropriate. The Zuni Tribe and the United States shall not, however, sell,  
13 lease, transfer, or transport water made available to it for use on the Zuni Heaven Reservation  
14 to any other place; provided, however, that water may be severed and transferred from the  
15 Reservation to other Zuni Lands, if the severance and transfer is accomplished in accordance  
16 with state law. Once transferred to any lands held in fee, that water shall be subject to state  
17 law.

18 9. Surface water rights in the Eastern LCR basin shall be determined in accordance  
19 with Article 4 of the Settlement Agreement.

20 10. No new applications to appropriate surface water in the Norviel Decree Area  
21 shall be filed for uses commenced after the Effective Date of the Settlement Agreement,  
22 unless those new surface water uses are located in closed basins.

23 11. No new reservoirs or dams shall be constructed on the LCR between Lyman  
24 Dam and the western boundary of the Zuni Heaven Reservation without the written consent of  
25 the Tribe unless

26 ...  
27 ...

1           A.     the new dam or reservoir is used for *de minimis* uses (as defined by the  
2 Settlement Agreement), effluent impoundments, tailwater ponds, or impoundments of  
3 underground water;

4           B.     the reservoir is wholly contained within a closed basin;

5           C.     the reservoir has no permanent water storage and is operated solely for  
6 flood control purposes; or

7           D.     the water stored in the new reservoir results from a change of use, change  
8 in point of diversion, or severance and transfer; provided, however, that the Zuni Tribe  
9 retains any state-law objections to severance and transfers.

10          12.    Zion Dam, formerly known as Udall Reservoir, may be repaired or rebuilt only  
11 with the written consent of the Tribe.

12          13.    All parties to the Little Colorado River Adjudication and all water users in the  
13 Little Colorado River Basin may enforce the provisions of Article 4, Article 5 and Article 11  
14 of the Settlement Agreement, according to the terms of those Articles.

15          14.    In exchange for the benefits realized under the Settlement Agreement and as  
16 authorized by the Act, the Parties have executed Waivers and Releases of Claims for water  
17 rights and injuries to water rights, which are attached hereto as Exhibits 1, 2, 3, 4 and 5 and  
18 which are by this reference incorporated into this Judgment and Decree. The Judgment and  
19 Decree is binding upon all parties to the Little Colorado River Adjudication except to the  
20 extent that the express terms of the Settlement Agreement provide that non-signing parties  
21 will not be bound by the Settlement Agreement.

22          15.    Nothing in this Judgment and Decree, the Settlement Agreement, or the  
23 Entitlement and Delivery Agreement quantifies or otherwise affects the water rights or  
24 entitlements to water of any Indian tribe, band or community, or the United States for the  
25 benefit of any Indian tribe, band or community, other than the Zuni Indian Tribe and the  
26 United States for the benefit of the Zuni Tribe.

27



# APPENDIX F

# Appendix F-1

## Abstract of Zuni Tribe For Unappropriated LCR Flows in the Hunt Valley

<b>Facility Name:</b>	Zuni Heaven Wetland Restoration Project	<b>Data Source*</b>
<b>Water Right Holder:</b>	Zuni Tribe	
<b>Water Right Number:</b>	N/A	
<b>Statement of Claimant #:</b>	39-91736, 39-91737	

Water Source	Little Colorado River (see remark 5)	1,2
Acres Served	828 (see remarks 1, 2)	2
Total Diversion	5500 acre-feet (see remark 4)	4
Diversion Capacity	20 cfs (see remarks 1,3)	4
Beneficial Use(s)	Wetlands, irrigation, and cultural	1,4
Diversion Location	Zuni Heaven Reservation (see remark 6)	4
Use Locations	S 9,10,15,16,22,23,26, T14N,R26E (see remarks 1,6)	2,4
Period of Use	Year round	4
Priority Date	August 28, 1984 (see remark 7)	
Basis of Right	Zuni Indian Tribe Water Rights Settlement Agreement	4
Remarks:	<ol style="list-style-type: none"> <li>1. Data Source 4 -- The Zuni Project is described in the report entitled "Proposed Zuni Heaven Wetland Restoration Project, Little Colorado River Basin, Arizona", October 15, 1999. This report serves as a planning document only, and the diversion and use locations described therein are not to be considered as finalized.</li> <li>2. Acres served is projected to ultimately expand from the levels identified in the Zuni Project report to the historically irrigated land base identified on the Reservation by ADWR in sections 9,10,15,16 of T14N,R26E.</li> <li>3. Diversion capacity is increased from 16.6 cfs (Zuni Project report) to 20 cfs to deliver water to the expanded service area.</li> <li>4. The estimated annual water requirements for a fully developed Zuni Heaven Project is 5500 acre feet.</li> <li>5. This abstract is for the unappropriated flow of the Little Colorado River that reaches the Zuni Heaven Reservation.</li> <li>6. The project may involve multiple diversion points whose location may change over time as river aggradation occurs and wetlands are established and maintained. Hence a general reservation-wide diversion location is used in this abstract. Water use may also include an upstream diversion of up to 40 cfs for a reservoir with a capacity of up to 1000 acre-feet. This upstream diversion and off-stream storage reservoir may be located off the Zuni Heaven Reservation.</li> <li>7. Pursuant to the settlement agreement, the priority date is based on Public Law 98-498, 98 Stat.1533 (August 28, 1984).</li> <li>8. Claims 39-91736 and 39-91737 document the type of beneficial use claimed but do not specifically include the Zuni Heaven Wetland Restoration Project and hence are not used as the basis of claim.</li> </ol>	
*Data Source 1=Statement of Claimant 2=ADWR Inventory of Water Uses 3= Silver Creek HSR 4= Other—See remarks		

# **Appendix F-2**

## Zuni Hunt Valley Area Irrigation Diversions—Surface Water

<b>Facility Name:</b>	Zuni Hunt Valley Area Historic Irrigation Diversions—Surface Water	<b>Data Source*</b>
<b>Water Right Holder:</b>	Zuni Tribe	
<b>Water Right Number:</b>	DV 1,2,3,4, & 5	
<b>Statement of Claimant #:</b>	39-88868 & 39-82094 (see remark 4)	

Water Source(s)	Little Colorado River (LCR), Concho Creek	1,2,4
Acres Served	2493 (see remarks 2,6, & 7)	2,4
Total Diversion	Maximum historical beneficial use (see remarks 8,9, & 11)	
Diversion Capacity	DV1: North side LCR -- 5.3 cfs (see remarks 8 & 11) DV2: South side LCR -- max. historical capacity (see remarks 8 & 11) DV3: Concho Creek -- maximum historical capacity DV4: North side LCR -- max. historical capacity (see remark 4) DV5: Concho Creek -- maximum historical capacity	2
Beneficial Use	Irrigation (see remark 7)	1,2,4
Diversion Location(s)	DV1: SESE, S15, T14N,R26E (North side LCR) (see remark 3) DV2: SWSE, S15, T14N,R26E (South side LCR) (see remark 3) DV3: SESW, S27, T14N,R26E (Concho Creek) (see remark 3) DV4: NENW, S17, T14N,R26E (North side LCR) (see remarks 3 & 4) DV5: NESW, S34, T14N, R26E (Concho Creek) (see remark 3)	1,2,4
Use Locations	DV1: S6,7,8,9,10,15,16, T14N,R26E (see remarks 7 & 10) DV2: S15,16,T14N,R26E (see remarks 7 & 10) DV3: S27,T14N,R26E (see remarks 6, 7 & 10) DV4: S8, T14N,R26E (see remark 4) DV5: S34,T14N, R26E (see remarks 6,7, & 10)	1,2,4
Period of Use	February through December	1,2,4
Priority Dates	10/25/1897 (see remarks 5 & 9) for 2291 acres (see remark 2) from LCR 1890 for 202 acres from Concho Creek (see remarks 6 & 9)	2,4
Basis of Right	1921 Supplemental Decree, CWR 559, 39-82094, 39-88868, 36-27960, 36-29377, 36-72667, 36-72668 (see remarks 4,5, & 6)	1,4
Remarks:	<ol style="list-style-type: none"> <li>1. Data Source 4—1921 Supplemental Decree, CWR 559, 36-27960, 36-29377, 36-72667, 36-72668, 10-0102239.0301(1897 Notice of Appropriation by Issac Isaacson), and aerial photos of the Hunt Valley area.</li> <li>2. Acres served—determined by measuring irrigated areas shown on maps in Data Source 2, plus CWR 559 for that portion of surface water irrigation in section 27.</li> <li>3. Diversion locations -- based on aerial photographs &amp; USGS quad maps (with guidance from Data Sources 1 &amp; 2), CWR 559, &amp; 36-72668</li> <li>4. Claims 39-88868 &amp; 36-27960 filed by the Seven Springs Ranch apply to irrigation on the north side of the LCR from DV1 (see remark 5 regarding Zion Reservoir). Claim 36-29377 applies to irrigation on the south side of the LCR on Zuni &amp; Isaacson lands. Claim 36-72668 applies to DV4. Claim 39-82094 filed by Ellsworth applies to irrigation from DV5.</li> <li>5. A 1921 Supplemental Decree ruling on the Udall Reservoir Company awarded irrigation from the LCR for 4550 acres with a October 25, 1897 priority date in an area generally including the current use area listed in this abstract. See the Lyman Reservoir abstract for discussion of the waiver of Udall (Zion) Reservoir storage rights to the Lyman Water Company.</li> <li>6. The 1890 priority date for the Concho Creek diversions DV3 &amp; DV5 is based on filing 36-72667. The amount of irrigated acres served from Concho Creek is 101 acres in section 34 (based on maps in Data Source 2) and 101 acres (based on CWR 559) of the 232 irrigated acres mapped by ADWR in section 27, T14N,R26E. The remaining irrigation in section 27 is from groundwater.</li> <li>7. This abstract includes irrigation uses on the Zuni Reservation as well as the recently acquired Seven Springs Ranch, and includes associated land leased from the State in section 34, T14N,R26E.</li> <li>8. Total Diversion and Diversion Capacities -- DV1 &amp; DV2 are shared prorata based on acreage historically irrigated from these facilities (see the Isaacson &amp; Crosby abstracts).</li> <li>9. The service area described in this abstract has historically never made a call and will not make a call on upstream Norviel Decree and Concho Decree rights.</li> <li>10. Pursuant to the settlement agreement, the Tribe can use water as deemed appropriate anywhere on the Reservation.</li> <li>11. Any new water right acquisitions by the Tribe, not associated with either DV1 or DV2, do not have to be shared prorata with Isaacson or Crosby.</li> </ol>	

\*Data Source  
1=Statement of Claimant  
2=ADWR Inventory of Water Uses  
3= Silver Creek HSR  
4= Other—See remarks

**Zuni Hunt Valley Large Irrigation Wells**

**Facility Name:** Zuni Hunt Valley Large Irrigation Wells  
**Water Right Holder:** Zuni Tribe  
**Water Right Number:** N/A  
**Statement of Claimant #:** N/A

Well Registration Number	Well Legal Description
55-600440	SESE, S27, T14N, R26E
55-626054	SESE, S6, T14N, R26E
55-626055	NENE, S7, T14N, R26E
55-626056	SE, S18, T14N, R26E
55-626057	SE, S18, T14N, R26E

## Zuni Meadows Area Acquisition Irrigation Diversions

Data  
Source\*

**Facility Name:** Zuni Meadows Area Historic Irrigation Diversions  
**Water Right Holder:** Zuni Tribe  
**Water Right Number:** DV 1,2,3,4, 5 & 6  
**Statement of Claimant #:** 39-89021

Water Source(s)	Little Colorado River (LCR), Carrizo Wash, Big Hollow Wash	1,2,4
Acres Served	1594 (see remarks 2,4,& 5)	2
Total Diversion	Maximum historical beneficial use	
Diversion Capacity	DV1: West Side LCR -- 10.95 cfs DV2: East Side LCR -- 13.00 cfs DV3: Big Hollow Wash —maximum historical capacity DV4: North Side LCR -- 2.00 cfs DV5: Carrizo Wash – maximum historical capacity DV6: North Side LCR—maximum historical capacity	2
Beneficial Use	Irrigation	1,2,4
Diversion Location(s)	DV1: NESE, S5, T13N,R28E (West side LCR) (see remark 3) DV2 : NESE, S5, T13N,R28E (East side LCR) (see remark 3) DV3: SWNW, S31, T14N,R28E (Big Hollow Wash)(see remark 3) DV4: NWNW, S30, T14N,R28E (North side LCR) (see remark 3) DV5: NENE, S24, T14N,R27E (Carrizo Wash) (see remark 3) DV6: SESE, S24, T14N,R27E (North side LCR) (see remark 3)	1,2,4
Use Locations	DV1 & 2: S25,T14N,R27E; S19,29,30,31,T14N,R28E (see remark 4) DV3: S25,T14N,R27E; S30,T14N,R28E (see remark 4) DV4 & 5: S13,23,24,T14N,R27E (see remark 4) DV6: S23,24,T14N,R27E (see remark 4)	2,4
Period of Use	April 15 to September 15 for decreed acres. Non-decreed acres receive water outside the irrigation season and during flood flows.	4
Priority Dates	1881 for 170 decreed acres from LCR (rights #1918-13G & 13I) 1882 for 15 decreed acres from LCR (right #1923-61A) 1882 for 80 decreed acres from LCR flood water (right #1923-61B) 1884 for same 150 acres as right #1918-13G from LCR (right #1918-16C) 1916 for 30 decreed acres from LCR (right #1923-60A) 1916 for 35 decreed acres from Big Hollow Wash flood water (right #1923-60B) 1916 (per 36-28628 & 28629) for remaining 1164 non-decreed acres from LCR 1940 for 100 acres from Carrizo Wash, per CWR 1174	1,2,4
Basis of Right	Norviel Decree, CWR's 74,75,& 1174, 39-89021, 36-28628, 36-28629 , & shares in St. Johns Irrigation Company.	1,2,4
Remarks:	1. Data Source 4—Norviel Decree, CWR 74 (covers decreed right #60 A & B), CWR 75 (covers decreed right #61A & B), CWR 1174 (Carrizo Wash), 36-28628 & 36-28629(LCR) and aerial photos of the Meadows area. 2. Acres served—determined by measuring irrigated areas shown on maps in Data Source 2. 3. Diversion locations are based on aerial photographs & USGS quad maps with guidance from Data Sources 1 & 2. Data Source 2 lists 3 diversions in NESE,S5,T13N,R28E; however, claims and filings indicate only 2 diversions at this location. 4. This abstract includes irrigation uses on the former Platt & Wilhelm ranches but does not include claimed irrigation by the State on associated leased State land. 5. In addition to the above decreed rights, the Zuni Meadows area is also served by 322 shares of St. Johns Irr. Co. based on work sessions with St. Johns Irr. Co.	
*Data Source	1=Statement of Claimant 2=ADWR Inventory of Water Uses 3= Silver Creek HSR 4= Other—See remarks	

### Zuni River Area Historic Irrigation

**Facility Name:** Zuni River Area Historic Irrigation  
**Water Right Holder:** Zuni Tribe  
**Water Right Number:** N/A  
**Statement of Claimant #:** 39-89022 (see remark 2)

**Data Source\***

Water Source	Zuni River flood waters	1,4
Acres Served	801 (see remark 3 )	4
Total Diversion	Maximum historical beneficial use	
Diversion Capacity	Maximum historical capacity	
Beneficial Use	Irrigation	1,4
Diversion Location	NE, S5, T14N,R28E plus other locations on various channels throughout S 6, T14N,R28E & S 1,T14N,R27E (see remark 4)	1,4
Use Locations	S 1, T14N,R27E (see remark 4)	1,4
Period of Use	July through October (per 36-28627)	4
Priority Date	1916	1,4
Basis of Right	39-89022 and 36-28627 (see remark 2)	1,4
Remarks:	<ol style="list-style-type: none"> <li>1. Data Source 4: 36-28627 and 1984 aerial photos of the Zuni River area</li> <li>2. 39-89022 was originally filed by Limited Partnership of Meadows Ranch, while 36-28627 was filed by H.B. Heap. Both are former owners of land now owned by the Zuni Tribe.</li> <li>3. Acres served based on measurements from aerial photo interpretation within section 1,T14N,R27E (see remark 4).</li> <li>4. Diversion and Use Locations—aerial photos indicate a major diversion point from the main channel of the Zuni River in the NE, section 5, T14N,R28E upstream of the irrigated area. Claim 39-89022 indicates and aerial photos verify that the Zuni River water also spreads out into several channels or stringers in section 6,T14N,R28E and sections 1 &amp; 2, T14N,R27E from which a network of several spreaders and headgates further spread out the water onto the land in these sections . This abstract covers irrigation only in section 1,T14N,R27E owned by Zuni Tribe, and does not include claimed irrigation on land it leases from the State of Arizona in section 6,T14N,R28E, and section 2,T14N, R27E.</li> </ol>	
*Data Source	1=Statement of Claimant 2=ADWR Inventory of Water Uses 3= Silver Creek HSR 4= Other—See remarks	

# Appendix F-3

**Exhibit 4.1.C (1)**

**St. Johns Irrigation and Ditch Company Diversions**

<b>Facility Name:</b>	<b>St. Johns Irrigation and Ditch Company Ditches</b>	Data Source*
<b>Water Right Holder:</b>	<b>St. Johns Irrigation and Ditch Company</b>	1, 2, 4
<b>Water Right Number:</b>	<b>DV 1, 2, and 3</b>	1, 2, 4
<b>Statement of Claimant #:</b>	<b>39-85024</b>	1

<b>Water Source(s)</b>	Little Colorado River	1, 2, 4
<b>Acres Served</b>	1,821 acres ( <i>See Remarks</i> )	4
<b>Total Diversion</b>	Maximum historical beneficial use	—
<b>Diversion Capacity (cfs)</b>	1. 15.0 (Little Reservoir filling ditch) 2. 15.0 (Egypt Ditch, east side) 3. 17.8 (West Ditch) ( <i>See Remarks for additional diversion information</i> )	2, 4
<b>Beneficial Use(s)</b>	Irrigation	1
<b>Diversion Location(s)</b>	1. NW SW S2, T12N, R28E (Little Reservoir filing ditch) 2. NESW S27, T13N, R28E (Egypt Ditch, east side) 3. NESW S27, T13N, R28E (West Ditch) ( <i>See Remarks for additional diversion information</i> )	2
<b>Use Location(s)</b>	St. Johns Irrigation and Ditch Company and shareholder lands in: S4, 5, 9, 10, 15, 16, 21, 22, 27, 28, 33, 34, T13N, R28E; S33, T14N, R28E ( <i>See Remarks</i> )	4
<b>Period of Use</b>	April 15 to September 15 unless winter irrigation is required to maintain perennial crops during a dry year. ( <i>See Remarks</i> )	4
<b>Priority Date</b>	750 ac. (1875, 1881); 19 ac. (1877); 750 ac. (1885); 302 ac. (1888); certificate for supplemental supply (11/10/1921) ( <i>See Remarks</i> )	1, 4
<b>Basis of Right</b>	Norviel Decree, Certificate of Water Right	1, 4
<b>Remarks</b>	<p>1. Data Source 4 — Norviel Decree and Apache County Superior Court records; St. Johns Irrigation and Ditch Company information; Certificate of Water Right No. 87.</p> <p>2. Acres — Based on the decreed acreages for 1918 Norviel Decree rights 5D/13H, 9C, 17B; 20B, and 20C. Certificate of Water Right No. 87 provides a supplemental water supply to 70 acres of decreed rights.</p> <p>3. Diversions and Uses — Historical diversions of water by the St. Johns Irrigation and Ditch Company include ditches on both sides of the Little Colorado River in Section 5, Township 13N, Range 28E for delivery of water to shareholder land in Section 5, Township 13N, Range 28E and 322 shares of water to shareholder land in the Meadows and Wilhelm Ranches, Township 14N, Range 28E. Diversions of up to 400 AFA are delivered to Little Reservoir by the Lyman Canal Company. <i>See Norviel Decree Judgement dated November 30, 1948 and the abstracts for Little Reservoir and Lyman Reservoir. SJIC also delivers water to Rights 9B, 10A, 10B, and 11F in S2, T12N, R28E and S 34, T13N, R28E; however, these decreed rights are not owned by SJIC.</i></p> <p>4. Period of Use — Additional exceptions to the period of use are provided in the Norviel Decree.</p> <p>5. Stockholder use of water is based on the stock shares held by the stockholder in proportion to all outstanding shares, and other provisions of the bylaws.</p> <p>6. The acres served, diversion locations, use locations, and priority dates may be expanded to include any other water rights or uses that are later determined to have been owned by SJIC on the Effective Date of the Zuni Indian Tribe Water Rights Settlement Agreement.</p>	

<p>*Data Source 1 = Statement of Claimant 2 = ADWR Inventory of Water Uses 3 = Silver Creek HSR 4 = Other — <i>See Remarks</i></p>
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**Exhibit 4.1.C (2)**

**Little Reservoir**

<b>Facility Name:</b>	<b>Little Reservoir</b>	Data Source*
<b>Water Right Holder:</b>	<b>St. Johns Irrigation and Ditch Company</b>	1, 2, 4
<b>Water Right Number:</b>	<b>PS1</b>	1, 2, 4
<b>Statement of Claimant #:</b>	<b>39-85024</b>	1

<b>Water Source(s)</b>	Little Colorado River	1, 2, 4
<b>Acres Served</b>	1,821 acres ( <i>See Remarks</i> )	4
<b>Total Diversion</b>	419.48 af capacity ( <i>See Remarks</i> )	1, 4
<b>Diversion Capacity (cfs)</b>	15.0 plus Lyman Canal ( <i>See Remarks</i> )	
<b>Beneficial Use(s)</b>	Irrigation	1, 4
<b>Diversion Location(s)</b>	S9, T11N, R28E (Lyman Reservoir and Canal); NWSW S2, T12, R28E	1, 4
<b>Use Location(s)</b>	St. Johns Irrigation and Ditch Company and shareholder lands in: S4, 5, 9, 10, 15, 16, 21, 22, 27, 28, 33, 34, T13N, R28E; S33, T14N, R28E ( <i>See Remarks</i> )	4
<b>Period of Use</b>	Reservoir filling between September 15 and April 15 plus deliveries from the Lyman Canal between April 15 and July 1. ( <i>See Remarks</i> )	1, 4
<b>Priority Date</b>	1886 ( <i>See Remarks</i> )	1, 4
<b>Basis of Right</b>	Norviel Decree	1, 4
<b>Remarks</b>	<ol style="list-style-type: none"> <li>1. Data Source 4 — Norviel Decree and Apache County Superior Court records.</li> <li>2. Acres — Based on the decreed acreages for 1918 Norviel Decree rights 5D/13H, 9C, 17B, 20B, and 20C. This is a supplemental supply for the same shareholder lands described in the abstract for DV1, DV2, and DV3 of the St. Johns Irrigation and Ditch Company.</li> <li>3. Total Diversion — Historical use includes operation for continuous fills including 400 af to be delivered through the Lyman Canal—200 af on or before May 15, 200 af between June 15 and July 1 of each year.</li> <li>4. Diversion Capacity — A portion of Lyman Canal capacity is used to fill Little Reservoir. The capacity of the direct diversion from the Little Colorado River also is listed with the abstract of SJIC diversions.</li> <li>5. Diversions and Uses — Historical diversions of water by the St. Johns Irrigation and Ditch Company include ditches on both sides of the Little Colorado River in Section 5, Township 13N, Range 28E for delivery of water to shareholder land in Section 5, Township 13N, Range 28 E and 322 shares of water to shareholder land in the Meadows and Wilhelm Ranches, Township 14N, Range 28E. Diversions of up to 400 AFA are delivered to Little Reservoir by the Lyman Canal Company. <i>See</i> Norviel Decree Judgement dated November 30, 1948 and the abstracts for Little Reservoir and Lyman Reservoir. Although water stored in Little Reservoir cannot be directly used on certain shareholder lands located above the delivery system from the reservoir, these lands benefit from the stored water because they receive a proportionate share of all water available to SJIC. SJIC also delivers water to Rights 9B, 10A, 10B, and 11F in S2, T12N, R28E and S 34, T13N, R28E; however, these decreed rights are not owned by SJIC.</li> <li>6. Period of Use — Additional exceptions to the period of use are provided in the Norviel Decree.</li> <li>7. Priority Date — Second Reservoir right under the 1918 Norviel Decree.</li> <li>8. Stockholder use of water is based on the stock shares held by the stockholder in proportion to all outstanding shares, and other provisions of the bylaws.</li> <li>9. The acres served, diversion locations, use locations, and priority dates may be expanded to include any other water rights or uses that are later determined to have been owned by SJIC on the Effective Date of the Zuni Indian Tribe Water Rights Settlement Agreement.</li> </ol>	

<p>Data Source</p> <p>1 = Statement of Claimant</p> <p>2 = ADWR Inventory of Water Uses</p> <p>3 = Silver Creek HSR</p> <p>4 = Other — <i>See Remarks</i></p>
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**Exhibit 4.1.C (3)**

**Lyman Reservoir**

<b>Facility Name:</b>	<b>Lyman Reservoir</b>	Data Source*
<b>Water Right Holder:</b>	<b>Lyman Water Company</b>	1, 2, 4
<b>Water Right Number:</b>	<b>PS1</b>	1, 2, 4
<b>Statement of Claimant #:</b>	<b>39-89196</b>	1

Water Source(s)	Little Colorado River	1, 2, 4	
Acres Served	Up to 2,500 acres	2	
Total Diversion	32,964 AF capacity ( <i>See Remarks</i> )	1, 4	
Diversion Capacity (cfs)	74 cfs	2	
Beneficial Use(s)	Irrigation	1, 4	
Diversion Location(s)	S9, T11N, R28E	1, 4	
Use Location(s)	Lyman Water Company shareholder lands in: S5, T11N, R28E; S4, 5, 7, 8, 17-19, 29, 30, T12N, R28E; S7, 8, 17-21, 27-33, T13N, R28E; S35, 36, T13N, R27E		
Period of Use	April 15 to September 15 unless winter irrigation is required to maintain perennial crops during a dry year. ( <i>See Remarks</i> )	4	
Priority Date	February 3, 1911 ( <i>See Remarks</i> )	4	
Basis of Right	Norviel Decree	4	
Remarks	<ol style="list-style-type: none"> <li>1. Data Source 4 — Information from Norviel Decree.</li> <li>2. Total Diversion — 4,500 AF is dead storage, 28,464 AF is active capacity (Norviel Decree). Historical use includes operation for continuous fills subject to releases for senior downstream water rights and the provisions of the Norviel Decree. One of these provisions is for delivery of up to 400 AFA to Little Reservoir through the Lyman Canal for the benefit of, and under the decreed right of, St. Johns Irrigation and Ditch Company. <i>See</i> Norviel Decree Judgement dated November 30, 1948. Historical operation is subject to modification as a result of settlement or adjudication of Zuni Pueblo claims to water.</li> <li>3. Priority Date — The storage rights of Lyman Reservoir incorporate the Fifth Right under the Norviel Decree for First Salado Reservoir (1894, 1,300 AF) and the Seventh Right under the Norviel Decree for Big Salado Reservoir (1898, 17,260 AF) conveyed by St. Johns Irrigation and Ditch Company to Lyman Water Company on September 3, 1918. The storage rights of Lyman Reservoir also include a waiver for 9,532 AF with a priority date of October 25, 1897 from the Udall Reservoir Company. The 1894 storage appropriation of 900 AF was quit-claimed from the Meadows Reservoir Irrigation Company to the Udall Reservoir Company prior to the waiver given to Lyman Water Company as described above.</li> <li>4. Period of Use — Additional exceptions to the period of use are provided in the Norviel Decree.</li> <li>5. Stockholder use of water is based on the stock shares held by the stockholder in proportion to all outstanding shares, and other provisions of the bylaws.</li> </ol>		
<table border="1" style="width: 100%;"> <tr> <td> <p>*Data Source</p> <p>1 = Statement of Claimant</p> <p>2 = ADWR Inventory of Water Uses</p> <p>3 = Silver Creek HSR</p> <p>4 = Other — <i>See Remarks</i></p> </td> </tr> </table>			<p>*Data Source</p> <p>1 = Statement of Claimant</p> <p>2 = ADWR Inventory of Water Uses</p> <p>3 = Silver Creek HSR</p> <p>4 = Other — <i>See Remarks</i></p>
<p>*Data Source</p> <p>1 = Statement of Claimant</p> <p>2 = ADWR Inventory of Water Uses</p> <p>3 = Silver Creek HSR</p> <p>4 = Other — <i>See Remarks</i></p>			

# **APPENDIX G**

# **Appendix G-1**

## **SRP & Zuni Tribe Underground Water Agreement**

THIS AGREEMENT, dated as of June 7, 2002, is entered into among the Salt River Project Agricultural Improvement and Power District, ("SRP"); the Zuni Indian Tribe and its members, ("Tribe" or "Zuni Tribe"); and the United States of America, on behalf of the Zuni Tribe, ("United States on behalf of the Tribe").

WHEREAS, the parties to this Agreement and others have entered into an agreement dated June 7, 2002 (the "Settlement Agreement"), which references in paragraph 5.8 this Agreement, to settle and forever resolve the rights of the Zuni Tribe and of the United States on behalf of the Tribe to underground water and surface water in the Little Colorado River System and Source in the State of Arizona, and;

WHEREAS, this Agreement recognizes the terms and conditions which apply when SRP withdraws underground water for uses at the Coronado Generating Station plant site in St. Johns, Arizona, as well as for other future uses in the Little Colorado River basin in Arizona, without objection by the Zuni Tribe or by the United States on behalf of the Tribe.

NOW, THEREFORE, IN CONSIDERATION OF THE COVENANTS CONTAINED IN THIS AGREEMENT, IT IS AGREED THAT:

### **1. Definitions**

For the purposes of this Agreement:

- 1.1. "AFA" means acre-feet per annum.
- 1.2. "Coronado Generating Station" means the existing electrical generating facility at the Coronado Generating Station Site as well as any expansions or replacements of the existing facility located anywhere within the LCR basin.
- 1.3. "Coronado Generating Station Site" means lands owned by SRP in Sections 27, 29, 33 and 34, Township 14 North, Range 29 East, Gila and Salt River Base and Meridian; Sections 3, 4, 5, 6, 7, 8, 9, and 10, Township 13 North, Range 29 East, Gila and Salt River Base and Meridian; and Sections 1, 3, 11 and 12, Township 13 North, Range 28 East, Gila and Salt River Base and Meridian, together with any contiguous lands that SRP may acquire in the future.
- 1.4. "Eastern LCR Decree" means that portion of the decree entered in the Little Colorado River Adjudication that includes water rights in the Eastern Little Colorado River area, which includes the portion of the LCR basin upstream from the confluence of Silver Creek and the Little Colorado River.
- 1.5. "Hazardous Substance" means those substances included within the definition of that term under 42 U.S.C. § 9601(14), as it now exists or as it may be amended.

1.6 "LCR basin" means the Little Colorado River basin in Arizona.

1.7 "Oil" means those substances included within the definition of that term under 33 U.S.C. § 2701 (23), as it now exists or as it may be amended.

1.8 "Static Water Level Decline" must be determined by comparing the average annual static water level with the existing static water level in the regional aquifer (presently referred to as the "C Aquifer"), as measured at an agreed on well site. Static water level measurements must be taken annually on or about March 1; provided that the well in which the measurements are to be taken, and any Zuni well within one-half mile of that measurement well pumping from the C Aquifer, has not been operated at any time during the four months immediately preceding the date of measurement. If the measurement well or any Zuni well within one-half mile of that measurement well pumping from the C aquifer has been operated in the four months preceding the date of measurement, other water level measurements taken at the well must be used to establish a static water level acceptable to both the Zuni Tribe and SRP. The point of measurement must always be a well existing on the enforcement date of the Settlement Agreement in the south half of Section 27, Township 14 North, Range 26 East, Gila and Salt River Base and Meridian that the parties to this Agreement agree to use, or, in the future, a mutually agreed upon replacement well in the south half of Section 27, Township 14 North, Range 26 East, Gila and Salt River Base and Meridian. The existing static water level must be determined by the static water level measurement taken following the date this Agreement becomes enforceable. The average annual static water level must be determined on the basis of a continuous 3 year rolling average of the annual static water level measurement in the well. The Zuni Tribe or the United States on behalf of the Tribe shall take the static water level measurements and provide SRP with a written report of the results within 30 days of each measurement. The Zuni Tribe shall provide reasonable access to the measuring well for verification and monitoring purposes.

1.9 "TDS" means total dissolved solids.

1.10 "Zuni Indian Reservation in Arizona," also referred to as Zuni Heaven Reservation and Kolhu:wala:wa, refers to the following property in Apache County, Arizona: Sections 26, 27, 28, 33, 34, and 35, Township 15 North, Range 26 East, Gila and Salt River Base and Meridian; and Sections 2, 3, 4, 9, 10, 11, 13, 14, 15, 16, 23, 26, and 27, Township 14 North, Range 26 East, Gila and Salt River Base and Meridian.

1.11 "Zuni Lands" means all the following lands in Arizona (as identified on Exhibit A, attached and incorporated into this Agreement) that on the date the Settlement Agreement becomes enforceable are

- A. within the Zuni Indian Reservation in Arizona;
- B. held in trust by the United States for the benefit of the Tribe or its members; or
- C. held in fee by or for the Tribe.

**2. Term**

2.1 **Enforceable Date.** This Agreement shall become enforceable on the date that the Settlement Agreement becomes enforceable, and shall remain enforceable until the water uses authorized in paragraph 7.6 permanently cease.

**3. Zuni Tribe Underground Water Use**

3.1 **Zuni Use.** SRP recognizes, confirms, and shall not object to, dispute or challenge the withdrawal and use of up to an annual average of 1,500 AFA of underground water by the Zuni Tribe or by the United States on behalf of the Tribe from the Zuni Pumping Lands, identified on Exhibit A. The annual average pumping shall be determined by a continuous 3 year rolling average of the pumping from each calendar year.

3.2 If the Zuni Tribe or the United States on behalf of the Tribe withdraws more than an annual average of 1,500 AFA of underground water from wells located on the Zuni Pumping Lands and SRP is not pumping more than 21,000 AFA of underground water from wells in the LCR basin supplying the Coronado Generating Station, then the Zuni Tribe and the United States on behalf of the Tribe waive permanently all their rights under federal and tribal law, including but not limited to any rights based on aboriginal claims or federal reserved rights to groundwater in Arizona, to object to, dispute, or challenge SRP's withdrawals of underground water in the LCR basin of an amount up to 21,000 AFA. Nevertheless, regardless of the amount of water the Zuni Tribe or the United States on behalf of the Zuni Tribe is pumping, the Zuni Tribe and the United States on behalf of the Tribe retain the same rights as any non-Indian, non-federal groundwater user in Arizona to object, only as permitted under state law affecting groundwater, whether statutory or common law, to SRP's withdrawals of underground water in the LCR basin in excess of 15,000 AFA. If SRP withdraws more than 21,000 AFA from wells in the LCR basin supplying The Coronado Generating Station, then the Zuni Tribe and the United States retain all rights to object to, dispute, or challenge, as provided in paragraph 6.1, only the portion of those withdrawals greater than 21,000 AFA.

3.3 **Future Rights within Zuni Pumping Lands.** Except as provided in this Agreement, the Zuni Tribe and the United States on behalf of the Tribe retain the right to initiate new withdrawals of underground water or to expand existing withdrawals of underground water above an annual average of 1,500 AFA on the Zuni Pumping Lands.

3.4 **Future Rights outside Zuni Pumping Lands.** Except as provided in paragraph 7.2, the Zuni Tribe or the United States on behalf of the Zuni Tribe may initiate new withdrawals of underground water on the Zuni Lands located outside of the Zuni Pumping Lands, and on any lands located outside the Zuni Pumping Lands acquired in the future either by or for the Zuni Tribe.

**4. SRP Underground Water Use: 0 – 15,000 AFA**

4.1 **Zuni Tribe Objections.** The Zuni Tribe and the United States on behalf of the Tribe recognize, confirm, and shall not object to, dispute or challenge SRP's

withdrawal and use of a maximum of 15,000 AFA of underground water withdrawn from wells in the LCR basin supplying water to the Coronado Generating Station for uses authorized in paragraph 7.6, unless the Tribe or the United States on behalf of the Tribe proves in the court administering the Eastern LCR Decree that SRP's withdrawal of a maximum of 15,000 AFA of underground water is causing a Static Water Level Decline in excess of 75 feet.

4.2 SRP may withdraw this 15,000 AFA whether the water withdrawn from those wells is surface water, groundwater or is legally appropriable, non-appropriable, or subject to claims based on federal law. The withdrawal of 15,000 AFA or less of water in any year or series of years, both prior to and after the date of this Agreement, shall not affect SRP's right to withdraw its full entitlement to 15,000 AFA in subsequent years.

4.3 **Claims and Remedies.** If the Zuni Tribe or the United States on behalf of the Tribe is not withdrawing more than an annual average of 1,500 AFA of underground water from wells on the Zuni Pumping Lands and if the Zuni Tribe or the United States on behalf of the Tribe proves a Static Water Level Decline in excess of 75 feet caused by SRP's withdrawal of a maximum of 15,000 AFA of underground water from wells supplying the Coronado Generating Station, the Zuni Tribe or the United States on behalf of the Tribe may assert any claim it may have under state or federal law for injuries to it for the amount of Static Water Level Decline in excess of 75 feet that is caused by SRP's withdrawals. If the Zuni Tribe or the United States on behalf of the Tribe is withdrawing more than an annual average of 1,500 AFA of underground water from wells on the Zuni Pumping Lands, the Zuni Tribe or the United States on behalf of the Tribe shall only assert claims under this paragraph 4.3 based on state law. The remedies available to the Zuni Tribe and to the United States on behalf of the Tribe against SRP shall be limited to compensatory damages and shall not include injunctive relief. SRP shall have the right, if it chooses, at its sole discretion, to avoid liability for payment of damages by reasonably mitigating the impacts of its withdrawals. In addition, the Zuni Tribe or the United States on behalf of the Tribe may assert any claim retained in paragraph 11.4 of the Settlement Agreement.

**5. SRP Underground Water Use: 15,001 – 21,000 AFA**

5.1 **Claims.** Except as provided in paragraph 5.2, and if the Zuni Tribe or the United States on behalf of the Tribe is not withdrawing more than an annual average of 1,500 AFA of underground water from wells on the Zuni Pumping Lands, the Zuni Tribe or the United States on behalf of the Tribe may assert any claim it may have under state or federal law for injuries to it caused by SRP's withdrawal and use of underground water in amounts greater than 15,000 AFA but no more than 21,000 AFA. If the Zuni Tribe or the United States on behalf of the Tribe is withdrawing more than an annual average of 1,500 AFA of underground water from wells on the Zuni Pumping Lands, the Zuni Tribe or the United States on behalf of the Tribe shall only assert claims under this paragraph 5.1 based on state law.

5.2 **Water Quality Claims.** If the Zuni Tribe or the United States on behalf of the Tribe is not withdrawing more than an annual average of 1,500 AFA of underground

water from wells on the Zuni Pumping Lands, the Zuni Tribe or the United States on behalf of the Tribe may also assert any claim it may have under state or federal law for damages to the quality of underground water beneath the Reservation caused by SRP's withdrawal or use of underground water in excess of 15,000 AFA but no more than 21,000 AFA if all of the conditions precedent in subparagraphs 5.2.A, B, and C are satisfied. If the Zuni Tribe or the United States on behalf of the Tribe is withdrawing more than an annual average of 1,500 AFA of underground water from wells on the Zuni Pumping Lands, the Zuni Tribe or the United States on behalf of the Tribe shall only assert claims under this paragraph 5.2 based on state law.

A. The Static Water Level Decline caused by SRP's withdrawals must be in excess of 75 feet.

B. The TDS in the regional aquifer beneath the Reservation has reached 3000 mg/l and the increase is causing significant harm to species native to the area on the Reservation. TDS levels are based on a continuous 3 year rolling average of the annual TDS measurement.

C. The Zuni Tribe or the United States must measure TDS annually from a well in the south half of Section 27, Township 14 North, Range 26 East, Gila and Salt River Base and Meridian, to be agreed on by the parties; this may be a different well than the well used to measure Static Water Level Decline. Water samples for TDS measurements must be taken using standard sampling protocols. TDS may be estimated annually by electrical conductivity, but only annual tests performed by an Arizona state certified lab may be used to compute TDS in subparagraph 5.2(B). The Zuni Tribe or the United States on behalf of the Tribe shall report to SRP the results of the annual TDS measurement within 30 days of each measurement. The Zuni Tribe shall provide reasonable access to the measuring well for verification and monitoring purposes.

5.3 Remedies. The remedies available to the Zuni Tribe and to the United States on behalf of the Tribe against SRP for claims permitted under paragraph 5.1 and paragraph 5.2 shall be limited to compensatory damages and shall not include injunctive relief. Furthermore, for claims asserted pursuant to paragraphs 5.1 and 5.2, SRP shall have the right, if it chooses, at its sole discretion, to avoid liability for payment of damages by reasonably mitigating the impacts of its withdrawals. Furthermore, the remedies of the Zuni Tribe or of the United States on behalf of the Tribe under paragraph 5.1 and under paragraph 5.2 are limited to the damage caused by the impact of the portion of SRP's withdrawals that are in excess of 15,000 AFA but no more than 21,000 AFA.

5.4 In addition to the claims permitted under paragraphs 5.1 and 5.2, the Zuni Tribe or the United States on behalf of the Tribe may assert any claim retained in paragraph 11.4 of the Settlement Agreement.

**6. SRP Underground Water Use: 21,001 AFA or more**

6.1 **Claims and Remedies.** If SRP is withdrawing more than 21,000 AFA of underground water from wells supplying the Coronado Generating Station, and irrespective of the amount of underground water that is withdrawn by the Zuni Tribe or the United States on behalf of the Tribe on Zuni Pumping Lands, the Zuni Tribe and the United States on behalf of the Tribe retain all rights and claims, including all water quality claims, under federal and state law to object to the portion of SRP's withdrawal and use of underground water in excess of 21,000 AFA.

6.2 **Future Rights.** Except as provided in this Agreement, SRP retains the right to initiate new withdrawals of underground water or to expand existing withdrawals of underground water above 21,000 AFA.

**7. Other Provisions**

7.1 **SRP Well Placement.** SRP shall be permitted to maintain, operate, repair, deepen and replace existing wells and drill, maintain, operate, repair, deepen and replace future wells. Nevertheless, SRP shall not locate any replacement wells or new wells developed for the future use of underground water within the SRP Exclusion Area identified on Exhibit A.

7.2 **Zuni Tribe Well Placement.** The Zuni Tribe or the United States on behalf of the Tribe shall be permitted to maintain, operate, repair, deepen and replace existing wells and drill, maintain, operate, repair, deepen and replace future wells. Nevertheless, the Zuni Tribe and the United States on behalf of the Tribe shall not locate any replacement wells or new wells developed for the future use of underground water within the Zuni Exclusion Area identified on Exhibit A.

7.3 **Measurements.** The Zuni Tribe or the United States on behalf of the Tribe shall install and maintain industry-standard flow measurement devices on all active wells located on Zuni Lands having a pumping capacity greater than 35 gallons per minute. SRP shall also install and maintain industry-standard flow measurement devices on all active wells located in the LCR basin supplying the Coronado Generating Station that have a pumping capacity greater than 35 gallons per minute. SRP and the Zuni Tribe or the United States on behalf of the Tribe shall exchange annual pumping amounts for each active well (which must include estimates of water use for any unmeasured well) and static water levels each year on approximately April 1.

7.4 **Water Quantity Data.** Beginning with the date this Agreement is enforceable, SRP and the Zuni Tribe shall provide each other with water quantity data as provided for in this paragraph 7.4.

A. **SRP's Water Quantity Data.** The Zuni Tribe may request from SRP water quantity data for any active wells in the LCR basin pumping underground water for the Coronado Generating Station. Within 30 calendar days of its receipt of the request, SRP shall provide to the Zuni Tribe all water quantity data SRP has collected for the specified wells in the one-year period preceding the

request. The Zuni Tribe, and the United States on behalf of the Zuni Tribe, must keep that data confidential, except to the extent disclosure is required by law.

B. **Zuni Tribe's Water Quantity Data.** SRP may request from the Zuni Tribe or from the United States on behalf of the Zuni Tribe water quantity data for any active wells pumping underground water on Zuni Lands. Within 30 calendar days of receipt of the request the Zuni Tribe or the United States on behalf of the Zuni Tribe shall provide to SRP all water quantity data collected for the specified wells in the one-year period preceding the request. SRP must keep that data confidential except to the extent disclosure is required by law.

C. **Data Included.** The water quantity data to be provided by the Parties upon request includes, but is not limited to, pumping schedules, well logs, and results of pump tests.

**7.5 Water Quality Data.** In addition to the data that SRP provides to the Zuni Tribe under paragraph 5.11 of the Settlement Agreement, beginning with the date this Agreement is enforceable, SRP and the Zuni Tribe shall provide each other with water quality data, and consult with each other regarding water quality in some circumstances, as provided for in this paragraph 7.5.

A. **Provision of Water Quality Data.** When SRP submits water quality data for wells pumping underground water for the Coronado Generating Station to the Arizona Department of Environmental Quality ("DEQ"), the Arizona Department of Water Resources ("DWR"), or the United States Environmental Protection Agency ("USEPA"), SRP shall provide the Zuni Tribe with a copy. When the Zuni Tribe or the United States on behalf of the Zuni Tribe submits water quality data for wells on Zuni Lands to DEQ, DWR, or USEPA, the Zuni Tribe shall provide SRP with a copy. The copies must be provided at the same time the data is provided to the department or agency, or within fifteen working days thereafter.

B. **Consultation.** SRP and the Zuni Tribe agree to consult with each other if any data provided under subparagraph 7.5.A demonstrates the presence of a Hazardous Substance or constituents of Oil in an amount greater than an Arizona Numeric Aquifer Water Quality Standard or a Maximum Contaminant Level established by the USEPA. SRP and the Zuni Tribe may agree to cooperate in further investigating or responding to any contamination, but nothing in this Agreement requires SRP or the Zuni Tribe to agree or to take any action in response.

**7.6 Authorized SRP Water Uses.**

A. **Underground water withdrawn pursuant to this Agreement may be used by SRP only for electrical power generation at the Coronado Generating Station and industrial, domestic, recreational and stock watering uses on the Coronado Generating Station Site. Stock watering through connections to SRP's**

water pipeline from its wellfields to the Coronado Generating Station is also a permissible use.

B. Usage of underground water pursuant to this Agreement for electrical power generation may continue until operations at the Coronado Generating Station permanently cease. When power generation permanently ceases, usage of underground water for industrial, domestic, recreational and stock watering uses on the Coronado Generating Station Site by SRP and its tenants or customers as provided in subparagraph 7.7.B shall not exceed 7,500 AFA.

C. SRP shall not sell, lease, transfer, or transport underground water subject to this Agreement outside the LCR basin.

**7.7 SRP Assignment.**

A. SRP may assign or transfer, without the necessity of consent by the Zuni Tribe or by the United States on behalf of the Tribe, all or any portion of this Agreement in connection with the assignment, transfer or sale of all or any portion of its interest in the Coronado Generating Station. Any assignees or transferees shall automatically be deemed parties to this Agreement with all the benefits and burdens of this Agreement.

B. SRP may also assign or transfer, without the consent of the Zuni Tribe or of the United States on behalf of the Tribe, up to 7,500 AFA of its water entitlement under this Agreement to tenants or customers of SRP at the Coronado Generating Station Site, which right of assignment or transfer remains effective after generation of power at the Coronado Generating Station permanently ceases. Any assignee or transferee under this paragraph shall automatically be deemed a party to this Agreement with all the benefits and burdens of this Agreement up to a maximum water use of 7,500 AFA.

C. For purposes of this Agreement, power generation at the Coronado Generating Station permanently ceases if all applicable air quality permits are not renewed as a result of the permanent cessation of power generation at the Coronado Generating Station or if the Coronado Generating Station has not generated power at all for 10 consecutive years.

**7.8 Zuni Tribe Assignment.** The Zuni Tribe or the United States on behalf of the Tribe shall not assign or transfer their interests under this Agreement and any such purported assignment or transfer shall be void. Any obligation made in this Agreement shall not run with the land nor be a benefit to any successor in interest of the Zuni Tribe or of the United States on behalf of the Tribe.

**7.9 Amendments.** This Agreement may be amended by the written agreement of SRP, the Zuni Tribe, and the United States on behalf of the Zuni Tribe.

**7.10 Active Management Areas.** If a municipal user, industrial user or other user of underground water within the LCR basin, their instrumentalities or agents, or the State of Arizona or its agencies initiates administrative or judicial action to establish an

Active Management Area, define rights to withdraw and use underground water, or regulate underground water withdrawals in part or all of the LCR basin, the Zuni Tribe, the United States on behalf of the Tribe or SRP may move to intervene in such proceedings to protect its interests.

7.11 Zuni New Mexico Lands. By this Agreement, the Zuni Tribe and the United States on behalf of the Tribe do not waive any rights associated with lands owned by or for the Zuni Indian Tribe in New Mexico or water on those lands.

7.12 Applicable Law. This Agreement and its exhibit, together with the Settlement Agreement, represent the complete and entire agreement of the parties to this Agreement. This Agreement must be interpreted and enforced in accordance with the laws of the State of Arizona and of the United States of America, and must be enforced in the court that administers the Eastern LCR Decree.

7.13 Except where the Settlement Agreement is inconsistent with this Agreement, the Settlement Agreement, including, but not limited to the waivers and retentions of claims in the Settlement Agreement, continues to apply to SRP, the Zuni Tribe, and the United States on behalf of the Tribe.

DATED this 7th day of June, 2002.

SALT RIVER PROJECT  
AGRICULTURAL IMPROVEMENT  
AND POWER DISTRICT

By William P. Schrad

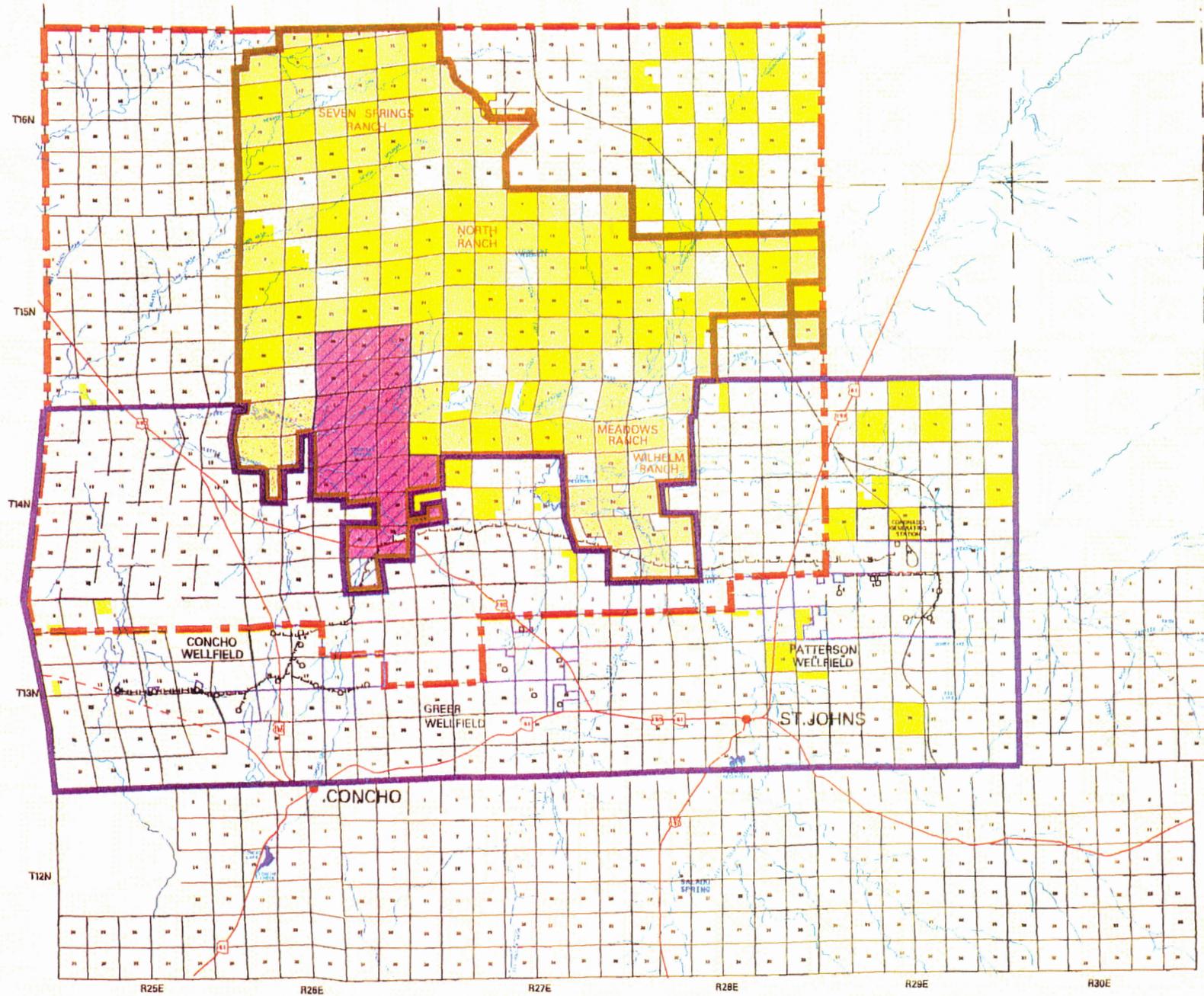
ZUNI TRIBE OF INDIANS

By Melale B. Bonnell

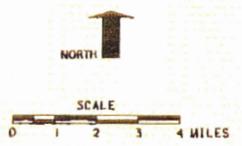
UNITED STATES OF AMERICA, AS  
TRUSTEE FOR THE ZUNI TRIBE

By Gale A. Norton

# EXHIBIT A



- LEGEND**
- SALT RIVER PROJECT EXCLUSION AREA:  
AREA WHERE SRP WILL NOT LOCATE ANY REPLACEMENT WELLS AND/OR WELLS DEVELOPED FOR FUTURE USE OF UNDERGROUND WATER
  - ZUNI EXCLUSION AREA:  
AREA WHERE ZUNI TRIBE WILL NOT LOCATE ANY REPLACEMENT WELLS AND/OR WELLS DEVELOPED FOR FUTURE USE OF UNDERGROUND WATER
  - ZUNILANDS
  - ZUNI FEE SIMPLE LANDS
  - ZUNI TRUST LANDS
  - ZUNI PUMPING LANDS
  - STATE LAND
  - BLM LAND
  - SALT RIVER PROJECT LANDS
  - SRP WELL



# **Appendix G-2**

## EXHIBIT 5.8.B

### ZUNI/TEP AGREEMENT

THIS AGREEMENT is entered into among Tucson Electric Power Company (“TEP”); the Zuni Indian Tribe; and the United States of America on behalf of the Zuni Indian Tribe.

WHEREAS, the Zuni Indian Tribe has asserted certain reserved water rights within the Little Colorado River Basin which it believes may be affected now or in the future by underground water use, including that by TEP in conjunction with its operation of the Springerville Generating Station (“SGS”) properties in Apache County, Arizona; and,

WHEREAS, the parties to this Agreement and other water users within the Little Colorado River Basin have entered into a comprehensive agreement entitled the Zuni Indian Tribe Water Rights Settlement Agreement in the Little Colorado River Basin (“Zuni Settlement Agreement”) to resolve the Zuni Indian Tribe’s asserted reserved water rights; and,

WHEREAS, this Agreement sets forth the terms and conditions under which TEP can withdraw underground water and initiate new wells for use at SGS free of any objection whatsoever by the Zuni Indian Tribe or the United States on behalf of the Tribe, consistent with the terms of the Zuni Settlement Agreement.

#### NOW, THEREFORE, IT IS AGREED THAT:

**1. Definitions.** For purposes of this Agreement:

1.1 “AFA” means acre-feet per annum.

1.2 “Annual Low Flow Rate” means the lowest measured natural (*i.e.*, adjusted for diversions and releases) flow rate of the Little Colorado River (“LCR”) as measured at the streamflow gaging station described in Section 6.2 calculated on the basis of the lowest 30-day rolling average flow rate during a complete calendar year and averaged for the three most recent complete calendar years.

1.3 “Base Flow Decline” means any reduction in the Baseline Flow Rate of the LCR, as measured at the streamflow gaging station described in Section 6.2, which occurs after underground water pumping at Springerville Generating Station (“SGS”) exceeds 11,000 AFA. The Base Flow Decline shall be determined by comparing the Baseline Flow Rate with the Annual Low Flow Rate for each calendar year following, and including, the year in which pumping at SGS exceeds 11,000 AFA.

1.4 “Baseline Flow Rate” means the flow established by calculating the Annual Low Flow Rate for the three complete calendar years immediately following the commencement of operation of the streamflow gaging station described in Section 6.2. Should pumping at SGS exceed 11,000 AFA prior to the Enforcement Date, the Baseline Flow Rate will be established on the basis of the Annual Low Flow Rate for the three complete calendar years immediately preceding the calendar year in which pumping at SGS exceeds 11,000 AFA.

1.5 “Enforcement Date” means the date the Zuni Settlement Agreement becomes enforceable.

1.6 “Springerville Generating Station” (“SGS”) means that certain contiguous set of parcels owned or held for the generation of electricity within T. 10N and 11N, R. 29E and 30E, in Apache County, Arizona, as described in that certain document recorded at Book 703, Pages 53-57 of Apache County Records, containing approximately 22.3 square miles, and any other contiguous lands subsequently acquired for the generation of electricity.

**2. TEP Geographic Restrictions.** TEP covenants for the purposes of this Agreement that it will not initiate new underground water production wells for use at SGS within the following described areas of Apache County, Arizona:

a. That portion of T. 11N., R. 29E., described as:  
Sections 4 through 9, and Sections 16 through 21; N/2 of Section 28; NE/4, E/2 of NW/4, and NW/4 of NW/4 of Section 29; Section 30; and NW/4, W/2 of SW/4, and NE/4 of SW/4 of Section 31.

b. That portion of T. 10N., R. 29E., described as:  
Sections 6 (except Lot 1), 7, 8, 17 through 20, and 29 through 32;

c. All lands lying north of the south line of T. 12N; and,

d. All lands lying west of the east line of R. 28E.

**3. TEP Underground Water Use Up To 11,000 AFA.** Subject to the geographic restrictions in Section 2 of this Agreement, TEP may operate, deepen, increase capacity of, and replace any SGS wells existing as of the date of this Agreement, and may drill, open, operate, and maintain any new SGS wells and use underground water in an amount up to 11,000 AFA without objection or challenge by the Zuni Indian Tribe or the United States on behalf of the Tribe in any appropriate judicial or administrative proceeding.

**4. TEP Underground Water Use Between 11,000 AFA And 20,000 AFA.**

4.1 Subject to the geographic restrictions in Section 2 of this Agreement, TEP may withdraw and use underground water in amounts between 11,000 AFA and 20,000

AFA from SGS wells without objection by the Zuni Indian Tribe or the United States on behalf of the Tribe, unless the Tribe or the United States proves in the court administering the Decree in the Little Colorado River Adjudication that TEP's withdrawal of underground water is causing a Base Flow Decline in the Little Colorado River.

4.2 If the Zuni Indian Tribe or the United States on behalf of the Tribe proves a Base Flow Decline caused by TEP's withdrawals of underground water at SGS, the Zuni Indian Tribe, in its sole discretion, shall be entitled to replacement of water or compensatory damages or other costs but shall not be entitled to injunctive relief. TEP shall have the right to avoid liability for payment of damages by mitigating its impacts of its withdrawals in a manner acceptable to the parties to this Agreement.

**5. TEP Underground Water Use Greater Than 20,000 AFA.**

5.1 Subject to the geographic restrictions in Section 2 of this Agreement, nothing in this Agreement precludes TEP from initiating new underground water withdrawals in amounts above 20,000 AFA at SGS.

5.2 If TEP withdraws more than 20,000 AFA at SGS, the Zuni Indian Tribe and the United States on behalf of the Tribe retain all rights under federal, state, and tribal law to object to TEP's withdrawal and use of underground water in excess of 20,000 AFA at SGS.

**6. TEP Monitoring Program.**

6.1 **Underground Water.** TEP shall continue to conduct a well monitoring and reporting program at SGS in the same manner (*i.e.*, providing the same type, quantity, and quality of data collected at a similar frequency) as it carried out or contributed to in calendar year 2000. The monitoring reports shall be provided to the Tribe within a reasonable time after completion. TEP shall provide all data collected for each well pumping underground water for SGS, including but not limited to monthly quantity pumped by each well, well logs, water quality data, and pump tests, to the Tribe when requested by the Tribe.

6.2 **Surface Water.** In addition to the monitoring program described in Section 6.1, TEP shall fund a Little Colorado River streamflow monitoring and reporting program which meets the following conditions:

a. The measurement site shall be located at the existing gaging station referred to as "Little Colorado River below Salado Springs near St. Johns, Arizona" (USGS #09385700) or at an alternative site mutually agreed upon by TEP and the Tribe.

b. The gaging station shall be designed, operated, and maintained to continuously measure and record accurate river stage at time intervals of one (1) hour or less.

c. The river stage data shall be accessible remotely through a telemetry system which can provide recorded data to the Tribe substantially within six (6) hours of measurement.

d. A rating table which correlates as accurately as reasonably possible river stage to stream discharge for the gaging station shall be developed and maintained.

e. To the extent that TEP collects or receives river data not otherwise available to the Zuni Indian Tribe, TEP shall provide monitoring reports to the Tribe within a reasonable time after completion. All data collected for the gaging station, including but not limited to raw and corrected stage data, manual discharge measurements, and maintenance records, shall be made available to the Tribe when requested by the Tribe. The Tribe or the United States on behalf of the Tribe shall have access to the gaging station for taking its own measurements.

f. TEP may contract with any agency or entity to perform the duties and obligations created within this Section.

## **7. Other Provisions.**

7.1 TEP may freely assign or transfer all or any portion of its rights and obligations under this Agreement in connection with the assignment, transfer, or sale of all or any portion of its interest in SGS, but all such rights or obligations shall remain in force with the assignee and shall not be diminished or terminated by any such assignment.

7.2 This Agreement shall be personal between the parties, and it shall remain in force only as long as the SGS site is operated for electric generating purposes by TEP or its successors-in-interest. No real property interest is created, conveyed, or encumbered by the terms of this Agreement.

7.3 Upon request from any party, the technical representatives for each party shall meet within a reasonable time to discuss a disagreement or question arising from new data received from the monitoring program. If the technical representatives agree on a resolution, that agreement shall be submitted to the parties for consideration and implementation. In the event that the technical representatives are unable to resolve a matter, or are unable to make a unanimous recommendation to the parties, the technical representatives shall make a written report to the parties explaining the areas of agreement, if any, the subject or subjects of disagreement, and each party's argument in favor of its position along with supporting data and background. This report shall be made within thirty (30) calendar days after the technical representative meeting, unless the parties agree to a longer time period.

7.4 This Agreement shall be construed, interpreted, and enforced in accordance with the laws of the State of Arizona and applicable federal law. To the extent that any term of this Agreement is inconsistent with the Zuni Settlement

Agreement, the term of this Agreement shall prevail. This Agreement shall be enforceable in the court which administers the Decree in the Little Colorado River Adjudication.

DATED this 7th day of June, 2002.

**TUCSON ELECTRIC POWER COMPANY**

PA. DeLaud

Vice President  
Title

**ZUNI INDIAN TRIBE**

Melba B. Boulyf

Governor  
Title

**THE UNITED STATES OF AMERICA as Trustee**

Gale A. Norton

\_\_\_\_\_  
Title

# Appendix G-3

## **ZUNI INDIAN TRIBE AND ARIZONA STATE LAND DEPARTMENT PUMPING PROTECTION AGREEMENT**

### **PARTIES:**

This Pumping Protection Agreement is entered into by and among the Zuni Indian Tribe and its members ("Zuni Tribe"), the United State of America in its capacity as trustee or otherwise acting on behalf of the Zuni Tribe ("United States"), and the Arizona State Land Department ("ASLD").

### **RECITALS:**

1.1 Certain parties, including ASLD, the Zuni Tribe and the United States, have entered into a separate comprehensive settlement agreement dated June 7, 2002 ("Settlement Agreement") to settle and forever resolve various claims of the Zuni Tribe to underground water and surface water in the Little Colorado River basin in the State of Arizona. The complete text of the Settlement Agreement is filed with the Decree Court.

1.2 This Pumping Protection Agreement employs abbreviated terms that have the following meanings:

- A. "AFA" means acre-foot per annum.
- B. "Exempt well" means a well having a pumping capacity of 35 gpm or less. For purposes of determining whether a well is exempt, a series of wells serving the same facility shall be counted as a single well. For purposes of this definition, "facility" means all buildings, equipment, structures and lands served by a common water conveyance system, which buildings, equipment, structures, lands and common water conveyance system are owned and operated by or under common control of the same person, persons, or entity and are located on a single site or on contiguous or adjacent sites, and are operated as a single complex with water used primarily for one purpose.
- C. "Decree Court" means the court with jurisdiction over the judgment and decree entered in accordance with the Settlement Agreement.
- D. "Zuni Protection Area" means the area of land described by that name on Attachment 1, which is incorporated into this Pumping Protection Agreement in its entirety.
- E. "Zuni Pumping Lands" means the area of land described by that name on Attachment 1 (attached and incorporated into this Pumping Protection Agreement).

1.3 The United States owns and holds certain lands in trust for the Zuni Tribe in Apache County, Arizona, referred to as the Zuni Heaven Reservation (see Attachment 1).

1.4 ASLD owns certain lands in Apache County, Arizona (“ASLD’s Restricted Lands”) that are the subject of this Pumping Protection Agreement, which are more particularly described as follows:

See Attachment 1.

1.5 The Zuni Tribe and the United States claim that unrestricted pumping of underground water by other landowners within the Zuni Protection Area (see Attachment 1) is likely to adversely affect the ability of the Zuni Tribe and the United States to pump 1,500 acre-feet per year of underground water from Zuni Pumping Lands for purposes of restoration and maintenance of the Wetland Restoration Project on the Zuni Heaven Reservation.

1.6 Except as otherwise expressly provided in the Settlement Agreement or in this and other Pumping Protection Agreements, the Zuni Tribe and the United States have reserved claims to groundwater rights and claims for damage or injury to surface water and to groundwater rights and to water quality as against persons or entities who pump underground water from lands within the Zuni Protection Area.

1.7 The Zuni Tribe and the United States have agreed to enter into Pumping Protection Agreements with any landowners who wish to voluntarily subject their lands within the Zuni Protection Area to restrictions as to the pumping of underground water, in return for a waiver of any and all claims by the Zuni Tribe and the United States as set forth in this Pumping Protection Agreement.

**AGREEMENT:**

Now, therefore, in consideration of the covenants contained in this Pumping Protection Agreement, the parties agree as follows:

2.1 This Pumping Protection Agreement, Attachment 1, Attachment 2, and the Settlement Agreement (to the extent it is applicable), represent the entire and complete agreement of the Zuni Tribe, the United States, and ASLD with respect to pumping underground water on ASLD’s Restricted Lands. This Pumping Protection Agreement must be interpreted and enforced under the laws of the State of Arizona and the United States and must be enforced in the Decree Court.

2.2 ASLD shall not construct or operate on any individual section of ASLD’s Restricted Lands new wells or other new devices having a capacity, individually or collectively, to pump more than 500 gallons of water per minute, or a prorated amount if ASLD’s Restricted Lands are less than one section of land. This Pumping Protection Agreement does not limit the

ability of ASLD or its lessees to construct Exempt Wells and replacement wells; provided that all such wells shall be included in the maximum allowed 500 gallons per minute, or the prorated amount if ASLD's land comprises less than one section. Replacement wells must not exceed the capacity of the well being replaced.

2.3 This Pumping Protection Agreement establishes by covenant a perpetual restriction on ASLD's Restricted Lands, which runs with the land, and a corresponding waiver of claims by the Zuni Tribe and the United States against ASLD or any successor-in-interest to ASLD. This Pumping Protection Agreement must be recorded in the records of Apache County, Arizona, to give notice of these restrictions to the public and to any successor-in-interest to ASLD. This Pumping Protection Agreement must also be filed with the Decree Court.

2.4 So long as this Pumping Protection Agreement remains in effect, the Zuni Tribe and the United States shall not assert any claims against ASLD or ASLD's successor-in-interest arising from or in any way related to the pumping of underground water, on ASLD's Restricted Lands, in a quantity that does not exceed the limitations provided in this Pumping Protection Agreement. In addition, the Zuni Tribe and the United States shall not assert any objections to any new well that may be constructed on ASLD's Restricted Lands in conformity with the limitations described in paragraph 2.2.

2.5 This Pumping Protection Agreement does not diminish or otherwise alter or affect in any way the waivers of claims or reservation of rights by the Zuni Tribe and the United States as provided in Article 10 of the Settlement Agreement, or any other waiver, covenant or other provision contained in the Settlement Agreement. ASLD, the Zuni Tribe and the United States are entitled to the benefits of these provisions despite any contrary provision in this Pumping Protection Agreement and whether or not ASLD is in compliance with the provisions of this Pumping Protection Agreement.

2.6 The Zuni Tribe and the United States shall not bring any legal action for breach of this Pumping Protection Agreement against ASLD or ASLD's successor-in-interest without first giving thirty (30) days written notice of the basis of their claim, and an opportunity to cure or correct any condition that is the basis of their claim. Any action for breach must be brought in the Decree Court. If the Decree Court determines that ASLD or ASLD's successor-in-interest has breached this Pumping Protection Agreement by constructing or operating one or more wells in a manner prohibited by this Pumping Protection Agreement, the Zuni Tribe and the United States are entitled to any remedy available, at law or in equity, under state or federal law.

2.7 This Pumping Protection Agreement is enforceable either on the date the Settlement Agreement becomes enforceable, or if signed after that date, then on the date this Pumping Protection Agreement has been signed by all the parties.

DATED this 7th day of June, 2002.

**Zuni Indian Tribe**



By Malcolm B. Bowekaty

Its Governor

Address: Office of the Governor  
Zuni Indian Tribe  
Post Office Box 339  
Zuni, New Mexico 87327-0339

**The United States of America, as trustee**



By

Its

Address:

**Arizona State Land Department**



By Michael E. Anable

Its State Land Commissioner

Address: Arizona State Land Department  
1616 W. Adams, Suite 305  
Phoenix, Arizona 85007



# **Appendix G-4**

**WATER RIGHT, ENTITLEMENT AND PERPETUAL DELIVERY  
AGREEMENT  
BY AND AMONG  
THE ZUNI INDIAN TRIBE,  
THE UNITED STATES FOR THE BENEFIT OF THE ZUNI INDIAN TRIBE,  
AND THE LYMAN WATER COMPANY  
FOR THE IMPLEMENTATION OF THE ZUNI INDIAN TRIBE WATER  
RIGHTS SETTLEMENT AGREEMENT  
IN THE LITTLE COLORADO RIVER BASIN**

THIS AGREEMENT, entered into this 27<sup>th</sup> day of February, 2006, is by and among the ZUNI INDIAN TRIBE, a federally recognized Indian Tribe (the "Tribe"), the UNITED STATES for the benefit of the Tribe (the "United States") and THE LYMAN WATER COMPANY, an Arizona non-profit corporation ("LWC").

**WITNESSETH:**

WHEREAS, on June 7, 2002, the Tribe entered into a negotiated settlement of its water rights claims in the Little Colorado River General Stream Adjudication (the "Settlement Agreement") with the United States; the State of Arizona, including its Game and Fish, Land and State Parks agencies; St. Johns Irrigation and Ditch Co. ("SJIC"); LWC; Round Valley Water Users' Association; Salt River Project Agricultural Improvement and Power District; Tucson Electric Power Company; the City of St. Johns; the Town of Eagar; and the Town of Springerville (hereinafter jointly the "Parties"), in order to reestablish and maintain the wetland environment that previously existed within the Tribe's Zuni Heaven Reservation, including restoration of water to its Sacred Lake, by acquiring surface water rights ("SWRs") on a voluntary basis while maintaining, to the greatest extent possible, the status quo for existing surface and ground water users in the area.

WHEREAS, on June 23, 2003, the Zuni Indian Tribe Water Rights Settlement Act of 2003 (Pub. L. No. 108-34, 117 Stat. 782) was signed into law, which authorized the federal action required to fund and carry out the Settlement Agreement.

WHEREAS, pursuant to the Settlement Agreement, the Tribe will acquire, with the cooperation of the Parties, the rights to 3,600 acre-feet per annum ("AFA") of surface water and will waive its water rights claims in the Little Colorado River General Stream Adjudication, provided that the Tribe has acquired or waived its right to acquire rights to at least 2,350 AFA of surface water measured at Lyman Reservoir prior to December 31, 2006 (the "Enforcement Date").

WHEREAS, LWC, as a Party to the Settlement Agreement, has agreed to cooperate in good faith at all times from and after the day the Settlement Agreement was executed to facilitate the successful completion of all conditions precedent to making the Settlement Agreement enforceable.

WHEREAS, LWC is the owner of the Lyman Reservoir and irrigation system and the appropriation of water by LWC is for the use and benefit of its stockholders owning land in the area from Zion Reservoir to Lyman Reservoir as provided in the Supplemental Decree on Behalf of the Lyman Water Company, entered on March 17, 1921 by the Superior Court of the State of Arizona, in and for the County of Apache.

WHEREAS, in satisfaction of conditions precedent to the enforceability of the Settlement Agreement, the Tribe desires to acquire water rights from LWC prior to the Enforcement Date in the most expeditious manner that is legally consistent with the articles of incorporation, bylaws and operating procedures of LWC and that can be approved by the Norviel Decree Court and the Little Colorado River General Stream Adjudication Court ("Adjudication Court").

WHEREAS, under Arizona law, water rights that are used for irrigation purposes, that were initiated before March 26, 1919, the date the first comprehensive State Water Code was filed with the Secretary of State, and that are contained in a decree over which a court of competent jurisdiction maintains continuing jurisdiction, may be severed from the land to which they are appurtenant and transferred to other land upon approval of the court. The Norviel Decree Court retains jurisdiction under Arizona law over the water rights that are the subject of this Agreement and has the authority to approve this Water Right, Entitlement and Perpetual Delivery Agreement and to deem it a severance and transfer of the water rights that are the subject of this Agreement.

WHEREAS, in satisfaction of other conditions precedent to the enforceability of the Settlement Agreement, the Tribe and LWC have entered into a Lyman Dam Operation and Storage Agreement ("Operating Agreement") governing the storage, delivery and pass-through of Tribal water acquired pursuant to the Settlement Agreement from entities other than LWC and, in conjunction with the Arizona Game and Fish Commission, will enter into a Water Right Severance and Transfer Agreement governing the process of severance and transfer of certain other water rights to be acquired.

WHEREAS, the Parties are willing to enter into this Agreement that sets forth the terms upon which the Tribe and the United States may acquire from LWC a permanent right and entitlement to water as described herein.

NOW, THEREFORE, based upon the foregoing, and in consideration of the mutual promises and covenants herein contained, the Parties agree as follows:

**1. Tribe's Annual Entitlement to LWC Delivered Water.**

LWC hereby grants to the Tribe and the United States in trust for the Zuni Indian Tribe all right, title and interest to a perpetual water right and entitlement to receive, on an annual basis, twelve percent (12%) of LWC Delivered Water as defined in Paragraph 5 at the priority date of Lyman Reservoir under the Norviel Decree. The parties agree that twelve percent (12%) of LWC Delivered Water has historically provided 972 AFA.

The Tribe's water right and annual entitlement to twelve percent (12%) of LWC Delivered Water as described in this paragraph and in Paragraph 5 hereof shall hereinafter be referred to as the "Tribe's Water Right and Annual Entitlement." Norviel Decree Court approval of this Agreement shall be deemed to be a severance and transfer of water rights from LWC's service area to the Zuni Heaven Reservation in the Little Colorado River Basin in Arizona pursuant to Paragraph 4.6.D of the Settlement Agreement. The Parties agree that upon approval of this Agreement by the Norviel Decree Court, the Tribe and the United States for the benefit of the Tribe shall hold all right, title and interest to the Tribe's Water Right and Annual Entitlement to twelve percent of LWC Delivered Water as described in this paragraph and Paragraph 5 hereof, and LWC shall perpetually deliver such water right and annual entitlement to the Tribe.

## **2. Tribe's Payment.**

As full compensation and consideration for the Tribe's Water Right and Annual Entitlement pursuant to this Agreement, the Parties agree that the Tribe shall pay LWC One Million Four Hundred Sixty-One Thousand One Hundred Seventy-Six Dollars (\$1,461,176.00) along with a one time operation and maintenance payment of Eighty Eight Thousand Five Hundred Dollars (\$88,500.00), the sum of which equals One Million Five Hundred Forty-Nine Thousand Six Hundred Seventy-Six Dollars (\$1,549,676.00) (the "Water Right and Entitlement Price"). As full compensation and consideration for the Tribe's storage and delivery rights under the Operating Agreement and the Water Rights Severance and Transfer Agreement, the Parties agree that the Tribe shall pay LWC Five Hundred Ten Thousand Three Hundred Twenty-Four Dollars (\$510,324.00) along with a one time operation and maintenance payment of Two Hundred Forty Thousand Dollars (\$240,000.00), the sum of which equals Seven Hundred and Fifty Thousand Three Hundred Twenty-Four Dollars (\$750,324.00) (the "Operating Agreement Price").

## **3. Escrow Holder.**

3.A. Within ten (10) business days of the mutual execution of this Agreement, the Tribe shall deposit into escrow with LandAmerica Transnation, located at 1500 South White Mountain Road, Show Low, Arizona 85901 (the "Escrow Holder") the sum of Five Hundred Thousand Dollars (\$500,000.00) of the Operating Agreement Price (the "Down Payment"), to be held in an interest-bearing account, to be released to LWC only upon full satisfaction of the conditions precedent set forth in Paragraph 4 below (the "Conditions Precedent to Water Right, Entitlement and Perpetual Delivery Agreement") or as otherwise provided in this Agreement. The provisions of this Agreement shall constitute joint instructions to the Escrow Holder; provided, however, that LWC and the Tribe may mutually execute such additional instructions as may be reasonable and necessary to carry out the provisions of this Agreement. The Tribe and LWC shall jointly be responsible for the payment of all costs and fees associated with the escrow. Of the Down Payment, Fifty-Five Thousand Dollars (\$55,000.00) shall be nonrefundable (the "Nonrefundable Amount"). In the event that the

Conditions Precedent to the Water Right, Entitlement and Perpetual Delivery Agreement are not met by December 31, 2006, then, within ten (10) business days after December 31, 2006, the Escrow Officer shall refund Four Hundred Forty-Five Thousand Dollars (\$445,000.00), and all proportionate interest accrued thereon, to the Tribe and shall pay LWC the Nonrefundable Amount and all proportionate interest accrued thereon.

3.B. If Conditions 4.B and 4.E of the Conditions Precedent to the Water Right, Entitlement and Perpetual Delivery Agreement are satisfied by December 31, 2006, then the Escrow Officer shall pay LWC on January 2, 2007 the Down Payment and all interest accrued thereon, but only the Down Payment shall be credited against the Operating Agreement Price. The balance of the Operating Agreement Price, together with interest accruing on said balance at the rate of five percent (5%) per annum beginning on January 1, 2007, shall be paid in full by December 31, 2008. If the balance of the Operating Agreement Price is not paid in full by December 31, 2008, LWC shall be entitled to retain the Down Payment together with all interest accrued thereon, and the Operating Agreement and the Water Rights Severance and Transfer Agreement shall be null and void.

3.C. If the Conditions Precedent to the Water Right, Entitlement and Perpetual Delivery Agreement are satisfied by December 31, 2006, then the Water Right and Entitlement Price, together with interest accruing at the rate of five percent (5%) per annum beginning on January 1, 2007, shall be paid in full by December 31, 2008. If the Water Right and Entitlement Price is not paid in full by December 31, 2008, the Water Right Entitlement and Perpetual Delivery Agreement shall be null and void.

**4. Conditions Precedent to Water Right, Entitlement and Perpetual Delivery Agreement.**

The Parties shall promptly initiate and pursue to completion, prior to December 31, 2006, each of the following Conditions Precedent to the Water Right, Entitlement and Perpetual Delivery Agreement:

4.A. LWC shall amend its articles of incorporation, bylaws and operating procedures as necessary in the opinion of LWC to provide for the approval of this Agreement and to allow for the water right, entitlement and perpetual delivery of twelve percent (12%) of LWC Delivered Water to the Tribe and the United States for use on the Zuni Heaven Reservation in accordance with the requirements of this Agreement and the Settlement Agreement;

4.B. LWC shall amend its articles of incorporation, bylaws and operating procedures as necessary in the opinion of LWC to provide for the storage, release, and delivery of Tribal water acquired from sources other than LWC Delivered Water to the Tribe and the United States for use on the Zuni

Heaven Reservation in accordance with the requirements of the Operating Agreement and the Settlement Agreement;

4.C. The Parties hereto shall jointly file with the Norviel Decree Court a Motion to Approve a Water Right, Entitlement, and Perpetual Delivery Agreement in Furtherance of Indian Water Rights Settlement and shall obtain the approval of the Norviel Decree Court of said motion. The motion shall petition the Norviel Decree Court to sever twelve percent (12%) of the right, title and interest of water decreed to LWC for the use and benefit of its stockholders from the acres of land as described in the Norviel Decree and transfer said twelve percent (12%) of the water right to the United States in trust for the Zuni Indian Tribe for use on the Zuni Heaven Reservation pursuant to the Settlement Agreement;

4.D. The Parties hereto shall jointly file with the Adjudication Court an Application for an Order for Special Proceedings to Approve an Indian Water Rights Settlement and Stipulation and shall obtain the approval of the Adjudication Court of said motion; and

4.E. The Secretary of the United States Department of the Interior shall have published in the Federal Register a statement of its findings that the conditions precedent to the enforceability of the Settlement Agreement have been satisfied as set forth in the Settlement Act.

**5. Tribe's Annual Entitlement to LWC Delivered Water.**

Beginning in the year following payment in full of the Water Right and Entitlement Price and the Operating Agreement Price, LWC shall credit the Tribe in perpetuity on or before May 1 of each year with an annual entitlement to twelve percent (12%) of LWC Delivered Water. "LWC Delivered Water" shall be that quantity of water determined from LWC's storage rights in Lyman Reservoir, regardless of the means by which LWC diverts that water from Lyman Reservoir, and including any water left in storage by LWC. LWC Delivered Water shall be determined each year as shown on Exhibit A to this Agreement by an equation based upon the sum of the measured Net Storage in Lyman Reservoir at 12:01 a.m. on May 1, plus diversions by LWC through the Lyman Canal during the period from the preceding October 1 through April 30, minus diversions of up to 200 AF by LWC to the St. John's Irrigation Company through the Lyman Canal pursuant to the Norviel Decree during the preceding October 1 through April 30 period. For purposes of this Agreement, "Net Storage" shall be the total amount of water in storage at Lyman Reservoir heretofore available to LWC stockholders for irrigation and other purposes. Net Storage shall not include water in the Dead Capacity, the existing Minimum Pool, and the storage capacity that is not available due to the deposition of sediment above the Minimum Pool, as the capitalized terms are defined in the Operating Agreement. Net Storage shall not include any water owned or stored by the Tribe in Lyman Reservoir from sources other than LWC Delivered Water. The Tribe's Water Right and Annual Entitlement to LWC Delivered Water shall be

determined by multiplying the quantity of LWC Delivered Water on May 1 of each year as shown on Exhibit A to this Agreement by twelve percent (12%).

The Parties agree that twelve percent (12%) of LWC Delivered Water has historically provided 972 AFA of water measured at Lyman Reservoir based on the median release of 8,100 AFA from Lyman Reservoir to Lyman Canal (excluding any water delivered to SJIC) between 1951 and 2004. The historical releases of water to the Lyman Canal are shown on Exhibit B to this Agreement. The annual period under this Agreement shall be from January 1 through the following December 31.

**6. Accounting.**

6.A. LWC shall establish and maintain a water account for the Tribe's Water Right and Annual Entitlement to LWC Delivered Water under Paragraph 5 (the "Entitlement Account"). The Entitlement Account shall be credited on or before May 1 of each year with the amount of the Tribe's Annual Entitlement to LWC Delivered Water.

6.B. The Entitlement Account shall be debited on an acre-foot by acre-foot basis for all LWC Delivered Water released at the Delivery Point to the Tribe as described in Paragraph 7.

6.C. The Tribe's credits in the Entitlement Account shall not be subject to evaporation, seepage losses or spills.

6.D. LWC shall provide to the Tribe and the United States monthly written reports showing Entitlement Account credits and debits. LWC shall provide this report to the Tribe and the United States no later than the fifteenth (15<sup>th</sup>) day of the month following the month for which the report is compiled.

6.E. Except as provided herein, all remaining credits shall be deducted from the Entitlement Account at 11:59 p.m. on November 15.

**7. LWC Delivered Water Orders.**

7.A. The Tribe shall order delivery of the Tribe's Water Right and Annual Entitlement credits as provided in the Operating Agreement.

Unless otherwise agreed to in writing by LWC, water shall be released to the Tribe at the outlet works of Lyman Reservoir into the Little Colorado River natural channel (the "Delivery Point"). The Tribe's orders of the Tribe's Water Right and Annual Entitlement shall be satisfied when the quantity of water ordered is released to the Tribe at the Delivery Point. Subject to Paragraph 7.C. below, the Tribe shall accept delivery of its orders of the Tribe's Water Right and Annual Entitlement stored in Lyman Reservoir at the Delivery Point.

If not maintained by another entity, LWC and the Tribe shall jointly maintain the accuracy of the existing measuring devices at Lyman Dam and the outlet to the Little Colorado River commensurate with the accuracy required for similar purposes.

7.B. At the sole expense of the Tribe, in consultation with LWC, the Tribe shall be entitled to design, construct, install, and maintain measuring devices at the Delivery Point, Lyman Canal intake, and elsewhere at Lyman Reservoir, which are capable of measuring and recording all deliveries of LWC Delivered Water to the Tribe and LWC. In any measuring devices installed pursuant to this paragraph, the Tribe shall have the option to include telemetry equipment that shall have the ability to provide real-time data transmission to LWC, the Tribe, and the United States.

7.C. The Tribe shall have the option to take delivery of the Tribe's Water Right and Annual Entitlement to LWC Delivered Water through the Lyman Canal and all other related conveyance facilities (the "LWC Facilities") in coordination with other LWC delivery and release obligations, subject only to the delivery capacity limitations of the canal and related conveyance facilities. If the Tribe chooses to take delivery through the Lyman canal and delivery conveyance facilities, LWC and the Tribe shall agree to establish that location as the Delivery Point ("new Delivery Point") for purposes of this Agreement. If the new Delivery Point is established, LWC, the Tribe and the United States shall negotiate an agreement covering all aspects of the delivery, including operation and maintenance charges ("O&M") and losses associated with the new Delivery Point in a manner consistent with LWC's treatment of its stockholders for as long as the new Delivery Point is in use

7.D. The Tribe shall not be entitled to delivery of any LWC Delivered Water:

7.D.1. When there are not sufficient credits in the Tribe's Entitlement Account; or

7.D.2 At any time when emergencies, maintenance, or repairs of the LWC water delivery system or the physical inoperability of the outlet works preclude water deliveries to the Tribe, so long as LWC treats the Tribe in a manner consistent with LWC's treatment of its stockholders.

7.E. LWC shall notify the Tribe as soon as practicable of any emergencies, maintenance, or repairs that may interrupt water deliveries to the Tribe in the same manner LWC notifies its stockholders.

7.F. If Net Storage exceeds 10,000 AF at Lyman Lake on January 1 of any year, then the Tribe may order up to fifty percent (50%) of the anticipated

amount of the Tribe's Water Right and Annual Entitlement between March 1 and May 1; provided, however, that the Tribe, if weather conditions permit and the Tribe provides no less than three (3) days' advance notice, may order a single release of all or a portion of the anticipated amount of the Tribe's Water Right and Annual Entitlement for delivery between February 1 and February 28. If Net Storage is equal to or less than 5,000 AF at Lyman Lake on April 15, the Tribe shall either (i) order the Tribe's Water Right and Annual Entitlement between May 1 and August 15 or (ii) enter into a forbearance agreement as provided in Subparagraph 7.J below.

7.G. Except as provided in Subparagraph 7.F, the Tribe may order the Tribe's Water Right and Annual Entitlement for delivery between 11:59 p.m. on February 28 and 11:59 p.m. on November 15.

7.H. The Tribe shall have the right to use the Tribe's Water Right and Annual Entitlement on the Zuni Heaven Reservation in accordance with the terms of the Settlement Agreement.

7.I. The Parties agree that in order to maintain and ensure that the Tribe receives the full benefit of the Tribe's Water Right and Annual Entitlement to LWC Delivered Water provided in Paragraph 5 of this Agreement, LWC hereby agrees as follows:

7.I.1 LWC shall not change the historical operations or uses of the LWC Facilities in a manner that reduces the amount of water available to the Tribe by, for example:

- (a) the sale or lease of water,
- (b) the release of water into the Little Colorado River that is not required by law,
- (c) the release of water outside of the irrigation season inconsistent with LWC's historical operations,
- (d) the increase in storage or diversion of water by LWC upstream of Lyman Reservoir inconsistent with LWC's historical operations, or
- (e) any other such action that is inconsistent with LWC's historical operations;

provided, however, that nothing in this paragraph shall preclude LWC and its stockholders from using their remaining water rights under the Norviel Decree in a manner consistent with LWC's historical operations.

7.I.2. The Tribe shall have the right to make improvements to the LWC Facilities that would make delivery to the Tribe through a new Delivery Point (other than the Little Colorado River natural channel) more efficient or that would improve the operation, monitoring or measuring system, so long as those improvements do not reduce the total amount of water available to LWC stockholders. Should the Tribe desire to make such improvements, the Tribe shall negotiate with LWC an agreement to fund or contribute to the funding required to make such improvement(s).

7.J. The Tribe shall have the option to forebear use of the Tribe's Water Right and Annual Entitlement in exchange for compensation. With the consent of LWC, the Tribe shall also have the option to forebear use of the Tribe's Entitlement Account for credits to the Tribe's Water Right and Annual Entitlement for use in subsequent years. Should the Tribe receive compensation for its forbearance from use of a portion of the Tribe's Water Right and Annual Entitlement, the amount of water for which the Tribe receives compensation will be deducted from the Tribe's Entitlement Account.

## **8. Water Quality.**

LWC does not guarantee or warrant the quality of water released from Lyman Dam to the Zuni Tribe or the United States. Nothing in this Agreement shall require LWC to purify or otherwise treat the water released from Lyman Reservoir.

## **9. Norviel Court Assessments.**

The Tribe shall be responsible for payment to the Norviel Decree Court of the annual assessments associated with the Tribe's Water Right and Annual Entitlement.

## **10. Uncontrollable Forces.**

No Party shall be considered to be in default in the performance of any of its obligations hereunder when a failure of performance shall be due to uncontrollable forces. The term "uncontrollable forces" shall mean any cause beyond the control of the Party seeking relief from an obligation hereunder including, but not limited to, failure of or threat of failure of facilities, flood, earthquake, storm, fire, lightning and other natural catastrophes, epidemic, war, riot, civil disturbance or disobedience, strike, labor dispute, labor or material shortage, sabotage, terrorism, or government priorities and restraint by court order or public authority.

## **11. Agreement Binding in Perpetuity.**

This Water Right, Entitlement and Perpetual Delivery Agreement, including without limitation the Tribe's Water Right and Annual Entitlement and the related Operating Agreement, shall be binding in perpetuity, or until Lyman Reservoir is unable

to store water, on LWC and its successors and assigns, and it shall not be subject to modification or termination unless otherwise agreed upon in writing by the Parties. The Tribe's Water Right and Annual Entitlement to LWC Delivered Water shall be held in trust by the United States for the benefit of the Tribe.

**12. Mutual Representation and Warranty.**

Each Party warrants to the other that it is duly organized and existing and each Party further warrants that it and the respective signatories have full right and authority to enter into and consummate this Agreement and any related documents on behalf of their respective stockholders and members.

**13. Indemnification.**

13.A. Subject to all other provisions in this Agreement, the Operating Agreement, and the Settlement Agreement, the Tribe shall indemnify, defend and hold harmless LWC, its stockholders, employees and agents, from all losses, damages, claims, liabilities and expenses (including without limitation reasonable attorneys' fees) for damages to property or injury to persons downstream of Lyman Reservoir arising from the release of the Tribe's Water Right and Annual Entitlement water at the Delivery Point by LWC employees or agents. The Tribe's duty to indemnify, defend, and hold harmless shall only arise if LWC's release of the Tribe's Water Right and Annual Entitlement water occurs in the amount and pursuant to the timing authorized by a Tribal water order as provided in the Operating Agreement.

13.B. LWC shall indemnify, defend and hold harmless the Tribe, its employees and agents, for all reasonable and necessary costs of defense, including attorneys' fees, arising out of any lawsuit naming the Tribe, which is initiated by or on behalf of any LWC stockholder within four (4) years after the date this Agreement is approved by both the Norviel Decree Court and the Adjudication Court, that challenges the validity of this Agreement or any amendments to LWC's articles of incorporation, bylaws and operating procedures that, in the opinion of LWC, are necessary to provide for the approval of this Agreement; provided, however, that LWC shall have the sole authority to retain counsel to defend the Tribe's interests, together with the interest of LWC. In the event the Tribe retains independent counsel to defend such lawsuit, then it shall be responsible for all expenses and costs related thereto. In any event, the Parties shall cooperate in defending against such action or proceeding in upholding the validity of this Agreement.

13.C. The indemnified party shall provide the indemnifying party with prompt written notice of the indemnified party's receipt of any communication or notice in connection with any and all losses, damages, claims, liabilities, expenses (including without limitation reasonable attorneys' fees), or other reasonable or necessary costs of defense subject to indemnification. The indemnifying party's

duty to defend and indemnify shall arise upon the indemnified party's provision of such written notice. The failure to provide such notice shall not relieve the indemnifying party of its duty except to the extent that the indemnifying party is prejudiced by any delay. No undertaking to defend or indemnify shall constitute, nor shall it be construed to constitute, an admission of responsibility.

**14. Best Efforts.**

The Parties hereby agree to use their best efforts to obtain all necessary approvals, authorizations, and other favorable actions of the Adjudication Court, the Norviel Decree Court, and any other state or federal judicial or administrative bodies that are necessary for the binding approval and operation of this Agreement.

**15. Notices.**

Any notice given in connection with enforcement, alterations, or breaches of this Agreement shall be given in writing and addressed to the Party to be served at the following addresses or such other addresses as the parties may subsequently designate in writing:

**THE LYMAN WATER COMPANY:**

Lyman Water Company  
Post Office Box 521  
St. Johns, Arizona 85936  
Attention: President

**THE ZUNI INDIAN TRIBE:**

Zuni Indian Tribe  
P.O. Box 339  
Zuni, New Mexico 87327  
Attn: Andres Cheama, Coordinator  
Zuni Tribe Water Rights Program  
Tel: 505/782-5852  
Fax: 505/782-2726

with a copy to:

David A. Brown  
Michael J. Brown  
Brown & Brown Law Offices, P.C.  
P.O. Box 3138  
Pinetop, Arizona 85935  
Tel: 928/367-3235  
Fax: 928/367-3239

Jane Marx  
Attorney at Law, P.C.  
2825 Candelaria Road NW  
Albuquerque, New Mexico 87107  
Tel: 505/344-1176  
Fax: 505/344-8694

**THE UNITED STATES:**

Regional Director  
U.S. Department of the Interior  
Bureau of Indian Affairs  
Southwest Region  
1001 Indian School NW  
Albuquerque, New Mexico 87104  
Tel: 505/563-3100

Any notice given by (1) mail shall be deemed to have been given when deposited in the United States mail, first class and postage prepaid; (2) overnight common carrier courier service shall be deemed to be given on the business day (not including Saturday) immediately following the date it was deposited; or (3) delivery in person or by messenger shall be deemed to be given upon receipt.

**16. Entire Agreement; Modification.**

This Agreement, the Operating Agreement, and the Settlement Agreement represent the final and entire agreement among LWC, the United States, and the Tribe with respect to the Water Right, Entitlement and Perpetual Delivery Agreement, and it may not be amended, changed, modified, or altered except by written instrument signed by each Party hereto. The foregoing notwithstanding, nothing in this Agreement is intended nor shall it be interpreted to modify the terms and conditions of the Settlement Agreement.

**17. Waiver.**

A waiver by any Party of any breach of this Agreement shall not be binding upon the waiving Party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving Party's rights with respect to any other or further breach. All remedies, either under this Agreement, by law, or otherwise afforded to either Party shall be cumulative, not alternative.

**18. Severability.**

The invalidity, illegality or unenforceability of any provision of this Agreement, or the occurrence of any event rendering any portion or provision of this Agreement void, shall in no way affect the validity or enforceability of any other portion or provision of this Agreement unless the severed provision materially alters the terms and intent of this Agreement to provide to the Tribe and the United States, in exchange for compensation, a permanent water right and entitlement to a portion of LWC water as described above. Any void provision shall be deemed severed from the Agreement and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision held to be void. The Parties further agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision.

**19. Choice of Law; Dispute Resolution.**

This Agreement shall be governed and construed in accordance with the laws of the State of Arizona and any applicable federal law. All disputes between the Parties arising under this Agreement and relating to the Tribe's Water Right and Annual Entitlement shall be referred to the Norviel Decree Court or its successor for the limited purpose of enforcing the provisions of this Agreement. All other disputes between the Parties arising under this

Agreement shall be referred to a court of competent jurisdiction for the limited purpose of enforcing the provisions of this Agreement.

**20. Binding Provisions.**

The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the heirs, executors, administrators, successors, and assigns of the Parties to this Agreement.

**21. Effective Date.**

Paragraph 3 of this Agreement shall be effective on the date this Agreement is executed by the Parties, and the remainder of the Agreement shall become enforceable on the date that all the Conditions Precedent to the Water Right, Entitlement and Perpetual Delivery Agreement have been satisfied.

IN WITNESS WHEREOF, the parties have executed this Agreement below.

THE LYMAN WATER COMPANY, an  
Arizona non-profit corporation

By: Jim L. Hauser  
Jim L. Hauser, President

Date: 2-27-06

THE ZUNI INDIAN TRIBE,  
a federally recognized Indian Tribe -

By: Arlen P. Quetawki, Sr.  
Arlen P. Quetawki, Sr., Governor

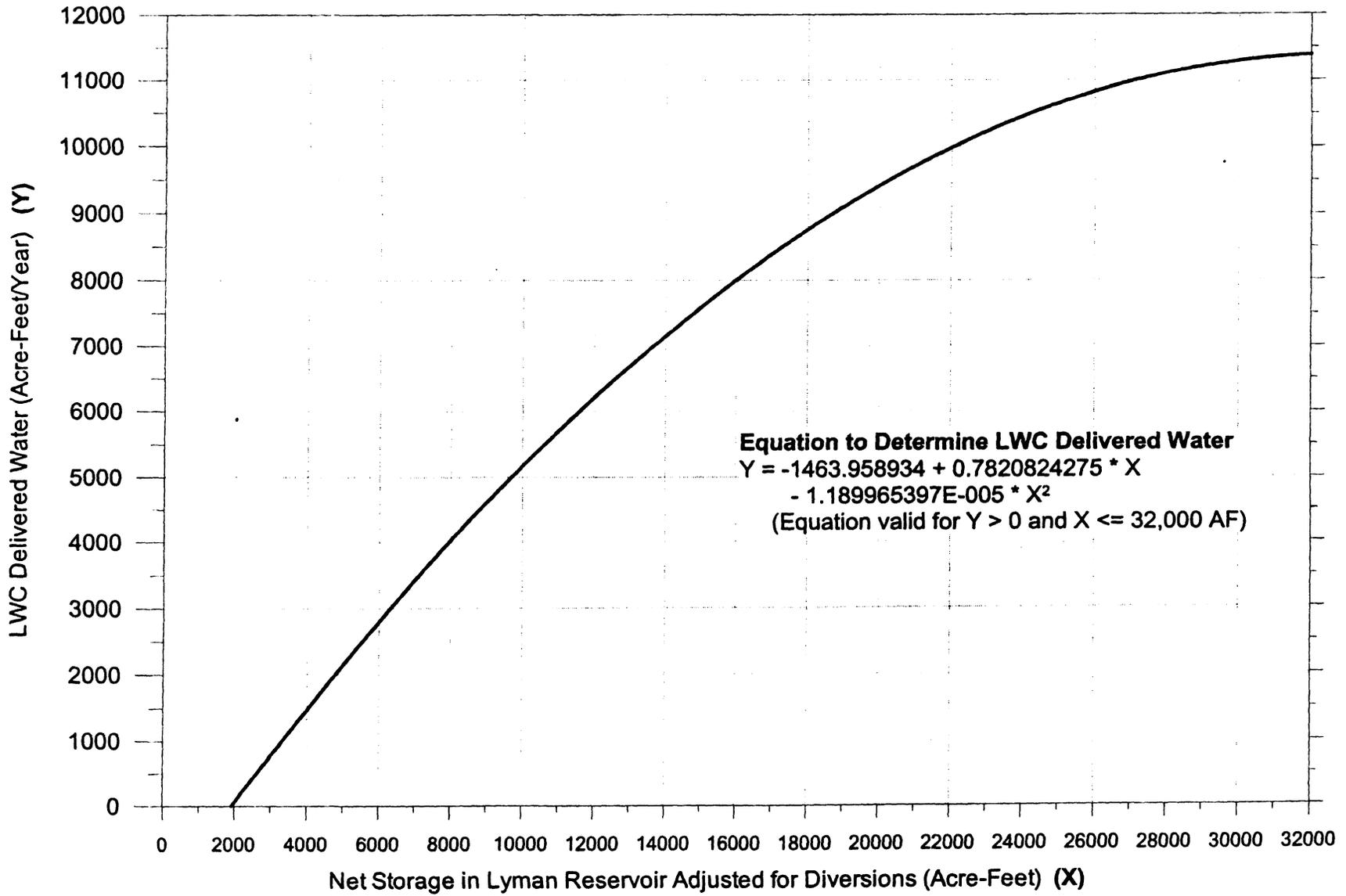
Date: 2-23-06

THE UNITED STATES

By: Stephene L. Bidwell  
Name: Acting for Larry Morris  
Regional Director  
U.S. Department of the Interior  
Bureau of Indian Affairs  
Southwest Region

Date: 2/22/06

OFFICE OF THE SOLICITOR INTERMOUNTAIN REGIONAL OFF	
DATE	SURNAME
2/22/06	ROSEN



**EXHIBIT B****Historical Lyman Water Company Deliveries in  
Lyman Canal (Acre-Feet/Year)**

<b>Water Year</b>	<b>Releases to Lyman Canal<sup>1)</sup></b>
1951	3,327
1952	10,945
1953	7,463
1954	1,039 <sup>2)</sup>
1955	403
1956	6,071
1957	0
1958	8,897
1959	8,705
1960	10,881
1961	4,391
1962	9,477
1963	6,413
1964	6,596
1965	9,888
1966	14,940
1967	8,043
1968	12,662
1969	8,510
1970	7,957
1971	5,928
1972	5,361
1973	10,033
1974	8,643
1975	8,597
1976	10,050
1977	8,079
1978	5,787
1979	11,202
1980	9,874
1981	8,405 <sup>2)</sup>
1982	7,550 <sup>2)</sup>
1983	10,600 <sup>2)</sup>
1984	8,121 <sup>2)</sup>
1985	11,549
1986	10,877
1987	11,402
1988	10,580
1989	11,729
1990	6,387
1991	4,596
1992	5,311
1993	11,011
1994	10,087
1995	11,396
1996	9,060
1997	2,848
1998	2,410
1999	433
2000	1,896
2001	2,375
2002	325
2003	247
2004	1,097
Average	7,231
Median	8,100

1) Excludes 400 afy delivered to SJIC, except for year 1957 which only had 213 af annual deliveries.

2) Years 1954 and 1981-84 estimated from Lyman Lake balance.

# **Appendix G-5**

**LYMAN DAM OPERATION AND STORAGE AGREEMENT**  
**BETWEEN**  
**THE LYMAN WATER COMPANY AND THE ZUNI INDIAN TRIBE**

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# LYMAN DAM OPERATION AND STORAGE AGREEMENT

## BETWEEN

### THE LYMAN WATER COMPANY AND THE ZUNI INDIAN TRIBE

#### 1. PARTIES

This Agreement for operation of Lyman Dam and storage of water by the Zuni Indian Tribe in Lyman Reservoir (hereafter "Agreement") is entered into this 27<sup>th</sup> day of February, 2006 between The Lyman Water Company and the Zuni Indian Tribe (hereafter sometimes collectively referred to as the "Parties").

#### 2. RECITALS

- 2.1. On June 7, 2002, the Lyman Water Company, the Zuni Indian Tribe, and the United States for the benefit of the Zuni Indian Tribe, with others, executed the Zuni Indian Tribe Water Rights Settlement Agreement, which provides that the Zuni Tribe and The Lyman Water Company shall execute an agreement, in consultation with the City of St. Johns and St. Johns Irrigation Company, for the pass-through, use or storage of Zuni Tribe surface water rights in Lyman Reservoir and the operation of Lyman Dam (Settlement Agreement, Subparagraph 3.1.E).
- 2.2. On June 23, 2003, the Zuni Indian Tribe Water Rights Settlement Act of 2003 (Pub. L. No. 108-34, 117 Stat. 782) was signed into law, which approved the Zuni Indian Tribe Water Rights Settlement Agreement.
- 2.3. On July 8, 2004, the Zuni Indian Tribe Water Rights Settlement Agreement, as amended, was signed by the Secretary of the United States Department of the Interior.
- 2.4. The Lyman Water Company owns and operates Lyman Dam and Reservoir.
- 2.5. To satisfy certain conditions precedent to the Settlement Agreement, the Parties are willing to enter into this Agreement providing for the storage, release and pass-through of surface water acquired by the Zuni Tribe from entities other than Lyman Water Company and, in conjunction with Arizona Game and Fish Commission, the Parties will enter into a Water Right Severance and Transfer Agreement governing the process of severance and transfer of certain other water rights to be acquired.

2.6. Also to satisfy certain other conditions precedent to the enforceability of the Settlement Agreement, the Parties and the United States have entered into a Water Right, Entitlement and Perpetual Delivery Agreement providing for the Tribe and the United States to acquire from Lyman Water Company a perpetual water right and entitlement to surface water as described in that agreement.

**3. AGREEMENT**

In consideration of the recitals and mutual covenants and agreements herein set forth, as well as those set forth in the Entitlement and Delivery Agreement, the Parties hereby agree as follows:

**4. DEFINITIONS**

The following terms, when used with initial capitalization, whether in singular or plural, shall have the meanings specified:

- 4.1. **Active Conservation Capacity:** The capacity of Lyman Reservoir, excluding Dead Capacity and the Minimum Pool, used by LWC to store water on a continuous basis for irrigation and other uses.
- 4.2. **Agreement:** This Lyman Dam Operation and Storage Agreement; also referred to as Operation Agreement.
- 4.3. **Authorized Representative(s):** Those representatives of the Parties appointed to administer the provisions of this Agreement and the Entitlement and Delivery Agreement pursuant to Section 12.
- 4.4. **Acquired Water Account:** An account maintained by Lyman Water Company which identifies the amount of all Tribal Acquired Water stored in Lyman Reservoir.
- 4.5. **Dead Capacity:** Water stored in Lyman Reservoir that cannot be released because it is below the elevation of the bottom of Lyman Canal.
- 4.6. **Delivery Point:** The outlet works of Lyman Reservoir into the Little Colorado River natural channel, where water shall be released to the Tribe as described in Section 9.4.
- 4.7. **Entitlement and Delivery Agreement:** The agreement titled “Water Right, Entitlement and Perpetual Delivery Agreement By and Among the Zuni Tribe, the United States for the benefit of the Zuni Tribe, and Lyman Water Company for the

Implementation of the Zuni Indian Tribe Water Rights Settlement Agreement in the Little Colorado River Basin,” providing for the Tribe’s permanent water right, entitlement and perpetual delivery of water from Lyman Water Company in the amounts, and subject to the conditions, set forth in that agreement.

- 4.8. Lyman Dam: The dam located in Section 9, Township 11 North, Range 28 East about nine miles south of St. Johns, Arizona, which is owned and operated by Lyman Water Company.
- 4.9. Lyman Reservoir: The reservoir created by Lyman Dam; also referred to as Lyman Lake.
- 4.10. Lyman Water Company: The Lyman Water Company, an Arizona non-profit corporation and its stockholders; also referred to as LWC.
- 4.11. Minimum Pool: The Minimum Pool defined in the agreement between the Apache County Flood Control District and LWC executed circa 1991, excluding Dead Capacity.
- 4.12. Norviel Decree: A series of judgments and orders entered in Apache County Superior Court Case No. 569 adjudicating rights to water in the “Norviel Decree Area” identified in the Settlement Agreement.
- 4.13. Norviel Decree Court: The Apache County Superior Court or its successor having jurisdiction over the enforcement and administration of the Norviel Decree.
- 4.14. Parties: Lyman Water Company and Zuni Tribe.
- 4.15. Pass-through Acquired Water: Water released from Lyman Reservoir as described in Section 8.4.
- 4.16. Settlement Agreement: The Zuni Indian Tribe Water Rights Settlement Agreement in the Little Colorado River Basin, Arizona, executed on June 7, 2002, by the Lyman Water Company, the Zuni Tribe, and the United States, with others, as amended.
- 4.17. Spill Water: Water released from Lyman Reservoir as described in Section 7 and subject to Subsection 8.3.3.
- 4.18. Tribal: Belonging to or affiliated with the Tribe.
- 4.19. Tribal Acquired Water: All water acquired by the Tribe in furtherance of the Settlement Agreement from sources located both upstream and downstream of

Lyman Reservoir, including water rights obtained from the Arizona Game & Fish Commission (sometimes referred to as the Arizona Game & Fish Department) pursuant to Paragraph 7.7 of the Settlement Agreement, excluding the Tribe's entitlement to LWC Delivered Water as defined in the Entitlement and Delivery Agreement.

4.20. United States: The United States for the benefit of the Zuni Indian Tribe.

4.21. Zuni Indian Tribe: The body politic and federally recognized Indian nation, and its members; also referred to as Tribe or Zuni Tribe.

**5. EFFECTIVE DATE AND TERM**

This Agreement shall become effective upon the occurrence of the satisfaction of Condition 4.B and Condition 4.E of the Conditions Precedent to Entitlement and Delivery Agreement, as such term is defined in the Entitlement and Delivery Agreement, and (b) the Tribe's full payment to Lyman Water Company of the Operating Agreement Price, as such term is defined in the Entitlement and Delivery Agreement. The duties and obligations of the Parties set forth in this Agreement shall commence on January 1 of the year following the occurrence of both subparagraphs (a) and (b) above, and this Agreement shall remain in full force and effect until Lyman Reservoir is permanently unable to store water.

**6. EXISTING RIGHTS**

6.1. Nothing in this Agreement is intended to create, confirm or adversely affect Lyman Water Company's rights to store and deliver water in the Little Colorado River basin, subject to the provisions of this Agreement and the Entitlement and Delivery Agreement.

6.2. Nothing in this Agreement is intended to limit the Parties' obligations under the Entitlement and Delivery Agreement.

6.3. Nothing in this Agreement is intended to limit or adversely affect the Zuni Tribe's rights to acquire and use surface water rights in the Little Colorado River basin, consistent with the terms of the Settlement Agreement and the Zuni Indian Tribe Water Rights Settlement Act of 2003.

- 6.4 Nothing in this Agreement is intended to create, confirm or adversely affect the rights of St. Johns Irrigation Company under the Norviel Decree, nor is this Agreement intended to affect St. Johns Irrigation Company's rights and responsibilities in the Settlement Agreement.
- 6.5 Nothing in this Agreement in intended to create, confirm or adversely affect the water rights of the City of St. Johns, nor is this Agreement intended to affect the City of St. Johns' rights and responsibilities in the Settlement Agreement.

**7. OPERATION OF LYMAN DAM AND FACILITIES**

- 7.1. Lyman Water Company shall operate Lyman Dam and Reservoir to minimize releases of water over, around or downstream of Lyman Dam in accordance with the following conservation storage management objectives (in the following order of priority), to the extent consistent with its obligations to deliver water to the Zuni Tribe pursuant to this Operating Agreement and the Entitlement and Delivery Agreement:
  - 7.1.1 Maintain the safety and integrity of Lyman Dam.
  - 7.1.2 Optimize reservoir storage for Lyman Water Company use.
  - 7.1.3 Maintain adequate carryover storage for following years in case of low runoff.
  - 7.1.4 Conjunctively manage groundwater pumping given reservoir storage and projected runoff and demand.
  - 7.1.5 Operate to permit necessary facility maintenance.
- 7.2. Subject to Subsection 8.3.3 below, Lyman Water Company shall declare Spill Water when one or more of the following conditions occur:
  - 7.2.1 Lyman Reservoir Active Conservation Capacity is full and water is: 1) beginning to run through the spillway; or 2) being released to the Little Colorado River to avoid spills through the spillway;
  - 7.2.2 An agency of the state or federal government or other entity with requisite jurisdiction requests or requires that Lyman Water Company release water from Lyman Dam to preserve the structural safety of Lyman Dam, or if a reasonable person would determine independently of such a request or

requirement that it is necessary or prudent to release water from Lyman Dam to preserve the structural safety of Lyman Dam.

- 7.3. The Zuni Tribe shall have the right to store Tribal Acquired Water from all upstream and downstream sources in Lyman Reservoir and have water delivered from Lyman Reservoir as provided in this Agreement.
- 7.4. The Zuni Tribe shall have the right to pass through Lyman Reservoir the Tribal Acquired Water as provided in this Agreement.
- 7.5. The Zuni Tribe shall have the right, between 11:59 p.m. on February 28 and 11:59 p.m. on November 15, to order and receive Tribal Acquired Water stored in Lyman Reservoir, as provided in this Agreement, subject only to (a) credits available in the Acquired Water Account as described in Section 8, and (b) the ability to physically operate the outlet works; provided, however, that the Tribe, if weather conditions permit and the Tribe provides no less than three (3) days' advance notice, may order a single release of all or a portion of the Tribe's Acquired Water for delivery between February 1 and February 28.
- 7.6. The Tribe shall have the right to make improvements to the LWC facilities that would make delivery of its Tribal Acquired Water through a new Delivery Point (other than the Little Colorado River natural channel) more efficient or would improve the operation, monitoring or measuring system, so long as those improvements do not reduce the total amount of water available to LWC stockholders. Should the Tribe desire to make such improvements, the Tribe shall negotiate with LWC an agreement to fund or contribute to the funding required to make such improvement(s).

## **8. STORAGE AND ACCOUNTING OF ZUNI WATER**

- 8.1. LWC shall establish and maintain an Acquired Water Account for all Tribal Acquired Water held and stored by the Zuni Tribe in Lyman Reservoir, excluding pass-through water as provided in Section 8.4.
- 8.2. Credits to the Acquired Water Account.
  - 8.2.1 Water acquired from sources upstream of Lyman Reservoir.

LWC shall record a credit of one acre-foot in the Acquired Water Account for every acre-foot of surface water acquired from upstream sources by the Zuni Tribe that is stored in Lyman Reservoir as measured at the stream gage known as the “Little Colorado River above Lyman Lake” when flow at the gage is one cfs or greater at the time Zuni water reaches the gage. If flow at this gage is below one cfs, then the quantity of water credited to the Acquired Water Account will be reduced by the difference between one cfs and the measured flow; however, any adjustment to the credit shall not result in a reduction from the Acquired Water Account. The measurement point and losses may be changed if mutually agreed upon in writing by the Authorized Representatives.

8.2.2 Water acquired from sources downstream of Lyman Reservoir.

LWC shall record a credit of one acre-foot in the Acquired Water Account for every acre-foot of surface water from downstream sources acquired by the Tribe from water right holders downstream of Lyman Reservoir that is stored by the Tribe in Lyman Reservoir. LWC’s pass-through obligations to other downstream water rights holders shall not affect the amount of Zuni’s credits in the Acquired Water Account from the Tribe’s downstream water rights acquisitions.

8.3. Debits to the Acquired Water Account.

8.3.1 Orders of water from the Acquired Water Account will be debited to that account on an acre-foot by acre-foot basis.

8.3.2 Evaporation and Seepage Losses. The credits in the Acquired Water Account shall be subject to evaporation and seepage losses as described herein. The monthly incremental loss percentages are set forth below:

<b>Monthly Percentage Loss for Debiting Acquired Water Account Credits</b>	
Month	Percentage Loss
January	0.6
February	0.9

March	0.9
April	1.5
May	2.7
June	3.8
July	4.3
August	2.3
September	2.4
October	1.4
November	1.2
December	0.5

---

Seepage and evaporation losses shall be deducted from the daily balances of credits in the Acquired Water Account using the Monthly Percentage Loss from the table above divided by the number of days in the month. The percentage of seepage and evaporation losses debited from credits shall be changed if the parties agree the data shows that the average annual seepage and evaporation losses differs by more than five percent (5%) from the percentage specified in the table above. In the event that the parties cannot mutually agree on an appropriate adjustment, then any dispute shall be resolved by the Norviel Decree Court or its successor.

8.3.3 Spills. Tribal credits in the Acquired Water Account shall be subject to spill when Spill Water is declared as provided in Section 7.2. Acquired Water Account credits shall spill prior to any water stored in Lyman Reservoir as a result of rights existing as of 2005. Credits in the Acquired Water Account shall be reduced by one acre-foot for each acre-foot that is spilled until the credit balance is reduced to zero. Acquired Water Account credits shall spill after any other future water storage entitlements, except as otherwise agreed in writing by the Tribe.

8.4. Pass-through Acquired Water. Tribal Acquired Water that enters and is released from Lyman Reservoir in the same day shall not be subject to evaporation and seepage losses.

- 8.5. Forbearance from Use. The Zuni Tribe shall have the option to forbear use of Tribal Acquired Water in exchange for compensation. Should the Tribe receive compensation for its forbearance from use of a portion of Tribal Acquired Water, the amount of water for which the Tribe received compensation will be debited against the Acquired Water Account on an acre-foot by acre-foot basis.
- 8.6. Accounting. By the fifteenth (15<sup>th</sup>) day of the following month, LWC shall account for the accrual and debits of Tribal credits on a daily basis and provide the Tribe with monthly reports showing Acquired Water Account credits from each source of water, deliveries, and losses through evaporation, seepage, and spills.

**9. TRIBAL WATER ORDERS**

- 9.1. Subject to the availability of credits and Delivery Point capacity, LWC shall release water at the Delivery Point from the Acquired Water Account or the “Entitlement Account,” as defined in the Entitlement and Delivery Agreement, as directed by the Tribe.
- 9.2. Prior to scheduling any water for delivery, the Tribe shall, pursuant to Section 12, notify LWC of the identity of the person or persons authorized to submit water orders to LWC for the Tribe. LWC shall only honor water orders submitted by an authorized person identified by the Tribe. LWC shall notify the Tribe of the identity of the person or persons authorized to receive water orders from the Tribe.
- 9.3. Unless otherwise agreed to in writing by LWC, the Tribe shall provide all orders and any changes to orders for release of Tribal water in writing, in the form of letter, fax or email, to LWC at least forty-eight (48) hours in advance of the requested time of delivery.
- 9.4. Unless otherwise agreed to in writing by LWC, Tribal Acquired Water shall be released to the Tribe at the outlet works of Lyman Reservoir into the Little Colorado River natural channel (the “Delivery Point”). The Tribe’s order of Tribal Acquired Water shall be satisfied when the quantity of water ordered is released by LWC to the Tribe at the Delivery Point. Subject to Subsection 9.6 below, the Tribe

shall accept delivery of its order of Tribal Acquired Water stored in Lyman Reservoir at the Delivery Point.

- 9.5. At the sole expense of the Tribe, in consultation with LWC, the Tribe shall be entitled to design, construct, install, and maintain measuring devices at the Delivery Point, Lyman Canal intake, and elsewhere at Lyman Reservoir, which are capable of measuring and recording all deliveries of water to the Tribe and LWC, and determining water entitlements as provided in the Entitlement and Delivery Agreement. The Tribe shall have the option to include telemetry equipment that shall have the ability to provide real-time data transmission to LWC, the Tribe, and the United States in any measuring devices installed pursuant to this paragraph.
- 9.6. The Tribe shall have the option to take delivery of the Tribal Acquired Water through the Lyman Canal and all other related conveyance facilities (the “LWC Facilities”) in coordination with other LWC delivery and release obligations, subject only to the delivery limitations of the canal and related conveyance facilities. If the Tribe chooses to take delivery through the Lyman canal and delivery conveyance facilities, LWC and the Tribe shall agree to establish that location as the Delivery Point (“new Delivery Point”) for purposes of this Agreement. If the new Delivery Point is established, the Parties shall negotiate an agreement covering all aspects of the delivery, including operation and maintenance charges (“O&M”) and losses associated with the new Delivery Point in a manner consistent with the treatment of LWC stockholders for as long as the new Delivery Point is in use.
- 9.7. The Tribe shall not be entitled to delivery of any Tribal water:
  - (a) When there are not sufficient credits in either of the Acquired Water Account or the Entitlement Account defined in the Entitlement and Delivery Agreement; or
  - (b) At any time when emergencies, maintenance, or repairs of the LWC water delivery system preclude water deliveries to the Tribe, so long as LWC treats the Tribe in a manner consistent with the treatment of LWC stockholders.

9.8. LWC shall notify the Tribe as soon as practicable of any emergencies, maintenance, or repairs that may interrupt water deliveries to the Tribe.

**10. WATER QUALITY.**

Lyman Water Company does not guarantee or warrant the quality of water released from Lyman Dam to the Zuni Tribe or to the United States. Nothing in this Agreement shall require LWC to purify or otherwise treat the water released from Lyman Reservoir.

**11. COURT ASSESSMENTS.**

Norviel Decree Court assessments for the Tribal Acquired Water are to be paid by the Zuni Tribe.

**12. CONSULTATION AND REVIEW.**

12.1. Each Party shall appoint an Authorized Representative and an alternate to administer the provisions of this Agreement and the Entitlement and Delivery Agreement. The alternate shall act only in the absence of the Authorized Representative. All decisions and agreements of the Authorized Representatives shall be documented in writing and signed by each Authorized Representative.

12.2. Within thirty (30) days of execution of this Agreement, each Party shall notify the other Party in writing of the designation of its Authorized Representative and alternate and shall promptly notify the other Parties of any subsequent changes in such designation.

12.3. The Authorized Representatives shall have no authority to modify, amend or supplement this Agreement, other than as expressly provided herein. The Authorized Representatives shall have authority to take the following actions and make the following decisions:

12.3.1 On behalf of the Zuni Tribe, order release of water as provided in this Agreement and the Entitlement and Delivery Agreement.

12.3.2 Modify the measurement point for crediting Tribal Acquired Water stored in Lyman Reservoir as provided in Section 8.

12.3.3 Develop and modify procedures for scheduling release of Tribal Acquired Water as provided in Section 9 and the Tribe's Annual Entitlement as provided in Section 7 of the Entitlement and Delivery Agreement.

12.4. Lyman Water Company shall retain sole responsibility and authority for decisions relating to operation, maintenance, and replacement of Lyman Dam, including maintenance scheduling and the selection of periods when maintenance will be done, consistent with the terms of this Agreement and the Entitlement and Delivery Agreement. Whenever practicable, Lyman Water Company shall inform the Authorized Representatives of the Zuni Tribe and the United States ninety (90) days in advance of the matters that may affect the storage and delivery rights of the Zuni Tribe in Lyman Reservoir and of any actions to be taken by Lyman Water Company related thereto.

**13. UNCONTROLLABLE FORCES**

No Party shall be considered to be in default in the performance of any of its obligations hereunder when a failure of performance shall be due to uncontrollable forces. The term "uncontrollable forces" shall mean any cause beyond the control of the Party seeking relief from an obligation hereunder including, but not limited to, failure of or threat of failure of facilities, flood, earthquake, storm, fire, lightning and other natural catastrophes, epidemic, war, riot, civil disturbance or disobedience, strike, labor dispute, labor or material shortage, sabotage, terrorism, or government priorities and restraint by court order or public authority.

**14. INDEMNIFICATION.**

14.1 Subject to all other provisions in this Agreement, the Entitlement and Delivery Agreement, and the Settlement Agreement, the Tribe shall indemnify, defend and hold harmless LWC, its stockholders, and its employees and agents, from all losses, damages, claims, liabilities and expenses (including without limitation reasonable attorneys' fees) for damages to property or injury to persons downstream of Lyman Reservoir arising from the release of the Tribal Acquired Water at the Delivery Point by LWC employees or agents. The Tribe's duty to

indemnify, defend, and hold harmless shall only arise if LWC's release of the Tribal Acquired Water occurs in the amount and pursuant to the timing authorized by a Tribal water order as provided in this Agreement.

- 14.2 LWC shall indemnify, defend and hold harmless the Tribe, its employees and agents, for all reasonable and necessary costs of defense, including attorneys' fees, arising out of any lawsuit naming the Tribe that is initiated within four (4) years after the date the Conditions Precedent to the enforceability of this Agreement have been met, by or on behalf of any LWC stockholder to challenge the validity of this Agreement or any amendments to LWC's articles of incorporation, bylaws and operating procedures that, in the opinion of LWC, are necessary to implement this Agreement; provided, however, that LWC shall have the sole authority to retain counsel to defend the Tribe's interests, together with the interest of LWC. In the event the Tribe retains independent counsel to defend such lawsuit, then it shall be responsible for its expenses and costs related thereto. In any event, the Parties shall cooperate in defending against such action or proceeding in upholding the validity of this Agreement.
- 14.3 The indemnified party shall provide the indemnifying party with prompt written notice of the indemnified party's receipt of any communication or notice in connection with any and all losses, damages, claims, liabilities, expenses (including without limitation reasonable attorneys' fees), or other reasonable or necessary costs of defense subject to indemnification. The indemnifying party's duty to defend and indemnify shall arise upon the indemnified party's provision of such written notice. The failure to provide such notice shall not relieve the indemnifying party of its duty except to the extent that the indemnifying party is prejudiced by any delay. No undertaking to defend or indemnify shall constitute, nor shall it be construed to constitute, an admission of responsibility.

**15. BEST EFFORTS.**

The Parties hereby agree to use their best efforts to obtain all necessary approvals, authorizations, and other favorable actions of the Apache County Superior Court having jurisdiction over the legal proceedings styled *in re: The General Adjudication of All*

*Rights to Use Water in the Little Colorado River System and Source*, Superior Court No. 6417, Apache County, Arizona, the Norviel Decree Court or its successor, and any other state or federal judicial or administrative bodies that are necessary for the binding approval and operation of this Agreement.

**16. MUTUAL REPRESENTATION AND WARRANTY.**

The Parties each warrant to the others that they are each duly organized and existing and each Party further warrants that it and the respective signatories have full right and authority to enter into and consummate this Agreement and any related documents on behalf of their respective shareholders and members.

**17. NOTICES.**

Any notice given in connection with this Agreement shall be given in writing and addressed to the party to be served at the following addresses or such other addresses as the parties may subsequently designate in writing:

THE LYMAN WATER COMPANY

Lyman Water Company  
Attention: President  
Post Office Box 397  
St. Johns, Arizona 85936

*with a copy to:*

David A. Brown  
Michael J. Brown  
Brown & Brown Law Offices, P.C.  
Post Office Box 3128  
Pinetop, Arizona 85935  
Telephone: (928) 367-3235  
Fax: (928) 367-3239

THE TRIBE

Zuni Indian Tribe  
Post Office Box 339  
Zuni, New Mexico 87327  
Attention: Andres Cheama, Coordinator,  
Zuni Tribe Water Rights Program  
Telephone: (505) 782-5852  
Fax: (505) 782-2726

*with a copy to:*

Jane Marx  
Attorney at Law, P.C.  
2825 Candelaria Road NW  
Albuquerque, New Mexico 87107  
Telephone: (505) 344-1176  
Fax: (505) 344-8694

*and*

Regional Director  
U.S. Department of the Interior  
Bureau of Indian Affairs  
Southwest Region  
1001 Indian School NW  
Albuquerque, New Mexico 87104  
Telephone: (505) 563-3100  
Fax: (505) 563-3101

Any notice given by (1) mail shall be deemed to have been given when deposited in the United States mail, first class and postage prepaid; (2) overnight common carrier courier service shall be deemed to be given on the business day (not including Saturday) immediately following the date it was deposited; or (3) delivery in person or by messenger shall be deemed to be given upon receipt.

**18. ENTIRE AGREEMENT; MODIFICATION.**

This Agreement, along with the Perpetual Entitlement and Delivery Agreement and the Settlement Agreement, represent the final and entire agreement between LWC, the Tribe, and the United States as to the Tribe's Annual Entitlement, as defined in the Perpetual Entitlement and Delivery Agreement, and the operation and storage of the Tribal Acquired Water in Lyman Reservoir in furtherance of LWC's obligations under the Settlement Agreement, and the Agreement may not be amended, changed, modified, or altered except by a written instrument signed by each party hereto. The foregoing notwithstanding, nothing in this Agreement is intended nor shall it be interpreted to modify the terms and conditions of the Settlement Agreement.

**19. WAIVER.**

A waiver by any party of any breach of this Agreement shall not be binding upon the waiving party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving party's rights with respect to any other or further breach. All remedies, either under this Agreement, by law, or otherwise afforded to either party shall be cumulative, not alternative.

**20. SEVERABILITY.**

The invalidity, illegality or unenforceability of any provision of this Agreement, or the occurrence of any event rendering any portion or provision of this Agreement void, shall in no way affect the validity or enforceability of any other portion or provision of this Agreement unless the severed provision materially alters the terms and intent of this Agreement. Any void provision shall be deemed severed from the Agreement and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision held to be void. The parties further agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision.

**21. CHOICE OF LAW; DISPUTE RESOLUTION.**

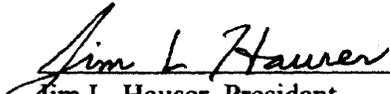
This Agreement shall be governed and construed in accordance with the laws of the State of Arizona and any applicable federal law. All disputes between the parties arising under this Agreement shall be referred to the Norviel Decree Court or its successor for the limited purposes of enforcing the provisions of this Agreement.

**22. BINDING PROVISIONS.**

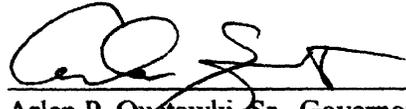
The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the heirs, executors, administrators, successors, and assigns of the Parties to this Agreement.

IN WITNESS WHEREOF, this Agreement was executed by the Parties on the date first hereinabove written.

THE LYMAN WATER COMPANY,  
an Arizona non-profit corporation

By  \_\_\_\_\_  
Jim L. Hauser, President

THE ZUNI INDIAN TRIBE, a federally recognized  
Indian Tribe

By  \_\_\_\_\_  
Arlen P. Quetawki, Sr., Governor

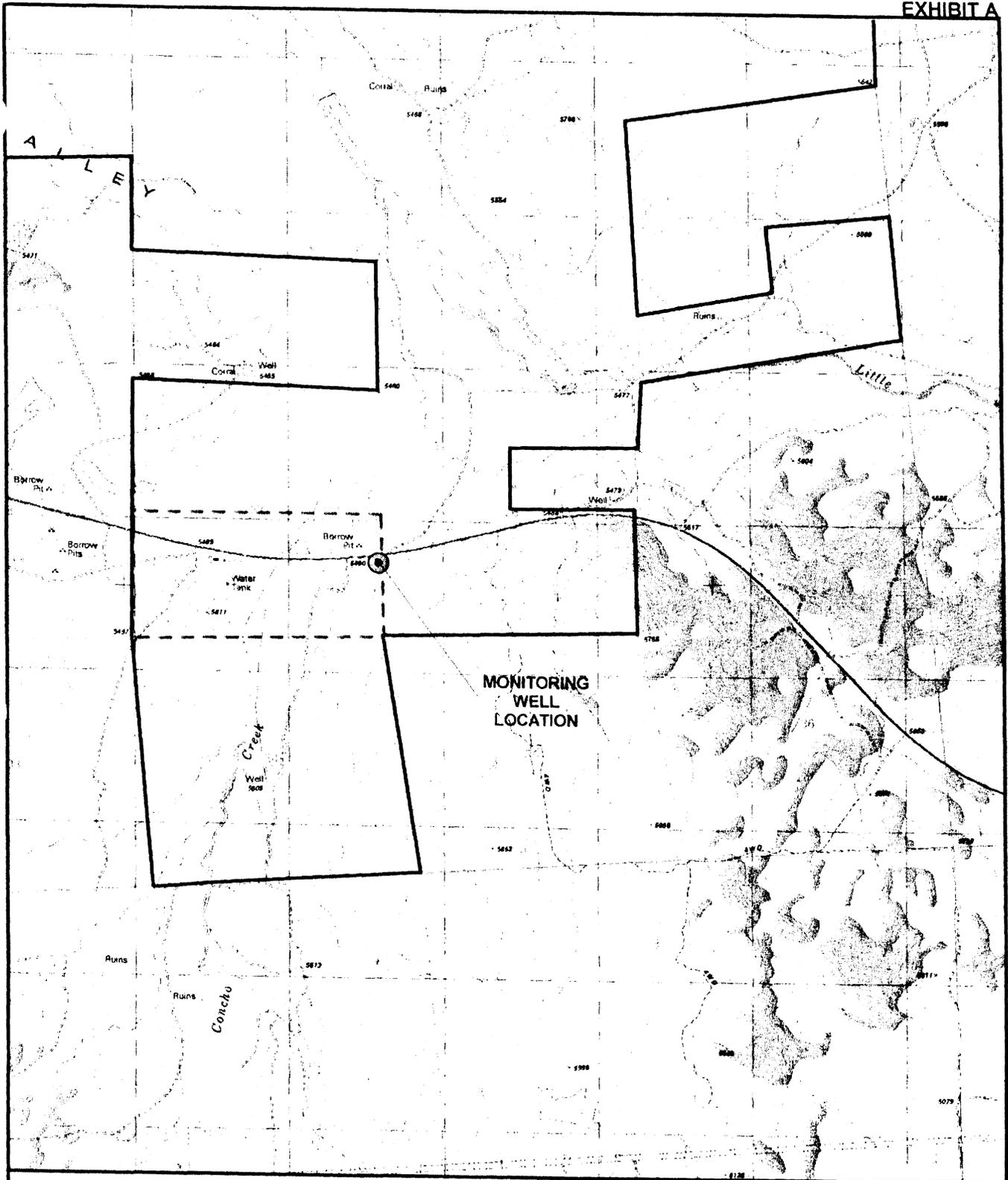
**ACKNOWLEDGEMENT AND APPROVAL**

The United States Department of the Interior, for the benefit of the Zuni Tribe, approves the execution of this Agreement.

THE UNITED STATES, FOR THE  
BENEFIT OF THE ZUNI INDIAN TRIBE

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Regional Director  
U.S. Department of the Interior  
Bureau of Indian Affairs  
Southwest Region

# **APPENDIX H**

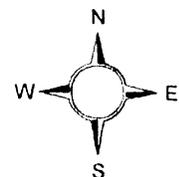


Proposed Monitoring Well

South Half, Section 27

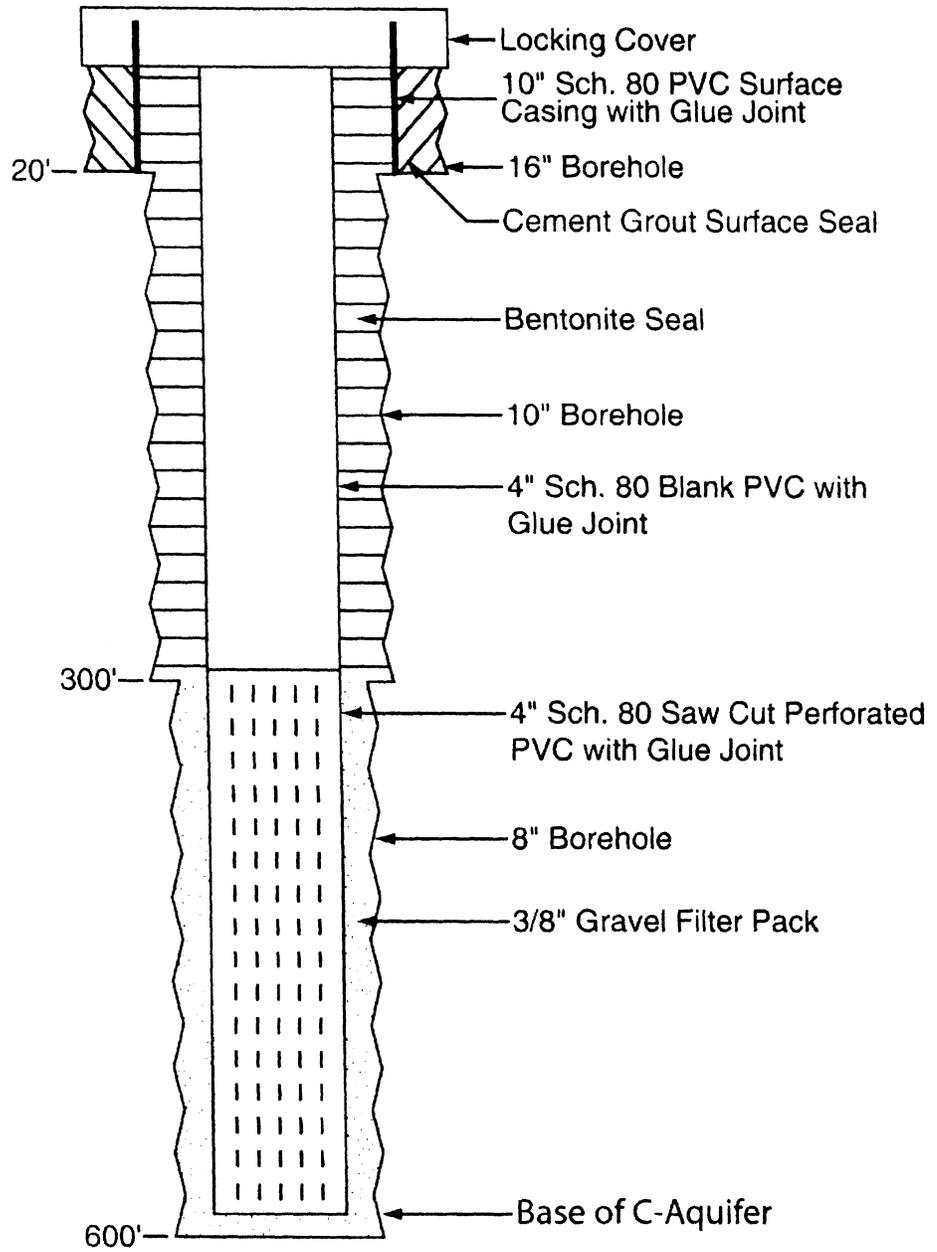


### MONITORING WELL LOCATION ZUNI HEAVEN



0 0.25 0.5 Miles

# Well Construction Diagram For Zuni Heaven Monitoring Well



Drawing Not To Scale

# **APPENDIX I**

K

RECEIVED  
 MAR 30 2006  
 LEGAL  
 DEPT. OF WATER RESOURCES

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
 IN AND FOR THE COUNTY OF APACHE**

ST. JOHNS IRRIGATION CO., and the  
 MEADOWS RESERVOIR  
 IRRIGATION CO., et al.

No. CV 569

vs.

**THE LYMAN WATER  
 COMPANY, THE ZUNI INDIAN  
 TRIBE, AND THE UNITED  
 STATES' MOTION TO APPROVE  
 A WATER RIGHT,  
 ENTITLEMENT AND  
 PERPETUAL DELIVERY  
 AGREEMENT IN  
 FURTHERANCE OF AN INDIAN  
 WATER RIGHTS SETTLEMENT**

ROUND VALLEY WATER  
 STORAGE & DITCH CO., EAGAR  
 IRRIGATION CO.; SPRINGVILLE  
 WATER RIGHT AND DITCH, et al.  
 (Norviel Decree)

Assigned to the Honorable Donna J.  
 Grimsley

The Lyman Water Company, the Zuni Indian Tribe and the United States of America in its capacity as trustee for the Zuni Indian Tribe ("Parties") have executed a Water Right, Entitlement and Perpetual Delivery Agreement, relating to the delivery of surface water rights acquired by the Zuni Indian Tribe and the United States for the benefit of the Tribe from the Lyman Water Company. The Parties move this Court to approve the Water Right, Entitlement and Perpetual Delivery Agreement ("Entitlement and Delivery Agreement") among the Parties, dated February 27, 2006 in furtherance of the settlement of the water rights claims of the Zuni Indian Tribe and the United States acting for the benefit of the Tribe. The

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1 Entitlement and Delivery Agreement is attached to this Motion to Approve a Water Right,  
 2 Entitlement and Perpetual Delivery Agreement as Exhibit 1.

3  
 4 WHEREAS,

5 1. Certain water rights claimed by the Zuni Indian Tribe ("Tribe") and the United  
 6 States for the benefit of the Tribe in the Little Colorado River basin in Arizona are to be  
 7 permanently settled by agreement, the terms of which are set forth in the Zuni Indian Tribe  
 8 Water Rights Settlement Agreement of 2002, as amended, ("Settlement Agreement"). The  
 9 Settlement Agreement terms were approved, ratified and confirmed by the United States  
 10 Congress in the Zuni Indian Tribe Water Rights Settlement Act of 2003, Public Law 108-34,  
 11 117 Stat. 788 (2003) ("Settlement Act"). A copy of the Settlement Agreement is attached to  
 12 this Motion to Approve a Water Right, Entitlement and Perpetual Delivery Agreement as  
 13 Exhibit 2 and a copy of the Settlement Act is attached to the Settlement Agreement as Exhibit  
 14 2.1.

15  
 16  
 17 2. The purpose of the Settlement Agreement is to resolve water rights litigation  
 18 and to provide resources to restore wetlands and the Sacred Lake on the Zuni Heaven  
 19 Reservation. The Reservation was authorized by Congress to protect and to recognize long-  
 20 standing religious and sustenance activities by the Tribe on certain lands along the Little  
 21 Colorado River and the Zuni River in the vicinity of St. Johns, Arizona. Public Law 98-498,  
 22 98 Stat. 1533 (1984), as amended by Public Law 101-486, 104 Stat. 1174 (1990).

23  
 24  
 25 3. The primary benefits of the Settlement Agreement for the Tribe and the United  
 26 States are a resolution of litigation; a recognition of the Tribe's water rights; the restoration of  
 27

1 a wetland area and lake that have special significance to the Tribe; the fulfillment of the  
 2 United States' trust responsibility to the Tribe; and a waiver of the non-federal parties' claims  
 3 against the Tribe and the United States as well as a waiver of the Tribe's claims against the  
 4 United States.  
 5 United States.

6 4. The primary benefits of the Settlement Agreement for the Lyman Water Company  
 7 as well as the State of Arizona and other non-federal parties are a resolution of litigation; the  
 8 Tribe's and the United States' agreement not to object to existing surface water and  
 9 underground water uses; the facilitation of State programs to rehabilitate streams, enhance  
 10 riparian habitats, protect fish and wildlife resources, and provide recreational opportunities;  
 11 and a waiver of the Tribe's and the United States' claims against the non-federal parties.  
 12  
 13

14 5. As provided and within the scope of the Settlement Agreement, to restore the  
 15 wetlands and lake on the Zuni Heaven Reservation for its religious and sustenance needs, the  
 16 Tribe will acquire up to 3,600 acre feet of water per annum with the cooperation of the parties  
 17 to the settlement. In accordance with Paragraphs 4.6 (D) and (E) of the Settlement  
 18 Agreement, the Tribe or the United States may purchase surface water rights from willing  
 19 sellers in the Norviel Decree area. In furtherance of the Settlement Agreement, the Lyman  
 20 Water Company has executed with the Tribe and the United States the Entitlement and  
 21 Delivery Agreement to deliver water to the Tribe to fulfill in part the Tribe's goal of restoring  
 22 the wetlands and lake on its Reservation.  
 23  
 24

25 6. Pursuant to the Entitlement and Delivery Agreement, the Tribe and the United  
 26 States for the benefit of the Tribe shall hold all right, title and interest to a permanent water  
 27

1 right and entitlement to receive, on an annual basis, twelve percent (12%) of LWC Delivered  
 2 Water as defined in Paragraph 5 of the Entitlement and Delivery Agreement, at the priority  
 3 date of Lyman Reservoir under the Norviel Decree. Twelve percent (12%) of LWC  
 4 Delivered Water has historically provided 972 AFA of water.  
 5

6           7. The Entitlement and Delivery Agreement was entered into in good faith, and it  
 7 enables the Tribe to acquire a portion of the water rights necessary to restore the wetlands and  
 8 lake on the Zuni Heaven Reservation and to fulfill the terms of the larger Settlement  
 9 Agreement while providing the Lyman Water Company with certainty that the water right  
 10 claims of the Zuni Indian Tribe will be permanently resolved. Furthermore, the Entitlement  
 11 and Delivery Agreement is a necessary part of the larger Settlement Agreement between the  
 12 Parties and other claimants in the Little Colorado River General Stream Adjudication.  
 13  
 14

15           8. Nothing in the Entitlement and Delivery Agreement restricts, enlarges or  
 16 otherwise determines the subject matter jurisdiction of any state or federal court.  
 17

18           NOW THEREFORE,

19           1. The Parties to this Motion to Approve a Water Right, Entitlement and Perpetual  
 20 Delivery Agreement request that this Court approve the Entitlement and Delivery Agreement,  
 21 which is attached hereto as Exhibit 1.  
 22

23           2. The Parties further request that approval of the Entitlement and Delivery  
 24 Agreement be deemed to sever twelve percent (12%) of the right, title and interest of water  
 25 decreed to LWC for the use and benefit of its stockholders from the acres of land described in  
 26 the Norviel Decree and transfer said twelve percent (12%) of the water right to the Tribe and  
 27

1 the United States in trust for the Zuni Tribe for use on the Zuni Heaven Reservation pursuant  
 2 to Paragraph 4.6.D of the Settlement Agreement and A.R.S. § 45-176.

3  
 4 3. The Parties further request that approval of the Entitlement and Delivery  
 5 Agreement be deemed a change in type of use from an irrigation use to a vegetative  
 6 restoration including wildlife use pursuant to A.R.S. § 45-176.

7  
 8 4. The Parties further request that the Norviel Decree be modified to incorporate  
 9 the Entitlement and Delivery Agreement and the Tribe's water rights as described therein.

10 5. The Parties further request that this Court recognize that nothing in the  
 11 Entitlement and Delivery Agreement restricts, enlarges or otherwise determines the subject  
 12 matter jurisdiction of any state or federal court.

13 RESPECTFULLY SUBMITTED this 1<sup>st</sup> day of March, 2006.

14  
 15  
 16 UNITED STATES DEPARTMENT OF JUSTICE

17  
 18 By: Vanessa Boyd Willard  
 19 Vanessa Boyd Willard, Esq.  
 20 Trial Attorney, Indian Resources Section  
 21 Environment and Natural Resources Division  
 22 999 18th Street, North Tower, Suite 945  
 23 Denver, Colorado 80202  
 24 (303) 312-7312  
 25 Attorney for the United States of America  
 26  
 27

1 JANE MARX, ATTORNEY AT LAW, P.C.

2  
3  
4 By: Jane Marx  
Jane Marx, Esq.  
5 2825 Candelaria Road NW  
6 Albuquerque, New Mexico 87107  
7 (505) 344-1176  
Attorney for the Zuni Indian Tribe

8  
9 BROWN & BROWN LAW OFFICES, P.C.

10  
11 By: David A. Brown  
12 David A. Brown, Esq.  
13 Michael J. Brown, Esq.  
14 1546 East White Mountain Boulevard  
15 P.O. Box 3128  
16 Pinetop, Arizona 85935  
17 (928) 367-3235  
Attorneys for the Lyman Water Company, Round Valley Water Users'  
Association, the Town of Eagar, and the Town of Springerville

18 ORIGINAL AND ONE COPY of the foregoing <sup>delivered</sup> mailed for filing this 1<sup>st</sup> day  
of March, 2006, to:

19 Clerk of the Superior Court  
20 Apache County  
70 West Third South  
21 St. Johns, AZ 85936

22 COPY of the foregoing <sup>delivered</sup> mailed this 1<sup>st</sup> day of March, 2006, to:

23 Honorable Donna J. Grimsley  
24 Apache County foregoing  
70 West Third South  
25 St. Johns, AZ 85936

26 David A. Brown  
27

## NOTICE OF PENDING MOTION

Notice is hereby given to all Norviel Decree water users and to the stockholders of The Lyman Water Company that a motion has been filed with the Apache County Superior Court regarding a Norviel Decree water right.

The purpose of the motion is to request that the Court approve a Water Right, Entitlement, and Perpetual Delivery Agreement between the Lyman Water Company, the Zuni Indian Tribe, and the United States of America. The agreement provides that the Zuni Indian Tribe and the United States for the benefit of the Tribe will acquire a water right and annual entitlement to receive 12% of the water right decreed to Lyman Water Company for the use and benefit of its stockholders under the Norviel Decree, which has historically provided approximately 972 acre feet per annum. The motion also requests that the Court modify the Norviel Decree to reflect that approval of the agreement will be deemed a severance of the percentage of the water right decreed to Lyman Water Company for the use and benefit of its stockholders from the acreage described in the Norviel Decree and transfer of such water right for use on the Zuni Heaven Reservation.

A copy of the motion is available for inspection at the following locations:

Apache County Clerk of the Court	70 West 3 <sup>rd</sup> South St. Johns, Arizona 85936
Town of Eagar	174 South Main Street Eagar, Arizona 85925
Town of Springerville	418 East Main Street Springerville, Arizona 85938
City of St. Johns	245 West 1 <sup>st</sup> South St. Johns, Arizona 85936

Objections to the motion must be filed with the Apache County Clerk of the Court as provided in the enclosed Order. A hearing on such objections will be held in the Apache County Superior Court on **August 18, 2006, at 9:30 a.m.**

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**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF APACHE**

ST. JOHNS IRRIGATION CO., and the  
MEADOWS RESERVOIR  
IRRIGATION CO., et al.

vs.

ROUND VALLEY WATER  
STORAGE & DITCH CO., EAGAR  
IRRIGATION CO.; SPRINGERVILLE  
WATER RIGHT AND DITCH, et al.  
(Norviel Decree)

No. CV 569

**ORDER ESTABLISHING NOTICE  
REQUIREMENTS, DEADLINE  
FOR FILING OF OBJECTIONS,  
AND HEARING DATE**

Assigned to the Honorable Donna J.  
Grimsley

The Lyman Water Company, the Zuni Indian Tribe and the United States of America in its capacity as trustee for the Zuni Indian Tribe ("Parties") have executed a Water Right, Entitlement and Perpetual Delivery Agreement ("Entitlement and Delivery Agreement") dated February 27, 2006, relating to the delivery of surface water rights acquired by the Zuni Indian Tribe and the United States for the benefit of the Tribe from the Lyman Water Company. The Parties have also filed a Motion requesting that this Court approve the Entitlement and Delivery Agreement in furtherance of the settlement of the water rights claims of the Zuni Indian Tribe and the United States acting for the benefit of the Tribe.

1           Upon reviewing THE LYMAN WATER COMPANY, THE ZUNI INDIAN TRIBE,  
2 AND THE UNITED STATES' MOTION TO APPROVE A WATER RIGHT,  
3 ENTITLEMENT AND PERPETUAL DELIVERY AGREEMENT IN FURTHERANCE  
4 OF AN INDIAN WATER RIGHTS SETTLEMENT ("the Motion") and good cause  
5 appearing, it is therefore ORDERED as follows:  
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7           1. At the cost of the Parties, the Parties shall send a copy of this Order, by first-  
8 class mail, to the Norviel Decree water users as indicated by the current assessment mailing  
9 list. The Parties shall also send a copy of this Order, by first-class mail, to the stockholders  
10 in The Lyman Water Company. The mailing to the users and the stockholders shall include  
11 a notice, in the form attached hereto as Exhibit "A", setting forth a brief summary of the  
12 Motion and providing information as to how interested parties may inspect-and/or obtain  
13 copies of the Motion and related exhibits. The mailing shall occur within ten (10) days of  
14 the date of this Order.  
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17           2. At the cost of the Parties, the Parties shall publish this Order in a newspaper of  
18 general circulation in Apache County within fifteen (15) days of the date of this Order.  
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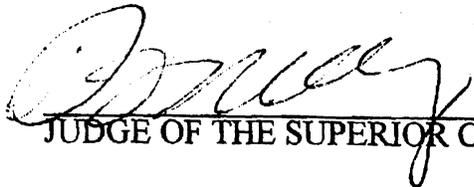
20           3. Any person or entity having any objections to the Motion shall file such  
21 objections with the Apache County Clerk of the Court within forty-five (45) days following  
22 the date of this Order. The person or entity filing the objections shall mail a copy of the  
23 objections to each of the Parties at their respective addresses as indicated in the Motion.  
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25           4. The Parties may jointly or separately file a Reply to objections received within  
26 thirty (30) days following the deadline set forth above for the filing of objections.  
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5. A hearing on this Motion shall be held on the 18 day of August, 2006,  
at 9:30 o'clock for the purposes of resolving objections, if any, to the Motion.

DATED this 10 day of March, 2006.

  
\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

# **APPENDIX J**

# **Appendix J-1**

# **WAIVERS AND RETENTIONS BY THE STATE PARTIES<sup>1</sup>**

**[Appendix A at ¶¶ 11.1, 11.5]**

## **I. Claims For Water Rights and Injuries To Water Rights.**

### **A. Retentions.**

The State Parties retain the following water rights claims accruing<sup>2</sup> after the Enforcement Date against the Zuni Tribe and the United States:

- Claims for breach or enforcement of the Settlement Agreement, including claims for enforcement of rights or injuries to rights recognized thereunder [**Appendix A** at ¶ 11.5(A)]; and
- Claims for water rights and injuries to those water rights subject to the terms of the Settlement Agreement<sup>3</sup> [*Id.* at ¶ 11.5(B)].

### **B. Waivers.**

The State Parties waive all claims for injuries to water rights<sup>4</sup> accruing from time immemorial through the Enforcement Date against the Zuni Tribe and the United States caused by surface water diversions in the Eastern LCR Basin or withdrawals of groundwater on Zuni Lands [*Id.* at ¶ 11.1(A)].

## **II. Claims For Injuries To Water Quality.**

### **A. Retentions.**

The State Parties retain the following water quality claims accruing after the Enforcement Date against Zuni Tribe and United States [*Id.* at ¶ 11.5(C)]:

- Claims for injuries to water quality, unless waived by the exemptions listed in the subsection below (the “Exemptions”);
- Notwithstanding Exemptions 1 and 2, claims for injury to water quality caused by the U.S. or Zuni Tribe’s disposing of or releasing a Hazardous Substance<sup>5</sup> or oil, unless the release falls under Exemptions 4 or 5;
- Notwithstanding the Exemptions, claims brought under CERCLA for injuries to water quality caused by release of a Hazardous Substance, unless the claim accrues within 30 years of the Enforcement Date; and

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<sup>1</sup> As defined in Paragraph 11.1 of the Settlement Agreement, State Parties include the State of Arizona, acting solely in its proprietary capacity, and all other parties to the Settlement Agreement, except the Zuni Indian Tribe and the United States.

<sup>2</sup> Pursuant to Paragraph 11.8, “a claim or cause of action accrues when a party knows or reasonably should know that it has been damaged, unless another statutory standard applies.”

<sup>3</sup> These terms include Paragraph 4.2(A), which describes the Zuni abstracted uses, and Paragraph 4.6(A), which states that the Zuni Abstracts are recognized by all Parties to the Settlement Agreement.

<sup>4</sup> These include injuries to water rights in groundwater, surface water and effluent.

<sup>5</sup> Defined in 42 U.S.C. § 9601(14).

- Notwithstanding Exemptions 1, 2, 3, and 6, claims brought under the Oil Pollution Act for injuries to water quality caused by the discharge of oil, unless the discharge falls under Exemptions 4 or 5, or the claim accrues within 30 years of the Enforcement Date.

#### **B. Waivers.**

The State Parties waive all claims for injury to water quality accruing from time immemorial through the Enforcement Date against the Zuni Tribe and the United States caused by surface water diversions in the Eastern LCR Basin or withdrawals of groundwater on Zuni Lands [*Id.* at ¶ 11.1(A)].

Unless specifically retained in the above subsection, the State Parties waive all water quality claims accruing after the Enforcement Date caused by the following actions on Zuni Lands (the Exemptions) [*Id.* at ¶ 11.1(B)]:

- (1) The lawful diversion or use of surface water;
- (2) The lawful withdrawal or use of underground water;
- (3) The Parties' performance of their obligations under the Settlement Agreement;
- (4) The discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;
- (5) The discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or
- (6) Any combination of the causes described in (1) through (5).

#### **III. Claims Against Other Indian Tribes.**

The State Parties retain the right to bring claims for injuries to water rights and water quality against any other Indian Tribe or the United States of behalf of any such Tribe [*Id.* at ¶ 11.5(D)].

# **Appendix J-2**

**WAIVERS AND RETENTIONS BY THE ZUNI TRIBE**  
**[Appendix A at ¶¶ 11.2.1, 11.2.2, 11.3, 11.4, 11.6]**

**I. Claims For Water Rights and Injuries To Water Rights.**

**A. Retentions.**

The Zuni Tribe retains the following water rights claims accruing<sup>1</sup> after the Enforcement Date:

- Claims for breach or enforcement of the Settlement Agreement, including claims for enforcement of rights or injuries to rights recognized under the Settlement Agreement or the Settlement Act [**Appendix A** at ¶ 11.4(A)(1)];
- Subject to the terms of the Settlement Agreement<sup>2</sup>, claims for water rights and injuries to those water rights for lands acquired by the Zuni Tribe after the Enforcement Date, except that the Zuni Tribe waives the right to base water rights claims on aboriginal occupancy for non-Zuni Lands within the LCR Basin [*Id.* at ¶ 11.4(A)(2)]; and
- Claims to groundwater rights, and injuries to surface water and groundwater rights as provided in Article 5<sup>3</sup> [*Id.* at ¶ 11.4(A)(3)].

**B. Waivers.**

The Zuni Tribe waives the following claims against all persons, entities, and the State, unless specifically retained above:

**Claims to Water Rights**<sup>4</sup>

- Past, present and future claims to water rights on Zuni Lands from time immemorial through the Enforcement Date and any time thereafter, except for claims within the Zuni Protection Area as provided in Article 5<sup>5</sup> [*Id.* at ¶ 11.2.1 (A)]; and

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<sup>1</sup> Pursuant to Paragraph 11.8 of the Settlement Agreement, a claim or cause of action accrues “when a party knows or reasonably should know that it has been damaged, unless another statutory standard applies.”

<sup>2</sup> These terms include Paragraph 4.2(D), which sets limitations on the Zuni Tribe adjudication objections, and Paragraph 5.6, which sets limitations on the Zuni Tribe’s objections to new non-exempt wells outside the Zuni Protection Area.

<sup>3</sup> Paragraph 5.3 provides that the Zuni Tribe is entitled to withdraw 1,500 AFA of underground water from wells on the Zuni Pumping Lands for use on those lands, and Paragraph 5.4 recognizes the Zuni Tribe’s right to withdraw underground water on Zuni Lands in accordance with applicable law. Conversely, Paragraphs 5.1, 5.5, 5.6 and 5.7 set limitations on the kinds of objections that may be brought by the Zuni Tribe against other parties withdrawing water via wells.

<sup>4</sup> These claims include water rights in groundwater, surface water, and effluent.

<sup>5</sup> Paragraph 5.7 outlines the circumstances under which the Zuni Tribe retains claims against new non-exempt wells, or withdrawals from such wells inside the Zuni Protection Area.

- Past, present and future claims for water rights on lands outside the Zuni Lands but within the LCR basin based upon aboriginal occupancy of lands by the Zuni Tribe or its predecessors [*Id.* at ¶ 11.2.1 (C)].

### Claims for Injuries to Water Rights<sup>6</sup>

- Past and present claims for injuries to water rights on Zuni Lands from time immemorial through the Enforcement Date [*Id.* at ¶ 11.2.1 (B)]; and
- Past, present and future claims for injuries to water rights for lands outside the Zuni Lands but within the LCR basin based upon aboriginal occupancy of lands by the Zuni Tribe or its predecessors [*Id.* at ¶ 11.2.1 (C)].

## **II. Claims For Injuries To Water Quality.**

### **A. Retentions.**

The Zuni Tribe retains the following claims for water quality injuries accruing after the Enforcement Date:

- Claims for injuries to water quality as provided in Article 5<sup>7</sup> [*Id.* at ¶ 11.4(A)(3)];
- Claims for injuries to water quality, unless waived by the six exemptions listed in the subsection below (the “Exemptions”) [*Id.* at ¶ 11.4(A)(4)(a)];
- Notwithstanding Exemptions 1 and 2, claims for injury to water quality caused by any person or entity’s disposing of or releasing a Hazardous Substance<sup>8</sup> or oil, unless the release falls under Exemptions 4 or 5 [*Id.* at ¶ 11.4(A)(4)(b)];
- Notwithstanding the Exemptions, claims brought under CERCLA for injuries to water quality caused by release of a Hazardous Substance, and the right to request that the United States to bring such claims on behalf of the Zuni Tribe, unless the claim accrues within 30 years of the Enforcement Date [*Id.* at ¶ 11.4(A)(4)(c)]; and
- Notwithstanding Exemptions 1, 2, 3, and 6, claims brought under the Oil Pollution Act for injuries to water quality caused by the discharge of oil, and the right to request that the United States to bring such claims on behalf of the Zuni Tribe, unless the discharge falls under Exemptions 4 or 5, or the claim accrues within 30 years of the Enforcement Date [*Id.* at ¶ 11.4(A)(4)(d)].

### **B. Waivers.**

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<sup>6</sup> These claims include claims for damages for deprivation of water rights and claims for changes to underground water tables.

<sup>7</sup> Paragraph 5.10 requires a Party to submit water quality data for wells in the Eastern LCR basin to the Zuni Tribe if that Party is required to submit water quality data to the Arizona Departments of Environmental Quality or Water Resources, or the United States Environmental Protection Agency. Paragraphs 5.11 and 5.12 require the Salt River Project Agricultural Improvement and Power District to monitor various wells within the Eastern LCR basin and provide the Zuni Tribe with water quality testing data for those wells for a period of at least 30 years after the Enforcement Date.

<sup>8</sup> Defined in 42 U.S.C. § 9601(14).

The Zuni Tribe waives the following claims against all persons, entities and the State<sup>9</sup>:

- All past and present claims under any applicable statute for injury to water quality, and the right to request that the United States bring any such claim on the Zuni Tribe's behalf, including natural resource damage claims under CERCLA and the Oil Protection Act, from time immemorial through the Enforcement Date for lands within the LCR basin [*Id.* at ¶ 11.2.2 (A), (B)]; and
- All future claims under any applicable statute for injury or threat of injury to water quality, and the right to request that the United States bring any such claim on the Zuni Tribe's behalf, including natural resource damage claims under CERCLA and the Oil Protection Act, for any lands within the Eastern LCR basin caused by the following actions (the "Exemptions") [*Id.* at ¶ 11.2.2 (C), (D)]:
  - (1) The lawful diversion or use of surface water;
  - (2) The lawful withdrawal or use of underground water, except within the Zuni Protection Area as provided in Article 5 of the Settlement Agreement;
  - (3) The Parties' performance of any obligations under the Settlement Agreement;
  - (4) The discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;
  - (5) The discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or
  - (6) Any combination of the causes described in (1) through (5).
- All claims of interference with the trust responsibility of the United States to the Zuni Tribe arising out of the negotiation of the Settlement Agreement or the Act [*Id.* at ¶ 11.2.2(E)].

### **III. Waiver of Claims Against the United States.**

The Zuni Tribe waives the following claims against the United States, including any agencies, officials or employees thereof<sup>10</sup>:

#### **Claims to Water Rights**<sup>11</sup>

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<sup>9</sup> These waivers are subject to the retentions set forth in sections I(A), II(A), IV of this outline, and Paragraph 11.7 of the Settlement Agreement, which allows the United States and the State of Arizona to enforce health, human safety and environment laws or regulations except as waived by the United States against the Zuni Tribe in Paragraphs 11.2.1 and 11.2.3. For more information, see the outline regarding Waivers and Retentions by the United States.

<sup>10</sup> These waivers are subject to the retentions set forth in sections I(A), II(A) and IV of this outline.

<sup>11</sup> These claims include water rights in groundwater, surface water and effluent.

- All past, present and future claims to water rights for Zuni Lands from time immemorial through the Enforcement Date and any time thereafter [*Id.* at ¶ 11.3(A)]; and
- All past, present, and future claims for water rights for lands outside the Zuni Lands but located within the LCR basin, based upon aboriginal occupancy of lands by the Zuni Tribe or its predecessors from time immemorial through the Enforcement Date and any time thereafter [*Id.* at ¶ 11.3(C)].

#### Claims for Injuries to Water Rights<sup>12</sup>

- All past and present claims for injuries to water rights for Zuni Lands, from time immemorial through the Enforcement Date [*Id.* at ¶ 11.3(B)]; and
- All past, present, and future claims for injuries to water rights for lands outside the Zuni Lands but located within the LCR basin, based upon aboriginal occupancy of lands by the Zuni Tribe or its predecessors from time immemorial through the Enforcement Date and any time thereafter [*Id.* at ¶ 11.3(C)].

#### Claims for Failure to Protect and Breach of Trust Responsibility

- All past and present claims for failure to protect, acquire, or develop water rights of, or failure to protect water quality for, the Zuni Tribe within the LCR Basin in Arizona from time immemorial through the Enforcement Date [*Id.* at ¶ 11.3(D)]; and
- All claims for breach of the trust responsibility of the United States to the Zuni Tribe arising out of the negotiation of the Settlement Agreement or the Act [*Id.* at ¶ 11.3(E)].

#### **IV. Retention of Federal Claims.**

- The Zuni Tribe retains all claims of water rights or injuries to water rights or water quality<sup>13</sup> against any other Indian tribe, band or community or against the United States on behalf of any such tribe, band or community [*Id.* at ¶ 11.6].

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<sup>12</sup> These include claims for injuries to water rights in groundwater, surface water, and effluent and any claims for damages for deprivation of water rights.

<sup>13</sup> These claims include water rights in groundwater, surface water and effluent.

# **Appendix J-3**

**WAIVERS AND RETENTIONS BY THE UNITED STATES**  
**[Appendix A at ¶¶ 11.2.1, 11.2.3, 11.4, 11.6]**

**I. Claims For Water Rights and Injuries To Water Rights.**

**A. Retentions.**

The United States, in its capacity as trustee for the Zuni Tribe and its members, retains the following claims:

- Claims for breach or enforcement of the Settlement Agreement, including claims for enforcement of rights or injuries to rights recognized under the Settlement Agreement or the Act [**Appendix A** at ¶ 11.4(B)(1)];
- Subject to the terms of the Settlement Agreement<sup>1</sup>, claims for water rights and injuries to those water rights for lands acquired by the Zuni Tribe after the Enforcement Date, except that the Zuni Tribe waives the right to base water rights claims on aboriginal occupancy for non Zuni Lands within the LCR Basin [*Id.* at ¶ 11.4(B)(2)]; and
- Claims to groundwater rights, and injuries to surface water and groundwater rights as provided in Article 5<sup>2</sup> [*Id.* at ¶ 11.4(B)(3)].

**B. Waivers.**

The Secretary of the Interior, on behalf of the United States in its capacity as trustee for the Zuni Tribe and its members, waives the following claims against all persons, entities, and the State, unless specifically retained above:

**Claims to Water Rights**<sup>3</sup>

- Past, present and future claims to water rights on Zuni Lands from time immemorial through the Enforcement Date and any time thereafter, except for claims within the Zuni Protection Area as provided in Article 5<sup>4</sup> [*Id.* at ¶ 11.2.1 (A)]; and

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<sup>1</sup> These terms include Paragraph 4.2(D), which sets limitations of Zuni Tribe adjudication objections, and Paragraph 5.6, which sets limitations on the Zuni Tribe's objections to new non-exempt wells outside the Zuni Protection Area.

<sup>2</sup> Paragraph 5.3 provides that the Zuni Tribe is entitled to withdraw 1,500 AFA of underground water from wells on the Zuni Pumping Lands for use on those lands, and Paragraph 5.4 recognizes the Zuni Tribe's right to withdraw underground water on Zuni Lands in accordance with applicable law. "Underground water" is defined as "any water beneath the surface of the earth regardless of its legal characterization as appropriable or non-appropriable under any applicable law." [**Appendix A** at ¶ 2.39]. Conversely, Paragraphs 5.1, 5.5, 5.6 and 5.7 set limitations on the kinds of objections that may be brought by the Zuni Tribe against other parties withdrawing water via wells.

<sup>3</sup> These claims include water rights in groundwater, surface water, and effluent.

<sup>4</sup> Paragraph 5.7 outlines the circumstances under which the Zuni Tribe retains claims against new non-exempt wells, or withdrawals from such wells inside the Zuni Protection Area.

- Past, present and future claims for water rights on lands outside the Zuni Lands but within the LCR Basin based upon aboriginal occupancy of lands by the Zuni Tribe or its predecessors [*Id.* at ¶ 11.2.1 (C)].

### Claims for Injuries to Water Rights<sup>5</sup>

- Past and present claims for injuries to water rights on Zuni Lands from time immemorial through the Enforcement Date [*Id.* at ¶ 11.2.1 (B)]; and
- Past, present and future claims for injuries to water rights for lands outside the Zuni Lands but within the LCR Basin based upon aboriginal occupancy of lands by the Zuni Tribe or its predecessors [*Id.* at ¶ 11.2.1 (C)].

## **II. Claims For Injuries To Water Quality.**

### **A. Retentions.**

The United States in its capacity as trustee for the Zuni Tribe and its members retains the following claims:

- Claims accruing after the Enforcement Date for injuries to water quality that are not waived in the following subsection [*Id.* at ¶ 11.4(B)(4)(a)]; and
- Claims brought at the request of the Zuni Tribe pursuant to ¶ 11.4(A)(4)(c) and (d)<sup>6</sup> [*Id.* at ¶ 11.4(B)(4)(b)].

### **B. Waivers.**

The United States waives the following claims, whether brought under Federal, State, or other law against all persons, entities and the State for<sup>7</sup>:

- All past and present common law claims accruing<sup>8</sup> from time immemorial through the Enforcement Date arising from or relating to water quality in which the injury asserted is to the Tribe's interest in water, trust land, and natural resources in the LCR Basin [*Id.* at ¶ 11.2.3(A)];
- All past and present natural resource damage claims accruing through the Enforcement Date arising from or relating to water quality in which the claim is

<sup>5</sup> These claims include claims for damages for deprivation of water rights and claims for changes to underground water tables.

<sup>6</sup> Paragraph 11.4(A)(4)(c) and (d) allow the Zuni Tribe to request the United States to bring certain CERCLA and Oil Pollution Act claims on its behalf, so long as the claims accrue more than 30 years after the Enforcement Date.

<sup>7</sup> These waivers are subject to the retentions set forth in sections II(A) and III of this outline, and Paragraph 11.7 of the Settlement Agreement, which allows the United States and the State of Arizona to enforce health, human safety and environment laws or regulations except as specifically waived by the United States against the Zuni Tribe in sections I(B) and II(B) of this outline.

<sup>8</sup> Pursuant to Paragraph 11.8 of the Settlement Agreement, "a claim or cause of action accrues when a party knows or reasonably should know that it has been damaged, unless another statutory standard applies."

based on injury to natural resources or threat to natural resources in the LCR Basin, but only for those cases where the United States would act on behalf of the Tribe as natural resource trustee pursuant to the National Contingency Plan<sup>9</sup> [*Id.* at ¶ 11.2.3(B)];

- All future common law claims arising from or relating to water quality in which the injury or threat of injury asserted is to the Tribe's interest in water, trust land, and natural resources in the Eastern LCR Basin accruing after the Enforcement Date caused by the following actions [*Id.* at ¶ 11.2.3(C)]:
  - (1) The lawful diversion or use of surface water;
  - (2) The lawful withdrawal or use of underground water, except within the Zuni Protection Area as provided in Article 5 of the Settlement Agreement;
  - (3) The Parties' performance of any obligations under the Settlement Agreement;
  - (4) The discharge of oil associated with routine physical or mechanical maintenance of wells or diversion structures not inconsistent with applicable law;
  - (5) The discharge of oil associated with routine start-up and operation of well pumps not inconsistent with applicable law; or
  - (6) Any combination of the causes described in (1) through (5); and
  
- All future natural resource damage claims accruing after the Enforcement Date arising from or relating to water quality in which the claim is based on injury to natural resources or threat to natural resources in the Eastern LCR Basin, but only for those cases where the United States would act on behalf of the Tribe as natural resource trustee pursuant to the National Contingency Plan<sup>10</sup>, and which are caused by the six actions listed above [*Id.* at ¶ 11.2.3(D)].

### **III. Retention of Federal Claims.**

The United States retains the right to represent federal agencies and Indian tribes other than the Zuni Tribe regarding water rights to the extent permitted by law [*Id.* at ¶ 11.6].

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<sup>9</sup> As set forth in 40 C.F.R. § 300.600(B)(2).

<sup>10</sup> See previous footnote.

# APPENDIX K

# **Appendix K-1**

## APPENDIX K-1

### SUMMARY OF STATEMENTS OF CLAIMANT RELATED TO ABSTRACTED WATER RIGHTS FOR LCR UNAPPROPRIATED FLOWS ON THE RESERVATION<sup>1</sup>

<b>SOC NUMBER<sup>2</sup></b>	<b>CLAIMED PRIORITY DATE</b>	<b>SOURCE &amp; QUANTITY</b>	<b>WATER USES</b>	<b>PLACE OF USE</b>
39-91736	"Reserved"	Unnamed LCR tributary (71 AFA)	<ul style="list-style-type: none"><li>• Religious</li><li>• Incidental stock and wildlife</li></ul>	Zuni Heaven Sec. 23, T14N, R23E
39-91737	"Reserved"	LCR (4,581.5 AFA)	<ul style="list-style-type: none"><li>• Irrigation</li></ul>	Sec. 15, T14N, R26E <sup>3</sup>

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<sup>1</sup> See Exhibit 4.6.B to the Settlement Agreement.

<sup>2</sup> Filed on April 7, 1992 by the United States on behalf of the "Pueblo of Zuni" based on federal reserved water rights.

<sup>3</sup> Described further in "Report of Water Claims by the U.S. for Pueblo of Zuni" dated December 1991."

# STATEMENT OF CLAIMANT FORM FOR OTHER USES<sup>1</sup>

File No. 39- 91736  
Date Filed: 4-7-92  
WFN \_\_\_\_\_

## LITTLE COLORADO RIVER WATERSHED ADJUDICATION SUPERIOR COURT OF APACHE COUNTY

1. Claimant Name: Pueblo of Zuni  
Claimant Address: PO Box 339 City Pueblo of Zuni  
State: NM Zip Code 87327 Telephone 505 782 4481

2. Basis of Claim:  
A.  Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. \_\_\_\_\_  
B.  Appropriation Right acquired after June 12, 1919. Application No. \_\_\_\_\_, Permit No. \_\_\_\_\_, or Certificate of Water Right No. \_\_\_\_\_  
C.  Decreed water right. Principal litigants, court, date and case no.: \_\_\_\_\_  
D.  Right to withdraw groundwater.  
E.  Other, describe: Indian Reserved and Federal Reserved

3. Claimed Priority Date: Reserved (month/day/year)

4. Use:  
A.  Municipal  
B.  Commercial or Industrial  
C.  Mining  
D.  Stockwatering other than from a stockpond  
E.  Recreation, Fish & Wildlife  
F.  Other, describe: Religious

5. Source of Water:  
A.  Stream: name none, tributary to Little Colorado River  
B.  Spring: name \_\_\_\_\_, tributary to \_\_\_\_\_  
C.  Lake or Reservoir: name \_\_\_\_\_, tributary to \_\_\_\_\_  
D.  Groundwater

6. Legal description of the Point of Diversion: (attach additional sheet if required)  
NE 1/4, NE 1/4, SW 1/4, Section 23, Township 14 N/S, Range 26 EW OPERATIONS DIV.

7. If there are Irrigation, Domestic or Stockpond uses also supplied from the Point of Diversion, describe:  
incidental stock and wildlife uses

8. Means of Diversion:  
A.  Instream pump  
B.  Gravity flow into ditch, canal or pipeline.  
C.  Well: Arizona State Land Department, Arizona Water Commission or Arizona Department of Water Resources Intent to Drill File No. \_\_\_\_\_  
D.  Other, describe natural lake/pond - place of diversion is place of use

<sup>1</sup>See Instructions for explanation of uses in this category

9. Means of Conveyance:

A.  Ditch, canal or pipeline. If the means of conveyance is owned and/or operated by some other entity, please give name and address: \_\_\_\_\_

B.  Other, describe: none

10. Place of Use, if other than point of diversion: (attach additional sheet if required) none  
County Apache

Legal Subdivision	Section	Township	Range
_____	_____	_____ N/S _____	_____ E/W
_____	_____	_____ N/S _____	_____ E/W

11. Claimed Right:

A. Maximum Flow Rate: \_\_\_\_\_  cubic-feet per second  
 gallons per minute  
 Arizona miner's inches

B. Annual Volume of Water Use: 71 acre-feet

C. Storage Right: \_\_\_\_\_ acre-feet

12. Attach photographs, maps or sketches necessary to show the point of diversion, storage reservoir(s), place(s) of use and means of conveyance.

13. It may be necessary for a representative from the Department of Water Resources to inspect the diversion, conveyance and place of use. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant \_\_\_\_\_

14. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? \_\_\_\_\_

15. Attach Filing Fee to Form. Mail form(s) and fee(s) to: Department of Water Resources, P.O. Box 2920, Phoenix, AZ ~~85062~~ <sup>15 S. 15th Av</sup> ~~85007~~

16. Additional comments: 11B includes storage volume, evaporation loss and incidental stock and wildlife use

This site is known as Kolhuwalawa, "Zuni Heaven"

(attach additional sheet if required)

17. Notarized Statement:

I (We), [Signature] the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my(our) knowledge and belief true, correct and complete.

Subscribed & sworn to before me this

3rd day of April, 1992

Lucinda E Hill  
Notary Public

(seal)

7-25-92  
My Commission Expires:

or, \_\_\_\_\_  
Authorized Personnel of the Department of Water Resources

# STATEMENT OF CLAIMANT FORM FOR IRRIGATION USE

File No. 39- 91737  
Date Filed: 04-07-92  
WFN \_\_\_\_\_

## LITTLE COLORADO RIVER WATERSHED ADJUDICATION SUPERIOR COURT OF APACHE COUNTY

1. Claimant Name: Pueblo of Zuni  
Claimant Address: P.O. Box 339 City Pueblo of Zuni  
State: NM Zip Code 87327 Telephone 505 782 4481

2. Basis of Claim:

- A.  Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. \_\_\_\_\_
- B.  Appropriation Right acquired after June 12, 1919. Application No. \_\_\_\_\_, Permit No. \_\_\_\_\_, or Certificate of Water Right No. \_\_\_\_\_
- C.  Decreed water right. Principal litigants, court, date and case no.: \_\_\_\_\_
- D.  Right to withdraw groundwater.
- E.  Other, describe: Indian Reserved and Federal Reserved

3. Source of Water:

- A.  Stream: name Little Colorado River, tributary to Colorado River
- B.  Spring: name \_\_\_\_\_, tributary to \_\_\_\_\_
- C.  Lake or Reservoir: name \_\_\_\_\_, tributary to \_\_\_\_\_
- D.  Groundwater.

4. Legal description of the Point of Diversion: (attach additional sheet if required)

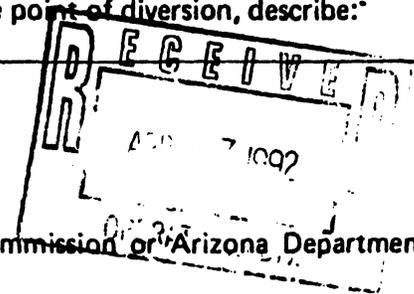
NW ¼, SE ¼, SE ¼, Section 15, Township 14 (N)S, Range 26 (E)W

5. If there are Stockpond, Domestic or Other Uses also supplied from the point of diversion, describe:

NO

6. Means of Diversion:

- A.  Instream pump.
- B.  Gravity flow into a ditch, canal or pipeline.
- C.  Well: Arizona State Land Department, Arizona Water Commission or Arizona Department of Water Resources Intent to Drill File No. \_\_\_\_\_
- D.  Other, describe: \_\_\_\_\_



7. Means of Conveyance:

- A.  Ditch, canal or pipeline. If the means of conveyance is owned and/or operated by some other entity, please give name and address: Seven Springs Ranch
- B.  Other, describe: \_\_\_\_\_

8. Place(s) of Use, Annual Water Use and Claimed Priority Date(s): (attach additional sheet if required)

County: Apache

Legal Subdivision	Section	Township	Range	Acres	Annual Water Use (acre-feet)	Claimed Priority Date (month/day/year)
	9, 10, 15, 16	14 N/S	26 E/W	10.78	4581.5	Reserved
		N/S	E/W			
		N/S	E/W			

9. Claimed Right:

- A. Maximum Flow Rate: 500  cubic-feet per second  
 gallons per minute  
 Arizona miner's inches
- B. Annual Volume of Water Use: 4581.5 acre-feet
- C. Storage Right: \_\_\_\_\_ acre-feet

10. Attach photographs, maps or sketches necessary to show the point(s) of diversion, storage reservoir(s), means of conveyance and place(s) of use. *see map in attached report entitled "Report of Water claims by the U.S. For Pueblo of Zuni" dated December 1991*

11. It may be necessary for a representative from the Department of Water Resources to inspect the diversion, conveyance and place of use. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant \_\_\_\_\_

12. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? \_\_\_\_\_

13. Additional comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(attach additional sheet if required)

*155. 15th Ave*

14. Attach Filing Fee to Form. Mail form(s) and fee(s) to: Department of Water Resources, P.O. Box 2920, Phoenix, AZ ~~85062~~ 85007

15. Notarized Statement: Verdell A. Baker  
 I (We), \_\_\_\_\_ the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my(our) knowledge and belief true, correct and complete.

Subscribed & sworn to before me that

3rd day of April, 1992

Lucinda E Hill  
 Notary Public

(seal)

7-21-92  
 My Commission Expires:

or, \_\_\_\_\_  
 Authorized Personnel of the Department of Water Resources

# **Appendix K-2**

## APPENDIX K-2

### SUMMARY OF STATEMENTS OF CLAIMANT RELATED TO ABSTRACTED WATER USES ON ZUNI LANDS<sup>1</sup>

SOC NUMBER	CLAIMED PRIORITY DATE	SOURCE & QUANTITY (afa)	WATER USES	PLACE OF USE
39-082094 <sup>2</sup>	1880	Concho Springs (500)	• Irrigation	Sec. 34, T14N, R26E
39-88868 <sup>3</sup>	Mid 1870s	LCR (5,000)	• Irrigation • Stock	Sec. 5-9 & 15, T14N, R26E
39-89021 <sup>4</sup>	Various between 1881 & 1940 <sup>5</sup>	LCR & Carrizo Wash (4,760)	• Irrigation	Various T14N, R27 & 28E
39-89022 <sup>4</sup>	1916	Zuni River (3,000)	• Irrigation	Sec. 6, T14N, R28E; Sec. 1 & 2, T14N, R27E

<sup>1</sup> See Exhibit 4.1.A(1) *et seq.* to the Settlement Agreement.

<sup>2</sup> Filed on June 1, 1982 by Spencer Ellsworth.

<sup>3</sup> Filed on November 14, 1985 by Seven Springs Ranch, Inc.

<sup>4</sup> Filed on December 4, 1985 by Limited Partnership of Meadows Ranch.

<sup>5</sup> Claim is partially based on Norviel Decree water rights.

Ellsworth (S)

031-44.CBB-1

For Departmental Use Only



**STATEMENT OF CLAIMANT FORM  
FOR  
IRRIGATION USE**

File No. 39- 082094  
Date Filed: 6-1-82  
WFN \_\_\_\_\_

**LITTLE COLORADO RIVER WATERSHED ADJUDICATION  
SUPERIOR COURT OF APACHE COUNTY**

121 FC.

1. Claimant Name: Spencer D. Ellsworth  
Claimant Address: 5632 North 19th Avenue City Phoenix  
State: Arizona Zip Code 85015 Telephone 249-1802
2. Basis of Claim:
  - A.  Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. 36-38361
  - B.  Appropriation Right acquired after June 12, 1919. Application No. \_\_\_\_\_, Permit No. \_\_\_\_\_, or Certificate of Water Right No. \_\_\_\_\_
  - C.  Decreed water right. Principal litigants, court, date and case no.: \_\_\_\_\_
  - D.  Right to withdraw groundwater.
  - E.  Other, describe: Claim is also based on continuous use of Concho Creek waters for irrigation purposes since 1880.
3. Source of Water:
  - A.  Stream: name Concho Creek, tributary to Little Colorado River
  - B.  Spring: name \_\_\_\_\_, tributary to \_\_\_\_\_
  - C.  Lake or Reservoir: name \_\_\_\_\_, tributary to \_\_\_\_\_
  - D.  Groundwater.
4. Legal description of the Point of Diversion: (attach additional sheet if required)  
SE 1/4, NW 1/4, SE 1/4, Section 34, Township 14 N/S, Range 26 E/W
5. If there are Stockpond, Domestic or Other Uses also supplied from the point of diversion, describe:  
None
6. Means of Diversion:
  - A.  Instream pump.
  - B.  Gravity flow into a ditch, canal or pipeline.
  - C.  Well: Arizona State Land Department, Arizona Water Commission or Arizona Department of Water Resources Intent to Drill File No. \_\_\_\_\_
  - D.  Other, describe: \_\_\_\_\_
7. Means of Conveyance:
  - A.  Ditch, canal or pipeline. If the means of conveyance is owned and/or operated by some other entity, please give name and address: \_\_\_\_\_
  - B.  Other, describe: \_\_\_\_\_

8. Place(s) of Use, Annual Water Use and Claimed Priority Date(s): (attach additional sheet if required)

County: Apache

Legal Subdivision	Section	Township	Range	Acres	Annual Water Use (acre-feet)	Claimed Priority Date (month/day/year)
<u>N 1/2</u>	<u>34</u>	<u>14 N/S</u>	<u>26 E/W</u>	<u>110</u>	<u>500</u>	<u>1880</u>
		<u>N/S</u>	<u>E/W</u>			
		<u>N/S</u>	<u>E/W</u>			

9. Claimed Right:

- A. Maximum Flow Rate: Up to 1500  cubic-feet per second  
 gallons per minute  
 Arizona miner's inches
- B. Annual Volume of Water Use: 500 acre-feet
- C. Storage Right: 30 acre-feet

10. Attach photographs, maps or sketches necessary to show the point(s) of diversion, storage reservoir(s), means of conveyance and place(s) of use. Map attached

11. It may be necessary for a representative from the Department of Water Resources to inspect the diversion, conveyance and place of use. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant \_\_\_\_\_

12. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? Contact Claimant at 249-1802.

13. Additional comments: See Attachment I and attached copy of WRA 36-38361, hereby incorporated in and made a part of this Statement of Claimant.

(attach additional sheet if required)

14. Attach Filing Fee to Form. Mail form(s) and fee(s) to: Department of Water Resources, P.O. Box 2920, Phoenix, AZ 85062.

15. Notarized Statement:

I (We), Spencer D. Ellsworth  
the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my(our) knowledge and belief true, correct and complete.

x Spencer D. Ellsworth  
Spencer D. Ellsworth



My Commission Expires:

H.B. Hanson  
Notary Public

or, \_\_\_\_\_  
Authorized Personnel of the Department of Water Resources

ATTACHMENT I

This Statement of Claimant is filed to set forth and to assert the right of the claimant to make beneficial use of public water of the State, to the extent that the water described herein is in fact public water of the State which is, or at any time has been, subject to appropriation.

Nothing in the Statement, nor its filing, shall constitute an admission that the water with respect to which the Statement is filed: (1) is public water subject to appropriation; (2) is in fact subject to claims based upon federal law.

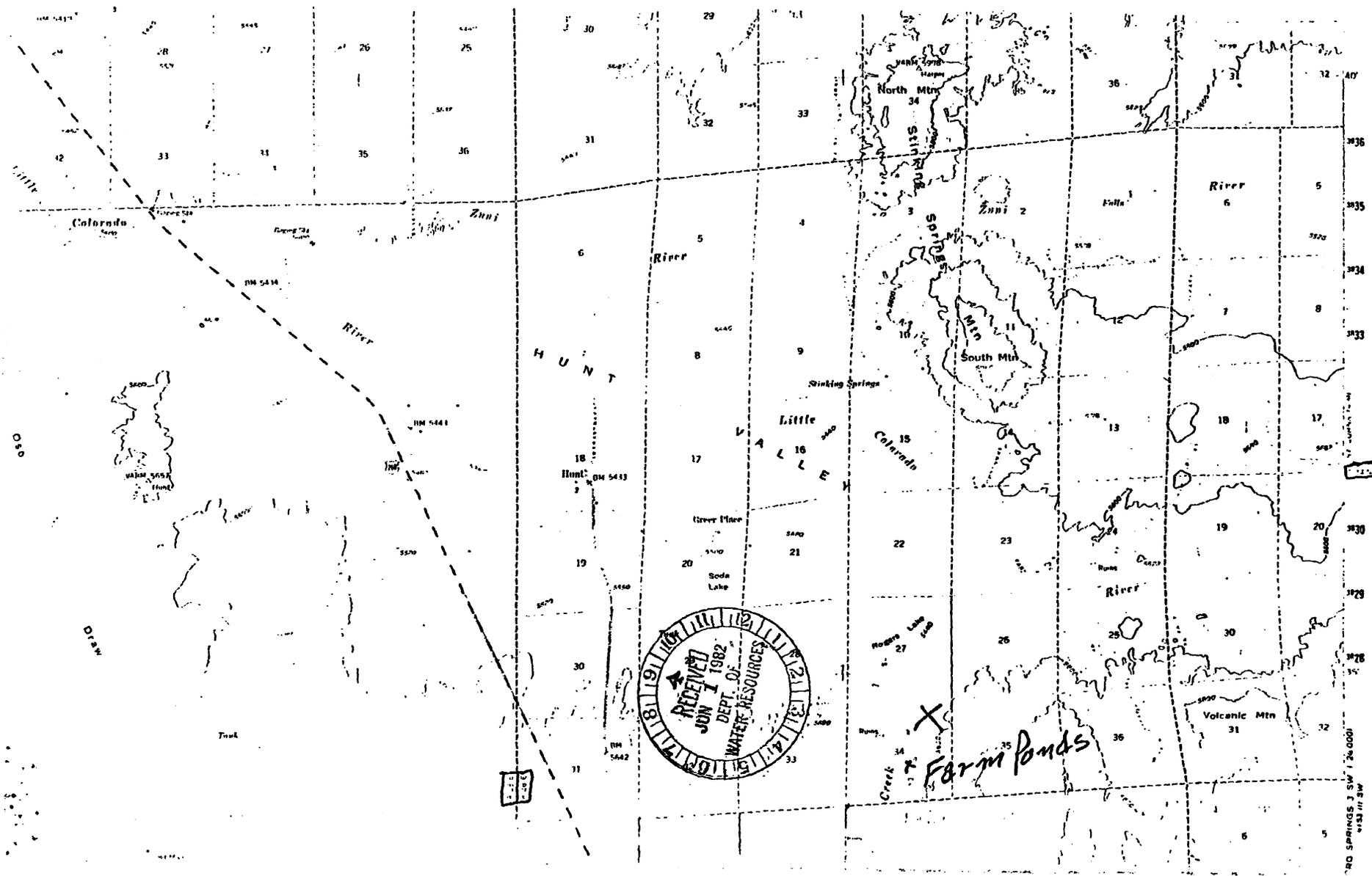
The filing of this Statement in no way constitutes an abandonment or disclaimer of existing rights to water which have been acquired by reason of past use; by reason of claimant's interest in the lands with respect to which this Statement is filed; or by reason of prior filings under the Water Rights Registration Act and the Stockpond Registration Act.







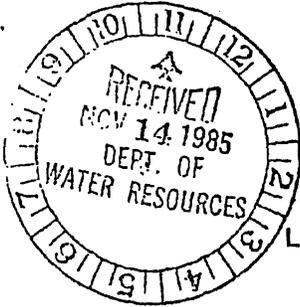




36-38361

NO SPRINGS 7 SW 1/4 0000  
4133 1/2 SW

# STATEMENT OF CLAIMANT FORM FOR IRRIGATION USE



File No. 39-	<u>88868</u>
Date Filed:	<u>11-14-85</u>
WFN	_____

LITTLE COLORADO RIVER WATERSHED ADJUDICATION  
SUPERIOR COURT OF APACHE COUNTY

1. Claimant Name: SEVEN SPRINGS RANCH, INC  
 Claimant Address: P.O. Box 426 City St. Johns  
 State: Arizona Zip Code 85936 Telephone \_\_\_\_\_

2. Basis of Claim:
- A.  Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. 36 27960
  - B.  Appropriation Right acquired after June 12, 1919. Application No. \_\_\_\_\_, Permit No. \_\_\_\_\_, or Certificate of Water Right No. \_\_\_\_\_
  - C.  Decreed water right. Principal litigants, court, date and case no. \_\_\_\_\_
  - D.  Right to withdraw groundwater.
  - E.  Other, describe: \_\_\_\_\_

3. Source of Water:
- A.  Stream: name Little Colorado, tributary to \_\_\_\_\_
  - B.  Spring: name \_\_\_\_\_, tributary to \_\_\_\_\_
  - C.  Lake or Reservoir: name \_\_\_\_\_, tributary to \_\_\_\_\_
  - D.  Groundwater.

4. Legal description of the Point of Diversion: (attach additional sheet if required)  
SE 1/4, SE 1/4, \_\_\_\_\_ 1/4, Section 15, Township 14 N/R, Range 26 E/W

5. If there are Stockpond, Domestic or Other Uses also supplied from the point of diversion, describe:  
5 Stockponds are filled from the diverted water. The ponds are located as follows: SW 1/4 of Sec. 6; SE 1/4 of Sec. 7; NE 1/4 of Sec. 7; SE 1/4 of Sec. 6; and the SW 1/4 of Sec. 5.

6. Means of Diversion: all in T 14 N R 26 E
- A.  Instream pump.
  - B.  Gravity flow into a ditch, canal or pipeline.
  - C.  Well: Arizona State Land Department, Arizona Water Commission or Arizona Department of Water Resources Intent to Drill File No. \_\_\_\_\_
  - D.  Other, describe: \_\_\_\_\_

7. Means of Conveyance:
- A.  Ditch, canal or pipeline. If the means of conveyance is owned and/or operated by some other entity, please give name and address: \_\_\_\_\_
  - B.  Other, describe: \_\_\_\_\_

8. Place(s) of Use, Annual Water Use and Claimed Priority Date(s): (attach additional sheet if required)

County: Apache

Legal Subdivision	Section	Township	Range	Acres	Annual Water Use (acre-feet)	Claimed Priority Date (month/day/year)
Various portions of		N/S	E/W	}	5,000	Mid 1870s.
Sections 5, 6, 7, 8, 9 & 15,		N/S	E/W			
All in 14N R 26E		N/S	E/W			

9. Claimed Right:

- A. Maximum Flow Rate: \_\_\_\_\_  cubic-feet per second  
 gallons per minute  
 Arizona miner's inches
- B. Annual Volume of Water Use: 5,000 acre-feet
- C. Storage Right: 5,000 acre-feet

10. Attach photographs, maps or sketches necessary to show the point(s) of diversion, storage reservoir(s), means of conveyance and place(s) of use.

11. It may be necessary for a representative from the Department of Water Resources to inspect the diversion, conveyance and place of use. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant If it becomes necessary, DWR may contact the claimant at that time and access will be discussed.

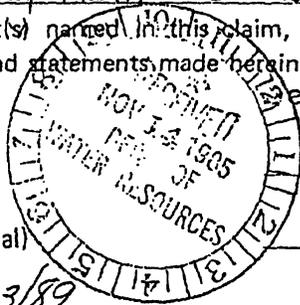
12. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? \_\_\_\_\_

13. Additional comments: Water is used as it is available in the river. This varies from year to year; in some years, there is no water. Usually, however, the irrigation season was from February through June and occasionally from September through the middle of December. The soils where the water is used are primarily a heavy clay with patches of sandy loam. No crops are presently irrigated, only native pasture. Water is impounded, or slowed by (attach additional sheet if required) Zions Reservoir, located in sections 15, 21 & 20 T 14N R 27E. From there, the water continues down the river to the point

14. Attach Filing Fee to Form. Mail form(s) and fee(s) to: Department of Water Resources, P.O. Box 2920, Phoenix, AZ 85062. diversion described in paragraph 4 above.

15. Notarized Statement:

I (We), H Jay Platt, the duly authorized president of  
the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my(our) knowledge and belief true, correct and complete.



EVEN SPRINGS RANCH, INC., an  
Arizona corporation  
By: H. J. Platt  
ITS President  
Valerie [Signature]  
Notary Public

(seal)  
6/23/89  
My Commission Expires:

or, \_\_\_\_\_  
Authorized Personnel of the Department of Water Resources

ARIZONA STATE LAND DEPARTMENT  
1624 West Adams  
Phoenix, Arizona 85007

STATEMENT OF CLAIM OF RIGHT TO USE  
PUBLIC WATERS OF THE STATE

Filing Fee \$5.00

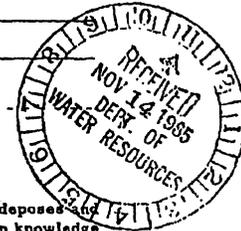
(LEAVE BLANK)  
Registry No. \_\_\_\_\_  
Filed \_\_\_\_\_ at \_\_\_\_\_ M.  
(DATE) (TIME)

INSTRUCTIONS:

- 1. Submit Statement of Claim in duplicate.
- 2. Answer all questions fully.
- 3. File separate claim for each claimed right to appropriate and for each source of water.

- 1. Name of Claimant SEVEN SPRINGS RANCH, INC.  
(Print Last Name or Name of Co.) (First Name) (Middle Initial)  
P. O. Box 426 St. Johns, Arizona 337-4343  
(Address, City, State, Zip) (Phone No.)
- 2. The purpose(s) and extent of use(s) Irrigation/stockwater  
(Examples: Irrigation, Stockwater, Domestic)
- 3. The quantities of water used annually See reverse from \_\_\_\_\_  
(Gallons or Acre feet) (Day) (Month)  
to \_\_\_\_\_ each year  
(Day) (Month)
- 4. The date(s) the water was first used beneficially See reverse  
(Month) (Day) (Year)
- 5. The Name(s) of the water course(s) or Water Source(s) being claimed Little Colorado  
(Source Name)  
Tributary to Colorado on the \_\_\_\_\_ Watershed  
(Leave Blank)
- 6. The point of diversion is within the SE  $\frac{1}{4}$ , SE  $\frac{1}{4}$ , Section 15,  
of Township 14N, Range 26E, G&SRB&M, in the County of Apache.  
(N/S) (E/W)
- 7. The Place(s) of use is in various portions of sections 6, 7, 8, 9, & 15  
Township 14N, Range 26E, G&SRB&M, in the County of Apache.  
(N/S) (E/W)
- 8. The legal basis for the claim See reverse.

(Attach copies of any documents being filed in support of Claim)



STATE OF Colorado )  
                          ) SS  
County of El Paso   )

H. Jay Platt, being first duly sworn on oath, deposes and states that the foregoing Statement of Claim is true and correct of his own knowledge except as to any matters stated therein to be on information and belief and as to all such matters so stated he believes the same to be true and correct.

SEVEN SPRINGS RANCH, INC., by  
H. Jay Platt Pres.  
H. (CLERK AND) JAY PLATT, PRESIDENT

Subscribed and sworn to before me this 22ND day of June, 1979.

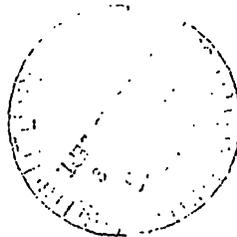
My Commission Expires:  
November 7, 1979.  
(SEAL)

Mary Lee Pretorius  
(NOTARY PUBLIC)

Filed in Water Rights Claim Registry No. \_\_\_\_\_ of the State Land Department of  
\_\_\_\_\_ at \_\_\_\_\_ M.

- 3) Quantities of use and times thereof. The quantities of use and time thereof varies from year to year. Suffice it to say that as water is available in the river, it is diverted and used. In some years, no water is in the river; in other years as much as 5,000 acre feet of water have been used. The time of use is usually from February through June and occasionally from September through the middle of October.
- 4) Date of first beneficial use. The attached affidavits and notice indicate a beneficial use as early as 1902. The Sanford Hunt affidavit indicates that the water was first used at the time the Hunt Valley was first settled. This was sometime in the 1870's. A U.S. Geological survey map of the area made in 1878 shows water diversion at Hunt in that year. To the best of claimant's knowledge and belief, the first beneficial use of the water was in the mid 1870's.
- 8) Legal basis for the claim. The legal basis for the claim is continuous beneficial use by claimant as fee owner and by its predecessors in interest of all Little Colorado River water unappropriated by the St. Johns Irrigation Co. to the extent such waters are available in amounts of 5,000 acre feet or less since the date of first use discussed in item 4, supra. This statement of claim is filed in accordance with 45-181 ARS to set forth the right of the claimant to make beneficial use of the public waters of the state.

The matters stated herein are true and correct based on claimant's knowledge and belief and/or on ranch records, field work, physical examination and other investigation done by others in claimant's behalf and at claimant's direction.



AFFIDAVIT

TO WHOM IT MAY CONCERN:

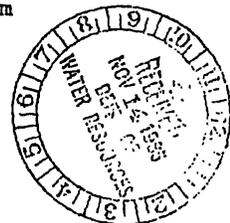
My name is Sanford R. Hunt and I reside in St. Johns, Apache County, Arizona. I was born in Holbrook Ariz., and lived at the ranch residence of my Mother and Father, Edna G. Hunt and Sanford Hunt in the place known as Hunt in Apache County Arizona. I lived most of my life there until 1971 and was engaged in irrigated farming and cattle raising. In my youth I assisted my Father and after his death operated the family holdings, all or in part, until they were disposed of.

In 1956 part of these holdings, about eight hundred acres, were sold to Harvey Platt, but I continued for several years ~~but I continued~~ from time to time to assist him in farming and irrigating these same lands. In 1958 the balance of the family holdings were sold to C.I. Creed and I continued my residence there as lessee of these lands or in the employment of Mr. Creed until I moved to St. Johns in 1971.

The lands to which I am referring are In TWP 14 North Range 26 East GSRBM Apache County Arizona, in Sections 7, 8, and 18.

Water was diverted from the Little Colorado and its principal tributary, the Carrizo, whenever available to irrigate the above described land. The Hunt Valley contains about twenty square miles in area, and is an ancient flood plain. A considerable part of it is flat with very little slope in any direction. Through it runs the Little Colorado, and also the Zuni River, generally in a westerly direction. Due to the topography the river channel is very shallow and water easily diverted.

Around 1914 a dirt structure known as Zion Dam



was constructed on the river about eight to nine miles East. Over the years the reservoir basin became silted up and most of its storage capacity was lost, but it continued to exercise a stabilizing influence on the river in times of flood.

The regular flow of the river had been previously appropriated to lands above St. Johns, so that in summer during the irrigation season the river was dry except for floodwater runoff, during the rainy season. During the winter and spring prior to the regular irrigation season around St. Johns on lands having a prior water right established by court decree, water from the Salado Springs and melting snow was available.

During my time and even prior to the construction of Zion Dam water was diverted from the river into canals and ditches and used for irrigation whenever it was available on the lands in the Hunt Valley described.

One of our neighbors was John H. Udall who also used the water of the Little Colorado on lands in Sec. 6 and 7. The above described land was purchased about 1956 by Harvey Platt.

The principal crops grown were grain, alfalfa, and especially native grasses and permanent pasture, later in the fifties the water was supplemented with water from wells.

Most of the time the entire flow of the river was used on lands in the Hunt Valley. Some of this land was homesteaded by my Grandfather, John Hunt. Through personal observation and actual involvement in farming and irrigating I can state unequivocally that this land has been irrigated since its early settlement down to the present day, whenever water was available. The quantity of water varies considerably, depending on seasonal factors and precipitation.

I do solemnly attest to the truthfulness of the above statements.

SIGNED: Sanford R. Hunt  
SANFORD R. HUNT

STATE OF ARIZONA -- COUNTY OF APACHE. ON this the 17th day of June 1976 before me the undersigned personally appeared Sanford R. Hunt known to me to be the person whose name is subscribed to the foregoing and acknowledged he executed the same. In witness whereof I hereunto set my hand and official seal.



William C. [Signature]  
My Commission Expires July 7, 1976

AFFIDAVIT

TO WHOM IT MAY CONCERN:

I was a resident in the Hunt Valley in Southern Apache County Ariz. for about forty two years. At one time there was a school there, a store, and a place known as Hunt. In 1914 I married Sanford Hunt and we lived at what was known as the Hunt ranch. Our home <sup>The Little Colorado</sup> was on the ~~west~~ side of what was then the gravelled highway from St. Johns to Holbrook.

During my residence there my husband farmed land and ran cattle in portions of Sections 7, 8, 18, in TWP 14 N. Range 26 E. Sec. 6 belonged to John H. Udall.

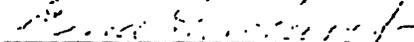
Most of the farming and irrigating was devoted to feed crops and grass that could be utilized by cattle which was our principal crop. Water was diverted from the Little Colorado River whenever it was available. During wet years considerable water was available from floodwaters of the Carrizo and Little Colorado in the summer time, and in the springtime from the Salado Springs above St. Johns and from melting snow. The Zion dam and reservoir about eight to nine miles East on the Little Colorado provided some storage and stabilized the flow of the river. Water held back by the dam flowed back into the river to flow down to Hunt Valley.

In later years, before his death in 1957, we drilled some wells, one of which was artesian and this supplemented the water from the river. The amount of <sup>river</sup> water varied greatly from year to year, and season to season, depending on the amounts of precipitation in the form of rain or snow. In the Hunt valley the flatness of the land makes diversion relatively easy, and the flow was equalized by the dam referred to. Our principal use of the water was the irrigation of grass.

After the death of my husband in 1954 about 800 acres of our land was sold to Harvey Platt, and the balance of the family holdings was sold in 1958 to C.I. Creed.

I do solemnly attest to the truthfulness of the above.

SIGNED:

  
Edna G. Hunt

State of Arizona, County of Apache. On this the 11th day of July 1976.

SIGNED: Edna G. Hunt

State of Arizona

County of Apache

On this the 11th day of Oct 1976 before me the undersigned personally appeared Edna G. Hunt known to me to be the person whose name is subscribed to the foregoing statement and acknowledged she executed the same.

In witness whereof I hereunto set my hand and official seal.

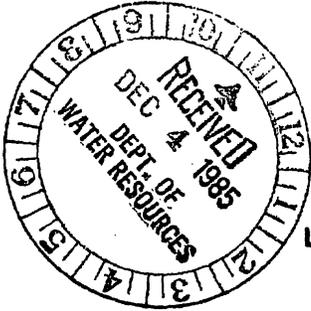
Carol Martin  
NOTARY PUBLIC

My Commission Expires July 7, 1978



# STATEMENT OF CLAIMANT FORM FOR IRRIGATION USE

File No. 39-	<u>89021</u>
Date Filed:	<u>12-4-85</u>
WFN	



## LITTLE COLORADO RIVER WATERSHED ADJUDICATION SUPERIOR COURT OF APACHE COUNTY

1. Claimant Name: Limited Partnership of Meadows Ranch  
 Claimant Address: Star Route Box 2092 City Cornville  
 State: AZ Zip Code 86325 Telephone 634-4985

2. Basis of Claim:

- A.  Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. 36-28628; 36-28629
- B.  Appropriation Right acquired after June 12, 1919. Application No. 2252, Permit No. 1512, or Certificate of Water Right No. 1174
- C.  Decreed water right. Principal litigants, court, date and case no.: See Attachments No. 1 & 2.
- D.  Right to withdraw groundwater.
- E.  Other, describe: See Attachment No. 1

3. Source of Water: Little Colorado River and

- A.  Stream: name Carrizo Wash, tributary to same
- B.  Spring: name \_\_\_\_\_, tributary to \_\_\_\_\_
- C.  Lake or Reservoir: name \_\_\_\_\_, tributary to \_\_\_\_\_
- D.  Groundwater.

4. Legal description of the Point of Diversion: (attach additional sheet if required)

- 1) SW 1/4, NE 1/4, SE 1/4, Section 5, Township 13 N/2, Range 28 E/W Lands S.W. of River
- 2) SE 1/4, SE 1/4, SE 1/4, Sec. 24, T.14.N., R.27E. Lands N.E. of River

5. If there are Stockpond, Domestic or Other Uses also supplied from the point of diversion, describe:  
See Other Use Form filed by Claimant

6. Means of Diversion:

- A.  Instream pump.
- B.  Gravity flow into a ditch, canal or pipeline. See Attachment No. 1
- C.  Well: Arizona State Land Department, Arizona Water Commission or Arizona Department of Water Resources Intent to Drill File No. \_\_\_\_\_
- D.  Other, describe: \_\_\_\_\_

7. Means of Conveyance:

- A.  Ditch, canal or pipeline. If the means of conveyance is owned and/or operated by some other entity, please give name and address: \_\_\_\_\_
- B.  Other, describe: \_\_\_\_\_

8. Place(s) of Use, Annual Water Use and Claimed Priority Date(s): (attach additional sheet if required)

County: Apache

Legal Subdivision	Section	Township	Range	Acres	Annual Water Use (acre-feet)	Claimed Priority Date (month/day/year)
<u>See Attachment No. 2</u>		<u>N/S</u>	<u>E/W</u>			
		<u>N/S</u>	<u>E/W</u>			
		<u>N/S</u>	<u>E/W</u>			

9. Claimed Right:

- A. Maximum Flow Rate: \_\_\_\_\_  cubic-feet per second  
 gallons per minute  
 Arizona miner's inches

B. Annual Volume of Water Use: 7054 acre-feet

C. Storage Right: Stock in St. John's Irrigation Company entitles Claimant to waters from Lyman Lake. acre-feet

10. Attach photographs, maps or sketches necessary to show the point(s) of diversion, storage reservoir(s), means of conveyance and place(s) of use.

11. It may be necessary for a representative from the Department of Water Resources to inspect the diversion, conveyance and place of use. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant \_\_\_\_\_

12. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? Contact our attorneys as set out on Attachment No. 1

13. Additional comments: See Attachment No. 1

(attach additional sheet if required)

14. Attach Filing Fee to Form. Mail form(s) and fee(s) to: Department of Water Resources, P.O. Box 2920, Phoenix, AZ 85062.

15. Notarized Statement: C. W. Waddoups, Jr.  
I (We), \_\_\_\_\_ as President of H. W. Land Corp., general partner of  
the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my(our) knowledge and belief true, correct and complete.

C. W. Waddoups, Jr.

(seal)

Brenda Swanson  
Notary Public

My Commission Expires July 25, 1999  
My Commission Expires:

or, \_\_\_\_\_  
Authorized Personnel of the Department of Water Resources

ATTACHMENT NO. 1 TO STATEMENT  
OF CLAIMANT FORM FOR  
IRRIGATION USE FILED BY LIMITED  
PARTNERSHIP OF MEADOWS RANCH

1. Claimant Name:

Part of this property is owned by the State of Arizona. The claimant, Limited Partnership of Meadows Ranch, leases this property pursuant to the terms of Arizona State Grazing Lease No. 587.

2. Basis of Claim:

C. Claimant bases its rights on St. Johns Irrigation Company, et al. v. Round Valley Water Storage & Ditch Co., in the Superior Court of Arizona, in and for the County of Apache, also known as the Norviel decree; final decree dated April 29, 1918. Claimant claims a Thirteenth Right, with a priority date of 1881.

E. In addition to those rights preserved by the filing of the Statement of Claim filed by Claimant under the 1974 Water Rights Registration Act or under the Norviel Decree, Claimant and its predecessors-in-interest have made continuous, historic, and open use of this water for irrigation purposes. This use started when the area was first settled and irrigation began in this area; it has been hostile and adverse to downstream users.

Claimant's priority date is based upon the fact that its right to use such waters is acquired through prescription. It therefore has the same priority date as those against whom it adversely claims.

6. Means of Diversion:

Water is diverted from the Little Colorado River by means of two diversions on the Little Colorado River. Specific diversions are referenced in Attachment No. 2.

13. Additional Comments:

A. Copies of any and all pleadings, notices, orders or other documents in this matter should be sent to claimant's attorneys, Robert S. Lynch or Carlos D. Ronstadt, c/o Ellis, Baker, Lynch, Clark & Porter, P.C., P.O. Box 16450, Phoenix, Arizona, 85011, Phone: (602) 956-8878.

- B. To the extent that this Statement of Claimant Form includes groundwater uses, this filing does not constitute an admission that the groundwater covered by this filing is subject to this adjudication, or that such groundwater is subject to appropriation under surface water law. Claimant is filing this Statement for informational purposes and to protect rights to groundwater uses covered by this filing to the extent this proceeding may deal with such rights, if at all.
- C. At the time of the filing of this Statement of Claimant Form, Claimant does not know which, if any, affirmative defenses apply. Rather than waive same, Claimant alleges affirmatively as though set forth herein, all affirmative defenses set forth in Rule 8 (d), Arizona Rules of Civil Procedure.

CDR9/02.2/bls

ATTACHMENT NO. 2

PRE 1919 RIGHTS  
TO SALADO SPRING WATER

<u>Reg. No.</u>	<u>Point of Diversion*</u>	<u>Annual Amount Claimed</u>	<u>Point of Use</u>
#36-28628	SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 24, T.14N., R.27E.	1600 A.F.	W $\frac{1}{2}$ S $\frac{1}{2}$ Sec. 30 NE $\frac{1}{4}$ Sec. 31  NW $\frac{1}{4}$ Sec. 32 SW $\frac{1}{4}$ Sec. 32 All in T.14N., R.28E.
#36-28629	SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 5, T.13N., R.28E.	2500 A.F.	All of Sec. 23 S $\frac{1}{2}$ of Sec. 14 SW $\frac{1}{4}$ of Sec. 24 All in T.14N., R.27E.

*RTB*  
*1/16/50*

\* Water Diverted from Little Colorado River  
Priority Date: March 5, 1916

OTHER RIGHTS (Post 1919)

<u>Reg. No.</u>	<u>Point of Diversion*</u>	<u>Annual Amount Claimed</u>	<u>Point of Use</u>
App. No. A 2252 Permit No. 1512 Cert. No. 1174	SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 13, T.14N. R.27E.	300 A.F.	NW $\frac{1}{4}$ Sec. 14, T.14N., R.27E.

\* Waters Diverted from Carrizo Wash  
Priority Date: March 7, 1940

Attachment No. 2  
Continued

RIGHTS PER  
NORVIEL DECREE

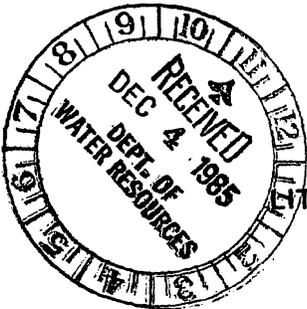
<u>Name</u>	<u>Appropriation Date</u>	<u>Acres Irrigated</u>	<u>Location</u>	<u>Initiated Right</u>
Meadows Reservoir Irrigation Co.	1881	150	T14N, R27E Sec. 23: E $\frac{1}{2}$ Sec. 24: All Sec. 25: N $\frac{1}{2}$	Diversion & Use
			T14N, R28E Sec. 19: SW $\frac{1}{4}$ Sec. 30: NW $\frac{1}{4}$ , SE $\frac{1}{4}$	
J.B. Jolley	1881	20	T14N, R27E Sec. 24: NW $\frac{1}{4}$	Diversion & Use
Joseph E. Jarvis	1916	30	T14N, R28E Sec. 30: Lots 3 & 4, E $\frac{1}{2}$ SW $\frac{1}{4}$	Diversion & Use
Joseph E. Jarvis	1916	35	T14N, R28E Sec.30: Lots 3-4 E $\frac{1}{2}$ SW $\frac{1}{4}$	Big Hollow Flood Right
J.B. Jolly Estate	1882	15	T14N, R27E Sec. 24: NW $\frac{1}{4}$	Diversion & Use
J.B. Jolly Estate	1882	80	T14N, R27E Sec. 24: NW $\frac{1}{4}$	Little Colorado River Flood Right

031-44-ACC-1

For Departmental Use Only

# STATEMENT OF CLAIMANT FORM FOR OTHER USES<sup>1</sup>

File No. 39-	<u>89021</u>
Date Filed:	<u>12-4-85</u>
WFN	_____



LITTLE COLORADO RIVER WATERSHED ADJUDICATION  
SUPERIOR COURT OF APACHE COUNTY

1. Claimant Name: Limited Partnership of Meadows Ranch  
 Claimant Address: Star Route Box 2092 City Cornville  
 State: AZ Zip Code 86325 Telephone 634-4985

2. Basis of Claim:

A.  Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. 36-28628; 36-28629

B.  Appropriation Right acquired after June 12, 1919. Application No. 2252, Permit No. 1512, or Certificate of Water Right No. 1174

C.  Decreed water right. Principal litigants, court, date and case no.: See Attachments No. 1 & 2

D.  Right to withdraw groundwater.

E.  Other, describe: See Attachment No. 1

3. Claimed Priority Date: See Attachment No. 2 (month/day/year)

4. Use:

A.  Municipal  
 B.  Commercial or Industrial  
 C.  Mining  
 D.  Stockwatering other than from a stockpond

E.  Recreation, Fish & Wildlife  
 F.  Other, describe: \_\_\_\_\_

5. Source of Water: Little Colorado River

A.  Stream: name and Carrizo Wash, tributary to same

B.  Spring: name \_\_\_\_\_, tributary to \_\_\_\_\_

C.  Lake or Reservoir: name \_\_\_\_\_, tributary to \_\_\_\_\_

D.  Groundwater

6. Legal description of the Point of Diversion: (attach additional sheet if required)  
SW 1/4, NE 1/4, SE 1/4, Section 5, Township 13 N/S, Range 28 E/W Lands S.W. of river

7. If there are Irrigation, Domestic or Stockpond uses also supplied from the Point of Diversion, describe:  
SE 1/4, SE 1/4, SE 1/4, Sec. 24, T.14N., R.27E. Lands N.E. of river  
See Irrigation Use Form filed by Claimant.

8. Means of Diversion:

A.  Instream pump

B.  Gravity flow into ditch, canal or pipeline.

C.  Well: Arizona State Land Department, Arizona Water Commission or Arizona Department of Water Resources Intent to Drill File No. \_\_\_\_\_

D.  Other, describe \_\_\_\_\_

<sup>1</sup>See Instructions for explanation of uses in this category

9. Means of Conveyance:

A.  Ditch, canal or pipeline. If the means of conveyance is owned and/or operated by some other entity, please give name and address: \_\_\_\_\_

B.  Other, describe: \_\_\_\_\_

10. Place of Use, if other than point of diversion: (attach additional sheet if required)

County Apache

Legal Subdivision	Section	Township	Range
<u>See Attachment No. 2</u>	_____	_____ N/S	_____ E/W
_____	_____	_____ N/S	_____ E/W

11. Claimed Right:

A. Maximum Flow Rate: \_\_\_\_\_  cubic-feet per second  
 gallons per minute  
 Arizona miner's inches

B. Annual Volume of Water Use: 7054 acre-feet

C. Storage Right: Stock in St. John's acre-feet

Irrigation Co. entitled claimant to waters from Lyman Lake.

12. Attach photographs, maps or sketches necessary to show the point of diversion, storage reservoir(s), place(s) of use and means of conveyance.

13. It may be necessary for a representative from the Department of Water Resources to inspect the diversion, conveyance and place of use. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant \_\_\_\_\_

14. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? Contact our attorneys, as set as Attachment No. 1

15. Attach Filing Fee to Form. Mail form(s) and fee(s) to: Department of Water Resources, P.O. Box 2920, Phoenix, AZ 85062.

16. Additional comments: See Attachment No. 2

(attach additional sheet if required)

17. Notarized Statement:

I (We), Carlos D. Ronstadt, as agent and attorney for claimant,  
the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my(our) knowledge and belief true, correct and complete.

Carlos D. Ronstadt

(seal)

My Commission Expires July 25, 1989  
My Commission Expires:

Brenda Swanson

Notary Public

or, \_\_\_\_\_  
Authorized Personnel of the Department of Water Resources

ATTACHMENT NO. 1 TO STATEMENT  
OF CLAIMANT FORM FOR  
OTHER USES FILED BY LIMITED  
PARTNERSHIP OF MEADOWS RANCH

1. Claimant Name:

Part of this property is owned by the State of Arizona. The claimant, Limited Partnership of Meadows Ranch, leases this property pursuant to the terms of Arizona State Grazing Lease No. 587.

2. Basis of Claim:

C. Claimant bases its rights on St. Johns Irrigation Company, et al. v. Round Valley Water Storage & Ditch Co., in the Superior Court of Arizona, in and for the County of Apache, also known as the Norviel decree; final decree dated April 29, 1918. Claimant claims a Thirteenth Right, with a priority date of 1881.

E. In addition to those rights preserved by the filing of the Statement of Claim filed by Claimant under the 1974 Water Rights Registration Act or under the Norviel Decree, Claimant and its predecessors-in-interest have made continuous, historic, and open use of this water for irrigation purposes. This use started when the area was first settled and irrigation began in this area; it has been hostile and adverse to downstream users.

Claimant's priority date is based upon the fact that its right to use such waters is acquired through prescription. It therefore has the same priority date as those against whom it adversely claims.

8. Means of Diversion:

Water is diverted from the Little Colorado River by means of two diversions on the Little Colorado River. Specific diversions are referenced in Attachment No. 2.

16. Additional Comments:

A. Copies of any and all pleadings, notices, orders or other documents in this matter should be sent to claimant's attorneys, Robert S. Lynch or Carlos D. Ronstadt, c/o Ellis, Baker, Lynch, Clark & Porter, P.C., P.O. Box 16450, Phoenix, Arizona, 85011, Phone: (602) 956-8878.

- B. To the extent that this Statement of Claimant Form includes groundwater uses, this filing does not constitute an admission that the groundwater covered by this filing is subject to this adjudication, or that such groundwater is subject to appropriation under surface water law. Claimant is filing this Statement for informational purposes and to protect rights to groundwater uses covered by this filing to the extent this proceeding may deal with such rights, if at all.
- C. At the time of the filing of this Statement of Claimant Form, Claimant does not know which, if any, affirmative defenses apply. Rather than waive same, Claimant alleges affirmatively as though set forth herein, all affirmative defenses set forth in Rule 8 (d), Arizona Rules of Civil Procedure.

CDR9/02.2/bls

ATTACHMENT NO. 2

PRE 1919 RIGHTS  
TO SALADO SPRING WATER

<u>Reg. No.</u>	<u>Point of Diversion*</u>	<u>Annual Amount Claimed</u>	<u>Point of Use</u>
#36-28628	SE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 24, T.14N., R.27E.	1600 A.F.	W $\frac{1}{2}$ S $\frac{1}{2}$ Sec. 30 NE $\frac{1}{4}$ Sec. 31  NW $\frac{1}{4}$ Sec. 32 SW $\frac{1}{4}$ Sec. 32 All in T.14N., R.28E.
#36-28629	SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 5, T.13N., R.28E.	2500 A.F.	All of Sec. 23 S $\frac{1}{2}$ of Sec. 14 SW $\frac{1}{4}$ of Sec. 24 All in T.14N., R.27E.

\* Water Diverted from Little Colorado River  
Priority Date: March 5, 1916

OTHER RIGHTS (Post 1919)

<u>Reg. No.</u>	<u>Point of Diversion*</u>	<u>Annual Amount Claimed</u>	<u>Point of Use</u>
App. No. A 2252 Permit No. 1512 Cert. No. 1174	SW $\frac{1}{4}$ SE $\frac{1}{4}$ Sec. 13, T.14N. R.27E.	300 A.F.	NW $\frac{1}{4}$ Sec. 14, T.14N., R.27E.

\* Waters Diverted from Carrizo Wash  
Priority Date: March 7, 1940

**RIGHTS PER  
NORVIEL DECREE**

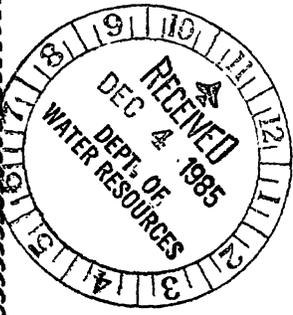
<u>Name</u>	<u>Appropriation Date</u>	<u>Acres Irrigated</u>	<u>Location</u>	<u>Initiated Right</u>
Meadows Reservoir Irrigation Co.	1881	150	T14N, R27E Sec. 23: E $\frac{1}{2}$ Sec. 24: All Sec. 25: N $\frac{1}{2}$  T14N, R28E Sec. 19: SW $\frac{1}{2}$ Sec. 30: NW $\frac{1}{2}$ , SE $\frac{1}{2}$	Diversion & Use
J.B. Jolley	1881	20	T14N, R27E Sec. 24: NW $\frac{1}{2}$	Diversion & Use
Joseph E. Jarvis	1916	30	T14N, R28E Sec. 30: Lots 3 & 4, E $\frac{1}{2}$ SW $\frac{1}{2}$	Diversion & Use
Joseph E. Jarvis	1916	35	T14N, R28E Sec.30: Lots 3-4 E $\frac{1}{2}$ SW $\frac{1}{2}$	Big Hollow Flood Right
J.B. Jolly Estate	1882	15	T14N, R27E Sec. 24: NW $\frac{1}{2}$	Diversion & Use
J.B. Jolly Estate	1882	80	T14N, R27E Sec. 24: NW $\frac{1}{2}$	Little Colorado River Flood Right

# STATEMENT OF CLAIMANT FORM

FOR

## IRRIGATION USE

File No. 39:	<u>89022</u>
Date Filed:	<u>12-4-85</u>
WFN:	



LITTLE COLORADO RIVER WATERSHED ADJUDICATION  
SUPERIOR COURT OF APACHE COUNTY

H S  
N V

1. Claimant Name: Limited Partnership of Meadows Ranch  
 Claimant Address: Star Route Box 2092 City Cornville  
 State: AZ Zip Code 86325 Telephone 634-4985
  
2. Basis of Claim:
  - A.  Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. 36-28627 (See Attachment No. 1)
  - B.  Appropriation Right acquired after June 12, 1919. Application No. \_\_\_\_\_, Permit No. \_\_\_\_\_, or Certificate of Water Right No. \_\_\_\_\_
  - C.  Decreed water right. Principal litigants, court, date and case no.: \_\_\_\_\_
  - D.  Right to withdraw groundwater.
  - E.  Other, describe: \_\_\_\_\_
  
3. Source of Water:
  - A.  Stream: name Zuni River, tributary to Little Colorado River
  - B.  Spring: name \_\_\_\_\_, tributary to \_\_\_\_\_
  - C.  Lake or Reservoir: name \_\_\_\_\_, tributary to \_\_\_\_\_
  - D.  Groundwater.
  
4. Legal description of the Point of Diversion: (attach additional sheet if required)  
SE ¼, NE ¼, SE ¼, Section 6, Township 14 N/S, Range 28 E/W (See Attachment No. 1)
  
5. If there are Stockpond, Domestic or Other Uses also supplied from the point of diversion, describe:  
See Other Use Form filed by Claimant.
  
6. Means of Diversion:
  - A.  Instream pump.
  - B.  Gravity flow into a ditch, canal or pipeline.
  - C.  Well: Arizona State Land Department, Arizona Water Commission or Arizona Department of Water Resources Intent to Drill File No. \_\_\_\_\_
  - D.  Other, describe: Water spread across approximately 1500 acres through a network of earthen spreaders and headgates
  
7. Means of Conveyance:
  - A.  Ditch, canal or pipeline. If the means of conveyance is owned and/or operated by some other entity, please give name and address: \_\_\_\_\_
  - B.  Other, describe: Water spread across approximately 1500 acres through a network of earthen spreaders and headgates.

8. Place(s) of Use, Annual Water Use and Claimed Priority Date(s): (attach additional sheet if required)

County: Apache

Legal Subdivision	Section	Township	Range	Acres	Annual Water Use (acre-feet)	Claimed Priority Date (month/day/year)
	6	14 N1/4	28 E1/4	552*	1104	1916
	1	14 N1/4	27 E1/4	536	1072	1916
	2	14 N1/4	27 E1/4	412	824	1916

\*Sections are extremely irregular.

9. Claimed Right:

- A. Maximum Flow Rate: 5,000  cubic-feet per second  
 gallons per minute  
 Arizona miner's inches
- B. Annual Volume of Water Use: 3,000 acre-feet
- C. Storage Right: none acre-feet

10. Attach photographs, maps or sketches necessary to show the point(s) of diversion, storage reservoir(s), means of conveyance and place(s) of use.

11. It may be necessary for a representative from the Department of Water Resources to inspect the diversion, conveyance and place of use. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant \_\_\_\_\_

12. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? (Contact our attorneys as set out on Attachment No. 1)

13. Additional comments: (See Attachment No. 1)  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(attach additional sheet if required)

14. Attach Filing Fee to Form. Mail form(s) and fee(s) to: Department of Water Resources, P.O. Box 2920, Phoenix, AZ 85062.

15. Notarized Statement: C. W. Waddoups, Jr.  
 I (We), as President of H. W. Land Corp., general partner of  
 the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my(our) knowledge and belief true, correct and complete.

C. W. Waddoups, Jr.

(seal)

My Commission Expires July 20, 1998  
 My Commission Expires:

Brenda Swanson  
 Notary Public

or, \_\_\_\_\_  
 Authorized Personnel of the Department of Water Resources

ATTACHMENT NO. 1 TO STATEMENT  
OF CLAIMANT FORM FOR  
IRRIGATION USE FILED BY LIMITED  
PARTNERSHIP OF MEADOWS RANCH  
(Zuni River Claim)

1. Claimant Name:

Claimant, Limited Partnership of Meadows Ranch, owns Section 1, T.14N., R.27E.; Section 6, T.14.N., R.28E., and Section 2, T.14N., R.27E. are owned by the State of Arizona. The claimant leases this property pursuant to the terms of Arizona State Grazing Lease No. 578.

2. Basis of Claim:

A. Harbon B. Heap is the legal owner of record of this right. Mr. Heap conveyed this property to C.W. Corporation, who in turn, has conveyed it to the claimant herein, Limited Partnership of Meadows Ranch. An assignment of this water right to the claimant from Heap will be prepared and filed in the near future.

E. In addition to those rights preserved by the filing of the Statement of Claim filed by claimants under the 1974 Water Rights Registration Act and referenced in Paragraph 2.A. of this Statement for Other Uses, claimants and their predecessors-in-interest have made continuous, historic, and open use of this water for stockwatering purposes. This use started when the area was first settled and ranching began in this area; it has been hostile and adverse to downstream users. This use gives rise to a water right by adverse possession.

4. Legal Description of Point of Diversion:

The point described on the claimant form is where the low flow channel of the Zuni River crosses the eastern section line of Section 6, T.14N., R.28E. Geographically, however, the Zuni River leaves its channel and begins to spread several miles upstream from this property. Consequently, there are a series of sandy stringers which flow eastward from the main flow zone of the Zuni River. As depicted on the Cedar Lake Wash Quadrangle (Az., Apache Co. 7.5 Minute

series, 1979), these stringers enter Section 6 at various locations, including the southeast corner of said section, the described point of diversion, and in the southwest corner of the NE $\frac{1}{4}$  of said section. The means of diversion as described below are at various locations along these stringers, and along the low flow channel of the Zuni River.

Thus, water from the Zuni River is first diverted intercepted and diverted by the following structures:

<u>Source</u> All from <u>Zuni River</u>	<u>Structure</u>	<u>Location -</u> All in Section 6 <u>T.14N., R.28E.</u>
Stringer	Spreader (1000 ft. long) and 2 headgates	SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$
Stringer	Spreader (200 ft. long)	SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$
Low Flow Channel	Headgate	SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$
Various Stringers	Spreader (2000 ft. long) and 4 headgates	W $\frac{1}{2}$ of NE $\frac{1}{4}$ , and W $\frac{1}{2}$ of SE $\frac{1}{4}$
Stringer	Spreader (200 ft. long)	SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$
Stringer	Spreader (200 ft. long)	SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$
Stringer	Spreader (350 ft. long) and headgate	SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$

6. Means of Diversion:

To the west of the diversionary structures described above in paragraph 4, are a series of spreaders and headgates located to maximize the spreading of waters from the Zuni River across the lands in Section 6, T.14N., R.28E., and Sections 1 and 2, T.14N., R.27E. These headgates and spreaders are generally described on the map attached to this statement at Attachment No. 2.

7. Means of Conveyance:

See information set out in paragraphs 4 and 6 above.

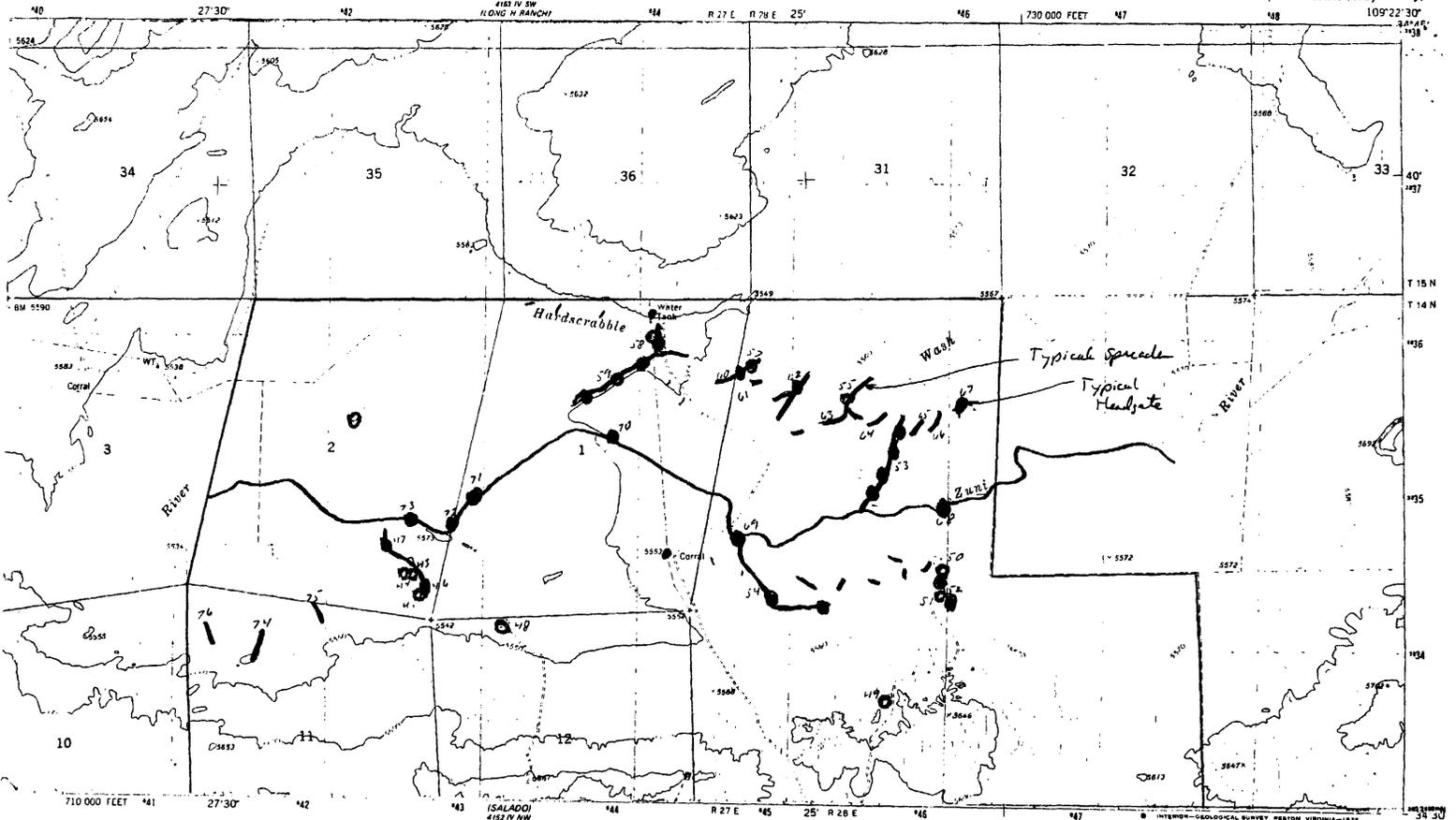
13. Additional Comments:

- A. Copies of any and all pleadings, notices, orders or other documents in this matter should be sent to claimant's attorneys, Robert S. Lynch or Carlos D. Ronstadt, c/o Ellis, Baker, Lynch, Clark & Porter, P.C., P.O. Box 16450, Phoenix, Arizona, 85011, Phone: (602) 956-8878.
  
- b. To the extent that this Statement of Claimant Form includes groundwater uses, this filing does not constitute an admission that the groundwater covered by this filing is subject to this adjudication, or that such groundwater is subject to appropriation under surface water law. Claimant is filing this Statement for informational purposes and to protect rights to groundwater uses covered by this filing to the extent this proceeding may deal with such rights, if at all.

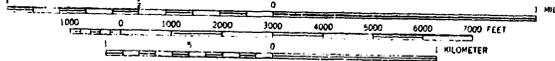
CDR9/05/bls



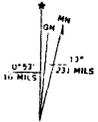
CEDAR LAKE WASH QUADRANGLE  
ARIZONA - APACHE CO.  
7.5 MINUTE SERIES (TOPOGRAPHIC)



SCALE 1:24 000



CONTOUR INTERVAL 20 FEET  
DOTTED LINES REPRESENT 10-FOOT CONTOURS  
NATIONAL GEODETIC VERTICAL DATUM OF 1929



UTM GRID AND 1978 MAGNETIC NORTH  
DECLINATION AT CENTER OF SHEET



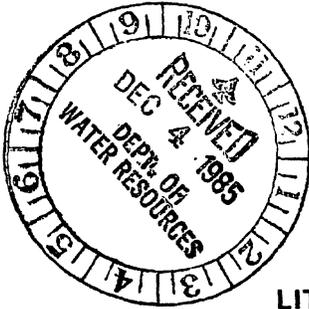
QUADRANGLE LOCATION

ROAD CLASSIFICATION

Primary highway, hard surface	Light duty road, hard or improved surface
Secondary highway, hard surface	Unimproved road
Interstate Route	U S Route
	State Route

THIS MAP COMPLIES WITH NATIONAL MAP ACCURACY STANDARDS  
FOR SALE BY U S GEOLOGICAL SURVEY, DENVER, COLORADO 80225, OR RESTON, VIRGINIA 22092  
A FOLDER DESCRIBING TOPOGRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST

AMS



For Departmental Use Only

# STATEMENT OF CLAIMANT FORM FOR OTHER USES<sup>1</sup>

File No. 39- 89022  
Date Filed: 12-4-85  
WFN \_\_\_\_\_

## LITTLE COLORADO RIVER WATERSHED ADJUDICATION SUPERIOR COURT OF APACHE COUNTY

1. Claimant Name: Limited Partnership of Meadows Ranch  
 Claimant Address: Star Route Box 2092 City Cornville  
 State: AZ Zip Code 86325 Telephone 634-4985
  
2. Basis of Claim:
  - A.  Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. 36-28627 See Attachment No. 1
  - B.  Appropriation Right acquired after June 12, 1919. Application No. \_\_\_\_\_, Permit No. \_\_\_\_\_, or Certificate of Water Right No. \_\_\_\_\_
  - C.  Decreed water right. Principal litigants, court, date and case no.: \_\_\_\_\_
  - D.  Right to withdraw groundwater.
  - E.  Other, describe: See Attachment No. 1
  
3. Claimed Priority Date: 1916 (month/day/year)
  
4. Use:
 

A. <input type="checkbox"/> Municipal	E. <input type="checkbox"/> Recreation, Fish & Wildlife
B. <input type="checkbox"/> Commercial or Industrial	F. <input type="checkbox"/> Other, describe: _____
C. <input type="checkbox"/> Mining	_____
D. <input checked="" type="checkbox"/> Stockwatering other than from a stockpond	_____
  
5. Source of Water:
  - A.  Stream: name Zuni River, tributary to Little Colorado River
  - B.  Spring: name \_\_\_\_\_, tributary to \_\_\_\_\_
  - C.  Lake or Reservoir: name \_\_\_\_\_, tributary to \_\_\_\_\_
  - D.  Groundwater
  
6. Legal description of the Point of Diversion: (attach additional sheet if required)  
SE 1/4, NE 1/4, SE 1/4, Section 6, Township 14 N/8, Range 28 E/W See Attachment No. 1
  
7. If there are Irrigation, Domestic or Stockpond uses also supplied from the Point of Diversion, describe:  
See Irrigation Use form filed by Claimant.
  
8. Means of Diversion:
  - A.  Instream pump
  - B.  Gravity flow into ditch, canal or pipeline.
  - C.  Well: Arizona State Land Department, Arizona Water Commission or Arizona Department of Water Resources Intent to Drill File No. \_\_\_\_\_
  - D.  Other, describe Water spread across approximately 1500 acres through a network of earthen spreaders and headgates.

<sup>1</sup> See Instructions for explanation of uses in this category

9. Means of Conveyance:

- A.  Ditch, canal or pipeline. If the means of conveyance is owned and/or operated by some other entity, please give name and address: \_\_\_\_\_
- B.  Other, describe: Same as item #8

10. Place of Use, if other than point of diversion: (attach additional sheet if required)

County Apache

Legal Subdivision	Section	Township	Range
<u>All</u>	<u>6</u>	<u>14 N/S</u>	<u>28 E/W</u>
<u>All</u>	<u>1 &amp; 2</u>	<u>14 N/S</u>	<u>27 E/W</u>

11. Claimed Right:

- A. Maximum Flow Rate: 5,000
  - cubic-feet per second
  - gallons per minute
  - Arizona miner's inches
- B. Annual Volume of Water Use: 3,000 acre-feet
- C. Storage Right: None acre-feet

12. Attach photographs, maps or sketches necessary to show the point of diversion, storage reservoir(s), place(s) of use and means of conveyance.

13. It may be necessary for a representative from the Department of Water Resources to inspect the diversion, conveyance and place of use. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant \_\_\_\_\_

14. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? Contact our attorneys, as set forth in Attachment No. 1

15. Attach Filing Fee to Form. Mail form(s) and fee(s) to: Department of Water Resources, P.O. Box 2920, Phoenix, AZ 85062.

16. Additional comments: See Attachment No. 1  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(attach additional sheet if required)

17. Notarized Statement:

I (We), Carlos D. Ronstadt, as agent and attorney for claimant,  
the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my(our) knowledge and belief true, correct and complete.

Carlos D. Ronstadt

(seal)  
My Commission Expires July 25, 1997  
My Commission Expires:

Brenda Swanson  
Notary Public

or, \_\_\_\_\_  
Authorized Personnel of the Department of Water Resources

ATTACHMENT NO. 1 TO STATEMENT  
OF CLAIMANT FORM FOR  
OTHER USES FILED BY LIMITED  
PARTNERSHIP OF MEADOWS RANCH  
(Zuni River Claim)

1. Claimant Name:

Claimant, Limited Partnership of Meadows Ranch, owns Section 1, T.14N., R.27E.; Section 6, T.14N., R.28E., and Section 2, T.14N., R.27E. are owned by the State of Arizona. The claimant leases this property pursuant to the terms of Arizona State Grazing Lease No. 578.

2. Basis of Claim:

- A. Harbon B. Heap is the legal owner of record of this right. Mr. Heap conveyed this property to C.W. Corporation, who in turn, has conveyed it to the claimant herein, Limited Partnership of Meadows Ranch. An assignment of this water right to the claimant from Heap will be prepared and filed in the near future.
  
- E. In addition to those rights preserved by the filing of the Statement of Claim filed by claimants under the 1974 Water Rights Registration Act and referenced in Paragraph 2.A. of this Statement for Other Uses, claimants and their predecessors-in-interest have made continuous, historic, and open use of this water for stockwatering purposes. This use started when the area was first settled and ranching began in this area; it has been hostile and adverse to downstream users. This use gives rise to a water right by adverse possession.

6. Legal Description of Point of Diversion:

The point described on the claimant form is where the low flow channel of the Zuni River crosses the eastern section line of Section 6, T.14N., R.28E. Geographically, however, the Zuni River leaves its channel and begins to spread several miles upstream from this property. Consequently, there are a series of sandy stringers which flow eastward from the main flow zone of the Zuni River. As depicted on the Cedar Lake Wash Quadrangle (Az., Apache Co. 7.5 Minute

series, 1979), these stringers enter Section 6 at various locations, including the southeast corner of said section, the described point of diversion, and in the southwest corner of the NE $\frac{1}{4}$  of said section. The means of diversion as described below are at various locations along these stringers, and along the low flow channel of the Zuni River.

Thus, water from the Zuni River is first diverted intercepted and diverted by the following structures:

Source All from <u>Zuni River</u>	<u>Structure</u>	Location - All in Section 6 <u>T.14N., R.28E.</u>
Stringer	Spreader (1000 ft. long) and 2 headgates	SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$
Stringer	Spreader (200 ft. long)	SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$
Low Flow Channel	Headgate	SW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$
Various Stringers	Spreader (2000 ft. long) and 4 headgates	W $\frac{1}{2}$ of NE $\frac{1}{4}$ , and W $\frac{1}{2}$ of SE $\frac{1}{4}$
Stringer	Spreader (200 ft. long)	SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$
Stringer	Spreader (200 ft. long)	SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$
Stringer	Spreader (350 ft. long) and headgate	SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$

8. Means of Diversion:

To the west of the diversionary structures described above in paragraph 4, are a series of spreaders and headgates located to maximize the spreading of waters from the Zuni River across the lands in Section 6, T.14N., R.28E., and Sections 1 and 2, T.14N., R.27E. These headgates and spreaders are generally described on the map attached to this statement at Attachment No. 2.

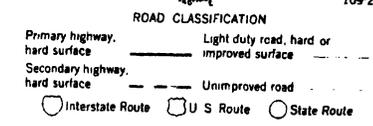
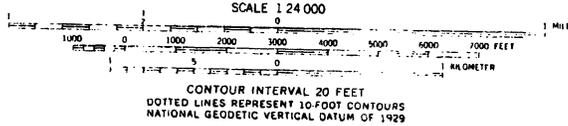
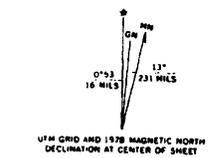
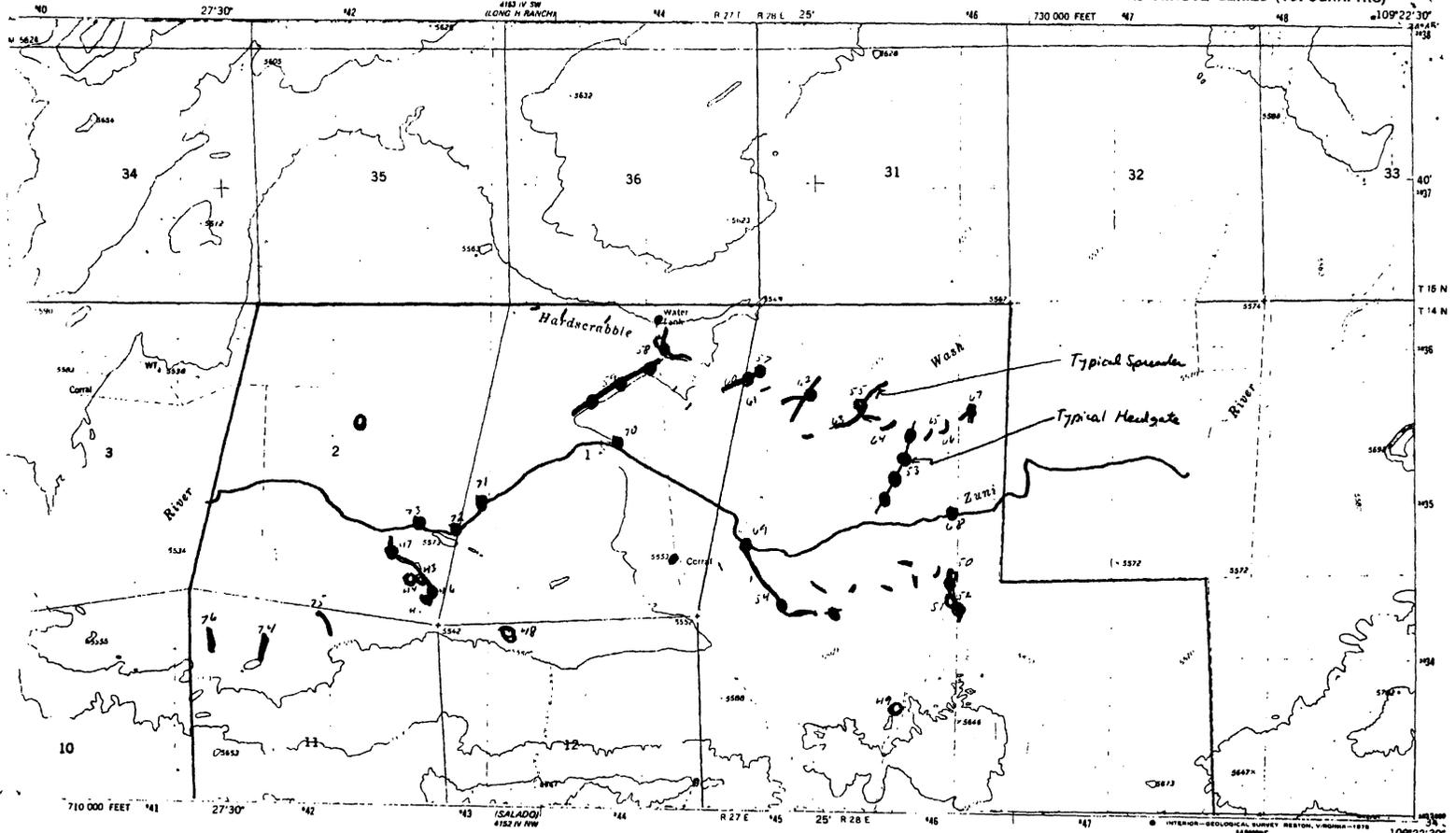
9. Means of Conveyance:

See information set out in paragraphs 4 and 6 above.

16. Additional Comments:

- A. Copies of any and all pleadings, notices, orders or other documents in this matter should be sent to claimant's attorneys, Robert S. Lynch or Carlos D. Ronstadt, c/o Ellis, Baker, Lynch, Clark & Porter, P.C., P.O. Box 16450, Phoenix, Arizona, 85011, Phone: (602) 956-8878.
  
- b. To the extent that this Statement of Claimant Form includes groundwater uses, this filing does not constitute an admission that the groundwater covered by this filing is subject to this adjudication, or that such groundwater is subject to appropriation under surface water law. Claimant is filing this Statement for informational purposes and to protect rights to groundwater uses covered by this filing to the extent this proceeding may deal with such rights, if at all.

CDR9/05/bls



THIS MAP COMPLIES WITH NATIONAL MAP ACCURACY STANDARDS  
FOR SALE BY U S GEOLOGICAL SURVEY, DENVER, COLORADO 80225, OR RESTON, VIRGINIA 22092  
A FOLDER DESCRIBING TOPOGRAPHIC MAPS AND SYMBOLS IS AVAILABLE ON REQUEST

# **Appendix K-3**

## APPENDIX K-3

### SUMMARY OF STATEMENTS OF CLAIMANT FOR *DE MINIMIS* AND OTHER USES ON RESERVATION AND OTHER ZUNI LANDS

<b>SOC NUMBER<sup>1</sup></b>	<b>CLAIMED PRIORITY DATE</b>	<b>SOURCE &amp; QUANTITY (afa)</b>	<b>WATER USES</b>	<b>PLACE OF USE</b>
39-91738	"Reserved"	Stinking Springs (1.99)	<ul style="list-style-type: none"> <li>• Domestic</li> <li>• Stock</li> </ul>	Sec. 15, T14N, R26E
39-91739	"Reserved"	Unnamed LCR, tributary (.65)	<ul style="list-style-type: none"> <li>• Stockpond</li> </ul>	Sec. 15, T14N, R26E
39-91740	"Reserved"	Groundwater (1.99)	<ul style="list-style-type: none"> <li>• Domestic</li> <li>• Stockwatering</li> </ul>	Sec. 9, T14N, R26E
39-91741	"Reserved"	Groundwater (1.99)	<ul style="list-style-type: none"> <li>• Domestic</li> <li>• Stockwatering</li> </ul>	Sec. 3, T14N, R26E
39-91742	"Reserved"	Unnamed Zuni River tributary (.65)	<ul style="list-style-type: none"> <li>• Stockpond</li> </ul>	Sec. 3, T14N, R26E
39-91743	"Reserved"	Unnamed Zuni River tributary (1.69)	<ul style="list-style-type: none"> <li>• Stockpond</li> </ul>	Sec. 2, T14N, R26E
39-91744	"Reserved"	Unnamed Zuni River tributary (.78)	<ul style="list-style-type: none"> <li>• Stockpond</li> </ul>	Sec. 2, T14N, R26E
39-91745	"Reserved"	Unnamed Zuni River tributary (1.11)	<ul style="list-style-type: none"> <li>• Stockpond</li> </ul>	Sec. 2, T14N, R26E
39-91746	"Reserved"	Groundwater (1.99)	<ul style="list-style-type: none"> <li>• Domestic</li> <li>• Stock</li> </ul>	T14N, R26E (section not provided)
39-91747	"Reserved"	Unnamed Zuni River Tributary (6.42)	<ul style="list-style-type: none"> <li>• Stockpond</li> </ul>	Sec. 28, T15N, R26E <sup>2</sup>
39-91748	"Reserved"	Unnamed Zuni River tributary (4.95)	<ul style="list-style-type: none"> <li>• Stockpond</li> </ul>	Sec. 28, T15N, R26E <sup>2</sup>
39-91749	"Reserved"	Not provided (2.93)	<ul style="list-style-type: none"> <li>• Stockpond</li> </ul>	Sec. 28, T15N, R26E <sup>2</sup>
39-91750	"Reserved"	Not provided (.78)	<ul style="list-style-type: none"> <li>• Stockpond</li> </ul>	Sec. 25, T15N, R26E <sup>2</sup>

39-91751	“Reserved”	Not provided (1.6)	• Stockpond	Sec. 26, T15N, R26E <sup>2</sup>
39-91752	“Reserved”	Not provided (19.21)	• Stockpond (4.59 AF capacity)	Sec. 10, T14N, R26E <sup>2</sup>
39-82089 <sup>3</sup>	1978 (original claim)	Groundwater (1,000) (original claim)	Recreation, fish wildlife, irrigated wetland/crop development	Sec. 27, T14N, R26E

<sup>1</sup> All SOCs, except 39-82089 filed on April 7, 1992 by the United States on behalf of the Pueblo of Zuni based on federal reserved water right.

<sup>2</sup> Described further in “Report of Water Claims by the U.S. for the Pueblo of Zuni,” dated December 1991.

<sup>3</sup> Originally filed on June 1, 1982 by Spencer D. Ellsworth for Irrigation. Later assigned to the Zuni Tribe and amended on July 27, 2001 to change claimed use to recreation, fish and wildlife, and irrigated wetland/crop development as part of Arizona Water Protection Fund grant.

# STATEMENT OF CLAIMANT FORM FOR DOMESTIC USE

File No. 39-	91538
Date Filed:	04-07-92
WFN	

## LITTLE COLORADO RIVER WATERSHED ADJUDICATION SUPERIOR COURT OF APACHE COUNTY

04/11

1. Claimant Name: Pueblo of Zuni  
 Claimant Address: P.O. Box 339 City Pueblo of Zuni  
 State: NM Zip Code 87327 Telephone 505 782 4481

2. Basis of Claim:

- A.  Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. \_\_\_\_\_
- B.  Appropriation Right acquired after June 12, 1919. Application No. \_\_\_\_\_, Permit No. \_\_\_\_\_, or Certificate of Water Right No. \_\_\_\_\_
- C.  Decreed water right. Principal litigants, court, date and case no.: \_\_\_\_\_
- D.  Right to withdraw groundwater.
- E.  Other, describe: Indian Reserved and Federal Reserved

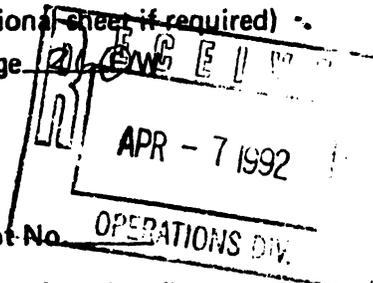
3. Claimed Priority Date: Reserved (month/day/year)

4. Source of Water:

- A.  Stream: name \_\_\_\_\_, tributary to \_\_\_\_\_
- B.  Spring: name Stinking Springs, tributary to Little Colorado River
- C.  Lake or Reservoir: name \_\_\_\_\_, tributary to \_\_\_\_\_
- D.  Groundwater

5. Legal description of the Place of Use and the Point of Diversion: (attach additional sheets if required)

County Apache, Section 15, Township 14 (N)S, Range 21 (E)W  
 Legal Subdivision: (one of the following)  
NE 1/4, NW 1/4, NW 1/4 of the Section; or  
 Assessor Book No. \_\_\_\_\_, Map No. \_\_\_\_\_, Parcel No. \_\_\_\_\_; or  
 Subdivision Name \_\_\_\_\_ Block No. \_\_\_\_\_ Lot No. \_\_\_\_\_



6. If there are Irrigation, Stockpond or Other Uses supplied from the point of diversion, describe: stock trough

7. Means of Diversion:

- A.  Instream pump.
- B.  Gravity flow into ditch, canal or pipeline.
- C.  Well: Arizona State Land Department, Arizona Water Commission or Arizona Department of Water Resources Intent to Drill File No. \_\_\_\_\_
- D.  Other, describe water table has dropped, lift is with pump

8. Number of persons \_\_\_\_\_ or dwellings \_\_\_\_\_ served by this use.
9. Annual Volume Claimed: 1.99 acre-feet
10. It may be necessary for a representative from the Department of Water Resources to inspect the place of use and diversion. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant \_\_\_\_\_
11. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? \_\_\_\_\_
12. Additional comments: 1.44 Ac-ft claim for stock; .45 ac-ft for Domestic

(attach additional sheet if required)

15 S. 15<sup>th</sup> AVE

13. Attach Filing Fee to Form. Mail form(s) and fee(s) to: Department of Water Resources, P.O. Box 2920, Phoenix, AZ 85002. 85007

14. Notarized Statement:

I (We), Herbert A. Reber  
 the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my(our) knowledge and belief true, correct and complete.

Subscribed + sworn to before me this

3<sup>rd</sup> day of April, 1992

Lucinda E. Hill

Notary Public

(seal)

7.21-92  
 My Commission Expires:

or, \_\_\_\_\_  
 Authorized Personnel of the Department of Water Resources

# STATEMENT OF CLAIMANT FORM FOR STOCKPOND USE

File No. 39-	<u>91739</u>
Date Filed:	<u>04-07-92</u>
WFN	_____

## LITTLE COLORADO RIVER WATERSHED ADJUDICATION SUPERIOR COURT OF APACHE COUNTY

1. Claimant Name: Pueblo of Zuni  
 Claimant Address: P.O. Box 339 City Pueblo of Zuni  
 State: NM Zip Code 87327 Telephone 505 782 4481

2. Basis of Claim:

- A.  Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. \_\_\_\_\_
- B.  Appropriation Right acquired after June 12, 1919. Application No. \_\_\_\_\_, Permit No. \_\_\_\_\_, or Certificate of Water Right No. \_\_\_\_\_
- C.  Right acquired through the 1977 Stockponds Registration Act. Claim No. \_\_\_\_\_
- D.  Decreed water right. Principal litigants, court, date and case no.: \_\_\_\_\_
- E.  Other, describe: Indian Reserved and Federal Reserved

3. Claimed Priority Date: Reserved (month/day/year)

4. Source of Water:

- A. Stream, wash or arroyo: name none, tributary to Little Colorado River
- B. Is water supplied from a source other than natural channel flow into the stockpond?  
 Yes,  No. If yes, describe: \_\_\_\_\_

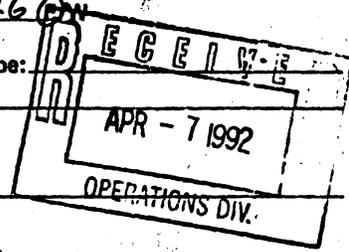
5. Legal description of the location of the stockpond: (attach additional sheet if required)

NW 1/4, NE 1/4, NW 1/4, Section 15, Township 14N/S, Range 26E/W

6. If there are other uses supplied by the stockpond or its water source, describe: \_\_\_\_\_

7. Description of the Stockpond:

- A. Name or other designation: none
- B. Dam specifications:
  - 1) Date construction began, \_\_\_\_\_, and ended \_\_\_\_\_
  - 2) Height, 3 ft.
  - 3) Does dam have an outlet structure other than spillway?  Yes  No
- C. Reservoir behind dam:
  - 1) Date water first stored: \_\_\_\_\_ (month/day/year)
  - 2) Maximum length: 100 ft.
  - 3) Maximum width: 25 ft.
  - 4) Maximum depth of water at spillway crest: 2 ft.
  - 5) Maximum storage volume at spillway crest: .04 Acre-Feet



8. Number and kind of livestock or wildlife watered by this stockpond:

26, for 12 months per year.

9. Attach photographs, maps or sketches necessary to show the location of the stockpond(s) and any conveyance system and other point(s) of diversion. See map in attached report entitled:

"Report of Water Claims by the U.S. for the Pueblo of Zuni dated Dec. 1991"

10. It may be necessary for a representative from the Department of Water Resources to inspect the stockpond and diversion. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant \_\_\_\_\_

11. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? \_\_\_\_\_

12. Additional comments: in addition to the volume claim of: .04 Ac-Ft  
we claim: Livestock Consumptive use of: .35 "  
and stockpond surface evaporation: .26 "  
Total claim: .65 "

(attach additional sheet if required)

155 15th Av

13. Attach Filing Fee to Form. Mail form(s) and fee(s) to: Department of Water Resources, P.O. Box 2920, Phoenix, AZ 85002.

14. Notarized Statement: Robert A. Baker  
I (We), \_\_\_\_\_  
the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my(our) knowledge and belief true, correct and complete.

Subscribed & sworn to before me this  
3rd day of April, 1992  
Lucinda E Hill  
Notary Public

(seal)  
7-21-92  
My Commission Expires:

or, \_\_\_\_\_  
Authorized Personnel of the Department of Water Resources

# STATEMENT OF CLAIMANT FORM FOR DOMESTIC USE

File No. 39- <u>91740</u>
Date Filed: <u>04-07-92</u>
WFN _____

## LITTLE COLORADO RIVER WATERSHED ADJUDICATION SUPERIOR COURT OF APACHE COUNTY

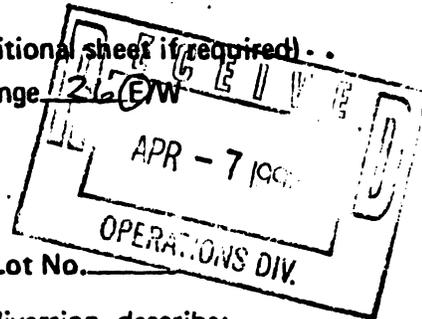
1. Claimant Name: Pueblo of Zuni  
 Claimant Address: P.O. Box 339 City Pueblo of Zuni  
 State: NM Zip Code 87327 Telephone 505 782 4481

2. Basis of Claim:
- A.  Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. \_\_\_\_\_
  - B.  Appropriation Right acquired after June 12, 1919. Application No. \_\_\_\_\_, Permit No. \_\_\_\_\_, or Certificate of Water Right No. \_\_\_\_\_
  - C.  Decreed water right. Principal litigants, court, date and case no.: \_\_\_\_\_
  - D.  Right to withdraw groundwater.
  - E.  Other, describe: Indian Reserved and Federal Reserved

3. Claimed Priority Date: Reserved (month/day/year)

4. Source of Water:
- A.  Stream: name \_\_\_\_\_, tributary to \_\_\_\_\_
  - B.  Spring: name \_\_\_\_\_, tributary to \_\_\_\_\_
  - C.  Lake or Reservoir: name \_\_\_\_\_, tributary to \_\_\_\_\_
  - D.  Groundwater

5. Legal description of the Place of Use and the Point of Diversion: (attach additional sheets if required)  
 County Apache, Section 9, Township 14 (N)S, Range 12 (E)W  
 Legal Subdivision: (one of the following)  
SW 1/4, NW 1/4, NW 1/4 of the Section; or  
 Assessor Book No. \_\_\_\_\_, Map No. \_\_\_\_\_, Parcel No. \_\_\_\_\_; or  
 Subdivision Name \_\_\_\_\_ Block No. \_\_\_\_\_ Lot No. \_\_\_\_\_



6. If there are Irrigation, Stockpond or Other Uses supplied from the point of diversion, describe: stock trough

7. Means of Diversion:
- A.  Instream pump.
  - B.  Gravity flow into ditch, canal or pipeline.
  - C.  Well: Arizona State Land Department, Arizona Water Commission or Arizona Department of Water Resources Intent to Drill File No. \_\_\_\_\_
  - D.  Other, describe \_\_\_\_\_

8. Number of persons \_\_\_\_\_ or dwellings \_\_\_\_\_ served by this use.

9. Annual Volume Claimed: 1.99 acre-feet

10. It may be necessary for a representative from the Department of Water Resources to inspect the place of use and diversion. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant \_\_\_\_\_

11. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? \_\_\_\_\_

12. Additional comments: 1.44 ac-ft for stock, 45 ac-ft domestic

(attach additional sheet if required)

15 S. 15<sup>TH</sup> AVE

13. Attach Filing Fee to Form. Mail form(s) and fee(s) to: Department of Water Resources, P.O. Box 2920, Phoenix, AZ 85002. 85007

14. Notarized Statement:

I (We), [Signature]  
the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my(our) knowledge and belief true, correct and complete.

Subscribed & sworn to before me this  
3<sup>rd</sup> day of April, 1992  
Lucinda E Hill  
Notary Public

(seal)

7-21-92  
My Commission Expires:

or, \_\_\_\_\_  
Authorized Personnel of the Department of Water Resources

# STATEMENT OF CLAIMANT FORM FOR DOMESTIC USE

File No. 39-	91741
Date Filed:	04-07-92
WFN	

## LITTLE COLORADO RIVER WATERSHED ADJUDICATION SUPERIOR COURT OF APACHE COUNTY

1. Claimant Name: Pueblo of Zuni  
 Claimant Address: P.O. Box 339 City Pueblo of Zuni  
 State: NM Zip Code 87327 Telephone 505 782 4481

2. Basis of Claim:
- A.  Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. \_\_\_\_\_
  - B.  Appropriation Right acquired after June 12, 1919. Application No. \_\_\_\_\_, Permit No. \_\_\_\_\_, or Certificate of Water Right No. \_\_\_\_\_
  - C.  Decreed water right. Principal litigants, court, date and case no.: \_\_\_\_\_
  - D.  Right to withdraw groundwater.
  - E.  Other, describe: Indian Reserved and Federal Reserved

3. Claimed Priority Date: Reserved (month/day/year)

4. Source of Water:
- A.  Stream: name \_\_\_\_\_, tributary to \_\_\_\_\_
  - B.  Spring: name \_\_\_\_\_, tributary to \_\_\_\_\_
  - C.  Lake or Reservoir: name \_\_\_\_\_, tributary to \_\_\_\_\_
  - D.  Groundwater (west Zuni Windmill)

5. Legal description of the Place of Use and the Point of Diversion: (attach additional sheet if required) ..

County Apache, Section 3, Township 14 (N)S, Range 26 (E)W

Legal Subdivision: (one of the following)

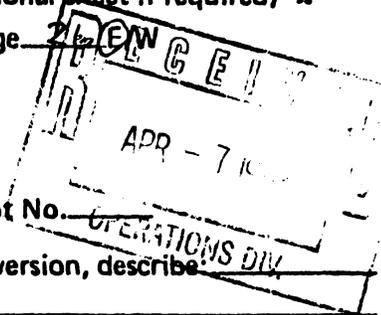
NW 1/4, SW 1/4, SW 1/4 of the Section; or

Assessor Book No. \_\_\_\_\_, Map No. \_\_\_\_\_, Parcel No. \_\_\_\_\_; or

Subdivision Name \_\_\_\_\_ Block No. \_\_\_\_\_ Lot No. \_\_\_\_\_

6. If there are Irrigation, Stockpond or Other Uses supplied from the point of diversion, describe:  
stock watering facility

7. Means of Diversion:
- A.  Instream pump.
  - B.  Gravity flow into ditch, canal or pipeline.
  - C.  Well: Arizona State Land Department, Arizona Water Commission or Arizona Department of Water Resources Intent to Drill File No. \_\_\_\_\_
  - D.  Other, describe \_\_\_\_\_



8. Number of persons \_\_\_\_\_ or dwellings \_\_\_\_\_ served by this use.

9. Annual Volume Claimed: 1.99 acre-feet

10. It may be necessary for a representative from the Department of Water Resources to inspect the place of use and diversion. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant \_\_\_\_\_

11. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? \_\_\_\_\_

12. Additional comments: stock claim 1.44 ac-ft  
domestic claim .45 ac-ft

(attach additional sheet if required)

15 S. 15<sup>TH</sup> AVE

13. Attach Filing Fee to Form. Mail form(s) and fee(s) to: Department of Water Resources, P.O. ~~Box 2920~~, Phoenix, AZ ~~85002~~ 85007

14. Notarized Statement: [Signature]  
I (We), \_\_\_\_\_  
the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my(our) knowledge and belief true, correct and complete.

Subscribed + sworn to before me this  
3<sup>rd</sup> day of April, 1992  
Lucinda E. Hill  
Notary Public

(seal)  
7-21-92  
My Commission Expires:

or, \_\_\_\_\_  
Authorized Personnel of the Department of Water Resources

# STATEMENT OF CLAIMANT FORM FOR STOCKPOND USE

File No. 39- 91742  
 Date Filed: 04-07-92  
 WFN \_\_\_\_\_

## LITTLE COLORADO RIVER WATERSHED ADJUDICATION SUPERIOR COURT OF APACHE COUNTY

1. Claimant Name: Pueblo of Zuni  
 Claimant Address: P.O. Box 339 City Pueblo of Zuni  
 State: NM Zip Code 87327 Telephone 505 782 4481

2. Basis of Claim:

- A.  Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. \_\_\_\_\_
- B.  Appropriation Right acquired after June 12, 1919. Application No. \_\_\_\_\_, Permit No. \_\_\_\_\_, or Certificate of Water Right No. \_\_\_\_\_
- C.  Right acquired through the 1977 Stockponds Registration Act. Claim No. \_\_\_\_\_
- D.  Decreed water right. Principal litigants, court, date and case no.: \_\_\_\_\_
- E.  Other, describe: Indian Reserved and Federal Reserved

3. Claimed Priority Date: Reserved (month/day/year)

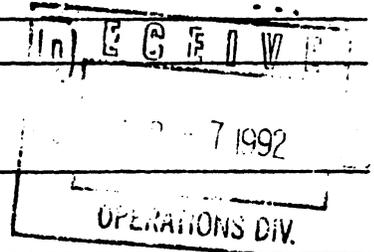
4. Source of Water:

- A. Stream, wash or arroyo: name none, tributary to Zuni River
- B. Is water supplied from a source other than natural channel flow into the stockpond?  
 Yes,  No If yes, describe: \_\_\_\_\_

5. Legal description of the location of the stockpond: (attach additional sheet if required)

NE 1/4, SE 1/4, SW 1/4, Section 3, Township 14(N)S, Range 26(E)W

6. If there are other uses supplied by the stockpond or its water source, describe:



7. Description of the Stockpond:

- A. Name or other designation: none
- B. Dam specifications:
  - 1) Date construction began, \_\_\_\_\_, and ended \_\_\_\_\_
  - 2) Height, 7 ft.
  - 3) Does dam have an outlet structure other than spillway?  Yes  No
- C. Reservoir behind dam:
  - 1) Date water first stored: \_\_\_\_\_ (month/day/year)
  - 2) Maximum length: 150 ft.
  - 3) Maximum width: 30 ft.
  - 4) Maximum depth of water at spillway crest: 5 ft.
  - 5) Maximum storage volume at spillway crest: .17 Acre-Feet

8. Number and kind of livestock or wildlife watered by this stockpond: 26, for 12 months per year.

9. Attach photographs, maps or sketches necessary to show the location of the stockpond(s) and any conveyance system and other point(s) of diversion. *See map in attached report entitled: "Report of Water Claims by the U.S. for the Pueblo of Zuni" dated Dec. 1991*

10. It may be necessary for a representative from the Department of Water Resources to inspect the stockpond and diversion. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant \_\_\_\_\_

11. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? \_\_\_\_\_

12. Additional comments: in addition to the volum claim of: .17 ac-ft  
we claim: Limestone Consumptive use of: .35 "  
and stockpond surface evaporation: .13 "  
Total claim: .65 "

(attach additional sheet if required)

155 15th Av

13. Attach Filing Fee to Form. Mail form(s) and fee(s) to: Department of Water Resources, P.O. Box 2920, Phoenix, AZ ~~85002~~ 85007

14. Notarized Statement: *Nick A. Baker*  
I (We), \_\_\_\_\_

the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my(our) knowledge and belief true, correct and complete.

(seal)

7-21-92  
My Commission Expires:

*Subscribed & sworn to before me this*  
*3rd day of April, 1992*  
*Lucinda E Hill*  
Notary Public

or, \_\_\_\_\_  
Authorized Personnel of the Department of Water Resources

# STATEMENT OF CLAIMANT FORM FOR STOCKPOND USE

File No. 39- 91743  
Date Filed: 04-07-92  
WFN \_\_\_\_\_

## LITTLE COLORADO RIVER WATERSHED ADJUDICATION SUPERIOR COURT OF APACHE COUNTY

1. Claimant Name: Pueblo of Zuni  
Claimant Address: P.O. Box 339 City Pueblo of Zuni  
State: NM Zip Code 87327 Telephone 505 782 4481

2. Basis of Claim:

- A.  Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. \_\_\_\_\_
- B.  Appropriation Right acquired after June 12, 1919. Application No. \_\_\_\_\_, Permit No. \_\_\_\_\_, or Certificate of Water Right No. \_\_\_\_\_
- C.  Right acquired through the 1977 Stockponds Registration Act. Claim No. \_\_\_\_\_
- D.  Decreed water right. Principal litigants, court, date and case no.: \_\_\_\_\_
- E.  Other, describe: Indian Reserved and Federal Reserved

3. Claimed Priority Date: Reserved (month/day/year)

4. Source of Water:

- A. Stream, wash or arroyo: name none, tributary to Zuni River
- B. Is water supplied from a source other than natural channel flow into the stockpond?  
 Yes,  No If yes, describe: \_\_\_\_\_

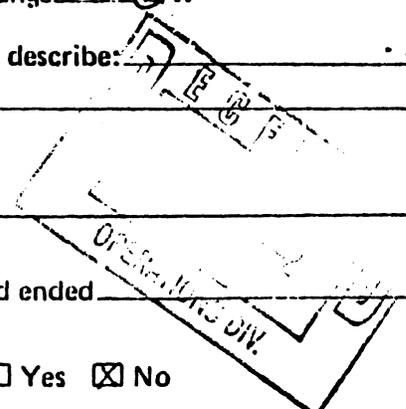
5. Legal description of the location of the stockpond: (attach additional sheet if required)

SW 1/4, NW 1/4, SE 1/4, Section 2, Township 14(N)S, Range 26(E)W

6. If there are other uses supplied by the stockpond or its water source, describe: \_\_\_\_\_

7. Description of the Stockpond:

- A. Name or other designation: \_\_\_\_\_
- B. Dam specifications:
  - 1) Date construction began, \_\_\_\_\_, and ended \_\_\_\_\_
  - 2) Height, 10 ft.
  - 3) Does dam have an outlet structure other than spillway?  Yes  No
- C. Reservoir behind dam:
  - 1) Date water first stored: \_\_\_\_\_ (month/day/year)
  - 2) Maximum length: 150 ft.
  - 3) Maximum width: 60 ft.
  - 4) Maximum depth of water at spillway crest: 6 ft.
  - 5) Maximum storage volume at spillway crest: .41 Acre-Feet



8. Number and kind of livestock or wildlife watered by this stockpond:

26, for 12 months per year.

9. Attach photographs, maps or sketches necessary to show the location of the stockpond(s) and any conveyance system and other point(s) of diversion. *See map in attached report entitled: "Report of Water Claims by the U.S. for the Pueblo of Zuni" dated Dec. 1991*

10. It may be necessary for a representative from the Department of Water Resources to inspect the stockpond and diversion. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant \_\_\_\_\_

11. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? \_\_\_\_\_

12. Additional comments: in addition to the volum claim of: .41 ac-ft  
we claim: Liveness Consumptive use of: .35 "  
and stockpond surface evaporation: .93 "  
Total claim: 1.69 ac-ft

(attach additional sheet if required)

155 15th Av

13. Attach Filing Fee to Form. Mail form(s) and fee(s) to: Department of Water Resources, P.O. Box 2920, Phoenix, AZ 85002  
85007

14. Notarized Statement: Robert B. Baker  
I (We), \_\_\_\_\_  
the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my(our) knowledge and belief true, correct and complete.

Subscribed & sworn to before me this

3rd day of April, 1992

Lucinda E. Hill  
Notary Public

(seal)

7-21-92  
My Commission Expires:

or, \_\_\_\_\_  
Authorized Personnel of the Department of Water Resources

# STATEMENT OF CLAIMANT FORM FOR STOCKPOND USE

File No. 39- <u>91744</u>
Date Filed: <u>04-07-92</u>
WFN _____

## LITTLE COLORADO RIVER WATERSHED ADJUDICATION SUPERIOR COURT OF APACHE COUNTY

1. Claimant Name: Pueblo of Zuni  
 Claimant Address: P.O. Box 339 City Pueblo of Zuni  
 State: NM Zip Code 87327 Telephone 505 782 4481

2. Basis of Claim:
- A.  Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. \_\_\_\_\_
  - B.  Appropriation Right acquired after June 12, 1919. Application No. \_\_\_\_\_, Permit No. \_\_\_\_\_, or Certificate of Water Right No. \_\_\_\_\_
  - C.  Right acquired through the 1977 Stockponds Registration Act. Claim No. \_\_\_\_\_
  - D.  Decreed water right. Principal litigants, court, date and case no.: \_\_\_\_\_
  - E.  Other, describe: Indian Reserved and Federal Reserved

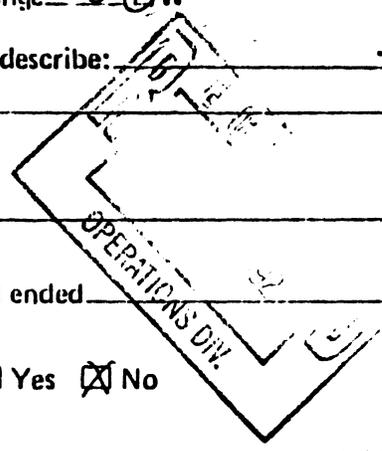
3. Claimed Priority Date: Reserved (month/day/year)

4. Source of Water:
- A. Stream, wash or arroyo: name None, tributary to Zuni River
  - B. Is water supplied from a source other than natural channel flow into the stockpond?  
 Yes,  No If yes, describe: \_\_\_\_\_

5. Legal description of the location of the stockpond: (attach additional sheet if required)  
SW 1/4, NW 1/4, SE 1/4, Section 2, Township 14(N)S, Range 26(E)W

6. If there are other uses supplied by the stockpond or its water source, describe: \_\_\_\_\_

7. Description of the Stockpond:
- A. Name or other designation: \_\_\_\_\_
  - B. Dam specifications:
    - 1) Date construction began, \_\_\_\_\_, and ended \_\_\_\_\_
    - 2) Height, 8 ft.
    - 3) Does dam have an outlet structure other than spillway?  Yes  No
  - C. Reservoir behind dam:
    - 1) Date water first stored: \_\_\_\_\_ (month/day/year)
    - 2) Maximum length: 80 ft.
    - 3) Maximum width: 40 ft.
    - 4) Maximum depth of water at spillway crest: 5 ft.
    - 5) Maximum storage volume at spillway crest: 12 Acre-Feet



8. Number and kind of livestock or wildlife watered by this stockpond: 26, for 12 months per year.

9. Attach photographs, maps or sketches necessary to show the location of the stockpond(s) and any conveyance system and other point(s) of diversion. *See map in attached report entitled: "Report of Water Claims by the U.S. for the Pueblo of Zuni" dated Dec. 1991*

10. It may be necessary for a representative from the Department of Water Resources to inspect the stockpond and diversion. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant \_\_\_\_\_

11. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? \_\_\_\_\_

12. Additional comments: in addition to the volumn claim of: .12 ac-ft  
we claim: Livestock Consumptive use of: 35 "  
and stockpond surface evaporation: .31 "  
Total claim: 78 ac-ft

(attach additional sheet if required)

155 15<sup>th</sup> Av

13. Attach Filing Fee to Form. Mail form(s) and fee(s) to: Department of Water Resources, P.O. Box 2920, Phoenix, AZ 85002.  
85007

14. Notarized Statement: [Signature]  
I (We), \_\_\_\_\_

the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my(our) knowledge and belief true, correct and complete.

Subscribed + sworn to before me this

3<sup>rd</sup> day of April, 1992

Lucinda E. Hill  
Notary Public

(seal)

7-21-92  
My Commission Expires:

or, \_\_\_\_\_  
Authorized Personnel of the Department of Water Resources

# STATEMENT OF CLAIMANT FORM FOR STOCKPOND USE

File No. 39- 91745  
Date Filed: 04-07-92  
WFN \_\_\_\_\_

## LITTLE COLORADO RIVER WATERSHED ADJUDICATION SUPERIOR COURT OF APACHE COUNTY

1. Claimant Name: Pueblo of Zuni  
Claimant Address: P.O. Box 339 City Pueblo of Zuni  
State: NM Zip Code 87327 Telephone 505 782 4481

2. Basis of Claim:

- A.  Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. \_\_\_\_\_
- B.  Appropriation Right acquired after June 12, 1919. Application No. \_\_\_\_\_, Permit No. \_\_\_\_\_, or Certificate of Water Right No. \_\_\_\_\_
- C.  Right acquired through the 1977 Stockponds Registration Act. Claim No. \_\_\_\_\_
- D.  Decreed water right. Principal litigants, court, date and case no.: \_\_\_\_\_
- E.  Other, describe: Indian Reserved and Federal Reserved

3. Claimed Priority Date: Reserved (month/day/year)

4. Source of Water:

- A. Stream, wash or arroyo: name none, tributary to Zuni River
- B. Is water supplied from a source other than natural channel flow into the stockpond?  
 Yes,  No If yes, describe: \_\_\_\_\_

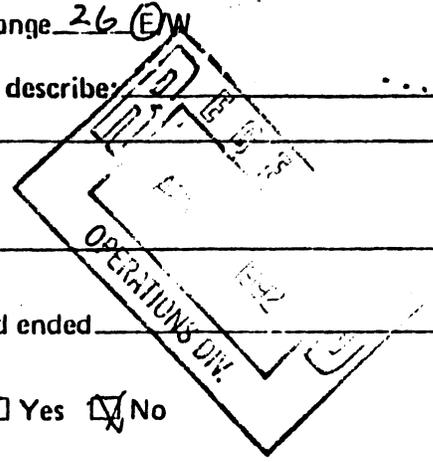
5. Legal description of the location of the stockpond: (attach additional sheet if required)

SE 1/4, NW 1/4, SE 1/4, Section 2, Township 14(N)S, Range 26(E)W

6. If there are other uses supplied by the stockpond or its water source, describe: \_\_\_\_\_

7. Description of the Stockpond:

- A. Name or other designation: \_\_\_\_\_
- B. Dam specifications:
  - 1) Date construction began, \_\_\_\_\_, and ended \_\_\_\_\_
  - 2) Height, 7 ft.
  - 3) Does dam have an outlet structure other than spillway?  Yes  No
- C. Reservoir behind dam:
  - 1) Date water first stored: \_\_\_\_\_ (month/day/year)
  - 2) Maximum length: 150 ft.
  - 3) Maximum width: 40 ft.
  - 4) Maximum depth of water at spillway crest: 3 ft.
  - 5) Maximum storage volume at spillway crest: .14 Acre-Feet



8. Number and kind of livestock or wildlife watered by this stockpond:

26, for 12 months per year.

9. Attach photographs, maps or sketches necessary to show the location of the stockpond(s) and any conveyance system and other point(s) of diversion. *see map in attached report entitled: "Report of Water Claims by the U.S. for the Pueblo of Zuni" dated Dec. 1991*

10. It may be necessary for a representative from the Department of Water Resources to inspect the stockpond and diversion. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant \_\_\_\_\_

11. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? \_\_\_\_\_

12. Additional comments: in addition to the volum claim of: .14 ac-ft  
we claim: Livestock Consumptive use of: .35 ac-ft  
and Stockpond surface evaporation: .62 ac-ft  
Total claim: 1.11 ac-ft

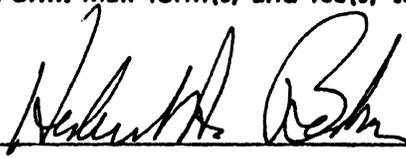
(attach additional sheet if required)

155 15<sup>th</sup> Av

13. Attach Filing Fee to Form. Mail form(s) and fee(s) to: Department of Water Resources, P.O. Box 2920, Phoenix, AZ 85002.  
85007

14. Notarized Statement:

I (We),



the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my(our) knowledge and belief true, correct and complete.

(seal)

7-21-92  
My Commission Expires:

Subscribed & sworn to before me this  
3<sup>rd</sup> day of April, 1992

Lucinda E. Hill  
Notary Public

or, \_\_\_\_\_  
Authorized Personnel of the Department of Water Resources

# STATEMENT OF CLAIMANT FORM FOR DOMESTIC USE

File No. 39-	915746
Date Filed:	04-07-92
WFN	

## LITTLE COLORADO RIVER WATERSHED ADJUDICATION SUPERIOR COURT OF APACHE COUNTY

1. Claimant Name: Pueblo of Zuni  
 Claimant Address: P.O. Box 339 City Pueblo of Zuni  
 State: NM Zip Code 87327 Telephone 505 782 4481

2. Basis of Claim:

- A.  Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. \_\_\_\_\_
- B.  Appropriation Right acquired after June 12, 1919. Application No. \_\_\_\_\_, Permit No. \_\_\_\_\_, or Certificate of Water Right No. \_\_\_\_\_
- C.  Decreed water right. Principal litigants, court, date and case no.: \_\_\_\_\_
- D.  Right to withdraw groundwater.
- E.  Other, describe: Indian Reserved and Federal Reserved

3. Claimed Priority Date: Reserved (month/day/year)

4. Source of Water:

- A.  Stream: name none, tributary to Zuni River
- B.  Spring: name \_\_\_\_\_, tributary to \_\_\_\_\_
- C.  Lake or Reservoir: name \_\_\_\_\_, tributary to \_\_\_\_\_
- D.  Groundwater (East Zuni windmill)

5. Legal description of the Place of Use and the Point of Diversion: (attach additional sheet if required) ..

County Apache, Section \_\_\_\_\_, Township 14 (N)S, Range 26 (E)W

Legal Subdivision: (one of the following)

NW 1/4, SE 1/4, SE 1/4 of the Section; or

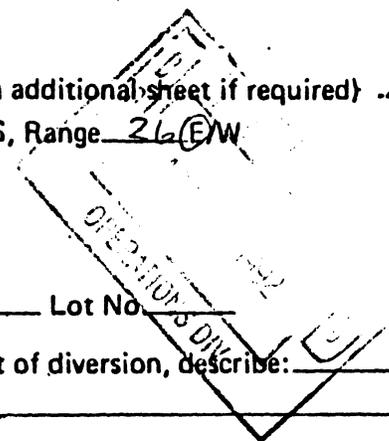
Assessor Book No. \_\_\_\_\_, Map No. \_\_\_\_\_, Parcel No. \_\_\_\_\_; or

Subdivision Name \_\_\_\_\_ Block No. \_\_\_\_\_ Lot No. \_\_\_\_\_

6. If there are Irrigation, Stockpond or Other Uses supplied from the point of diversion, describe: stock watering trough

7. Means of Diversion:

- A.  Instream pump.
- B.  Gravity flow into ditch, canal or pipeline.
- C.  Well: Arizona State Land Department, Arizona Water Commission or Arizona Department of Water Resources Intent to Drill File No. \_\_\_\_\_
- D.  Other, describe \_\_\_\_\_



8. Number of persons \_\_\_\_\_ or dwellings \_\_\_\_\_ served by this use.
9. Annual Volume Claimed: 1.99 acre-feet
10. It may be necessary for a representative from the Department of Water Resources to inspect the place of use and diversion. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant \_\_\_\_\_
11. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? \_\_\_\_\_

12. Additional comments: .44 ac-ft domestic; 1.45 stock

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(attach additional sheet if required) 15 S. 15<sup>TH</sup> AVE

13. Attach Filing Fee to Form. Mail form(s) and fee(s) to: Department of Water Resources, P.O. Box 2920, Phoenix, AZ 85002. 85007

14. Notarized Statement: *[Signature]*  
 I (We), \_\_\_\_\_  
 the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my(our) knowledge and belief true, correct and complete.

(seal)  
7-21-92  
 My Commission Expires:

*Subscribed & sworn to before me this*  
*3<sup>rd</sup> day of April, 1992*  
*Lucinda E. Hill*  
 Notary Public

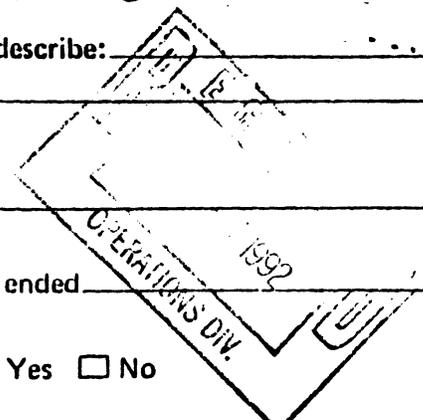
or, \_\_\_\_\_  
 Authorized Personnel of the Department of Water Resources

# STATEMENT OF CLAIMANT FORM FOR STOCKPOND USE

File No. 39- <u>91747</u>
Date Filed: <u>04-07-92</u>
WFN _____

## LITTLE COLORADO RIVER WATERSHED ADJUDICATION SUPERIOR COURT OF APACHE COUNTY

1. Claimant Name: Pueblo of Zuni  
 Claimant Address: P.O. Box 339 City Pueblo of Zuni  
 State: NM Zip Code 87327 Telephone 505 782 4481
  
2. Basis of Claim:
  - A.  Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. \_\_\_\_\_
  - B.  Appropriation Right acquired after June 12, 1919. Application No. \_\_\_\_\_, Permit No. \_\_\_\_\_, or Certificate of Water Right No. \_\_\_\_\_
  - C.  Right acquired through the 1977 Stockponds Registration Act. Claim No. \_\_\_\_\_
  - D.  Decreed water right. Principal litigants, court, date and case no.: \_\_\_\_\_
  - E.  Other, describe: Indian Reserved and Federal Reserved
  
3. Claimed Priority Date: Reserved (month/day/year)
  
4. Source of Water:
  - A. Stream, wash or arroyo: name none, tributary to Zuni River
  - B. Is water supplied from a source other than natural channel flow into the stockpond?  
 Yes,  No If yes, describe: \_\_\_\_\_
  
5. Legal description of the location of the stockpond: (attach additional sheet if required)  
SW 1/4, SW 1/4, NW 1/4, Section 28, Township 15(N)S, Range 26(E)W
  
6. If there are other uses supplied by the stockpond or its water source, describe: \_\_\_\_\_
  
7. Description of the Stockpond:
  - A. Name or other designation: \_\_\_\_\_
  - B. Dam specifications:
    - 1) Date construction began, \_\_\_\_\_, and ended \_\_\_\_\_
    - 2) Height, 16 ft.
    - 3) Does dam have an outlet structure other than spillway?  Yes  No
  - C. Reservoir behind dam:
    - 1) Date water first stored: \_\_\_\_\_ (month/day/year)
    - 2) Maximum length: 210 ft.
    - 3) Maximum width: 150 ft.
    - 4) Maximum depth of water at spillway crest: 12 ft.
    - 5) Maximum storage volume at spillway crest: 2.89 Acre-Feet



8. Number and kind of livestock or wildlife watered by this stockpond:  
 \_\_\_\_\_ 26 \_\_\_\_\_, for \_\_\_\_\_ 12 \_\_\_\_\_ months per year.
9. Attach photographs, maps or sketches necessary to show the location of the stockpond(s) and any conveyance system and other point(s) of diversion. *See map in attached report entitled: "Report of Water Claims by the U.S. for the Pueblo of Zuni" dated Dec. 1991*
10. It may be necessary for a representative from the Department of Water Resources to inspect the stockpond and diversion. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant \_\_\_\_\_
11. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? \_\_\_\_\_

12. Additional comments: in addition to the volum claim of: 2.89 ac-ft  
we claim: Livestock Consumptive use of: .35 "  
and Stockpond surface evaporation: 3.18 "  
Total claim: 642 ac-ft

(attach additional sheet if required)

155 15<sup>TH</sup> Av

13. Attach Filing Fee to Form. Mail form(s) and fee(s) to: Department of Water Resources, P.O. Box 2920, Phoenix, AZ 85002.  
 85007

14. Notarized Statement:

I (We),

*Robert H. Baker*

the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my(our) knowledge and belief true, correct and complete.

Subscribed + sworn to before me this

3<sup>rd</sup> day of April, 1992

(seal)

7-21-92  
 My Commission Expires:

Lucinda E. Hill  
 Notary Public

or, \_\_\_\_\_  
 Authorized Personnel of the Department of Water Resources

# STATEMENT OF CLAIMANT FORM FOR STOCKPOND USE

File No. 39-	<u>91748</u>
Date Filed:	<u>04-07-92</u>
WFN	_____

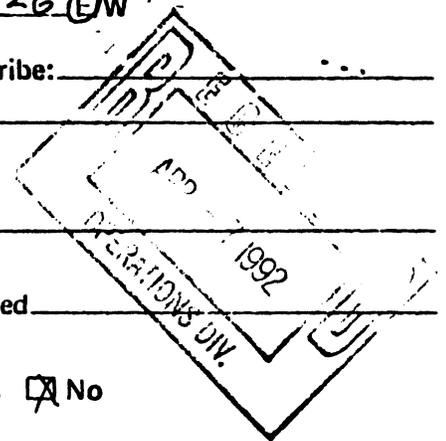
## LITTLE COLORADO RIVER WATERSHED ADJUDICATION SUPERIOR COURT OF APACHE COUNTY

1. Claimant Name: Pueblo of Zuni  
 Claimant Address: P.O. Box 339 City Pueblo of Zuni  
 State: NM Zip Code 87327 Telephone 505 782 4481
2. Basis of Claim:

  - A.  Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. \_\_\_\_\_
  - B.  Appropriation Right acquired after June 12, 1919. Application No. \_\_\_\_\_, Permit No. \_\_\_\_\_, or Certificate of Water Right No. \_\_\_\_\_
  - C.  Right acquired through the 1977 Stockponds Registration Act. Claim No. \_\_\_\_\_
  - D.  Decreed water right. Principal litigants, court, date and case no.: \_\_\_\_\_
  - E.  Other, describe: Indian Reserved and Federal Reserved
3. Claimed Priority Date: Reserved (month/day/year)
4. Source of Water:

  - A. Stream, wash or arroyo: name none, tributary to Zuni River
  - B. Is water supplied from a source other than natural channel flow into the stockpond?  
 Yes,  No If yes, describe: \_\_\_\_\_
5. Legal description of the location of the stockpond: (attach additional sheet if required)  
SW 1/4, SW 1/4, NW 1/4, Section 28, Township 15(N)S, Range 26(E)W
6. If there are other uses supplied by the stockpond or its water source, describe: \_\_\_\_\_
7. Description of the Stockpond:

  - A. Name or other designation: Tomahawk Tank
  - B. Dam specifications:
    - 1) Date construction began, \_\_\_\_\_, and ended \_\_\_\_\_
    - 2) Height, 12 ft.
    - 3) Does dam have an outlet structure other than spillway?  Yes  No
  - C. Reservoir behind dam:
    - 1) Date water first stored: \_\_\_\_\_ (month/day/year)
    - 2) Maximum length: 275 ft.
    - 3) Maximum width: 90 ft.
    - 4) Maximum depth of water at spillway crest: 11 ft.
    - 5) Maximum storage volume at spillway crest: 2.08 Acre-Feet



8. Number and kind of livestock or wildlife watered by this stockpond: 26, for 12 months per year.

9. Attach photographs, maps or sketches necessary to show the location of the stockpond(s) and any conveyance system and other point(s) of diversion. *See map in attached report entitled: "Report of Water Claims by the U.S. for the Pueblo of Zuni" dated Dec. 1991*

10. It may be necessary for a representative from the Department of Water Resources to inspect the stockpond and diversion. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant \_\_\_\_\_

11. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? \_\_\_\_\_

12. Additional comments: in addition to the volum claim of: 2.08 Ac-Ft  
we claim: Livestock Consumptive use of: .35 "  
and Stockpond surface evaporation: 2.52 "  
Total claim: 4.95 Ac-Ft

(attach additional sheet if required)

155 15th Av

13. Attach Filing Fee to Form. Mail form(s) and fee(s) to: Department of Water Resources, P.O. Box 2920, Phoenix, AZ 85002  
85007

14. Notarized Statement: [Signature]  
I (We), \_\_\_\_\_  
the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my(our) knowledge and belief true, correct and complete.

Subscribed & sworn to before me this

3rd day of April, 1992

[Signature]  
Notary Public

(seal)  
7-21-92  
My Commission Expires:

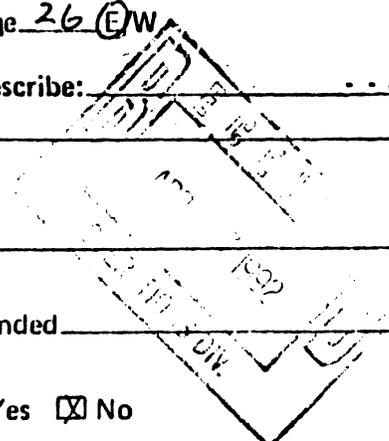
or, \_\_\_\_\_  
Authorized Personnel of the Department of Water Resources

# STATEMENT OF CLAIMANT FORM FOR STOCKPOND USE

File No. 39-	<u>91749</u>
Date Filed:	<u>04-07-92</u>
WFN	_____

## LITTLE COLORADO RIVER WATERSHED ADJUDICATION SUPERIOR COURT OF APACHE COUNTY

1. Claimant Name: Pueblo of Zuni  
 Claimant Address: P.O. Box 339 City Pueblo of Zuni  
 State: NM Zip Code 87327 Telephone 505 782 4481
  
2. Basis of Claim:
  - A.  Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. \_\_\_\_\_
  - B.  Appropriation Right acquired after June 12, 1919. Application No. \_\_\_\_\_, Permit No. \_\_\_\_\_, or Certificate of Water Right No. \_\_\_\_\_
  - C.  Right acquired through the 1977 Stockponds Registration Act. Claim No. \_\_\_\_\_
  - D.  Decreed water right. Principal litigants, court, date and case no.: \_\_\_\_\_
  - E.  Other, describe: Indian Reserved and Federal Reserved
  
3. Claimed Priority Date: Reserved (month/day/year)
  
4. Source of Water:
  - A. Stream, wash or arroyo: name \_\_\_\_\_, tributary to \_\_\_\_\_
  - B. Is water supplied from a source other than natural channel flow into the stockpond?  
 Yes,  No If yes, describe: \_\_\_\_\_
  
5. Legal description of the location of the stockpond: (attach additional sheet if required)  
NW 1/4, NW 1/4, SW 1/4, Section 28, Township 15(N)S, Range 26(E)W
  
6. If there are other uses supplied by the stockpond or its water source, describe: \_\_\_\_\_
  
7. Description of the Stockpond:
  - A. Name or other designation: \_\_\_\_\_
  - B. Dam specifications:
    - 1) Date construction began, \_\_\_\_\_, and ended \_\_\_\_\_
    - 2) Height, 14 ft.
    - 3) Does dam have an outlet structure other than spillway?  Yes  No
  - C. Reservoir behind dam:
    - 1) Date water first stored: \_\_\_\_\_ (month/day/year)
    - 2) Maximum length: 220 ft.
    - 3) Maximum width: 110 ft.
    - 4) Maximum depth of water at spillway crest: 6 ft.
    - 5) Maximum storage volume at spillway crest: 11 Acre-Feet



8. Number and kind of livestock or wildlife watered by this stockpond:

26, for 12 months per year.

9. Attach photographs, maps or sketches necessary to show the location of the stockpond(s) and any conveyance system and other point(s) of diversion. *see map in attached report entitled: "Report of Water Claims by the U.S. for the Pueblo of Zuni" dated Dec. 1991*

10. It may be necessary for a representative from the Department of Water Resources to inspect the stockpond and diversion. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant \_\_\_\_\_

11. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? \_\_\_\_\_

12. Additional comments: in addition to the volumn claim of: .11 ac-ft  
we claim: Livestock Consumptive use of: .35 "  
and stockpond surface evaporation: 2.47 "  
Total claim: 2.93 ac-ft

(attach additional sheet if required)

155 15<sup>th</sup> Av

13. Attach Filing Fee to Form. Mail form(s) and fee(s) to: Department of Water Resources, P.O. Box 2920, Phoenix, AZ ~~85002~~ 85007

14. Notarized Statement:

I (We), Herbert A. Bosker  
the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my(our) knowledge and belief true, correct and complete.

(seal)

7-21-92  
My Commission Expires:

Subscribed + sworn to before me this  
3<sup>rd</sup> day of April, 1992  
Lucinda E. Hill  
Notary Public

or, \_\_\_\_\_  
Authorized Personnel of the Department of Water Resources

# STATEMENT OF CLAIMANT FORM FOR STOCKPOND USE

File No. 39- <u>91750</u>
Date Filed: <u>04-07-92</u>
WFN _____

## LITTLE COLORADO RIVER WATERSHED ADJUDICATION SUPERIOR COURT OF APACHE COUNTY

1. Claimant Name: Pueblo of Zuni  
 Claimant Address: P.O. Box 339 City Pueblo of Zuni  
 State: NM Zip Code 87327 Telephone 505 782 4481

2. Basis of Claim:
- A.  Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. \_\_\_\_\_
  - B.  Appropriation Right acquired after June 12, 1919. Application No. \_\_\_\_\_, Permit No. \_\_\_\_\_, or Certificate of Water Right No. \_\_\_\_\_
  - C.  Right acquired through the 1977 Stockponds Registration Act. Claim No. \_\_\_\_\_
  - D.  Decreed water right. Principal litigants, court, date and case no.: \_\_\_\_\_
  - E.  Other, describe: Indian Reserved and Federal Reserved

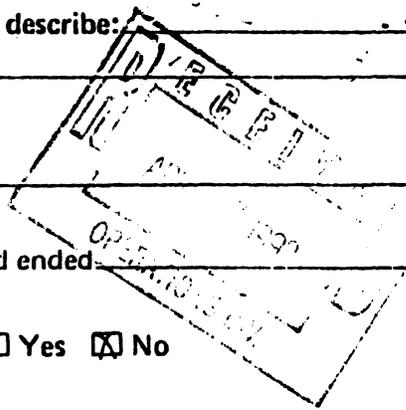
3. Claimed Priority Date: Reserved (month/day/year)

4. Source of Water:
- A. Stream, wash or arroyo: name \_\_\_\_\_, tributary to \_\_\_\_\_
  - B. Is water supplied from a source other than natural channel flow into the stockpond?  
 Yes,  No If yes, describe: \_\_\_\_\_

5. Legal description of the location of the stockpond: (attach additional sheet if required)  
NE 1/4, SE 1/4, NW 1/4, Section 26, Township 15(N)S, Range 26(E)W

6. If there are other uses supplied by the stockpond or its water source, describe: \_\_\_\_\_

7. Description of the Stockpond:
- A. Name or other designation: \_\_\_\_\_
  - B. Dam specifications:
    - 1) Date construction began, \_\_\_\_\_, and ended \_\_\_\_\_
    - 2) Height, 5 ft.
    - 3) Does dam have an outlet structure other than spillway?  Yes  No
  - C. Reservoir behind dam:
    - 1) Date water first stored: \_\_\_\_\_ (month/day/year)
    - 2) Maximum length: 75 ft.
    - 3) Maximum width: 50 ft.
    - 4) Maximum depth of water at spillway crest: 3 ft.
    - 5) Maximum storage volume at spillway crest: 09 Acre-Feet



... watered by this stockpond:

\_\_\_\_\_, for \_\_\_\_\_ months per year.

- 9. Attach photographs, maps or sketches necessary to show the location of the stockpond(s) and any conveyance system and other point(s) of diversion. *See map in attached report entitled: "Report of Water Claims by the U.S. for the Pueblo of Zuni" dated Dec. 1991*
- 10. It may be necessary for a representative from the Department of Water Resources to inspect the stockpond and diversion. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant \_\_\_\_\_
- 11. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? \_\_\_\_\_

12. Additional comments: in addition to the volum claim of: .09 ac-ft  
we claim: Livestock Consumptive use of: .35 "  
and stockpond surface evaporation: .34 "  
Total claim: .78 ac-ft

(attach additional sheet if required)

155 15<sup>th</sup> Av

13. Attach Filing Fee to Form. Mail form(s) and fee(s) to: Department of Water Resources, P.O. Box 2920, Phoenix, AZ 85002.  
 85007

14. Notarized Statement: Robert A. B...  
 I (We), \_\_\_\_\_  
 the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my(our) knowledge and belief true, correct and complete.

(seal)

7-21-92  
 My Commission Expires:

Subscribed & sworn to before me this  
3<sup>rd</sup> day of April, 1992  
Lucinda E. H...  
 Notary Public

or, \_\_\_\_\_  
 Authorized Personnel of the Department of Water Resources

# STATEMENT OF CLAIMANT FORM FOR STOCKPOND USE

File No. 39-	<u>91751</u>
Date Filed:	<u>04-07-92</u>
WFN	_____

## LITTLE COLORADO RIVER WATERSHED ADJUDICATION SUPERIOR COURT OF APACHE COUNTY

1. Claimant Name: Pueblo of Zuni  
 Claimant Address: P.O. Box 339 City Pueblo of Zuni  
 State: NM Zip Code 87327 Telephone 505 782 4481

2. Basis of Claim:

- A.  Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. \_\_\_\_\_
- B.  Appropriation Right acquired after June 12, 1919. Application No. \_\_\_\_\_, Permit No. \_\_\_\_\_, or Certificate of Water Right No. \_\_\_\_\_
- C.  Right acquired through the 1977 Stockponds Registration Act. Claim No. \_\_\_\_\_
- D.  Decreed water right. Principal litigants, court, date and case no.: \_\_\_\_\_
- E.  Other, describe: Indian Reserved and Federal Reserved

3. Claimed Priority Date: Reserved (month/day/year)

4. Source of Water:

- A. Stream, wash or arroyo: name \_\_\_\_\_, tributary to \_\_\_\_\_
- B. Is water supplied from a source other than natural channel flow into the stockpond?  
 Yes,  No If yes, describe: \_\_\_\_\_

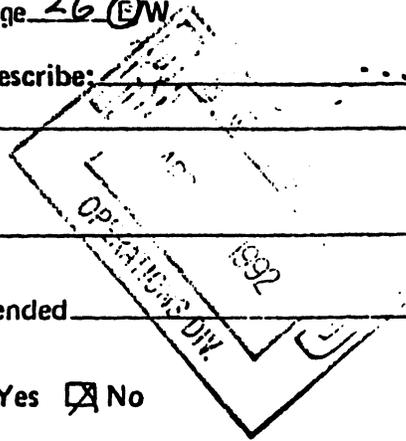
5. Legal description of the location of the stockpond: (attach additional sheet if required)

SE 1/4, SE 1/4, NW 1/4, Section 26, Township 15(N)S, Range 26(E)W

6. If there are other uses supplied by the stockpond or its water source, describe: \_\_\_\_\_

7. Description of the Stockpond:

- A. Name or other designation: \_\_\_\_\_
- B. Dam specifications:
  - 1) Date construction began, \_\_\_\_\_, and ended \_\_\_\_\_
  - 2) Height, 5 ft.
  - 3) Does dam have an outlet structure other than spillway?  Yes  No
- C. Reservoir behind dam:
  - 1) Date water first stored: \_\_\_\_\_ (month/day/year)
  - 2) Maximum length: 100 ft.
  - 3) Maximum width: 100 ft.
  - 4) Maximum depth of water at spillway crest: 3 ft.
  - 5) Maximum storage volume at spillway crest: .23 Acre-Feet



... of ... or ... watered by this stockpond:

26, for 12 months per year.

- 9. Attach photographs, maps or sketches necessary to show the location of the stockpond(s) and any conveyance system and other point(s) of diversion. See map in attached report entitled: "Report of Water Claims by the U.S. for the Pueblo of Zuni" dated Dec. 1991
- 10. It may be necessary for a representative from the Department of Water Resources to inspect the stockpond and diversion. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant \_\_\_\_\_
- 11. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? \_\_\_\_\_

12. Additional comments: in addition to the volum claim of: .23 ac-Ft  
we claim: Livestock Consumptive use of: .35 "  
and stockpond surface evaporation: .92 "  
Total claim: 460 ac-Ft

(attach additional sheet if required)

155 15th Av

13. Attach Filing Fee to Form. Mail form(s) and fee(s) to: Department of Water Resources, P.O. Box 2920, Phoenix, AZ 85002.  
85007

14. Notarized Statement: Herbert A. Baker  
 I (We), \_\_\_\_\_  
 the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my(our) knowledge and belief true, correct and complete.

Subscribed + sworn to before me this 3rd  
day of April, 1992

(seal)

7-21-92  
 My Commission Expires:

Lucinda E. Hala  
 Notary Public

or, \_\_\_\_\_  
 Authorized Personnel of the Department of Water Resources

# STATEMENT OF CLAIMANT FORM FOR STOCKPOND USE

File No. 39- <u>91752</u>
Date Filed: <u>04-07-92</u>
WFN _____

## LITTLE COLORADO RIVER WATERSHED ADJUDICATION SUPERIOR COURT OF APACHE COUNTY

1. Claimant Name: Pueblo of Zuni  
 Claimant Address: P.O. Box 339 City Pueblo of Zuni  
 State: NM Zip Code 87327 Telephone 505 782 4481

2. Basis of Claim:
- A.  Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. \_\_\_\_\_
  - B.  Appropriation Right acquired after June 12, 1919. Application No. \_\_\_\_\_, Permit No. \_\_\_\_\_, or Certificate of Water Right No. \_\_\_\_\_
  - C.  Right acquired through the 1977 Stockponds Registration Act. Claim No. \_\_\_\_\_
  - D.  Decreed water right. Principal litigants, court, date and case no.: \_\_\_\_\_
  - E.  Other, describe: Indian Reserved and Federal Reserved

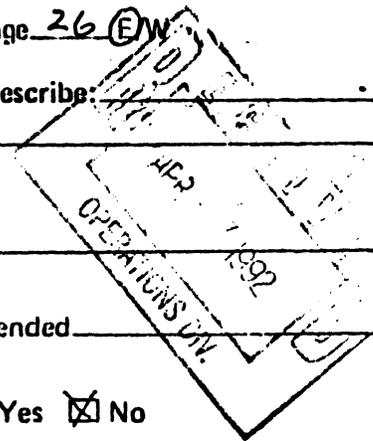
3. Claimed Priority Date: Reserved (month/day/year)

4. Source of Water:
- A. Stream, wash or arroyo: name \_\_\_\_\_, tributary to \_\_\_\_\_
  - B. Is water supplied from a source other than natural channel flow into the stockpond?  
 Yes,  No If yes, describe: \_\_\_\_\_

5. Legal description of the location of the stockpond: (attach additional sheet if required)  
NE 1/4 NW 1/4, SW 1/4, SW 1/4, Section 10, Township 14(N)S, Range 26(E)W

6. If there are other uses supplied by the stockpond or its water source, describe: \_\_\_\_\_

7. Description of the Stockpond:
- A. Name or other designation: \_\_\_\_\_
  - B. Dam specifications:
    - 1) Date construction began, \_\_\_\_\_, and ended \_\_\_\_\_
    - 2) Height, 5 ft.
    - 3) Does dam have an outlet structure other than spillway?  Yes  No
  - C. Reservoir behind dam:
    - 1) Date water first stored: \_\_\_\_\_ (month/day/year)
    - 2) Maximum length: 500 ft.
    - 3) Maximum width: 400 ft.
    - 4) Maximum depth of water at spillway crest: 3 ft.
    - 5) Maximum storage volume at spillway crest: 4.59 Acre-Feet



8. Number and kind of livestock or wildlife watered by this stockpond:

26, for 12 months per year.

9. Attach photographs, maps or sketches necessary to show the location of the stockpond(s) and any conveyance system and other point(s) of diversion. See map in attached report entitled:

"Report of Water Claims by the U.S. for the Pueblo of Zuni," dated Dec. 1991

10. It may be necessary for a representative from the Department of Water Resources to inspect the stockpond and diversion. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant \_\_\_\_\_

11. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? \_\_\_\_\_

12. Additional comments: in addition to the volume claim of: 4.59 ac-ft  
we claim: Livestock Consumptive use of: .35 "  
and Stockpond surface evaporation: 18.37 "  
Total claim: 192.1 "

(attach additional sheet if required)

155 15th Av

13. Attach Filing Fee to Form. Mail form(s) and fee(s) to: Department of Water Resources, P.O. Box 2920, Phoenix, AZ 85002, 85007

14. Notarized Statement:

I (We),

Robert A. Bell

the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my(our) knowledge and belief true, correct and complete.

Subscribed & sworn to before me this 3rd

day of April, 1992

(seal)

7-21-92  
My Commission Expires:

Lucinda E Hill  
Notary Public

or, \_\_\_\_\_  
Authorized Personnel of the Department of Water Resources

RECEIVED  
JUL 27 2001  
SURFACE WATER MANAGEMENT

STATEMENT OF CLAIMANT FORM  
FOR

OTHER USES<sup>1</sup>  
AMENDMENT  
SUPERIOR COURT OF APACHE COUNTY

File No: 39- 082089  
Date Filed: 7-27-01  
WFN

1. Claimant Name: ZUNI INDIAN TRIBE  
Claimant Address: P.O. BOX 339 City ZUNI, NEW MEXICO  
State: NM Zip Code 87327 Telephone (505) 782-4481

2. Basis of Claim:
- A.  Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. \_\_\_\_\_
  - B.  Appropriation Right acquired after June 12, 1919. Application No. \_\_\_\_\_, Permit No. \_\_\_\_\_, or Certificate of Water Right No. \_\_\_\_\_
  - C.  Decreed water right. Principal litigants, court, date and case no. \_\_\_\_\_
  - D.  Right to withdraw groundwater. Grandfathered Right No. \_\_\_\_\_
  - E.  Other, describe: \_\_\_\_\_

3. Claimed Priority Date: \_\_\_\_/\_\_\_\_/\_\_\_\_ (month/day/year)

4. Use:
- A.  Municipal
  - B.  Commercial or Industrial
  - C.  Mining
  - D.  Stockwatering other than from a stockpond
  - E.  Recreation, Fish & Wildlife
  - F.  Other, describe: IRRIGATED WETLAND/ CROP DEVELOPMENT

5. Source of Water:
- A.  Stream: name \_\_\_\_\_, tributary to \_\_\_\_\_
  - B.  Spring: name \_\_\_\_\_, tributary to \_\_\_\_\_
  - C.  Lake or Reservoir: name \_\_\_\_\_, tributary to \_\_\_\_\_
  - D.  Groundwater.

6. Legal description of the Point of Diversion: (attach additional sheet if required)  
\_\_\_\_ 1/4, \_\_\_\_ 1/4, \_\_\_\_ 1/4, Section \_\_\_\_\_, Township \_\_\_\_\_ N/S, Range \_\_\_\_\_ E/W

7. If there are Irrigation, Domestic or Stockpond Uses also supplied from the Point of Diversion, describe: SEE #4. USE (F)

8. Means of Diversion:
- A.  Instream pump.
  - B.  Gravity flow into a ditch, canal or pipeline.
  - C.  Well: Arizona Department of Water Resources Well Registration No. 55-600440  
FILE NO. A(14-26)27DDC
  - D.  Other, describe: \_\_\_\_\_

<sup>1</sup> See Instructions for explanation of uses in this category

9. Means of Conveyance:

- A.  Ditch, canal or pipeline. If the means of conveyance is owned and/or operated by some other entity, please give name and address: \_\_\_\_\_
- B.  Other, describe: \_\_\_\_\_

10. Place of Use, if other than point of diversion: (attach additional sheet if required)

County \_\_\_\_\_

Legal Subdivision	Section	Township	Range
_____	_____	_____ N/S	_____ E/W
_____	_____	_____ N/S	_____ E/W

11. Claimed Right:

- A. Maximum Flow Rate: \_\_\_\_\_
  - cubic-feet per second
  - gallons per minute
  - Arizona miner's inches
- B. Annual Volume of Water Use: \_\_\_\_\_ acre-feet
- C. Storage Right: \_\_\_\_\_ acre-feet

12. Attach photographs, maps or sketches necessary to show the point of diversion, storage reservoir(s) place(s) of use and means of conveyance.

13. It may be necessary for a representative from the Department of Water Resources to inspect the diversion, conveyance and place of use. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant \_\_\_\_\_

14. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? \_\_\_\_\_

15. Additional comments: IRRIGATED WETLAND/CROP DEVELOPMENT

(attach additional sheet if required)

16. Mail form(s) to: Department of Water Resources, Adjudications Division, 15 South 15th Avenue, Phoenix, Arizona 85007.

17. Notarized Statement:

I (We), [Signature] the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my (our) knowledge and belief true, correct and complete.

[Signature]

(seal)

February 27, 2004  
My Commission Expires

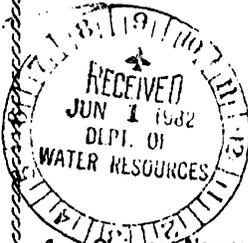
[Signature]  
Notary Public

or, \_\_\_\_\_  
Authorized Personnel of the Department of Water Resources

For Departmental Use Only

# STATEMENT OF CLAIMANT FORM FOR IRRIGATION USE

File No. 39	<u>082089</u>
Date Filed:	<u>6-1-82</u>
WFN	



## LITTLE COLORADO RIVER WATERSHED ADJUDICATION SUPERIOR COURT OF APACHE COUNTY

1/21

1. Claimant Name: Spencer D. Ellsworth  
 Claimant Address: 5632 North 19th Avenue City Phoenix  
 State: Arizona Zip Code 85015 Telephone 249-1802

2. Basis of Claim:

- A.  Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No. \_\_\_\_\_
- B.  Appropriation Right acquired after June 12, 1919. Application No. \_\_\_\_\_, Permit No. \_\_\_\_\_, or Certificate of Water Right No. \_\_\_\_\_
- C.  Decreed water right. Principal litigants, court, date and case no.: \_\_\_\_\_
- D.  Right to withdraw groundwater.
- E.  Other, describe: Claim is also based on continuous use for irrigation beginning in 1978.

3. Source of Water:

- A.  Stream: name \_\_\_\_\_, tributary to \_\_\_\_\_
- B.  Spring: name \_\_\_\_\_, tributary to \_\_\_\_\_
- C.  Lake or Reservoir: name \_\_\_\_\_, tributary to \_\_\_\_\_
- D.  Groundwater.

4. Legal description of the Point of Diversion: (attach additional sheet if required)

SW 1/4, SE 1/4, SE 1/4, Section 27, Township 14 N, Range 26 E/W

5. If there are Stockpond, Domestic or Other Uses also supplied from the point of diversion, describe:

None

6. Means of Diversion:

- A.  Instream pump.
- B.  Gravity flow into a ditch, canal or pipeline.
- C.  Well: Arizona State Land Department, Arizona Water Commission or Arizona Department of Water Resources Intent to Drill File No. A (14-26) 27 ddc (55-600440 file No. A (14-26) 27 ddc)
- D.  Other, describe: \_\_\_\_\_

7. Means of Conveyance:

- A.  Ditch, canal or pipeline. If the means of conveyance is owned and/or operated by some other entity, please give name and address: \_\_\_\_\_
- B.  Other, describe: \_\_\_\_\_

8. Place(s) of Use, Annual Water Use and Claimed Priority Date(s): (attach additional sheet if required)

County: Apache

Legal Subdivision	Section	Township	Range	Acres	Annual Water Use (acre-feet)	Claimed Priority Date (month/day/year)
<u>N 1/2</u>	<u>27</u>	<u>14 N/S</u>	<u>26 E/W</u>	<u>200</u>	<u>1000</u>	<u>NA ?NA ?78</u>
		<u>N/S</u>	<u>E/W</u>			
		<u>N/S</u>	<u>E/W</u>			

9. Claimed Right:

- A. Maximum Flow Rate: 1400  cubic-feet per second  
 gallons per minute  
 Arizona miner's inches
- B. Annual Volume of Water Use: 1000 acre-feet
- C. Storage Right: 5 acre-feet

10. Attach photographs, maps or sketches necessary to show the point(s) of diversion, storage reservoir(s), means of conveyance and place(s) of use. Map attached.

11. It may be necessary for a representative from the Department of Water Resources to inspect the diversion, conveyance and place of use. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant \_\_\_\_\_

12. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? Contact Claimant at 249-1802

13. Additional comments: See Attachment I.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(attach additional sheet if required)

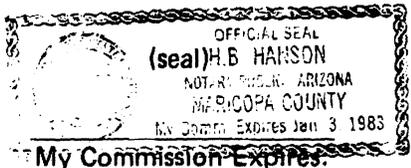
14. Attach Filing Fee to Form. Mail form(s) and fee(s) to: Department of Water Resources, P.O. Box 2920, Phoenix, AZ 85062.

15. Notarized Statement:

I (We), Spencer D. Ellsworth  
the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my(our) knowledge and belief true, correct and complete.

X Spencer D. Ellsworth  
Spencer D. Ellsworth

H. B. Hanson  
Notary Public



or, \_\_\_\_\_  
Authorized Personnel of the Department of Water Resources

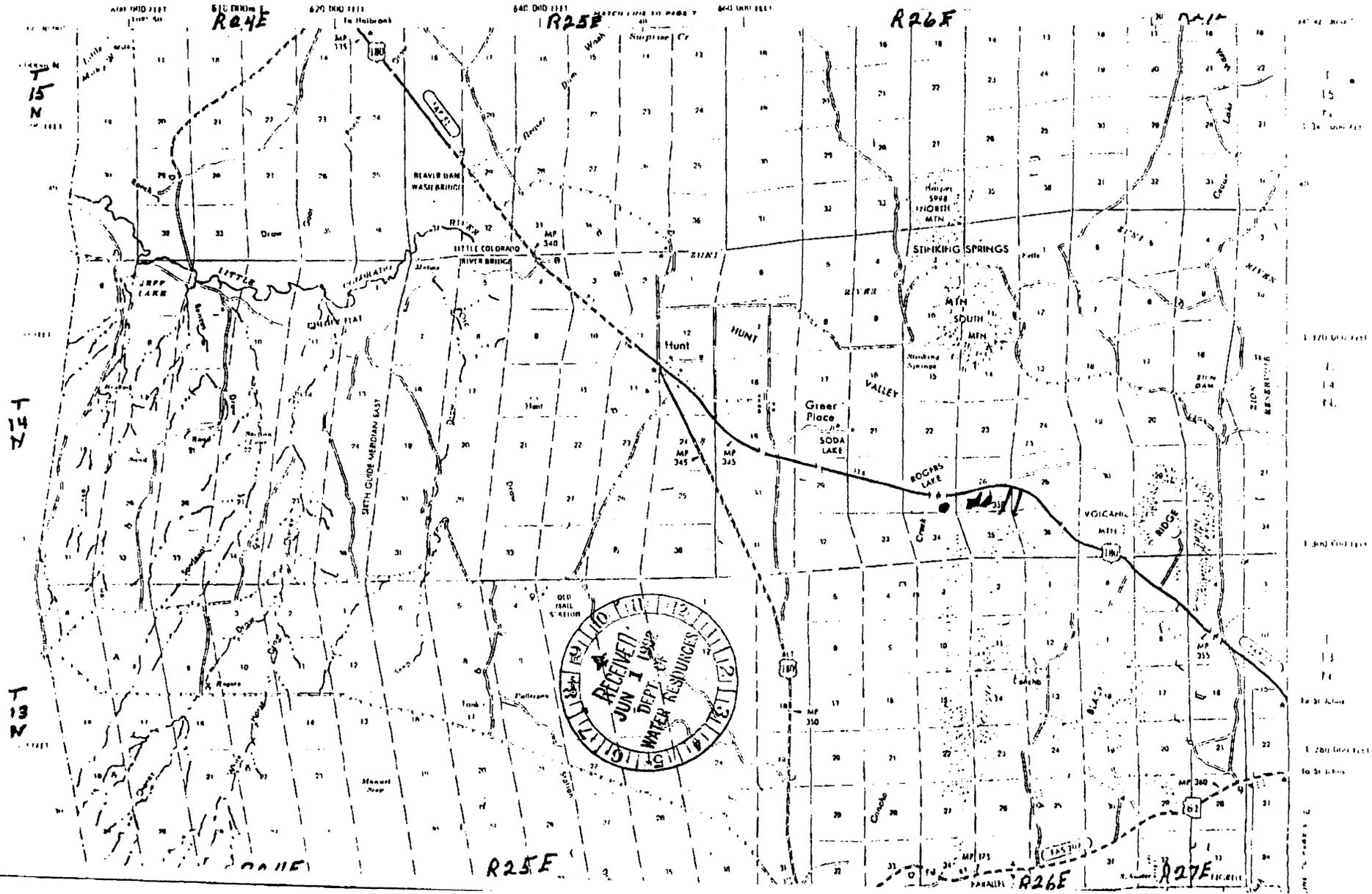
ATTACHMENT I

This Statement of Claimant is filed to set forth and to assert the right of the claimant to make beneficial use of public water of the State, to the extent that the water described herein is in fact public water of the State which is, or at any time has been, subject to appropriation.

Nothing in the Statement, nor its filing, shall constitute an admission that the water with respect to which the Statement is filed: (1) is public water subject to appropriation; (2) is in fact subject to claims based upon federal law.

The filing of this Statement in no way constitutes an abandonment or disclaimer of existing rights to water which have been acquired by reason of past use; by reason of claimant's interest in the lands with respect to which this Statement is filed; or by reason of prior filings under the Water Rights Registration Act and the Stockpond Registration Act.





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# **Appendix K-4**

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2  
3 BRADLEY S. BRIDGEWATER  
4 U.S. Department of Justice  
5 999 18th Street, Suite 945  
6 Denver, Colorado 80202  
7 (303) 294-1900

8 WILLIAM A. WHITE  
9 U.S. Department of Justice  
10 Environment and Natural Resources Division  
11 Indian Resources Section  
12 P.O. Box 44378  
13 Washington, D.C. 20026-4378  
14 (202) 272-4125

15 Attorneys for the United States

16 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

17 IN AND FOR THE COUNTY OF APACHE

18 IN RE THE GENERAL ADJUDICATION )  
19 OF ALL RIGHTS TO USE WATER IN )  
20 THE LITTLE COLORADO RIVER )  
21 SYSTEM AND SOURCE )

NO. 6417

22 UNITED STATES' STATEMENT  
23 OF AMENDED CLAIMS

24 CONTESTED CASE NAMES: *In re Reporting of Diversion*  
25 *Information and Other Objections.*

26 DESCRIPTIVE SUMMARY: Statement supporting the filing  
of amended claims by the United States on behalf of the Hopi  
Indian Tribe, the Navajo Nation, the White Mountain Apache  
Tribe and the Zuni Pueblo, their lessees and allottees.

DATE OF MAILING TO CLERK OF THE COURT: November 22,  
1994.

NUMBER OF PAGES: 4

Attached to this statement is a copy of Report of  
Supplemental Water Claims By the United States of America for

1  
2 the Indian Lands in the Little Colorado River Basin [Report]  
3 which constitutes the amended claims to use water being filed  
4 by the United States on its own behalf and as trustee for the  
5 Navajo Nation, the Hopi Indian Tribe, the White Mountain  
6 Apache Tribe and the Zuni Pueblo. This statement is being  
7 filed in accordance with the Court's Minute Entry of April 18,  
8 1994, and the Memorandum from Special Master to Water Rights  
9 Claimants in the Little Colorado River General Stream  
10 Adjudication (September 23, 1994), 5.

11           These amended claims are inclusive of all of the  
12 categories discussed by the special master in the September  
13 23, 1994, memorandum, to wit: (1) statements of claimant filed  
14 by the United States on behalf of the tribes asserting water  
15 rights based on **federal** law; (2) statements of claimant filed  
16 by the United States on behalf of the tribes asserting water  
17 rights based on **state** law;<sup>2</sup> (3) statements of claimant filed  
18 by **lessees** of the tribes or of the United States asserting  
19 tribal water rights based on **federal** law; (4) statements of  
20 claimant associated with **allotments** of former reservation land  
21 asserting water rights based on **federal** law (Walton rights);  
22 (5) statements of claimants associated with lands owned by the  
23  
24

---

25 <sup>2</sup>The extent to which the Pueblo of Zuni may assert water  
26 rights based on state law is being investigated and its claims  
may be supplemented as necessary.

1  
2 tribes that are not located on the reservation, new lands, or  
3 fee lands.

4           The amended claims filed herewith represent the work  
5 which has been accomplished to date and is not intended to be  
6 a definitive statement of all claims to be made by the United  
7 States on behalf of the tribes. The reconfiguration of this  
8 litigation occasioned by the Court's order of January 27,  
9 1994, and the short deadlines imposed upon the parties since  
10 then has not permitted the United States to complete the work  
11 on all its potential claims on behalf of the tribes by the  
12 present date. See *Memorandum of United States, the Navajo*  
13 *Nation, the Hopi Tribe and San Juan Southern Paiute Tribe in*  
14 *Support of Their Motion to Delay the Filing of the*  
15 *Hydrographic Survey Report for Indian Lands in the Little*  
16 *Colorado River System*, 3-7. This situation is particularly  
17 true for the claims made on behalf of the Zuni Pueblo for  
18 water to be used for religious purposes. See Report, 10.

19           The finality of many of our claims filed so far is  
20 further complicated by the uncertain situation with regards to  
21 groundwater in the watershed. Once the groundwater issues now  
22 before the Arizona Supreme Court are resolved, it may be  
23 necessary for the United States to amend its claims in order  
24 to conform with the Court's determinations.  
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Respectfully submitted this 22nd day of November,

1994.

BRADLEY S. BRIDGEWATER  
U.S. Department of Justice  
999 18th Street, Suite 945  
Denver, Colorado 80202  
(303) 294-1900



---

WILLIAM A. WHITE  
U.S. Department of Justice  
Environment and Natural  
Resources Division  
Indian Resources Section  
P.O. Box 44378  
Washington, D.C. 20026-4378  
(202) 272-4125

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A copy of the foregoing United States Statement of Amended Claims mailed this 23<sup>rd</sup> day of November, 1994, to all parties on the Court-approved mailing list dated November 10, 1994.

Gail P. Robinson  
Gail P. Robinson

# **NATURAL RESOURCES CONSULTING ENGINEERS, INC.**

---

*CIVIL, ENVIRONMENTAL, AND WATER RESOURCES CONSULTANTS*

**REPORT OF AMENDED WATER CLAIMS  
BY  
THE UNITED STATES OF AMERICA  
FOR THE INDIAN LANDS  
IN THE LITTLE COLORADO RIVER BASIN**

**In Connection With  
The General Adjudication of  
All Rights of Water Use in the  
Little Colorado River System  
and Source, Civil No. 6417,  
Superior Court, Apache County, Arizona**

**Prepared for  
U.S Department of Justice**

**November 22, 1994**

**Prepared by  
NATURAL RESOURCES CONSULTING ENGINEERS, INC.**

**11 Old Town Square, Suite 250  
Fort Collins, Colorado 80524  
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(510)841-7814/FAX (510)841-3728**

**East Africa Office  
Ras Dashen Street #5  
Asmara, Eritrea**

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## INTRODUCTION

This amended claim has been prepared in response to the Draft Hydrographic Survey Report for Indian Lands in the Little Colorado River System prepared by the Arizona Department of Water Resources in September 1994. This supplemental claim includes water claims associated with the Navajo, Hopi, White Mountain Apache Indian Reservations, San Juan Southern Paiute Lands and the Zuni Pueblo in Arizona.

The studies conducted to arrive at this claim were reconnaissance in nature and were based upon field study, existing data and information. Additional data collection, field investigations, and feasibility level studies will be necessary to refine the claims. Therefore, it can be expected that, at some future date, it will be necessary to revise the statement of claims.

## IRRIGATION WATER USE (SURFACE WATER)

### Description of Water Use

Current or recent use of surface waters for irrigation and diversion of water from the Little Colorado River or its tributaries to off-stream projects and storage facilities for future irrigation use.

### Location and Source of Water Use

There are approximately 104,304 acres of currently or recently irrigated land using surface waters on Indian Lands in the Little Colorado River basin. Based on interpretation of aerial photos and limited field investigation, there are 69,223 irrigated acres on the Navajo Reservation and 32,893 acres on the Hopi Reservation. There are 28.5 acres claimed on San Juan Southern Paiute Lands and 2,159 acres on the Zuni Pueblo in Arizona. Water claims for these irrigated lands are tabulated by reservation in Table I.

On the Hopi and Navajo Reservations, 64,480 of future irrigated acres will be served directly from the Little Colorado River and 19,103 acres will be served from the various tributaries of the Little Colorado River. Of this acreage, 79,213 future irrigable acres are on the Navajo Reservation and 4,400 acres are on the Hopi Reservation. 703 acres on the Navajo New Lands will be irrigated from the Puerco River and Playa streams. Based on aboriginal rights, 4,270 future additional acres on the Zuni Pueblo will be irrigated from the Little Colorado, and Zuni Rivers, their tributaries, and groundwater. Water claims for these future lands are also tabulated by reservation in Table I.

Table I Irrigation Water Use (Surface Water)

Tribe	Current or Recent Irrigation Water Use (AF)	Future Additional Irrigation Water Use (AF)	Total Irrigation Water Use (AF)
Navajo	108,464	194,388	302,852
Hopi	42,937	15,780	58,717
San Juan Southern Paiute	160	0	160
Zuni	9,176	18,700	27,876
Total	160,737	228,868	389,605

## EVAPORATION FROM IRRIGATION STORAGE

### Description of Water Use

Evaporation from both current or recent, and planned future irrigation reservoirs.

### Location of Water Use

The claims for 18 current or recent, and 13 future irrigation reservoirs on the tributaries of the Little Colorado River are located on the Navajo and Hopi Reservations. The evaporation from irrigation storage is tabulated in Table II.

Table II Evaporation from Irrigation Storage

Tribe	Current or Recent Evaporation Use (AF)	Future Additional Evaporation Use (AF)	Total Evaporation Use (AF)
Navajo	969	21,008	21,977
Hopi	186	9,359	9,545
San Juan Southern Paiute	3	3	6
Total	1,158	30,370	31,528

## **IRRIGATION WATER USE (GROUND WATER)**

### **Description of Water Use**

Current or recent, and future additional use of groundwater for irrigation.

### **Location and Source of Water Use**

There are 1,287 acres of currently or recently irrigated lands using groundwater from the Indian Lands in the Little Colorado River basin. Based on interpretation of aerial photos and limited field verification, 881 acres irrigated by groundwater are on the Navajo Reservation. 289 acres are on the Hopi Reservation, 15 acres on the San Juan Southern Paiute Lands, and 371 acres on the Zuni Pueblo in Arizona. Claims for the Navajo New Lands are currently under investigation.

The future irrigable lands are served by sources underlying the Reservations. Groundwater for the Indian Reservation lands will be diverted from four aquifers: (1) N-aquifer, mainly Navajo Sandstone; (2) C-aquifer, mainly Coconino Sandstone; (3) the alluvium of the Little Colorado River; (4) D-aquifer, mainly Dakota Sandstone. Other water bearing formations may also be used.

On the Navajo and Hopi Reservations, 4,529 acres will be served by groundwater from the Little Colorado Alluvium near Leupp, and 30,072 acres of irrigable land will be served by other aquifers. There are 29,341 acres of future irrigable land that will be served by groundwater on the Navajo Reservation, 5,260 acres on the Hopi Reservation, 4,489 acres on the Navajo New Lands, and 1,732 acres on San Juan Southern Paiute Lands. Water requirements for these lands these acres are tabulated by reservation in Table III.

Table III Irrigation Water Use (Ground Water)

Tribe	Present or Current Irrigation Use (AF)	Future Additional Irrigation Use (AF)	Total Irrigation Use (AF)
Navajo*	4,962	103,574	108,536
Hopi	1,250	15,780	17,030
San Juan Southern Paiute	85	5,165	5,250
Zuni	1,577	0	1,577
Total	7,874	124,519	132,393

\*Includes Navajo New Lands

## MUNICIPAL AND DOMESTIC GROUNDWATER USE

### Description of Water Use

Municipal and Domestic water use is for communities, towns, villages, homesites and farmsteads.

### Location and Source of water Use

The Navajo Tribe is currently compiling a recently completed inventory that, to date, has identified a total of 1,056 wells and 551 springs on the Reservation and other tribal land. An inventory of Navajo wells conducted in 1990 identified 82 public water supply systems with 159 wells. This inventory included private companies, business and trading posts, schools and missions, Navajo Tribal Utility Authority systems, and tribally operated wells.

Recently completed inventories identified 302 stock and domestic wells and 205 stock and domestic springs on the Hopi Reservation. A previous study identified 23 additional Hopi public water supply wells.

There are 45 wells and springs on the San Juan Southern Paiute Lands. Of these, at least 40 have stock use, 35 have domestic use and 9 have irrigation use. The Zuni Reservation has 10 wells and springs. Of these, 5 have stock use, 6 have domestic use, 2 have irrigation use and several have religious use. The White Mountain Apache Reservation has 2 wells with municipal, domestic, commercial and industrial, and recreational uses. An inventory of wells and springs for domestic, municipal and stock uses is provided in Table IV.

Future additional municipal and domestic uses will occur throughout the Reservations by expanding the present communities and by changing from water hauling practices to the public water supply systems. The future water demand for the Navajo, Hopi, and San Juan Southern Paiute is based on the population projections to 2040.

The sources of water for both present and future use is ground water in various aquifers and water-bearing rocks and deposits that are located throughout the Reservations. The municipal and domestic uses by Reservation are listed in Table V.

**Table IV Inventory of Wells and Springs**

<b>Tribe</b>	<b>Wells &amp; Springs</b>
Navajo	1,607
Hopi	507
San Juan Southern Paiute	45
White Mountain Apache	2
Zuni	10
<b>Total</b>	<b>2,171</b>

**Table V Municipal and Domestic Water Use**

<b>Tribe</b>	<b>Present Domestic Use (AF)</b>	<b>Future Additional Use (AF)</b>	<b>Total Use (AF)</b>
Navajo	10,481	25,199	35,680
Hopi	1,793	4,367	6,160
San Juan Southern Paiute	36	88	123
White Mountain Apache	323	777	1,100
Zuni	24	59	83
<b>Total</b>	<b>12,657</b>	<b>30,490</b>	<b>43,146</b>

## RECREATION WATER USE

### Description of Water Use

Present recreation water use is for camping, fishing and evaporation from lakes and reservoirs. Proposed additional future water uses include additional lakes and related facilities on the Reservations.

### Location and Source of Water Use

The recreational water sources are located on all the Reservations. The sources of water for recreational uses are the watersheds tributary to the lakes and reservoirs. The Navajo Reservation has 58 current, and 4 future lakes and reservoirs. The Hopi Reservation has 4 current, and 3 future lakes and reservoirs. There are two wells on the White Mountain Apache Reservation which also serve recreational uses.

Table VI Recreational Water Use

Tribe	Present Recreational Use (AF)	Future Recreational Use (AF)	Total Recreational Use (AF)
Navajo	2,236	227	2,463
Hopi	80	151	231
White Mountain Apaches	162	26	188
<b>Total</b>	<b>2,478</b>	<b>404</b>	<b>2,882</b>

## **RELIGIOUS WATER USES**

### **Description**

The Zuni Pueblo in Arizona has current and recent use of water for religious purposes near the confluence of the Little Colorado and Zuni Rivers (Zuni Heaven). The source of water is surface water from the Little Colorado River and its tributaries, lakes and springs, and groundwater.

### **Location and Source of Water Use**

The Pueblo of Zuni has used the Zuni Reservation in Arizona, known as Kolhu/wala:wa or "Zuni Heaven" for traditional religious purposes since time immemorial. The uses associated with the area include traditional religious and cultural uses requiring sufficient water to restore and maintain the lakes, springs and riparian habitat. The total water use is currently under investigation and this claim will be supplemented upon completion of such investigation.

## STOCK WATER USE

### Description of Water Use

Stock water use is based on an estimated average volume and a single annual fill of the stockponds. This volume includes, among other losses, losses due to evaporation and stock water use.

### Location and Source of Water Use

The Navajo Nation is currently compiling a recently completed inventory that has, to date, identified 2,422 stockponds on the Navajo Reservation and other tribal land. An additional 535 stockponds on the Hopi Reservation have been investigated or mapped. 29 stockponds are located on the Zuni Pueblo and 22 are on the San Juan Southern Paiute Land.

Additional future stockpond usages will be located throughout the Reservations.

The sources of water for both present and future stock water purposes is ground water present in various aquifers and water-bearing rocks and deposits that are located throughout the Reservations. Water can also come from surface runoff. The stockpond facilities are summarized in Table VII

Table VII Stockpond, Lake and Reservoir Water Use

Tribe	Stockpond Use (AF)	Future Stockpond Use (AF)	Total Stockpond Use (AF)
Navajo	20,829	675	21,504
Hopi	4,601	176	4,777
San Juan Southern Paiute	189	12	201
Zuni	249	10	259
Total	25,868	873	26,741

2422  
 535  
 29  
 22  
 -----  
 3008 41 57 225.  
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 2

## INDUSTRIAL WATER USE

### Description of Water Use

Water consumed for processing, light industries, steam power plant cooling and other miscellaneous industrial applications.

### Location and Source of Water Use

The sources for present and future additional industrial water use are primarily the N-aquifer (mainly Navajo Sandstone) and the C-aquifer (Coconino Sandstone). Other aquifers throughout the Reservations may provide water for industrial applications. The Navajo Nation has 338 wells with industrial use. Both of the White Mountain Apache wells serve industrial uses. The industrial water uses are presented in Table VIII.

**Table VIII Industrial Water Use**

<b>Tribe</b>	<b>Present Industrial Use (AF)</b>	<b>Future Additional Use (AF)</b>	<b>Total Industrial Use (AF)</b>
Navajo	129	31,970	32,099
Hopi	0	1,102	1,102
White Mountain Apache	162	0	162
<b>Total</b>	<b>291</b>	<b>33,072</b>	<b>33,363</b>

## MINING WATER USE

### Description of Water Use

Water consumption for pipeline slurry, dust control, construction, potable purposes, evaporation from sedimentation ponds and related mining activities.

### Location and Sources of Water Use

The location of present mining uses are at the Peabody Coal Company mine on Black Mesa. Future mining activities may be located throughout the Reservations. Additional future uses will result from development of future sedimentation ponds which will be located at or near future mining sites. There are 56 wells on the Navajo Reservation which serve mining uses. The current and future uses on the Navajo and Hopi reservations are listed in Table IX.

Sources of mining water use will be primarily from the N-Aquifer (mainly Navajo Sandstone) and C-Aquifer (mainly Coconino Sandstone). However, groundwater in other aquifers and water bearing rocks and deposits may be used. Additional water is derived from surface runoff.

Table IX Mining Water Use

Tribe	Present Mining Use (AF)	Future Mining Use (AF)	Total Mining Use (AF)
Navajo & Hopi	8,449	11,065	19,514
Total	8,449	11,065	19,514

\*-Aggregated from the 1983 SOC (39-03-9(441))

MAPS

# Photo-Interpreted Existing & Historic Irrigated Lands

## Cameron

11/22/94

16:43

3303 224 1885

NRCE COLORADO

019/031

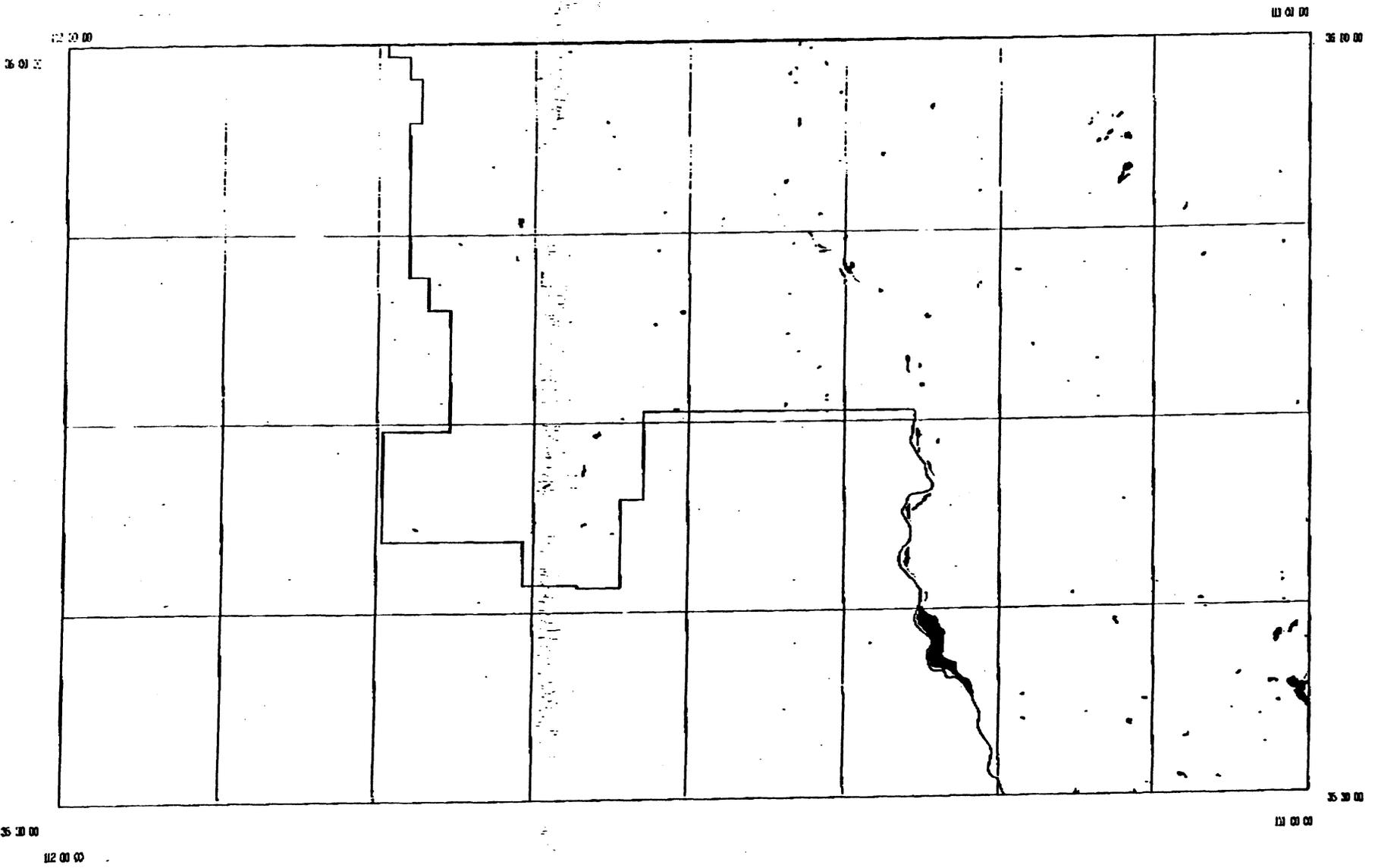
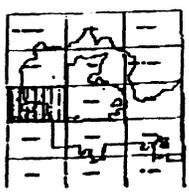


Photo Interpreted Existing and Historic Irrigated Lands - Cameron

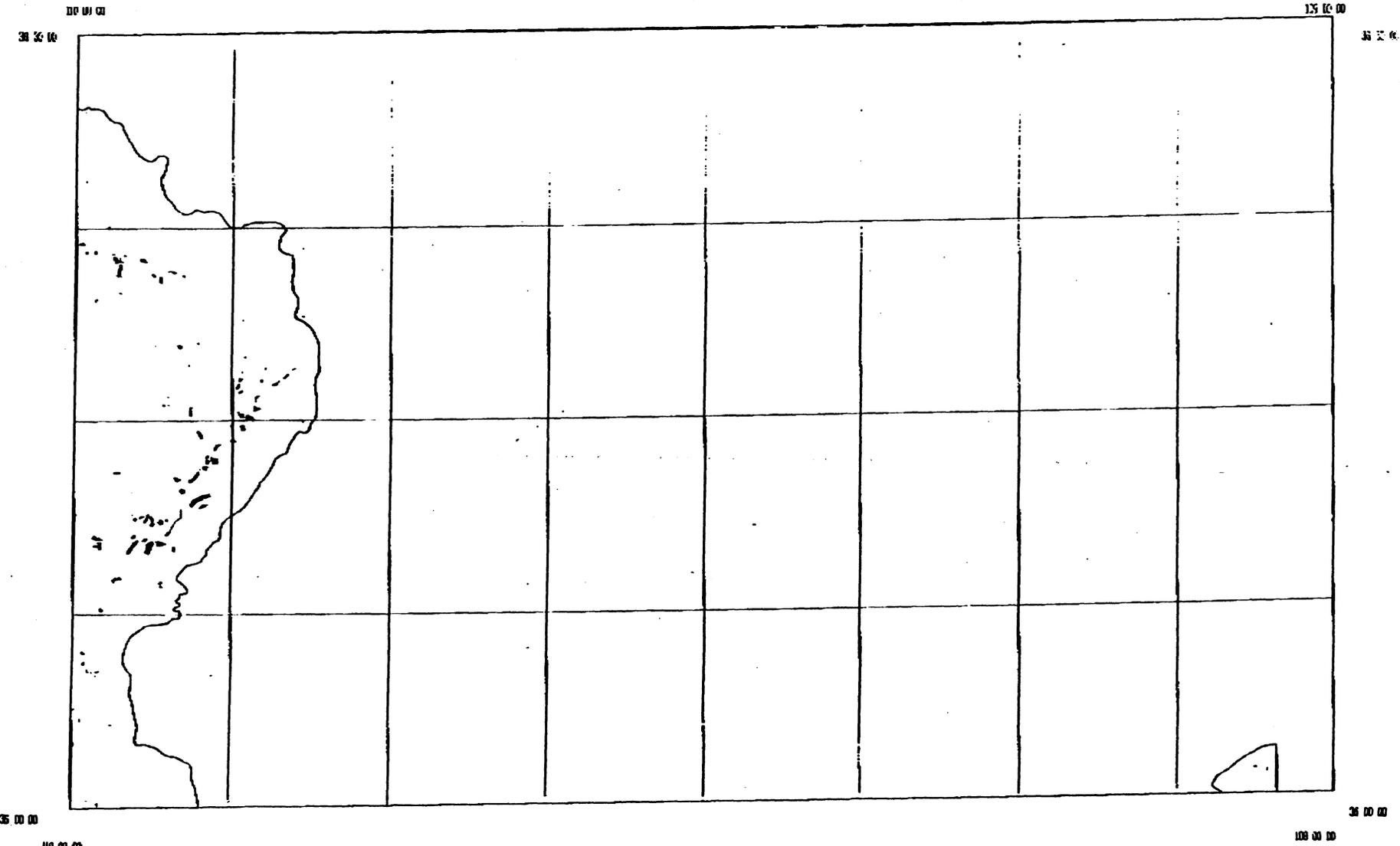
-  Fields
-  Canals
-  Reservation Boundary
-  7.5' Quad Boundaries



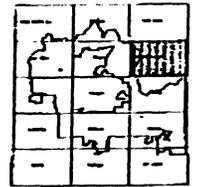
Produced by ARCI/USD to Robert B. Associates, Inc. and Edward L.

# Canyon de Chelly

11/22/94 16:43 303 224 1885 NRCE COLORADO 020/031



- Fields
- ▭ Canals
- ⊗ Reservation Boundary
- ⊗ 7.5' Quad Boundaries



Database compiled in 1982/1990 by Ewert & Associates, Inc. and Edward A. Gonzalez & Associates in cooperation with the Department of Justice and the Bureau of Indian Affairs

Photo Interpreted Existing and Historic Irrigated Lands - Canyon de Chelly

Flagstaff

11/22/94

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- Fields
- Canals
- Reservation Boundary
- 7.5' Quad Boundaries

State  
 Dept.  
 filed in 1970 by Esert & Associates, Inc. and Edward L.  
 ... in cooperation with the Department of Justice and  
 ...

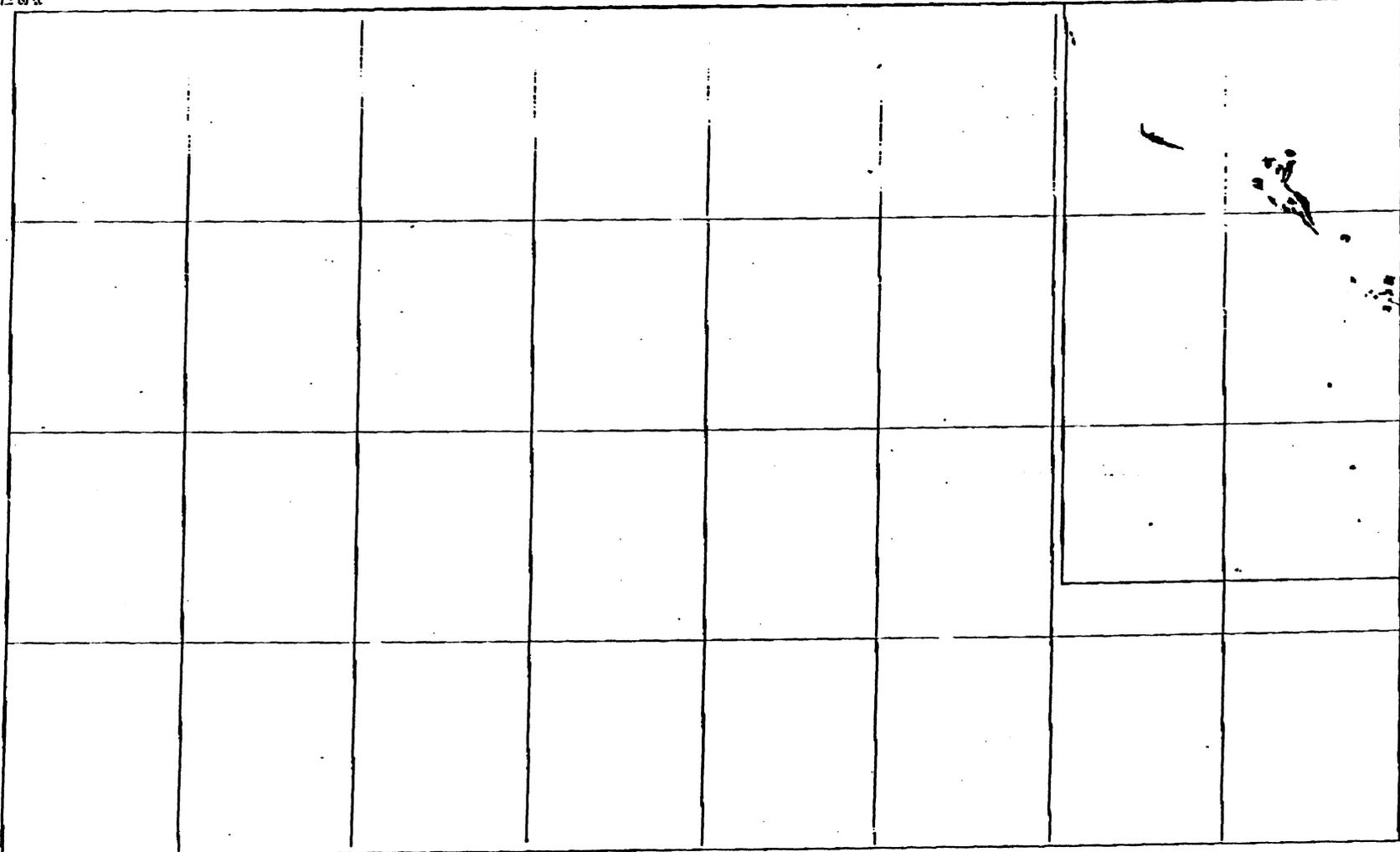
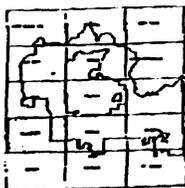


Photo Interpreted Existing and Historic Irrigated Lands - Flagstaff

Canonado

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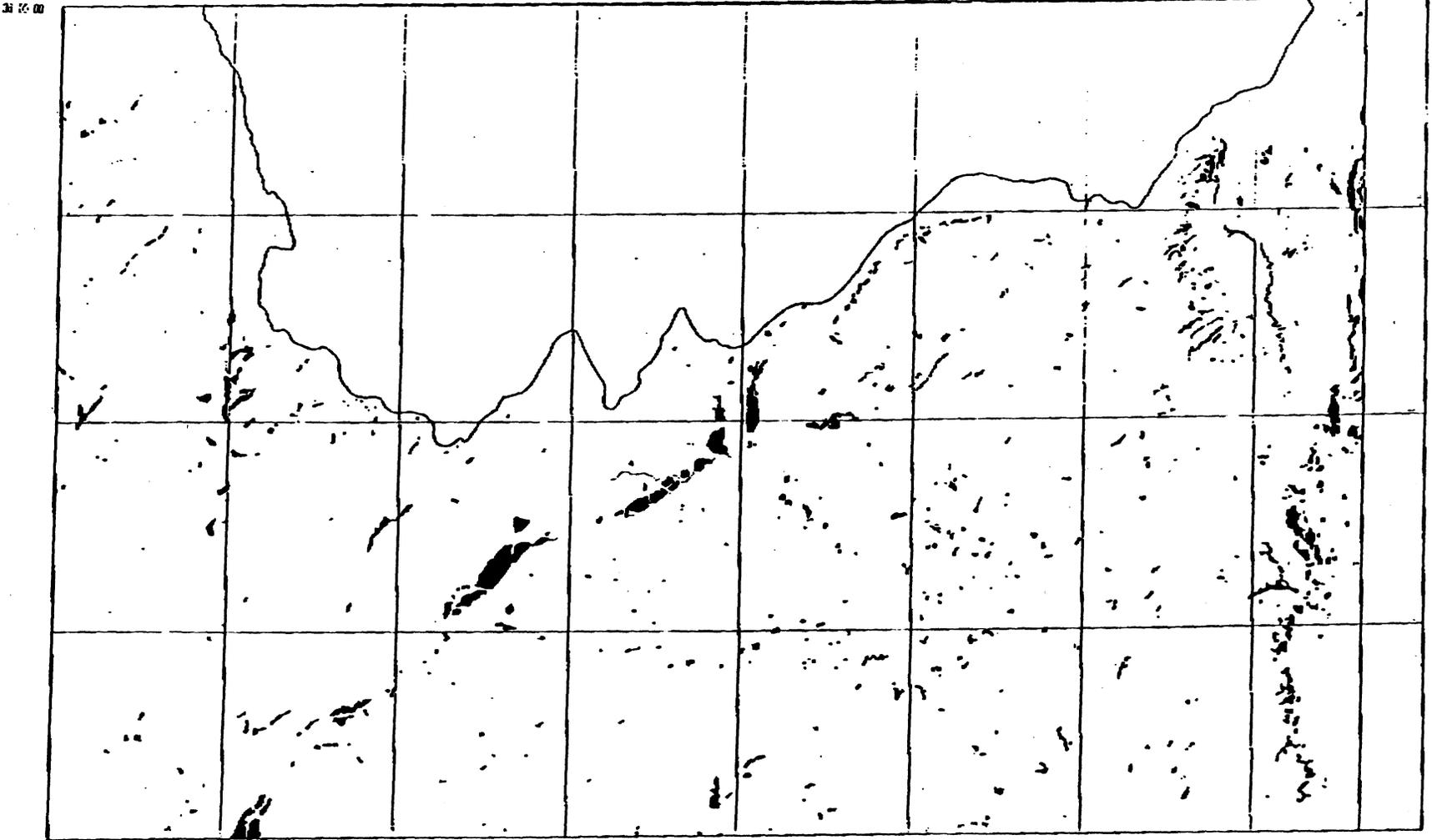
303 224 1885

NRCE COLORADO

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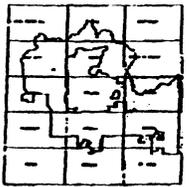
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- Fields
- Canals
- - - Reservation Boundary
- ⊠ 7.5' Quad Boundaries



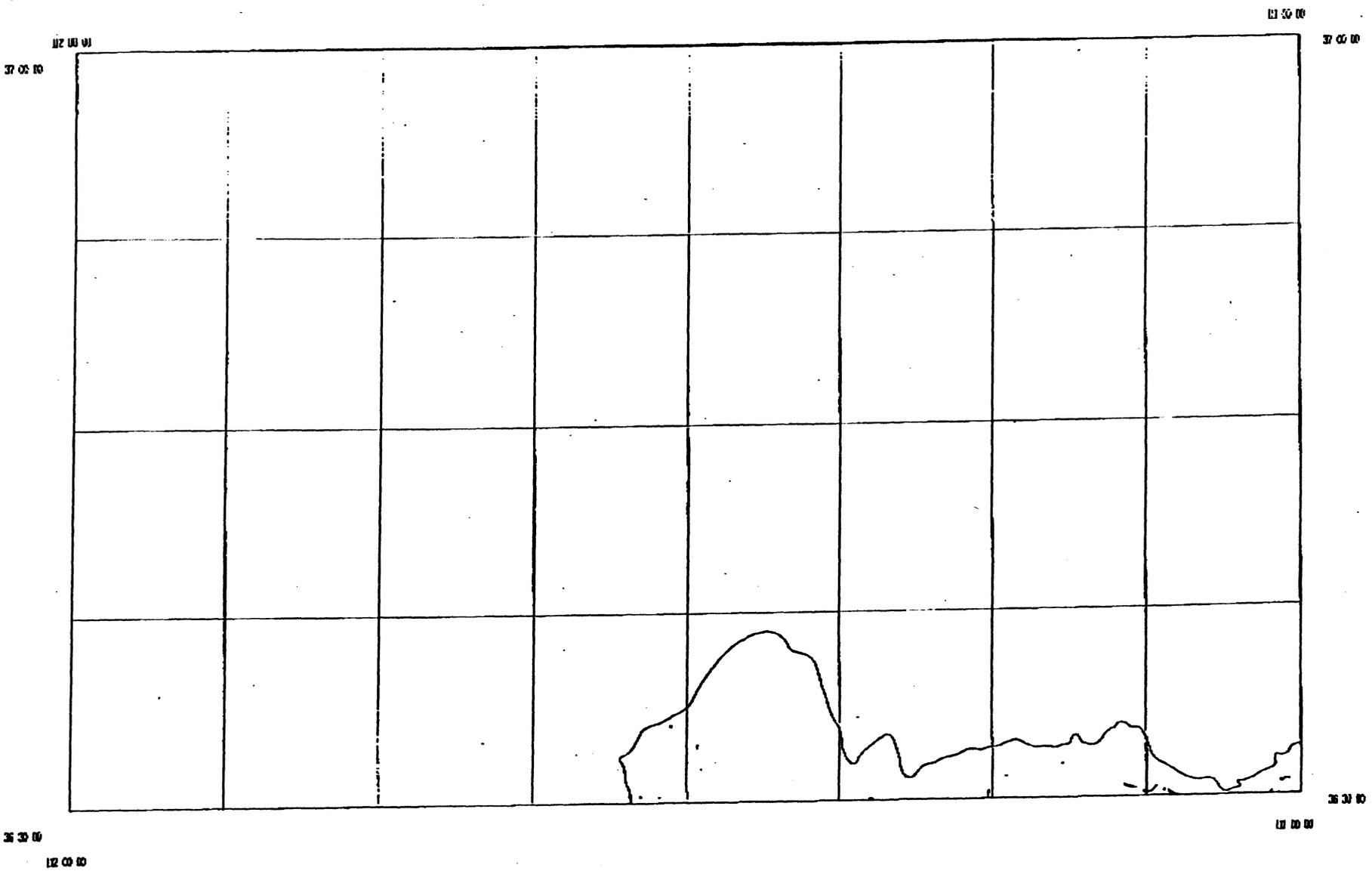
Database compiled in ARC/INFO by Ebert & Associates, Inc. and Edward L. Coates in cooperation with the Department of Justice and the Bureau des Affaires Indiennes.

Photo Interpretation Existing and Historic Irrigated Lands - Canonado

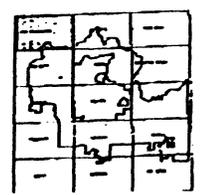
# Photo-Interpreted Existing & Historic Irrigated Lands

## Glen Canyon Dam

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- Fields
- Canals
- ⊠ Reservation Boundary
- ⊠ 7.5' Quad Boundaries



Compiled in 1973 by Elert & Associates, Inc. and Edward L. & Associates in cooperation with the Department of Justice and

Photo Interpreted Existing and Historic Irrigated Lands - Glen Canyon Dam

# Photo-Interpreted Existing & Historic Irrigated Lands

## Holbrook

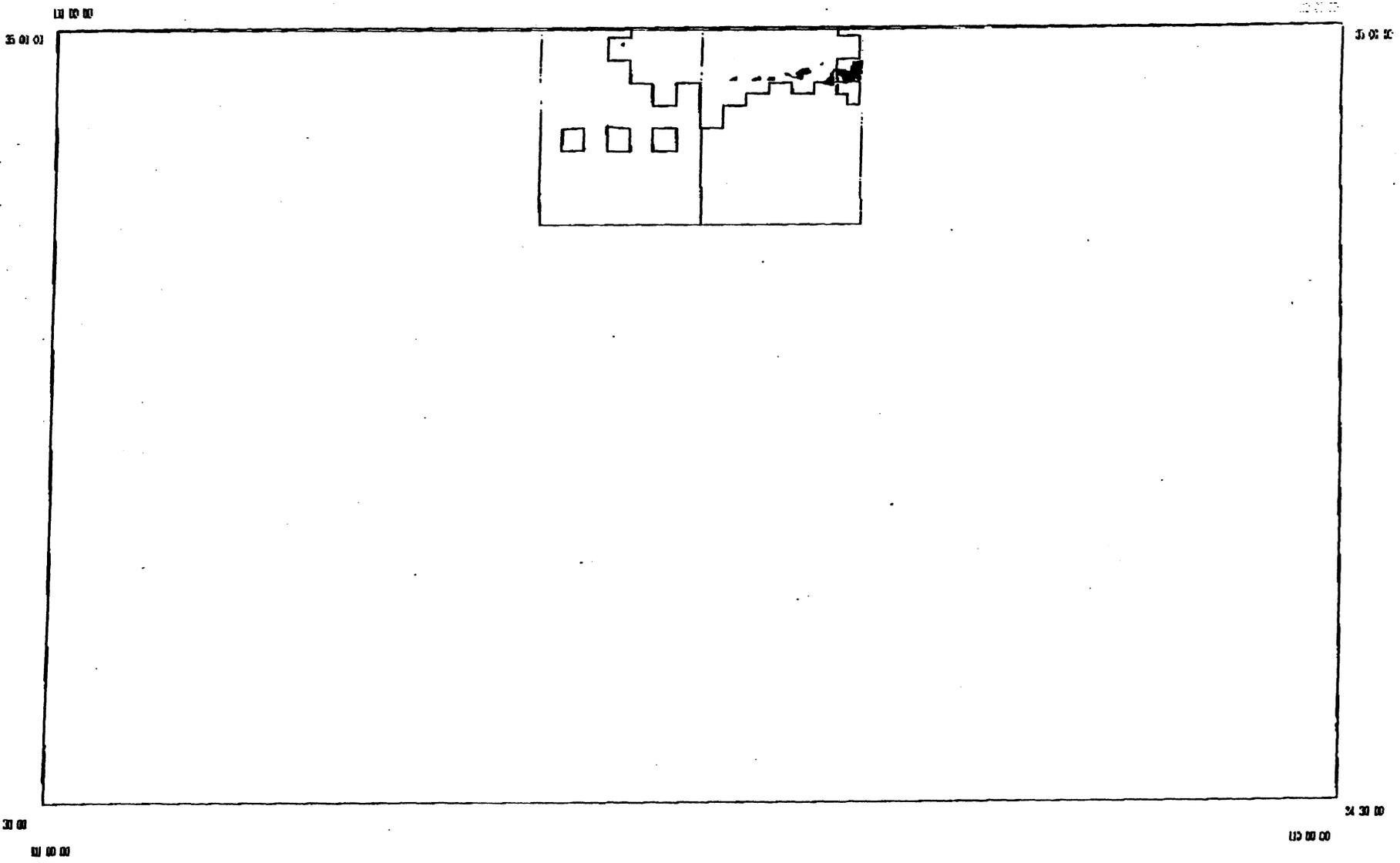
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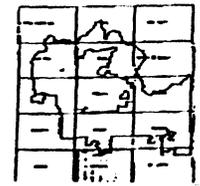
NRCE COLORADO

024/031



- Fields
- ▨ Canals
- ▤ Reservation Boundary
- ▥ 7.5' Quad Boundaries

27



Database 10 In 1979 by Esri & Associates, Inc. and Edward L. ...

Photo Interpreted Existing and Historic Irrigated Lands - Holbrook

# Photo Interpreted Existing & Historic Irrigated Lands

## Kayenta

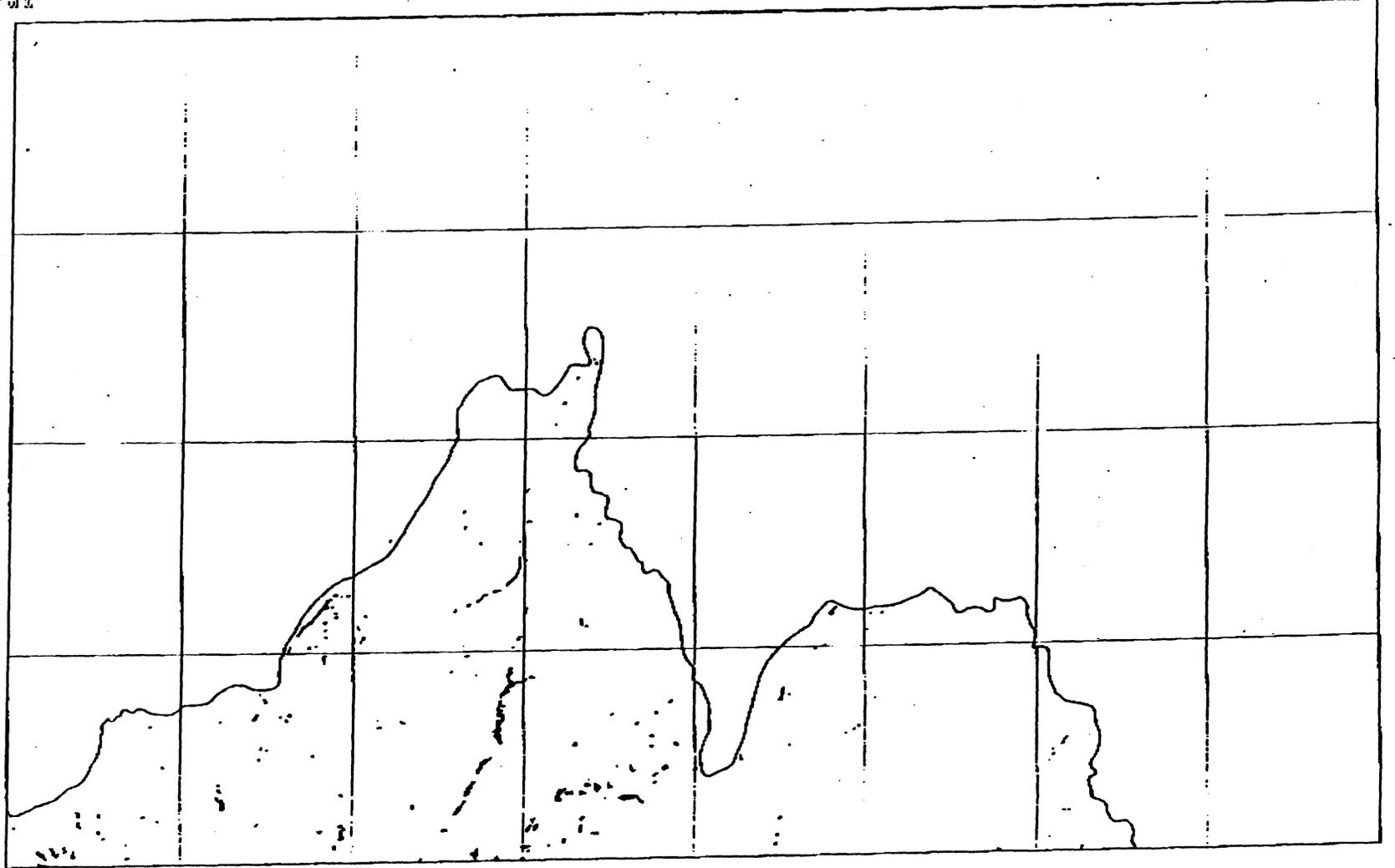
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NRCE COLORADO

025/031



- Fields
- Canals
- ⊗ Reservation Boundary
- ⊗ 7.5' Quad Boundaries

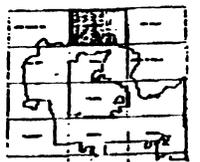


Photo Interpreted Existing and Historic Irrigated Lands - Kayenta

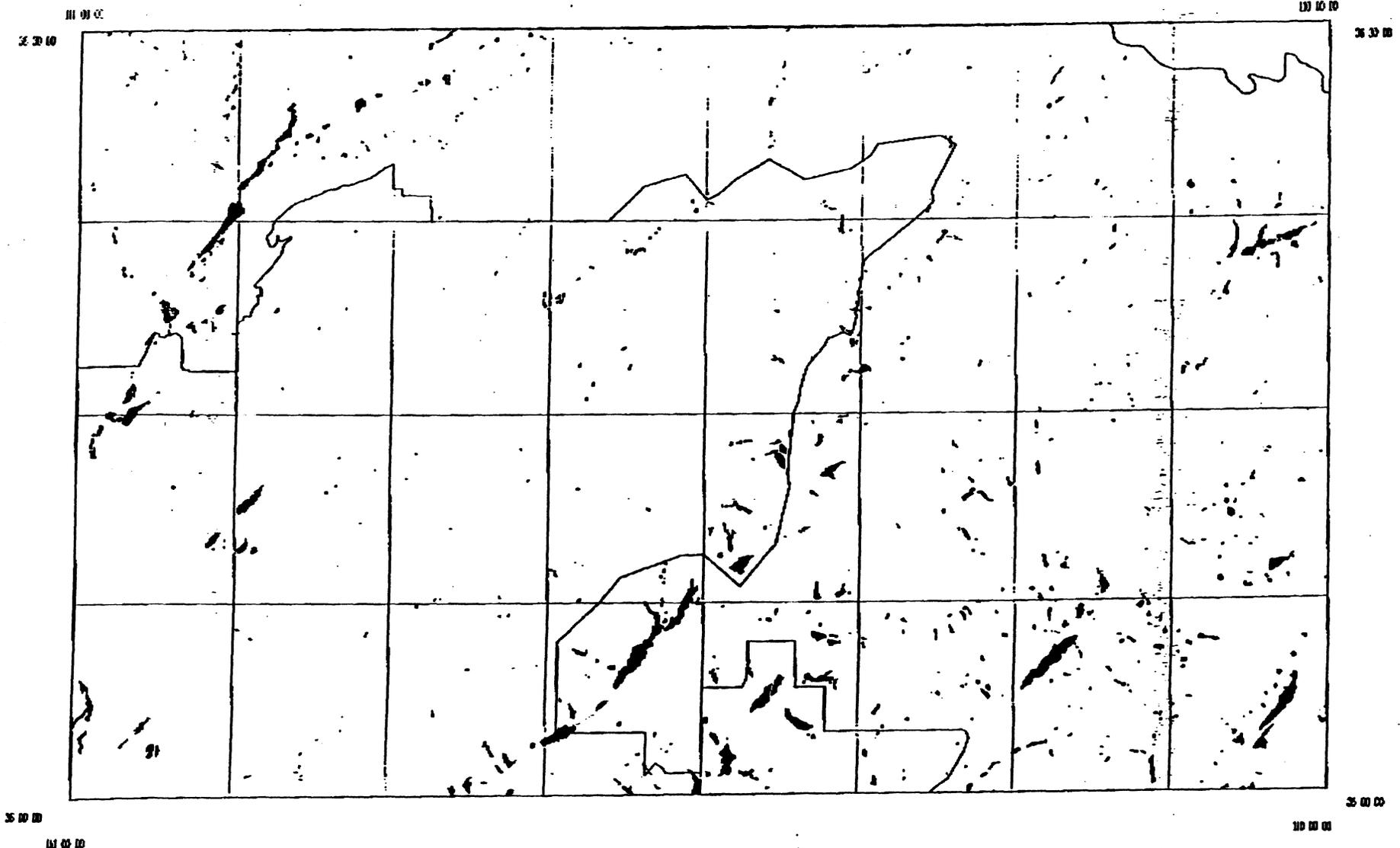
...here permitted to REPRODUCE by Chief & Associates, Inc. and Elwood J.

Pinon

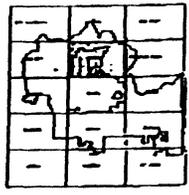
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NRCE COLORADO

026/031



- Fields
- Canals
- ▬ Reservation Boundary
- ▭ 7.5' Quad Boundaries

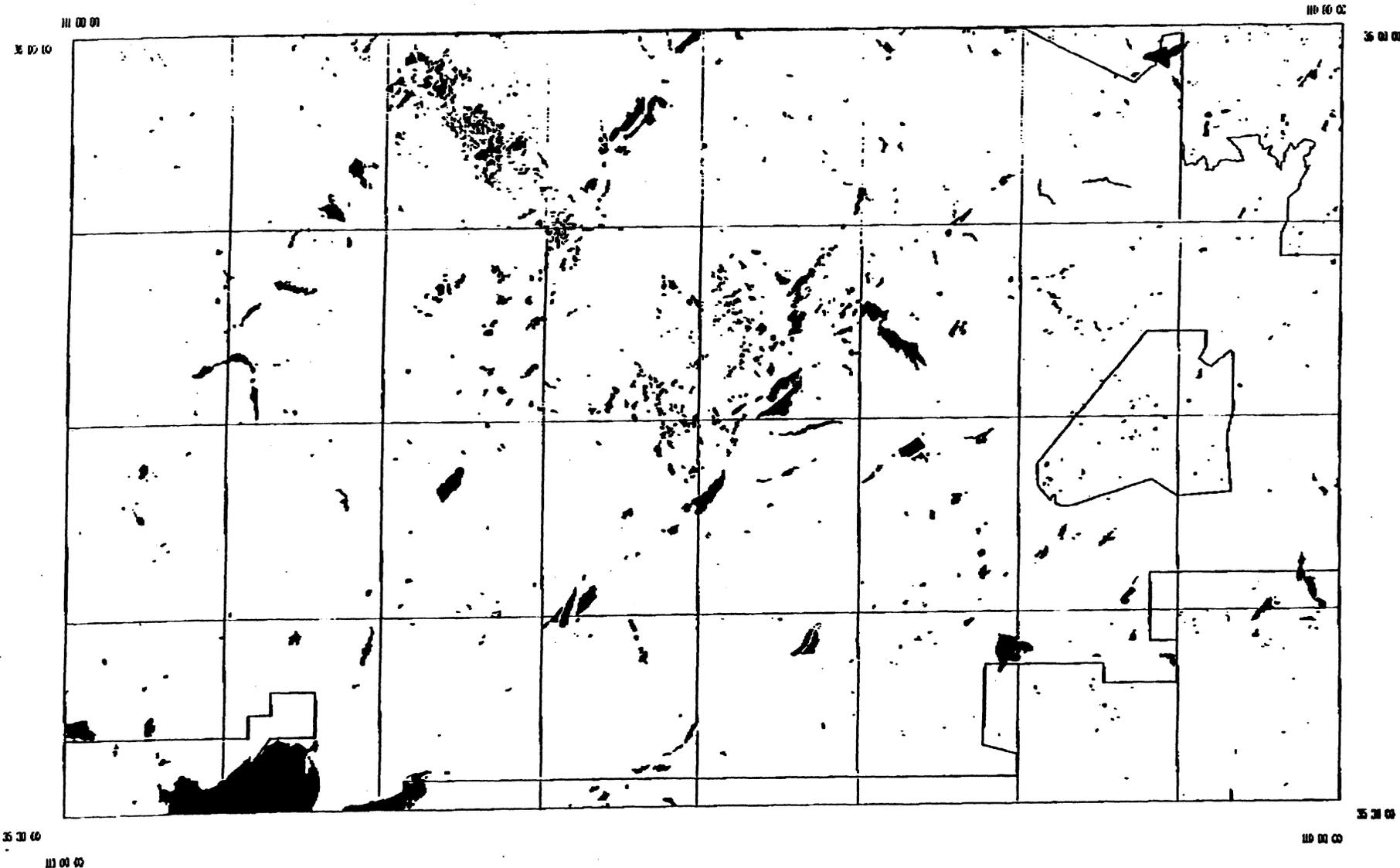


Digitized in 1987 by Clark & Associates, Inc. and Edward S. Associates in cooperation with the Department of Justice and the Bureau of Indian Affairs

Photo Interpreted Existing and Historic Irrigated Lands - Pinon  
21

# Photo-Interpreted Existing Historic Irrigated Lands

## Polacca



- Fields
- Canals
- ▨ Reservation Boundary
- ▩ 7.5' Quad Boundaries

Database compiled in 1974 by Ebert & Associates, Inc. and Edward L. Gonzalez & Associates in cooperation with the Department of Justice and the Bureau of Indian Affairs

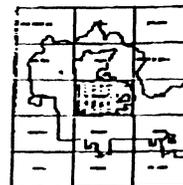
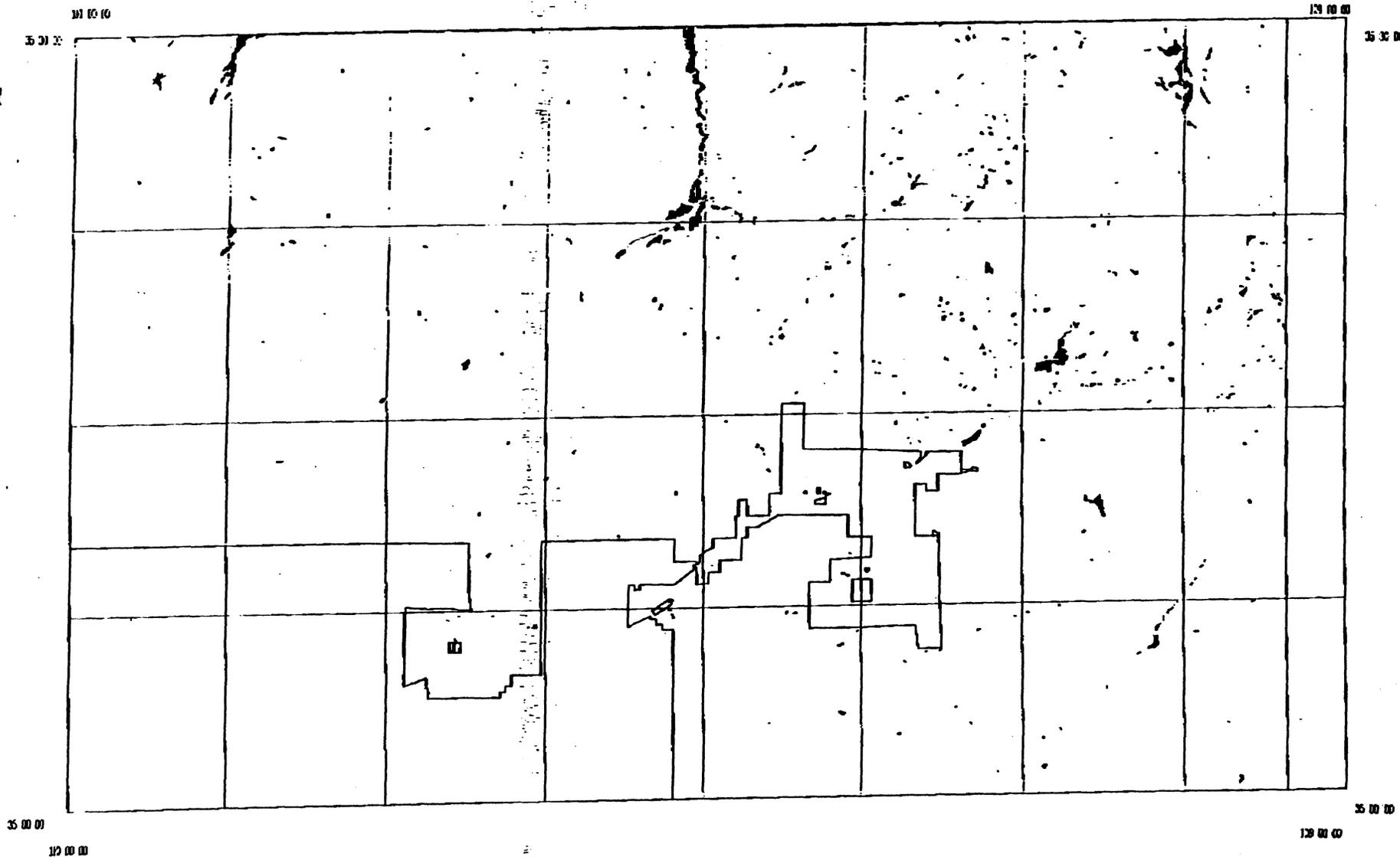


Photo-Interpreted Existing and Historic Irrigated Lands Polacca

# Photo-Interpreted Existing & Historic Irrigated Lands

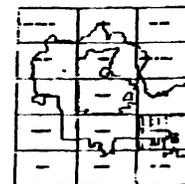
## Sanders

Photo Interpreted Existing and Historic Irrigated Lands - Sanders  
23



- Fields
- ▭ Canals
- - - Reservation Boundary
- ▭ 7.5' Quad Boundaries

Data compiled in ARC/INFO by Ebert & Associates, Inc. and Edward L. Gonzalez & Associates in cooperation with the Department of Justice and the Bureau of Indian Affairs



11/26/84 10:40 0000 24 1000 NAME VOLUNARY T00/0000 PR

# Photo-Interpreted Existing & Historic Irrigated Lands

## St. Johns

11/22/84

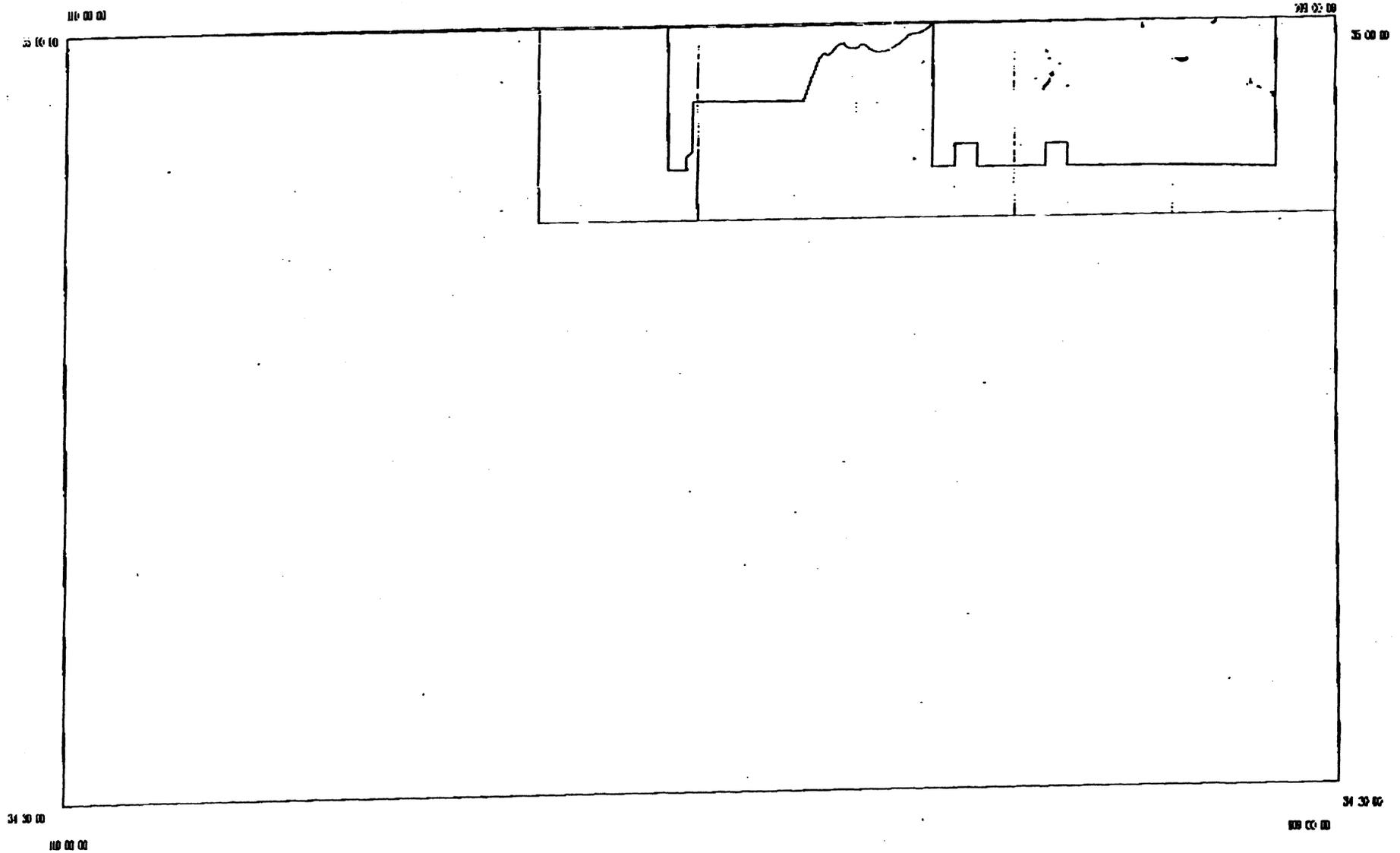
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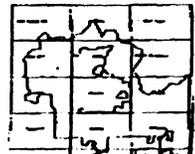
NRIE VOLUNTEER

10/16/01

Photo Interpreted Existing and Historic Irrigated Lands - St. Johns  
24

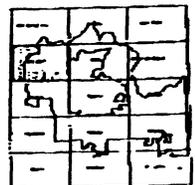
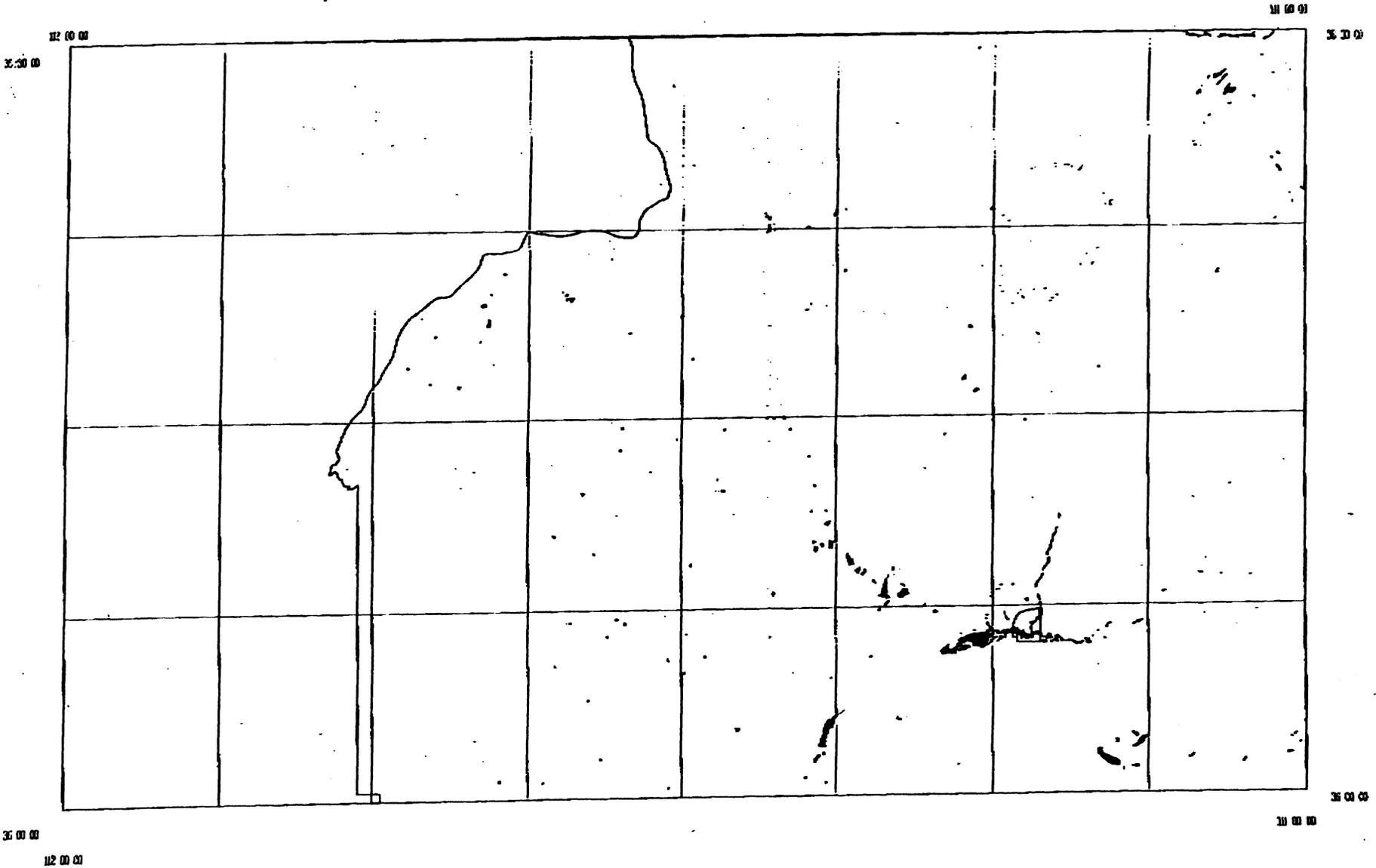


- Fields
- Canals
- ⊗ Reservation Boundary
- ⊗ 7.5' Quad Boundaries



# Photo-Interpreted Existing & Historic Irrigated Lands

## Tuba City



- Fields
- ▨ Canals
- ▤ Reservation Boundary
- ▧ 7.5' Quad Boundaries

Reproduction compiled in 1963/1970 by Ebert & Associates, Inc. and Edward E. Gosselin & Associates in cooperation with the Department of Justice and the Bureau of Indian Affairs.

Photo Interpreted Existing and Historic Irrigated Lands - Tuba City

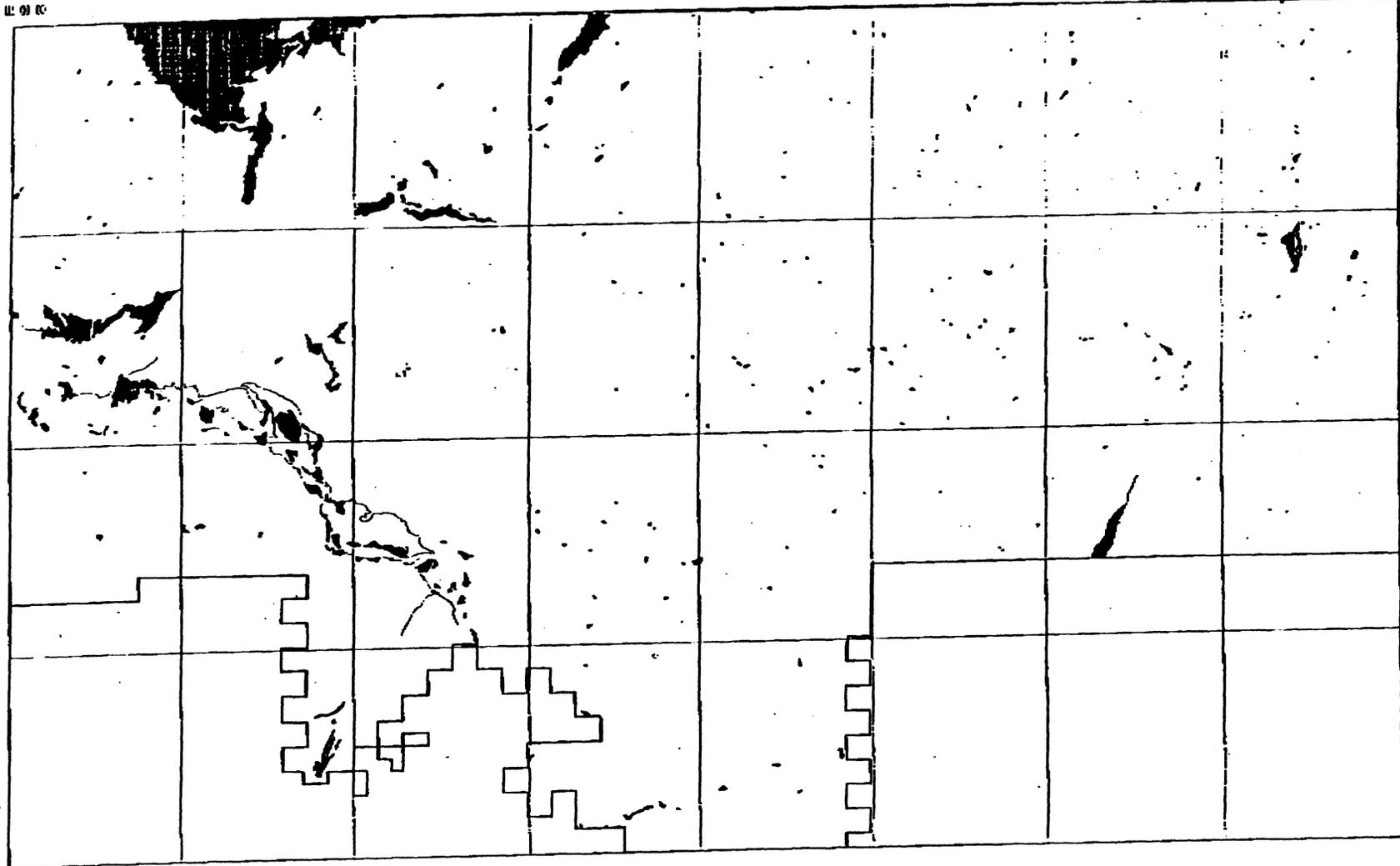
# Photo-Interpreted Existing & Historic Irrigated Lands

## Winslow

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- Fields
- ▨ Canals
- ▤ Reservation Boundary
- ▥ 7.5' Quad Boundaries

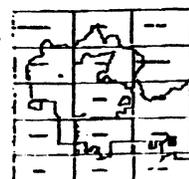


Photo Interpreted Existing and Historic Irrigated Lands - Winslow

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# APPENDIX L

**WATER LEVEL DATA, ELEVATION  
CHANGES AND HYDROGRAPHS FOR  
WELLS MONITORED NEAR THE  
CORONADO GENERATING STATION (CGS)**

**Data Source: SRP, 2004.**

## *Summary of CGS 2003 Water Level Data*

<i>Well ID</i>	<i>Date</i>	<i>Depth to Water</i>	<i>Groundwater Elevation</i>	<i>Comment</i>
<i>10W</i>	3/20/2003			Couldn't get reading.
	9/25/2003	184.9	5723.4	Good Measurement
<i>14W</i>	3/20/2003	59.9	5909.1	Good Measurement
	9/25/2003	74.5	5894.5	Good Measurement
	10/9/2003	179.3	5789.7	Pumping water level.
<i>17W</i>	10/9/2003	126.1	5796.9	Pumping water level.
<i>19W</i>	3/20/2003			Could not measure.
	9/25/2003			Obstruction - could not measure
<i>20W</i>	3/21/2003	126.2	5511.8	Good Measurement
	9/25/2003	132.1	5505.9	Good Measurement
<i>21W</i>	3/21/2003	144.9	5582.1	Good Measurement
	9/25/2003	146.9	5580.1	Good Measurement
<i>25WL</i>	9/25/2003			No access
<i>27W</i>	10/9/2003	50.3	5699.7	Good Measurement
<i>30W</i>	10/9/2003			No access
<i>31W</i>	3/20/2003			Could not read.
	10/9/2003			Obstruction - could not measure
<i>34W</i>	3/20/2003			could not read.
	9/25/2003	139.0	5936.0	Good Measurement
<i>37W</i>	3/21/2003			couldn't measure, hung up.
	9/25/2003			Obstruction - could not measure
<i>40W</i>	3/21/2003			couldn't measure, hung up.
	9/25/2003	203.5	5389.5	Good Measurement
<i>42W</i>	3/21/2003	24.7	5417.3	Good Measurement
	9/25/2003	25.1	5416.9	Good Measurement
<i>43W</i>				

## *Summary of CGS 2003 Water Level Data*

<i>Well ID</i>	<i>Date</i>	<i>Depth to Water</i>	<i>Groundwater Elevation</i>	<i>Comment</i>
46W	3/21/2003	30.2	5443.8	Good Measurement
	9/25/2003	33.5	5440.5	Good Measurement
47W	3/21/2003	39.2	5470.8	Good Measurement
	9/25/2003	39.6	5470.4	Good Measurement
48W	3/20/2003	112.3	5504.7	Good Measurement
	9/25/2003	111.6	5505.4	Good Measurement
49W	3/20/2003	96.1	5532.9	Good Measurement
	9/25/2003	96.4	5532.6	Good Measurement
4W	9/25/2003	63.7	5702.8	Good Measurement
51W	10/16/2003	19.5	6002.6	Good Measurement
54W	3/21/2003	186.4	5353.6	Good Measurement
	9/25/2003			No access
55W	9/25/2003	219.9	5469.6	Good Measurement
57W	3/20/2003	97.2	5644.8	
	9/25/2003	99.4	5642.6	Good Measurement
57WZ	10/9/2003			Dry
58W	10/9/2003	134.4	5777.1	Good Measurement
59W	10/9/2003	160.0	5576.0	Good Measurement
5W	10/9/2003	155.1	5576.9	Good Measurement
61W	10/16/2003	123.3	5971.7	Good Measurement
64W	3/20/2003			New solar pump, obstruction.
	9/25/2003	58.0	5461.0	Good Measurement
65W	3/20/2003			Obstruction - could not measure
	9/25/2003	152.7	5723.3	Good Measurement

## *Summary of CGS 2003 Water Level Data*

<i>Well ID</i>	<i>Date</i>	<i>Depth to Water</i>	<i>Groundwater Elevation</i>	<i>Comment</i>
	3/20/2003			Obstruction - could not measure
	9/25/2003			Obstruction - could not measure
66W	3/20/2003	270.8	5460.2	Good Measurement
	9/25/2003	271.9	5459.1	Good Measurement
67W	3/20/2003	183.6	5598.9	Good Measurement
	9/25/2003	179.7	5602.8	Good Measurement
68W	3/20/2003	428.6	5976.4	Good Measurement
	9/25/2003	430.2	5974.8	Good Measurement
69W	3/20/2003			No measurement.
71W	9/25/2003	77.8	5542.4	Good Measurement
75W	3/20/2003	93.7	5507.3	Good Measurement
	9/25/2003	94.9	5506.1	Good Measurement
76W	9/25/2003	81.7	5884.3	Good Measurement
77W	10/9/2003	214.5	5780.6	Good Measurement
78W	3/20/2003	431.4	5998.6	Good Measurement
	9/25/2003	431.7	5998.3	Good Measurement
7W	3/20/2003	546.0	6141.0	Good Measurement
	9/25/2003	546.3	6140.8	Good Measurement
81W	3/20/2003	561.6	5986.4	Good Measurement
	9/25/2003	564.7	5983.3	Good Measurement
82W	3/20/2003	22.0	5493.0	PSI
	9/25/2003	18.0	5497.0	PSI
83W	3/20/2003	374.6	5132.4	Good Measurement
	9/25/2003	378.8	5128.2	Good Measurement
84W	3/20/2003	56.8	5954.2	Good Measurement
	9/25/2003	58.7	5952.3	Good Measurement

## *Summary of CGS 2003 Water Level Data*

<i>Well ID</i>	<i>Date</i>	<i>Depth to Water</i>	<i>Groundwater Elevation</i>	<i>Comment</i>
<i>85W</i>	3/20/2003	42.3	5820.9	Good Measurement
	9/25/2003	50.2	5813.0	Good Measurement
<i>86W</i>	3/20/2003	199.2	5578.1	Good Measurement
	9/25/2003	200.5	5576.8	Good Measurement
<i>87W</i>	3/20/2003	466.4	5660.0	Good Measurement
	9/25/2003	467.5	5658.9	Good Measurement
<i>88W</i>	3/21/2003	59.7	5383.8	Good Measurement
	9/25/2003	67.6	5375.9	Good Measurement
<i>89W</i>	3/20/2003			sounder stuck, couldn't measure.
	9/25/2003	42.9	6045.6	Good Measurement
<i>8W</i>	3/20/2003	682.7	6201.8	Good Measurement
	9/25/2003	682.6	6202.0	Good Measurement
<i>90W</i>	3/20/2003	87.0	6214.6	Good Measurement
	9/25/2003	86.8	6214.7	Good Measurement
<i>91W</i>	3/20/2003	216.7	5649.8	Good Measurement
	9/25/2003	221.5	5645.0	Good Measurement
<i>93W</i>	3/20/2003	214.7	6101.8	Good Measurement
	9/25/2003	215.9	6100.6	Good Measurement
<i>94W</i>	3/20/2003	593.0	6338.5	Good Measurement
	9/25/2003	593.7	6337.8	Good Measurement
<i>C-17A-OB</i>	10/9/2003	235.9		
<i>C-17-OB</i>	10/9/2003	253.9	5483.1	Good Measurement
<i>C-18-OB1</i>	10/9/2003	275.9	5495.2	
<i>C-18-OB2</i>	10/9/2003	247.8	5479.2	Good Measurement
<i>C-24A-OB</i>	10/9/2003	217.6		

## *Summary of CGS 2003 Water Level Data*

<i>Well ID</i>	<i>Date</i>	<i>Depth to Water</i>	<i>Groundwater Elevation</i>	<i>Comment</i>
<i>C-24-OB</i>	10/9/2003	281.1	5587.9	Good Measurement
<i>C-7-OB</i>	9/25/2003			Obstruction - could not measure
<i>C-8-OB</i>	10/9/2003	318.3	5450.7	Good Measurement
<i>G-15-OB2</i>	3/20/2003	289.4	5557.1	Good Measurement
	9/25/2003	279.6	5566.9	Good Measurement
<i>G-17-OB</i>	3/20/2003	283.6	5575.4	Good Measurement
	9/25/2003	284.0	5575.0	Good Measurement
<i>G-21-OB</i>	3/20/2003	344.5	5580.5	Good Measurement
	9/25/2003	345.3	5579.7	Good Measurement
<i>G-22-OB</i>	3/20/2003	276.8	5583.2	Good Measurement
	9/25/2003	277.4	5582.6	Good Measurement
<i>G-9-OB</i>	3/20/2003	247.9	5519.1	Good Measurement
	9/25/2003	248.3	5518.8	Good Measurement
<i>P-11-OB</i>	10/9/2003	171.8	5531.7	Good Measurement
<i>P-12-OB</i>	10/9/2003	214.6	5545.4	Good Measurement
<i>P-1-OB</i>	10/9/2003	354.7	5517.3	Good Measurement
<i>P-3-28-OB</i>	10/9/2003	135.6	5520.4	Good Measurement
<i>P-3-29-OB1</i>	10/9/2003	264.1	5519.9	Good Measurement
<i>P-3-29-OB2</i>	10/9/2003	337.6	5476.4	Good Measurement
<i>P-5-OB</i>	10/9/2003	300.6	5486.4	Good Measurement
<i>P-6-OB</i>	10/9/2003	362.8	5493.2	Good Measurement

## ***CGS Water Level Elevation Changes***

<i><b>Well ID</b></i>	<i><b>Water Level Elevation Fall 2003 (feet)</b></i>	<i><b>Water Level Elevation Fall 2002 (feet)</b></i>	<i><b>Water Level Elevation Fall 1977 (feet)</b></i>	<i><b>Change in Water Level Elevation: 2003-2002</b></i>	<i><b>Change in Water Level Elevation: 2003-1977</b></i>
10W	5723.4	5723.5	5727.4	-0.1	-4
14W	5789.7	5895.8	5920.3	-106.1	-130.6
14W	5894.5	5895.8	5920.3	-1.3	-25.8
17W	5796.9		5888.1		-91.2
20W	5505.9	5509.9	5508.4	-4	-2.5
21W	5580.1	5581.4	5588.1	-1.3	-8
27W	5699.7	5702.8	5723.7	-3.1	-24
34W	5936	5940.1		-4.1	
40W	5389.5		5376.9		12.6
42W	5416.9	5417.6	5356.8	-0.7	60.1
43W	5440.5	5441.8	5442.4	-1.3	-1.9
46W	5470.4	5471.2		-0.8	
47W	5505.4	5504.8	5529.2	0.6	-23.8
48W	5532.6	5528.4		4.2	
49W	5702.8	5704.7		-1.9	
4W	6002.6	6001.4	6008.1	1.2	-5.5
54W	5469.6	5496		-26.4	
55W	5642.6	5646.3		-3.7	
57WL	5777.1	5750.8		26.3	
58W	5576	5575.1		0.9	
59W	5576.9	5577.8		-0.9	
5W	5971.7	5972.2	5991.1	-0.5	-19.4
61W	5461				
64W	5723.3	5729.4		-6.1	
66W	5459.1	5481.6		-2.5	
67W	5602.8	5608.1		-5.3	
68W	5974.8	5975.4		-0.6	
71W	5542.4	5555.5		-13.1	
75W	5506.1	5505.4		0.7	
76W	5884.3	5887.2		-2.9	

## *CGS Water Level Elevation Changes*

<i>Well ID</i>	<i>Water Level Elevation Fall 2003 (feet)</i>	<i>Water Level Elevation Fall 2002 (feet)</i>	<i>Water Level Elevation Fall 1977 (feet)</i>	<i>Change in Water Level Elevation: 2003-2002</i>	<i>Change in Water Level Elevation: 2003-1977</i>
77W	5780.6	5781.2		-0.6	
78W	5998.3	5998.8		-0.5	
7W	6140.8	6140.3		0.5	
81W	5983.3	5983.6		-0.3	
82W	5497	5497		0	
83W	5128.2	5126.8		1.4	
84W	5952.3	5954.8		-2.5	
85W	5813	5811.7		1.3	
86W	5576.8	5576.9		-0.1	
87W	5658.9	5658.6		0.3	
88W	5375.9	5380.3		-4.4	
89W	6045.6	6046.1		-0.5	
8W	6202	6201.6		0.4	
90W	6214.7	6214.4		0.3	
91W	5645	5640		5	
93W	6100.6	6102.5		-1.9	
94W	6337.8	6337.3		0.5	
C-17-OB	5483.1	5453.4	5602.4	29.7	-119.3
C-18-OB1	5495.2	5507.9	5622.5	-12.7	-127.3
C-18-OB2	5479.2	5470.8	5600.2	8.4	-121
C-24-OB	5567.9	5535.2	5655.6	32.7	-87.7
C-8-OB	5450.7	5446.8	5571.8	3.9	-121.1
G-15-OB2	5586.9	5560.2		6.7	
G-17-OB	5575	5575.8		-0.8	
G-21-OB	5579.7	5580.1		-0.4	
G-22-OB	5582.6	5583.5		-0.9	
G-9-OB	5518.8	5519.7		-0.9	
P-11-OB	5531.7	5526.2		5.5	
P-12-OB	5545.4	5541.8		3.6	
P-1-OB	5517.3	5514.6	5614.2	2.7	-96.9

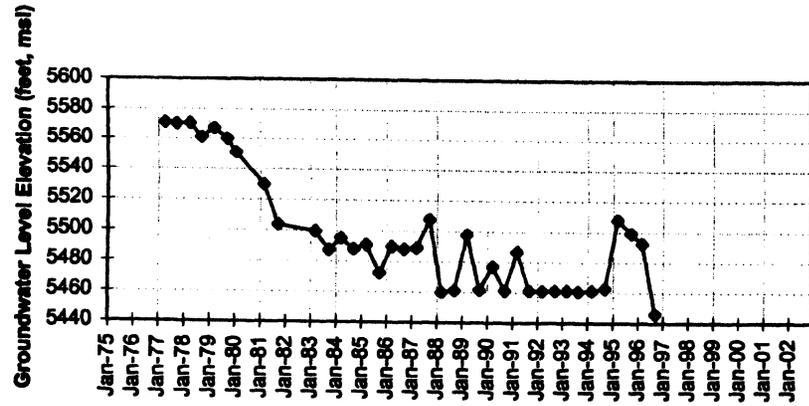
## ***CGS Water Level Elevation Changes***

<b><i>Well ID</i></b>	<b><i>Water Level Elevation Fall 2003 (feet)</i></b>	<b><i>Water Level Elevation Fall 2002 (feet)</i></b>	<b><i>Water Level Elevation Fall 1977 (feet)</i></b>	<b><i>Change in Water Level Elevation: 2003-2002</i></b>	<b><i>Change in Water Level Elevation: 2003-1977</i></b>
P-3-28-OB	5520.4	5516		4.4	
P-3-29-OB1	5519.9	5515.1		4.8	
P-3-29-OB2	5476.4	5513.8		-37.4	
P-5-OB	5486.4	5488		-1.6	
P-6-OB	5493.2	5495.3		-2.1	

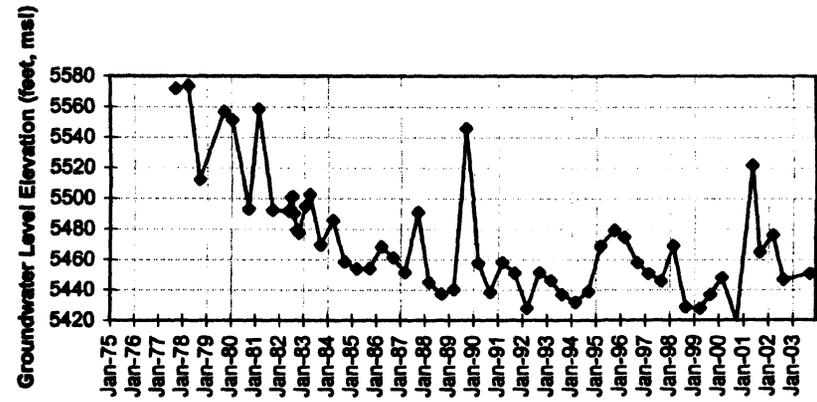
**Water Level Elevation Hydrographs  
Concho, Greer, and Patterson Wellfield  
Observation Wells**

**(Elevation in feet above mean sea level)**

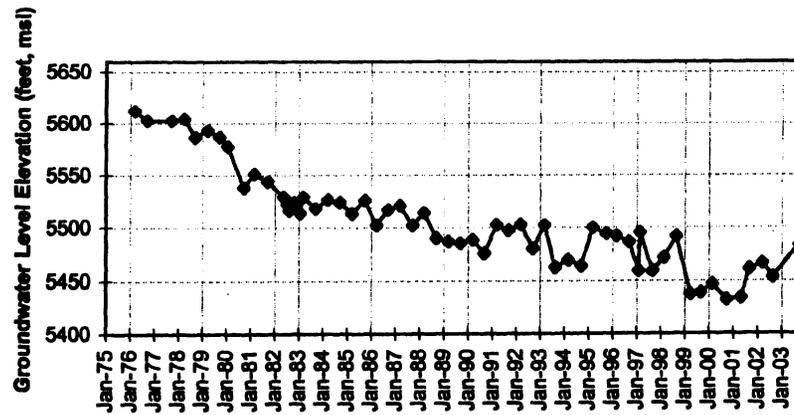
**Water Levels, C-7-OB, 1975 - 2003**



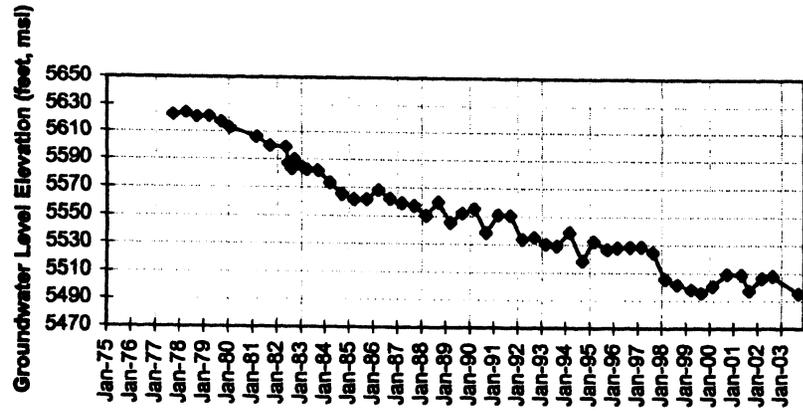
**Water Levels, C-8-OB, 1975 - 2003**



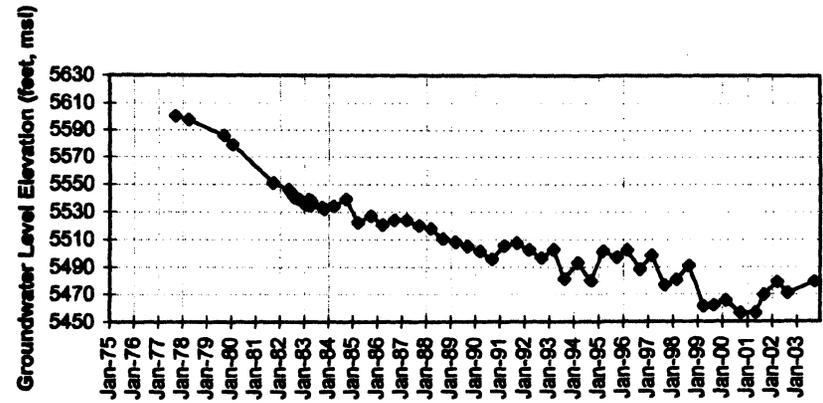
**Water Levels, C-17-OB, 1975 - 2003**



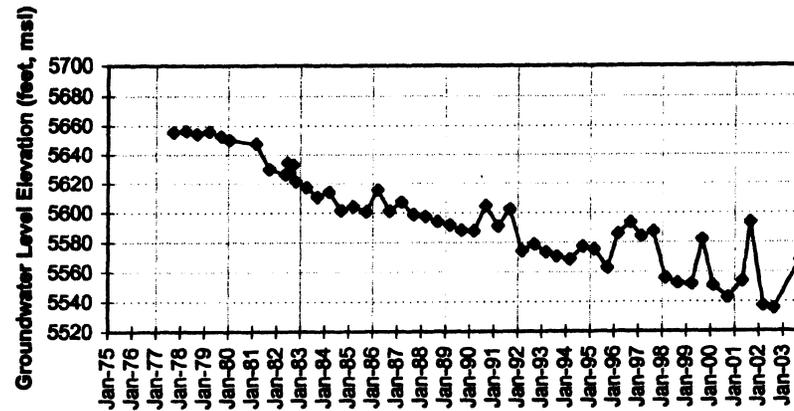
**Water Levels, C-18-OB1, 1975 - 2003**



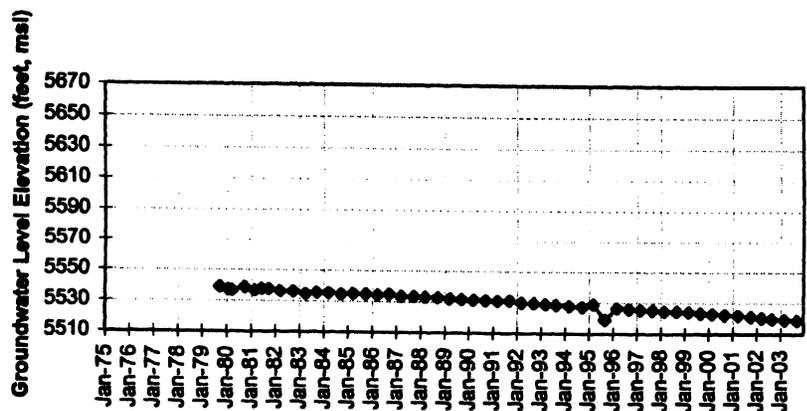
**Water Levels, C-18-OB2, 1975 - 2003**



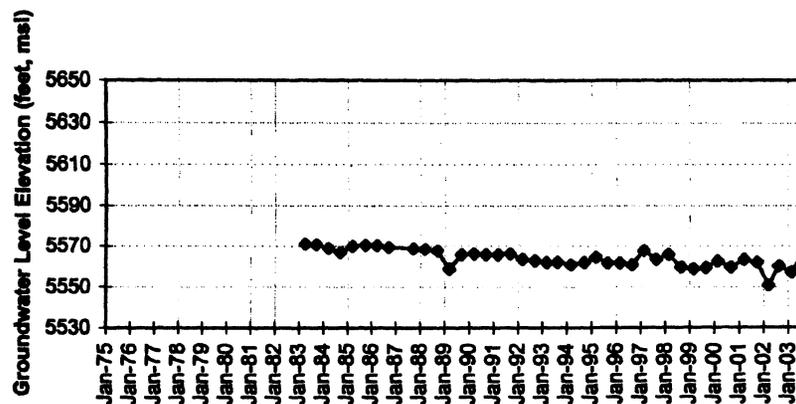
**Water Levels, C-24-OB, 1975 - 2003**



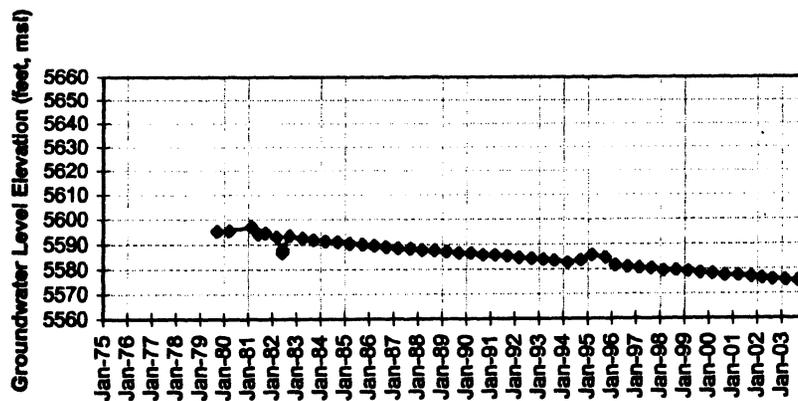
Water Levels, G-9-OB, 1975 - 2003



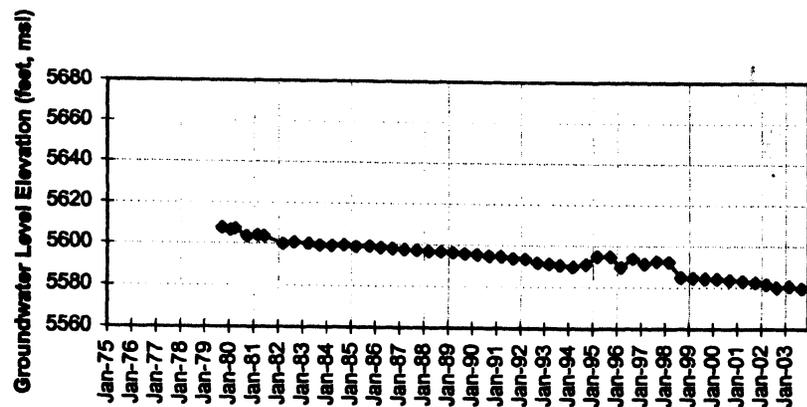
Water Levels, G-15-OB2, 1975 - 2003



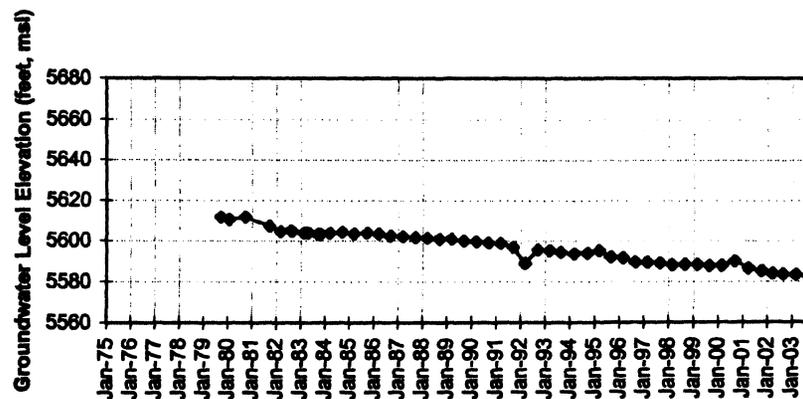
Water Levels, G-17-OB, 1975 - 2003



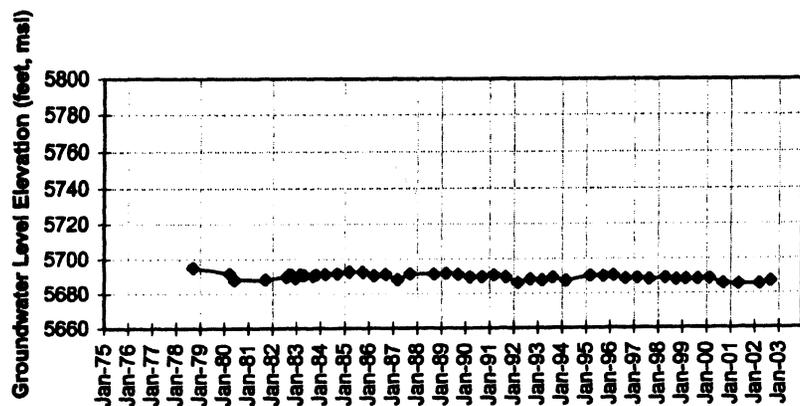
**Water Levels, G-21-OB, 1975 - 2003**



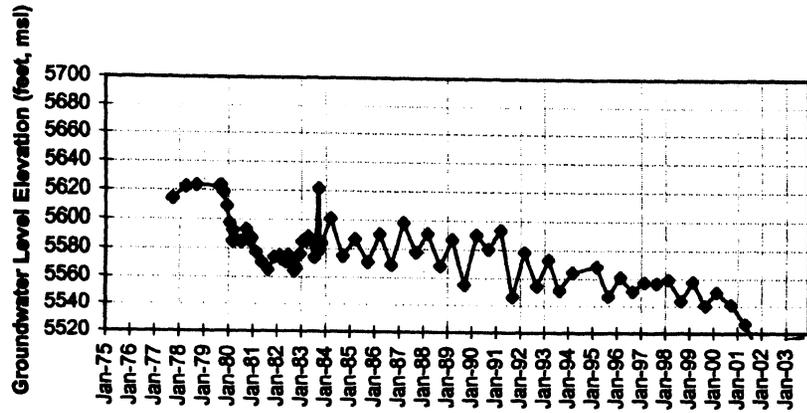
**Water Levels, G-22-OB, 1975 - 2003**



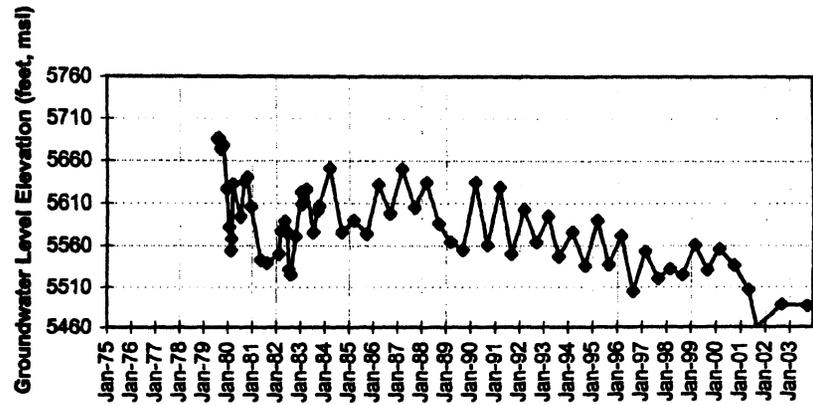
**Water Levels, G-25-OB, 1975 - 2003**



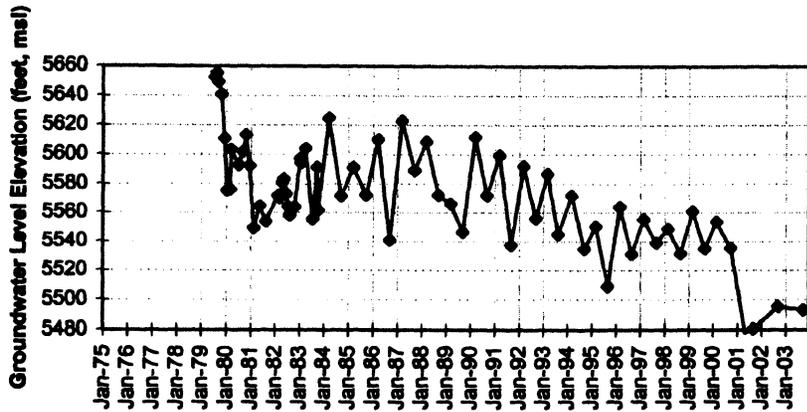
**Water Levels, P-1-OB, 1975 - 2003**



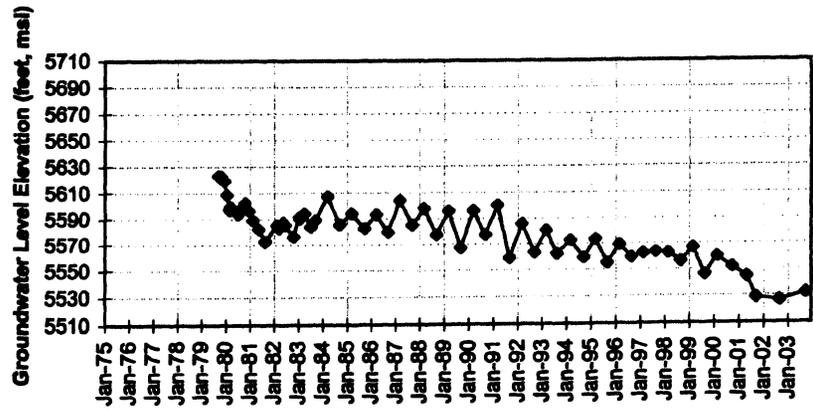
**Water Levels, P-5-OB, 1975 - 2003**



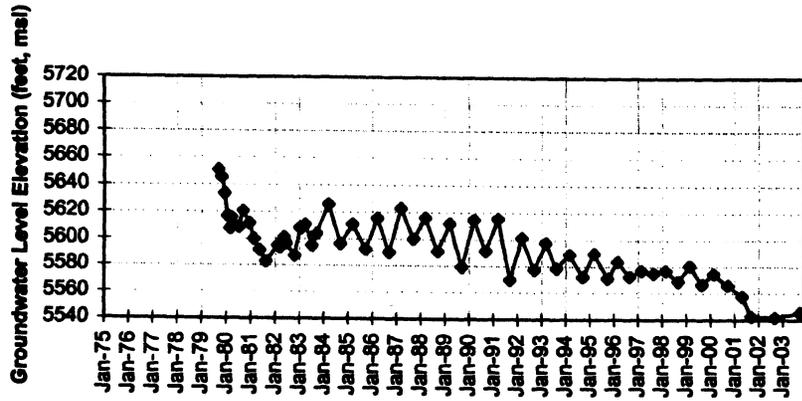
**Water Levels, P-6-OB, 1975 - 2003**



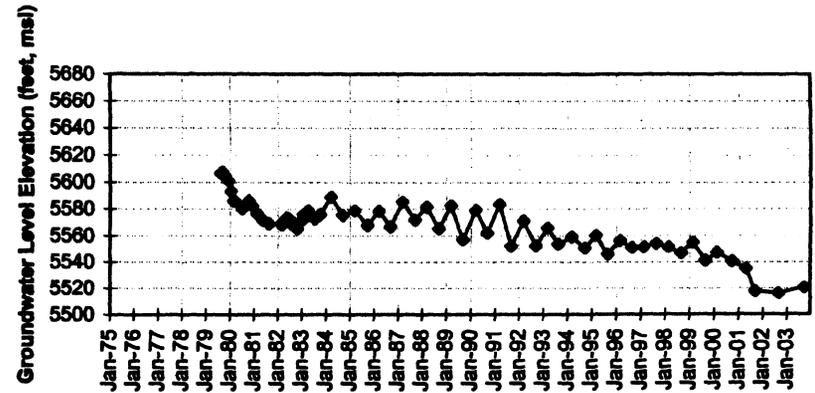
**Water Levels, P-11-OB, 1975 - 2003**



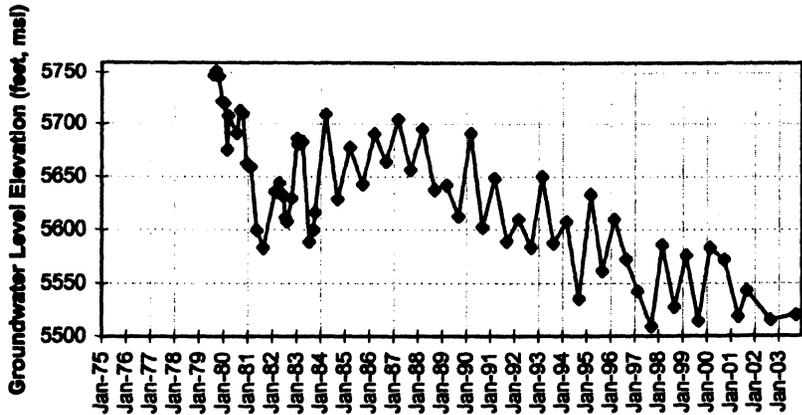
**Water Levels, P-12-OB, 1975 - 2003**



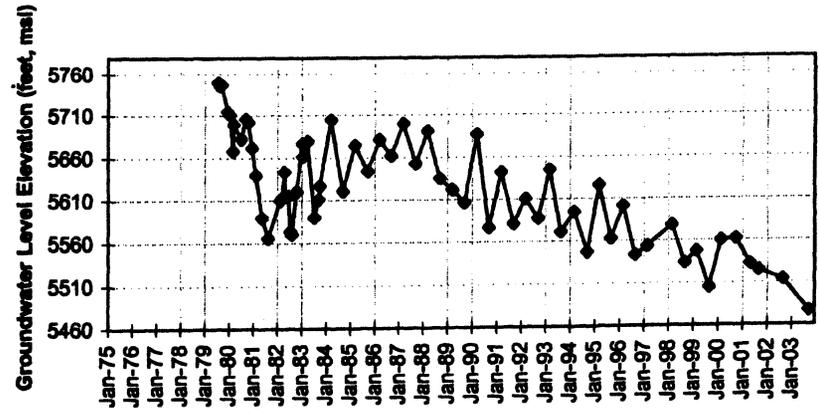
**Water Levels, P-3-28-OB, 1975 - 2003**



**Water Levels, P-3-29-OB1, 1975 - 2003**



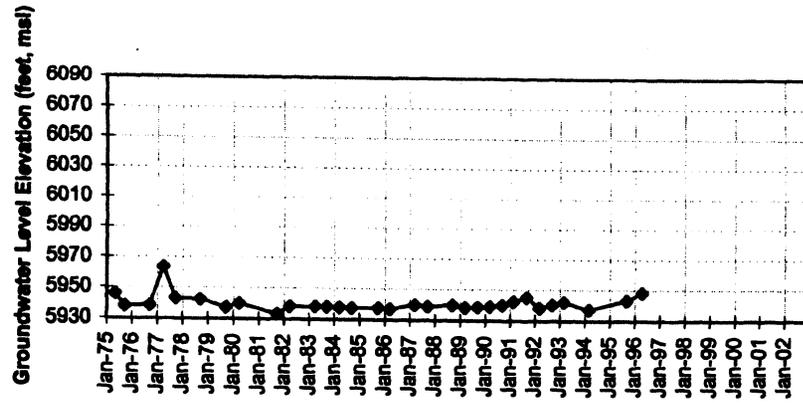
**Water Levels, P-3-29-OB2, 1975 - 2003**



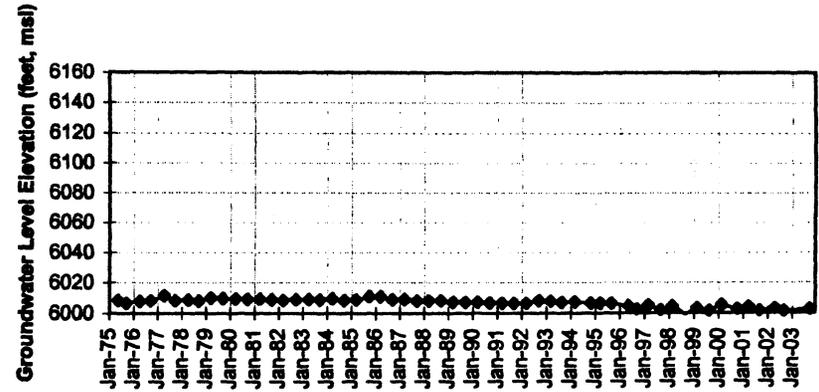
**Water Level Elevation Hydrographs  
Regional Monitor Wells**

**(Elevation in feet above mean sea level)**

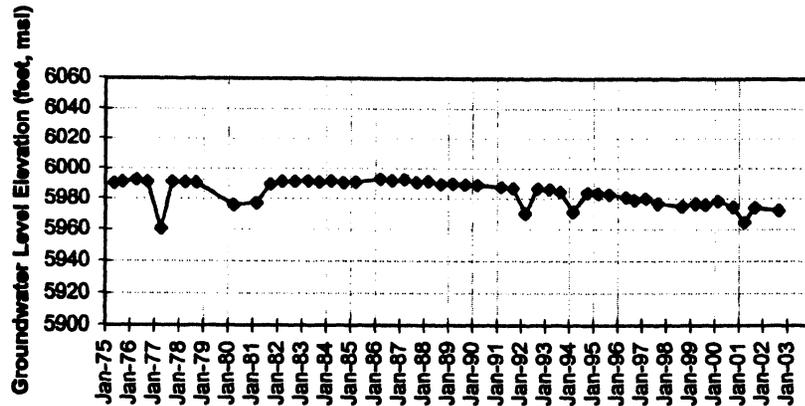
**Water Levels, 2W, 1975 - 2003**



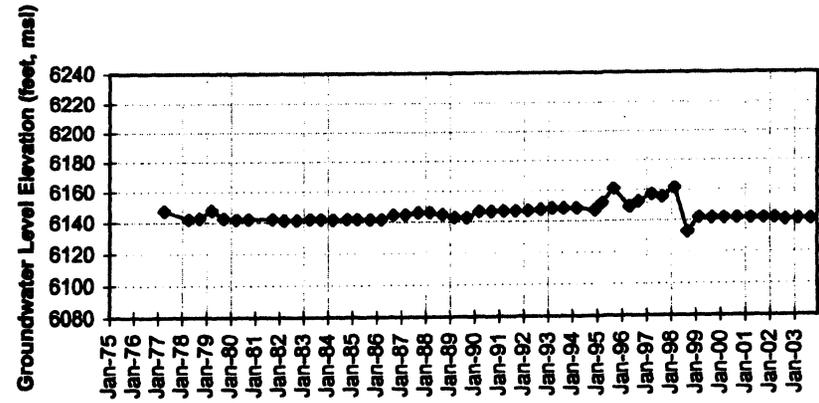
**Water Levels, 4W, 1975 - 2003**



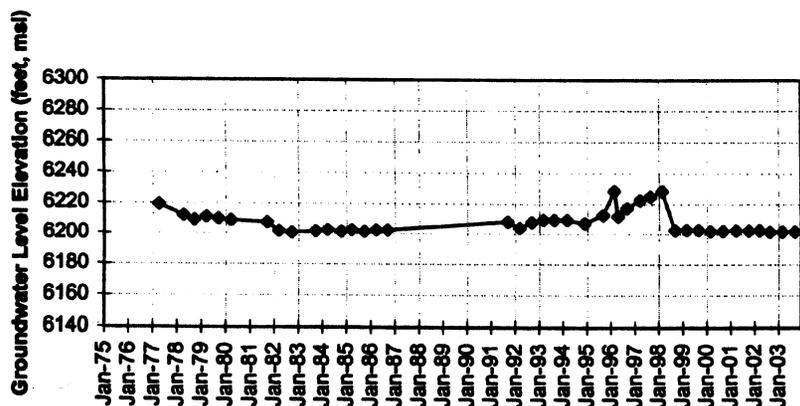
**Water Levels, 5W, 1975 - 2003**



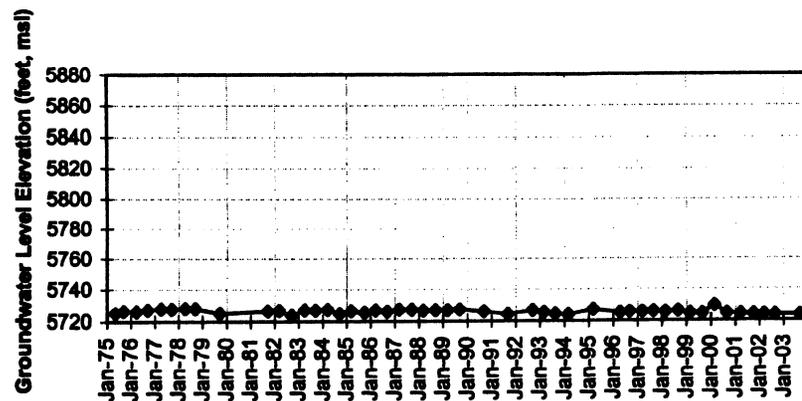
**Water Levels, 7W, 1975 - 2003**



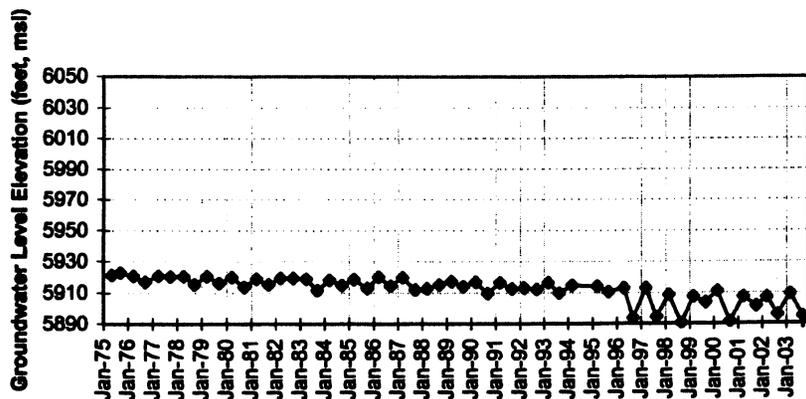
### Water Levels, 8W, 1975 - 2003



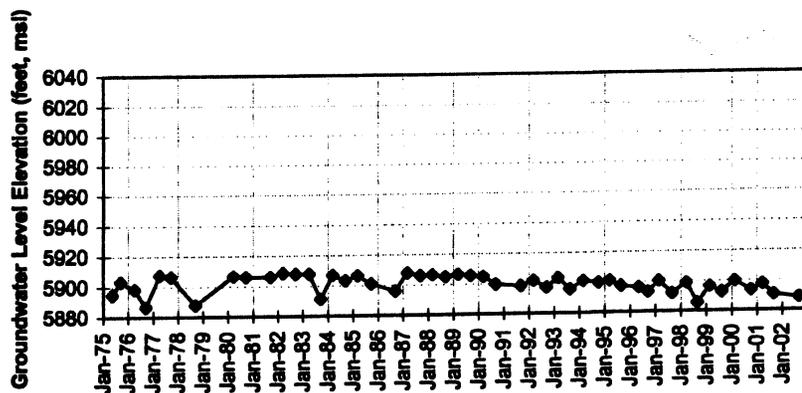
### Water Levels, 10W, 1975 - 2003



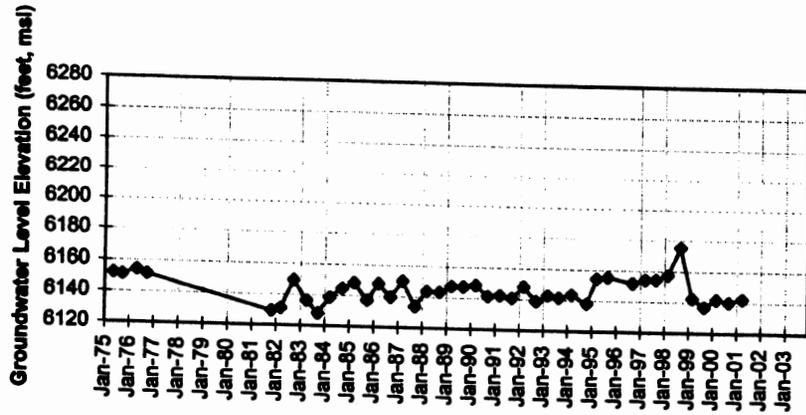
### Water Levels, 14W, 1975 - 2003



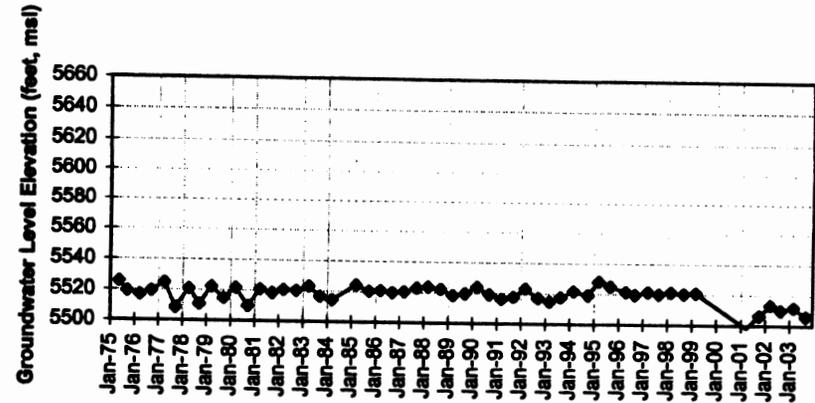
### Water Levels, 18W, 1975 - 2003



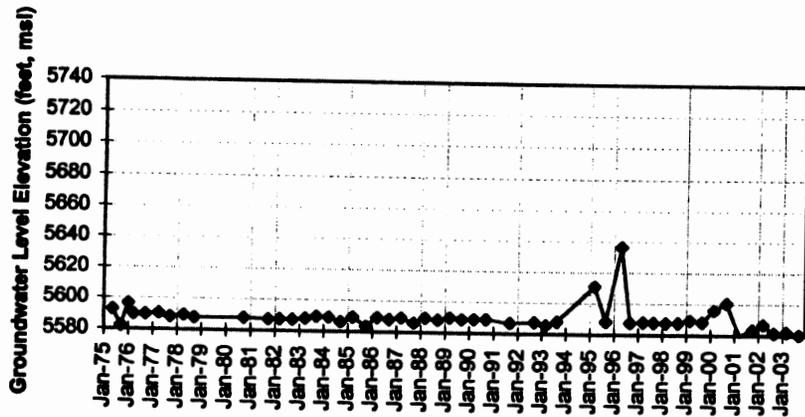
### Water Levels, 19W, 1975 - 2003



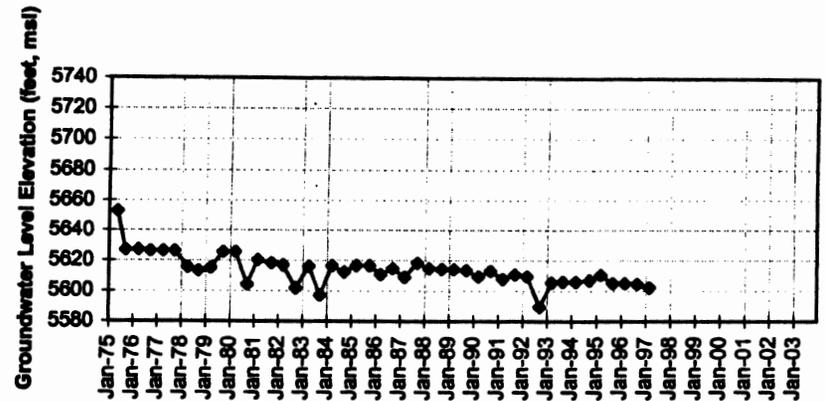
### Water Levels, 20W, 1975 - 2003



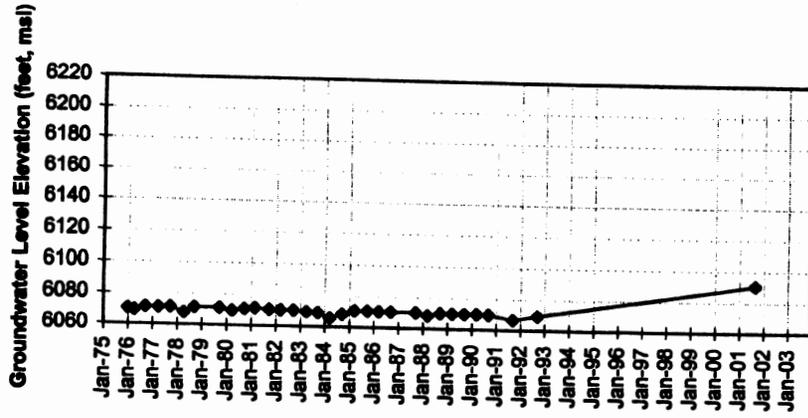
### Water Levels, 21W, 1975 - 2003



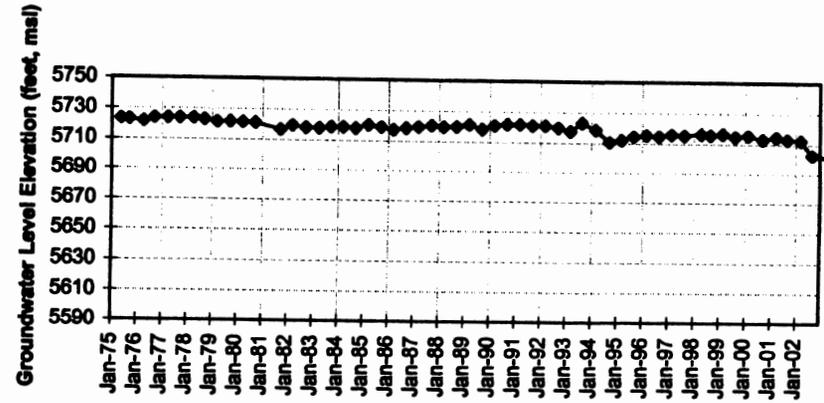
### Water Levels, 24W, 1975 - 2003



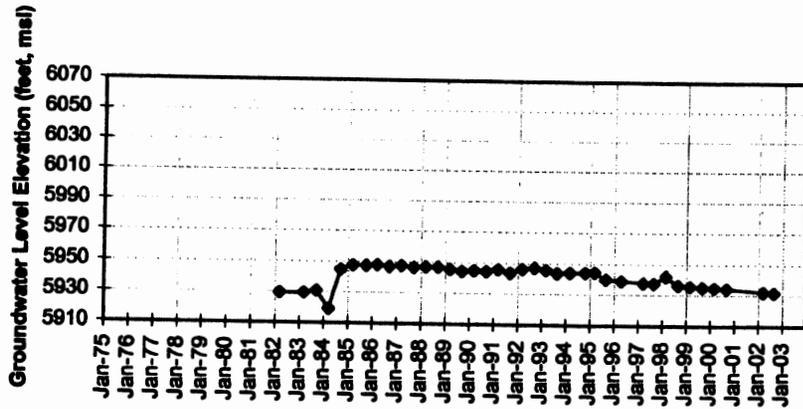
**Water Levels, 25WL, 1975 - 2003**



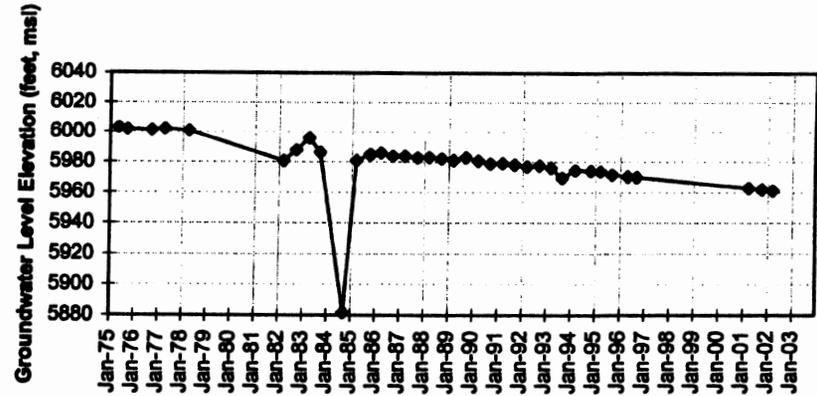
**Water Levels, 27W, 1975 - 2003**



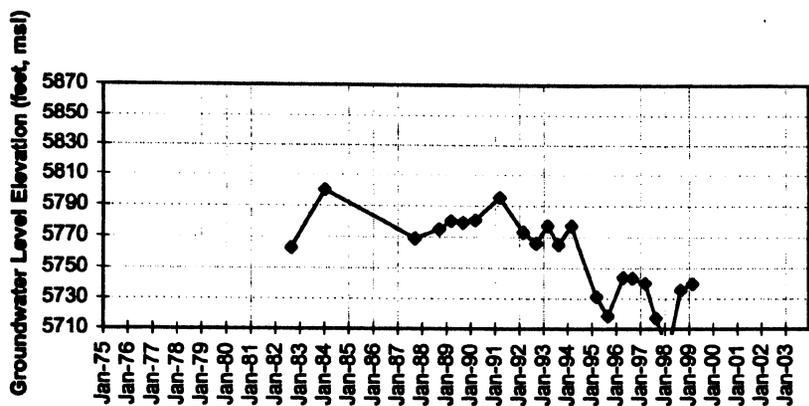
**Water Levels, 29WL, 1975 - 2003**



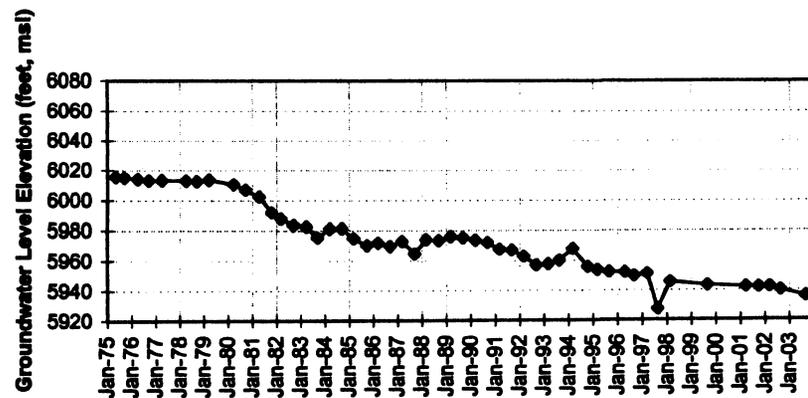
**Water Levels, 30W, 1975 - 2003**



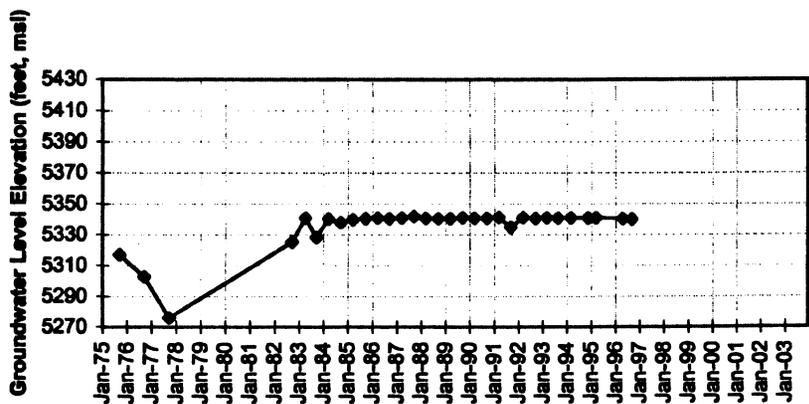
**Water Levels, 31W, 1975 - 2003**



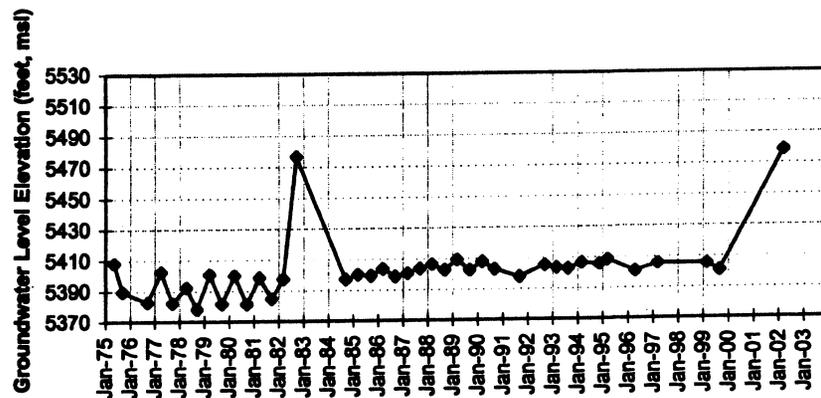
**Water Levels, 34W, 1975 - 2003**



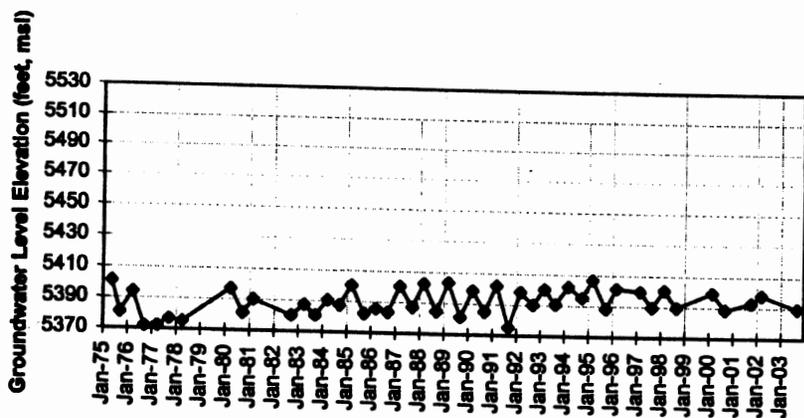
**Water Levels, 35W, 1975 - 2003**



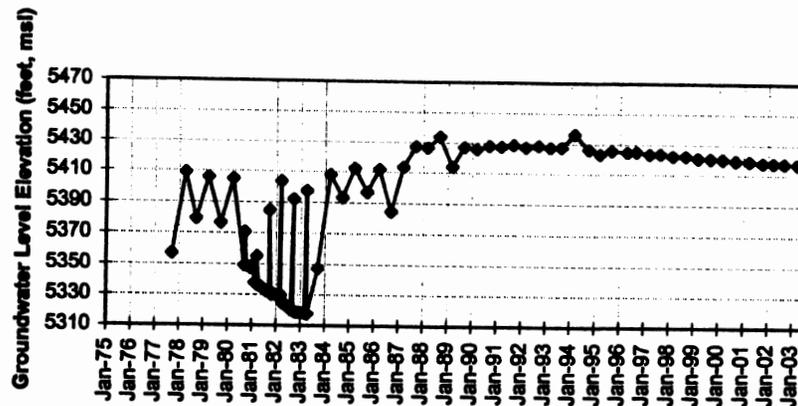
**Water Levels, 37W, 1975 - 2003**



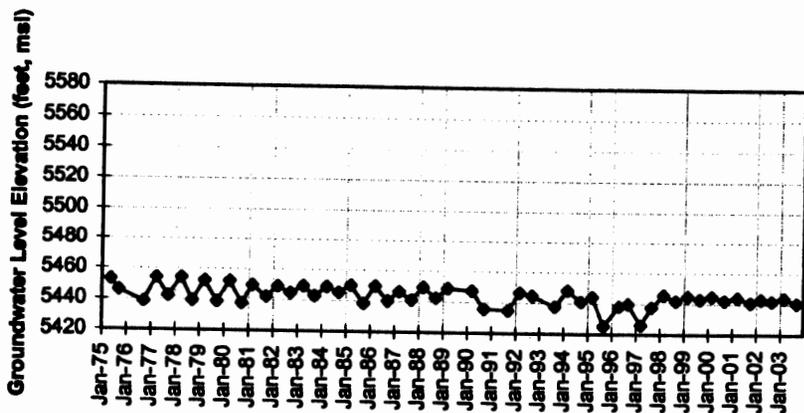
**Water Levels, 40W, 1975 - 2003**



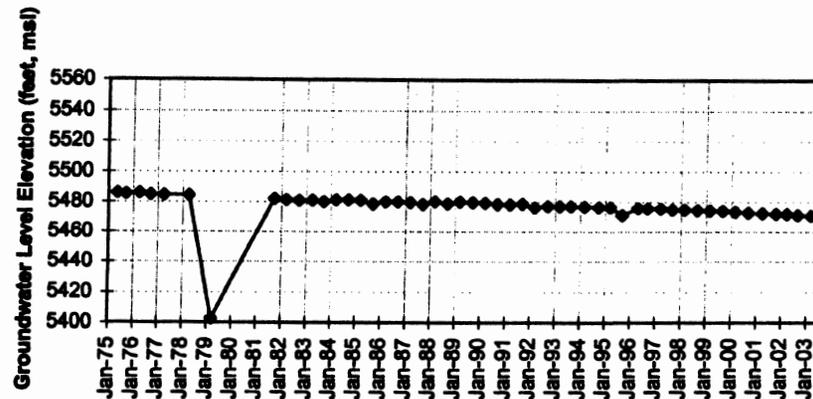
**Water Levels, 42W, 1975 - 2003**



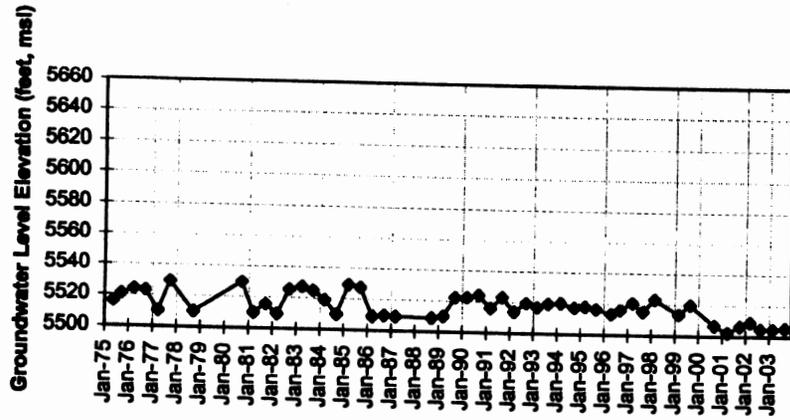
**Water Levels, 43W, 1975 - 2003**



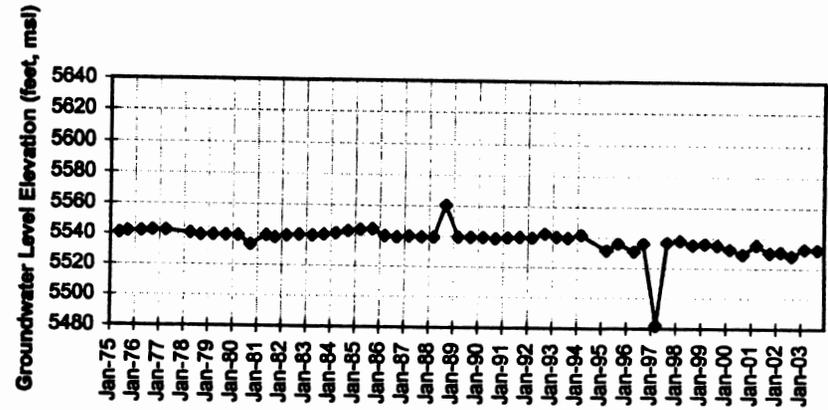
**Water Levels, 46W, 1975 - 2003**



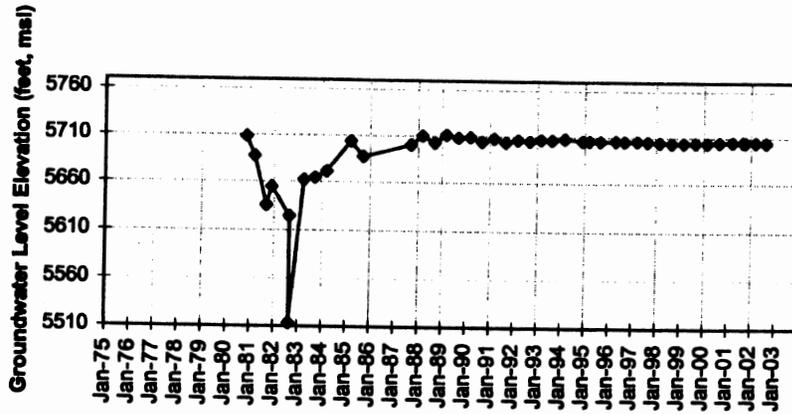
**Water Levels, 47W, 1975 - 2003**



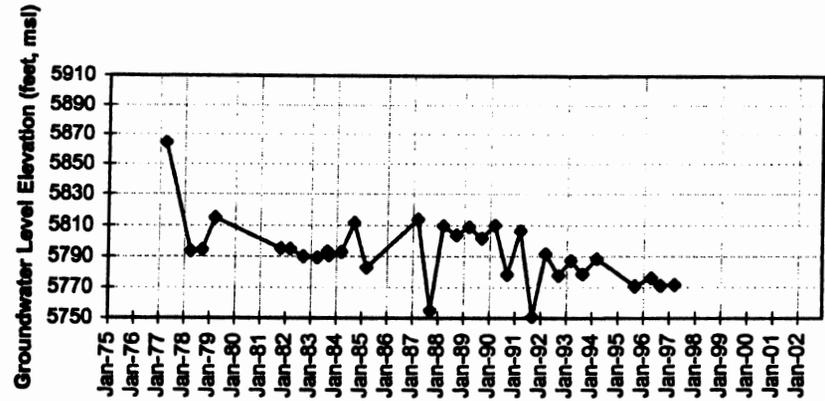
**Water Levels, 48W, 1975 - 2003**



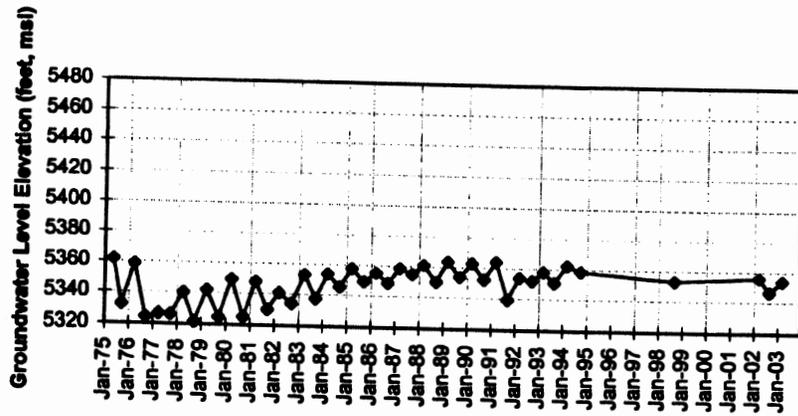
**Water Levels, 49W, 1975 - 2003**



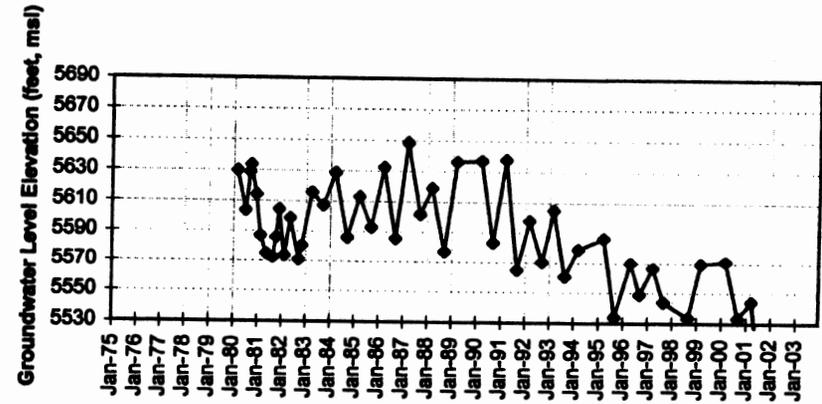
**Water Levels, 50W, 1975 - 2003**



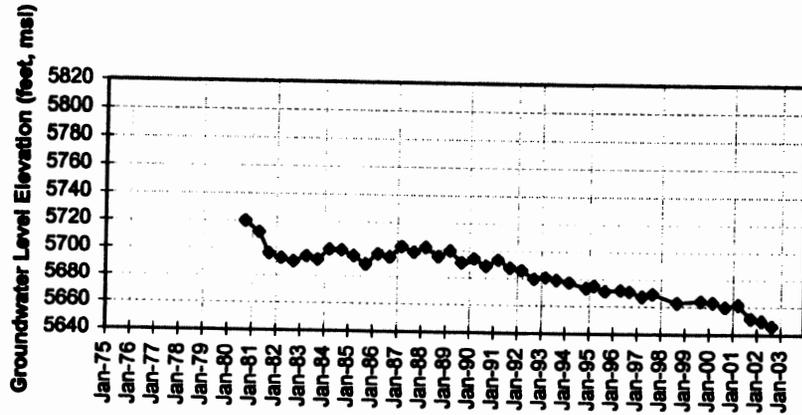
**Water Levels, 51W, 1975 - 2003**



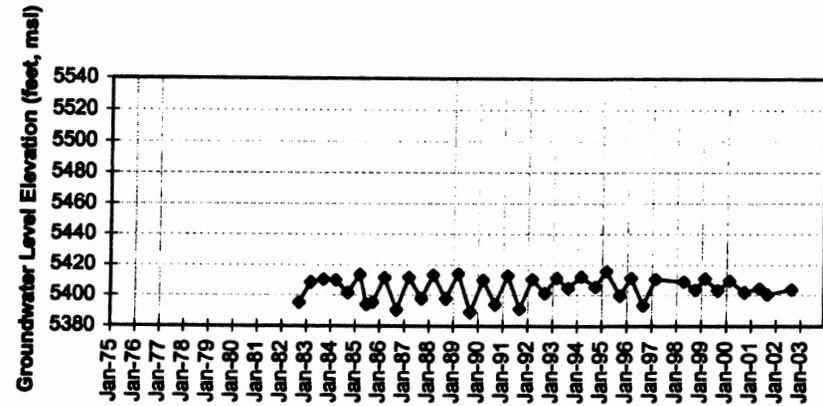
**Water Levels, 54W, 1975 - 2003**



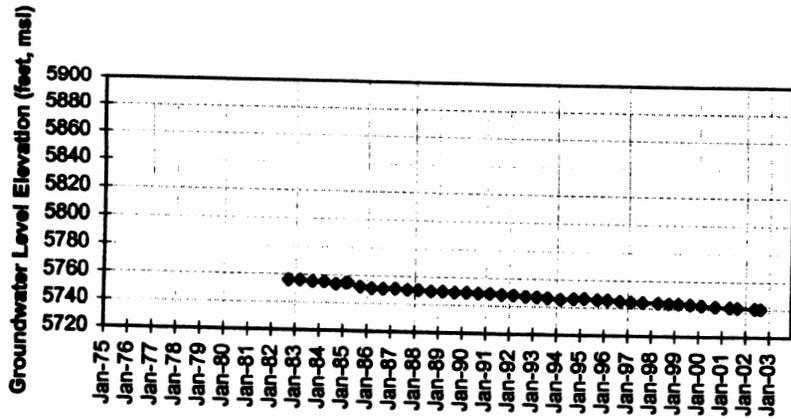
**Water Levels, 55W, 1975 - 2003**



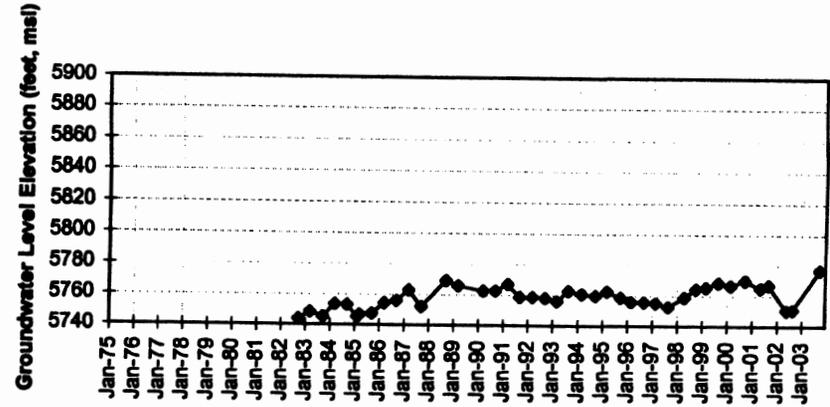
**Water Levels, 56W, 1975 - 2003**



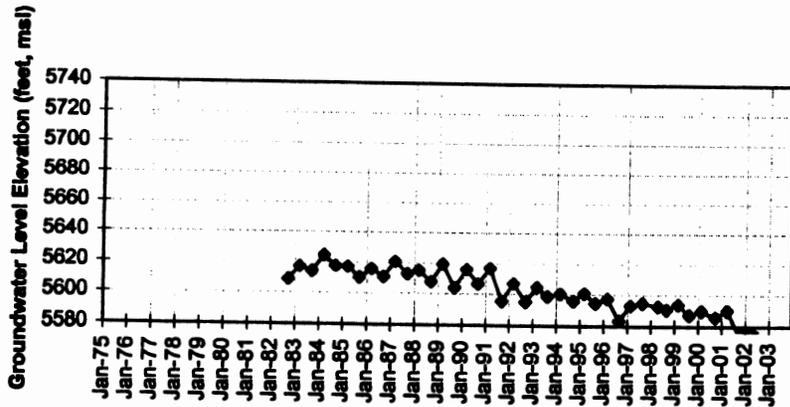
**Water Levels, 57W, 1975 - 2003**



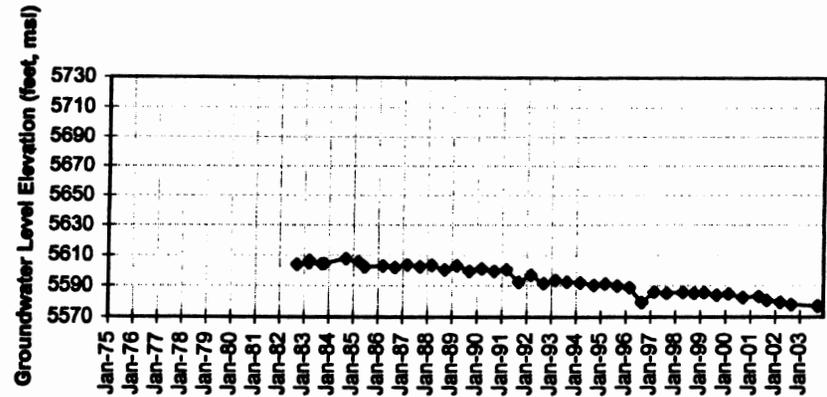
**Water Levels, 57WL, 1975 - 2003**



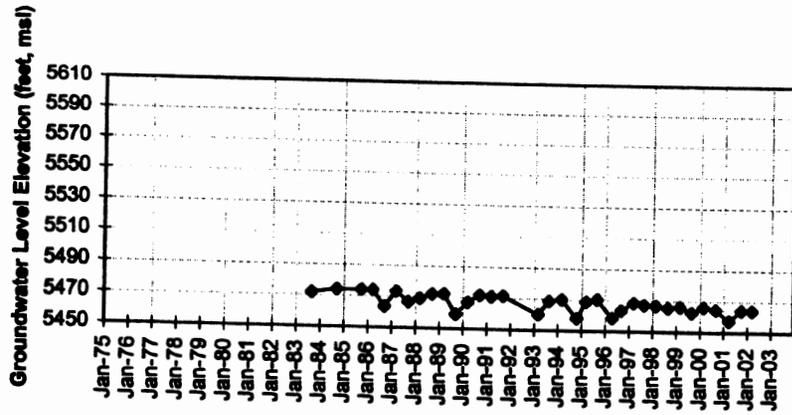
**Water Levels, 58W, 1975 - 2003**



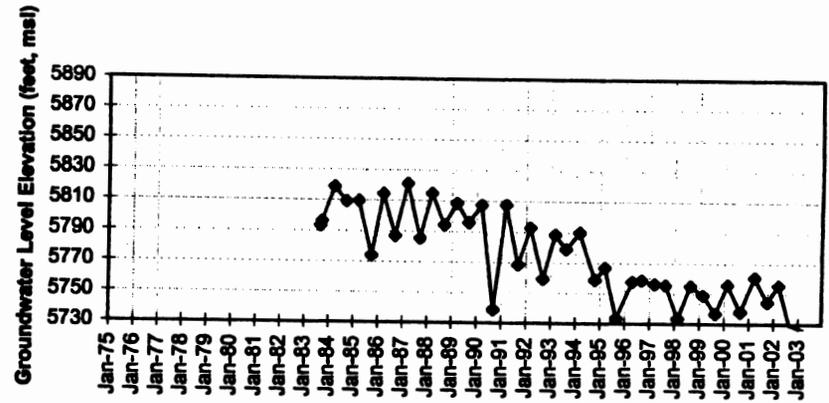
**Water Levels, 59W, 1975 - 2003**



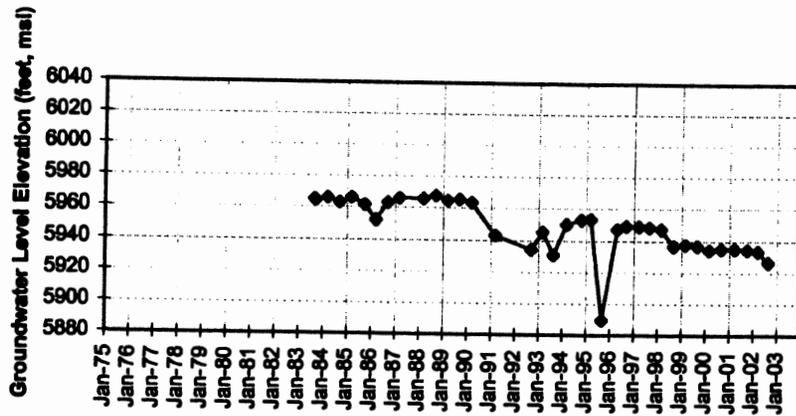
**Water Levels, 61W, 1975 - 2003**



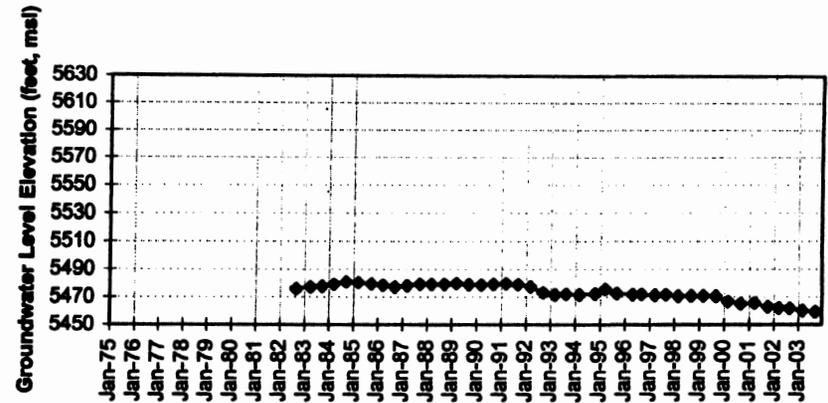
**Water Levels, 64W, 1975 - 2003**



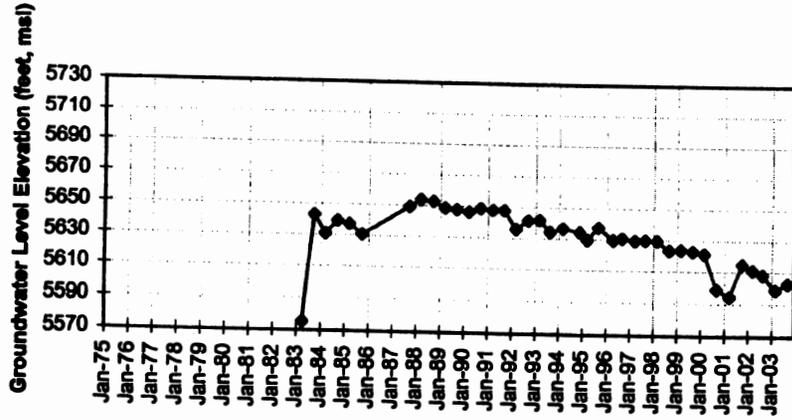
**Water Levels, 65W, 1975 - 2003**



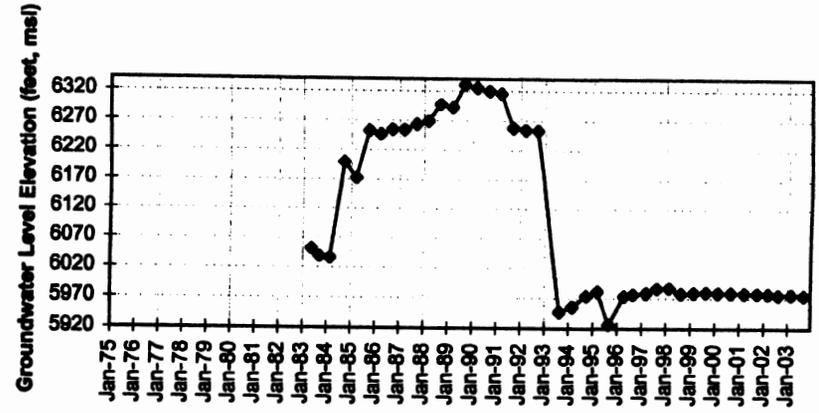
**Water Levels, 66W, 1975 - 2003**



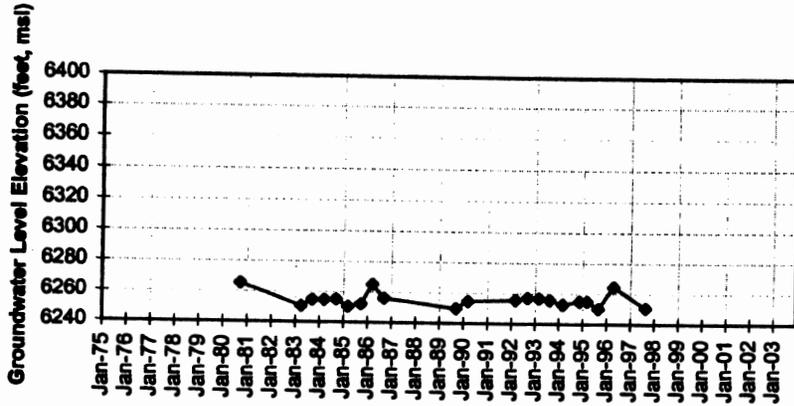
**Water Levels, 67W, 1975 - 2003**



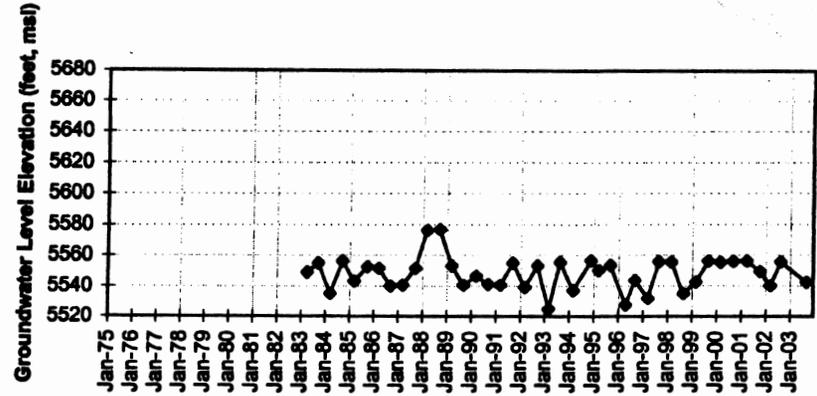
**Water Levels, 68W, 1975 - 2003**



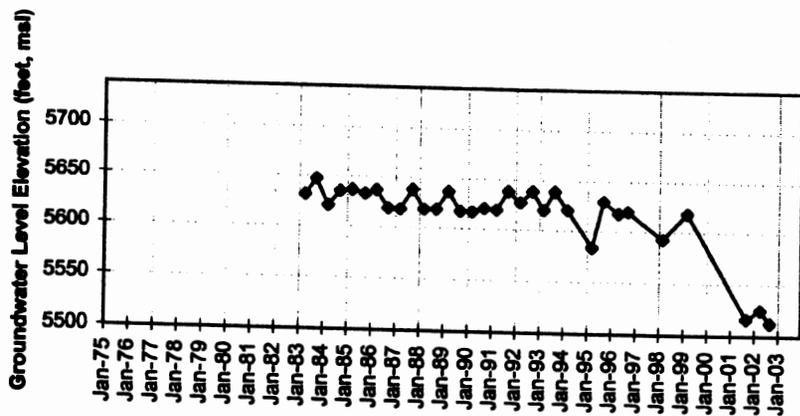
**Water Levels, 69W, 1975 - 2003**



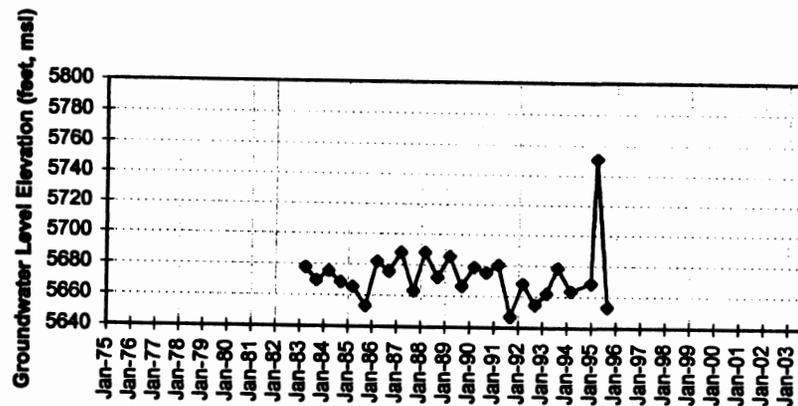
**Water Levels, 71W, 1975 - 2003**



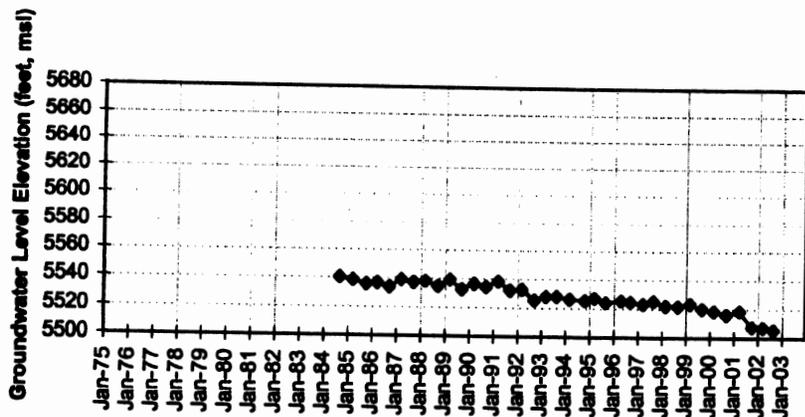
**Water Levels, 72W, 1975 - 2003**



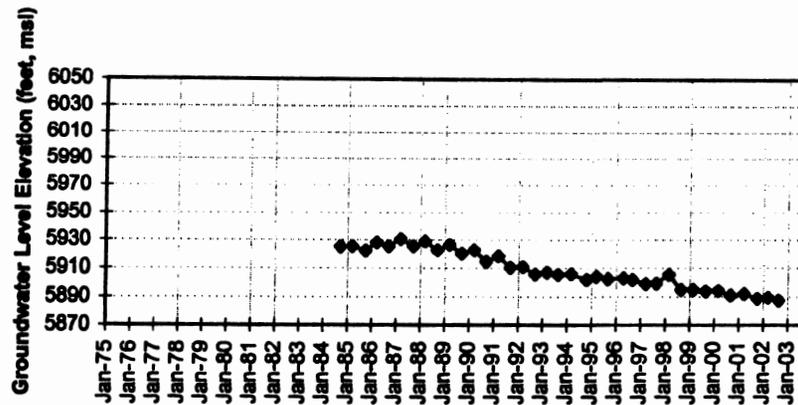
**Water Levels, 73W, 1975 - 2003**



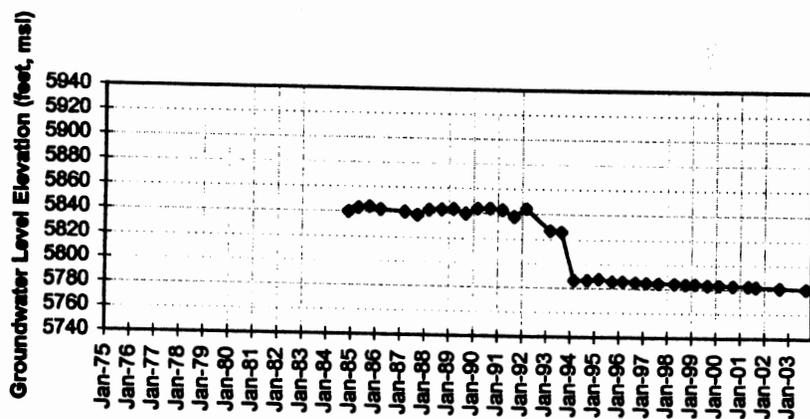
**Water Levels, 75W, 1975 - 2003**



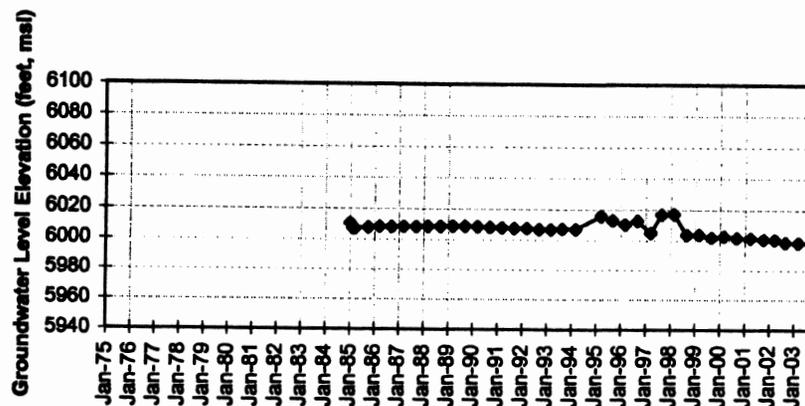
**Water Levels, 76W, 1975 - 2003**



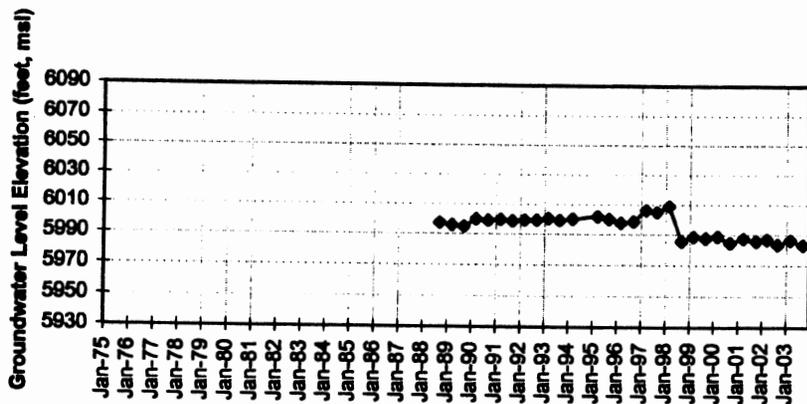
**Water Levels, 77W, 1975 - 2003**



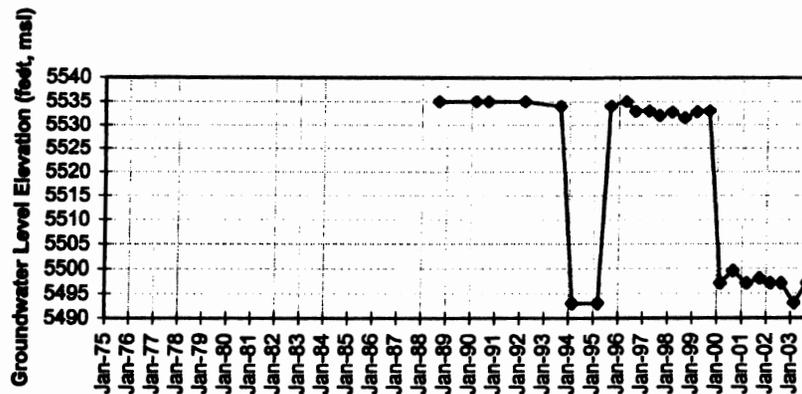
**Water Levels, 78W, 1975 - 2003**



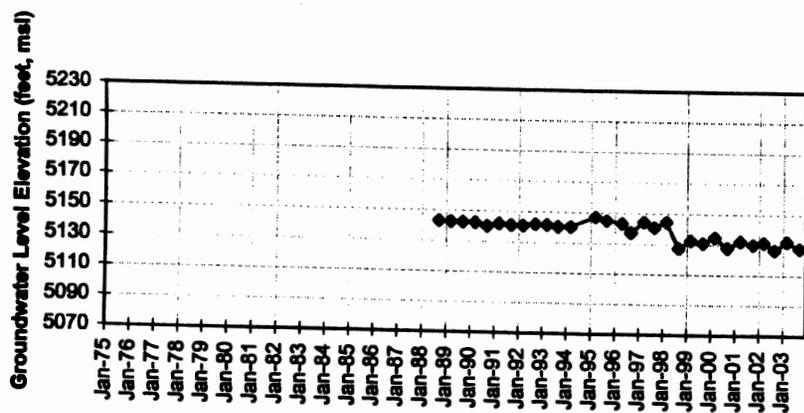
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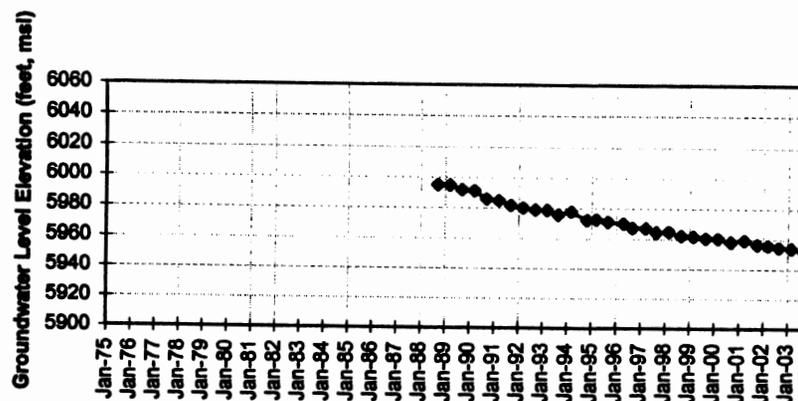
**Water Levels, 82W, 1975 - 2003**



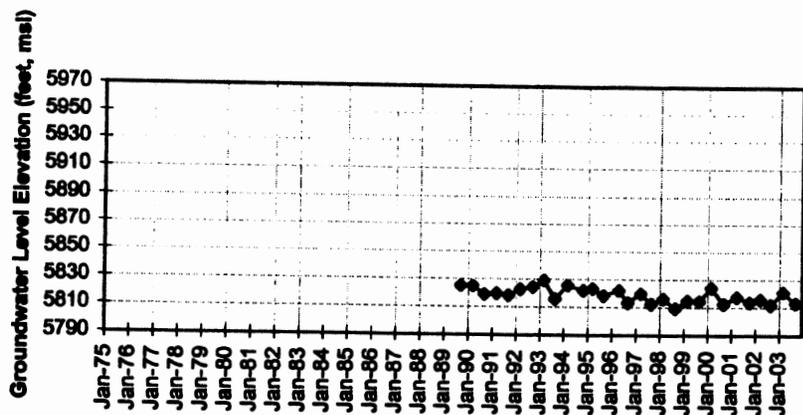
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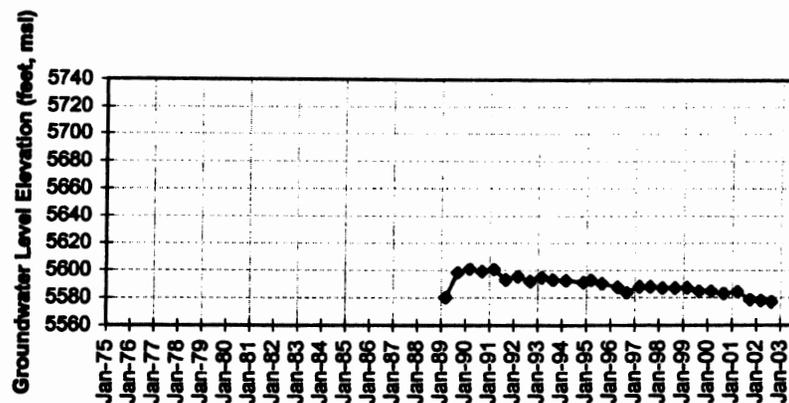
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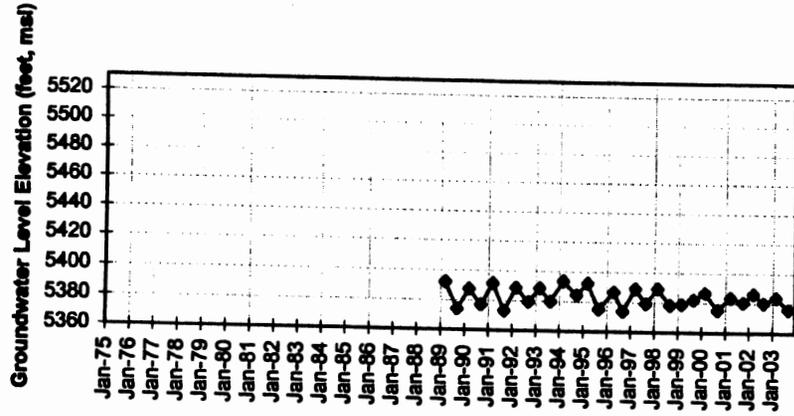
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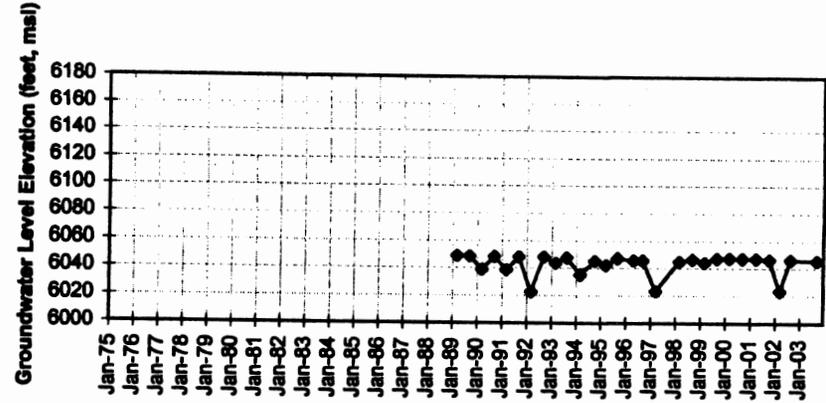
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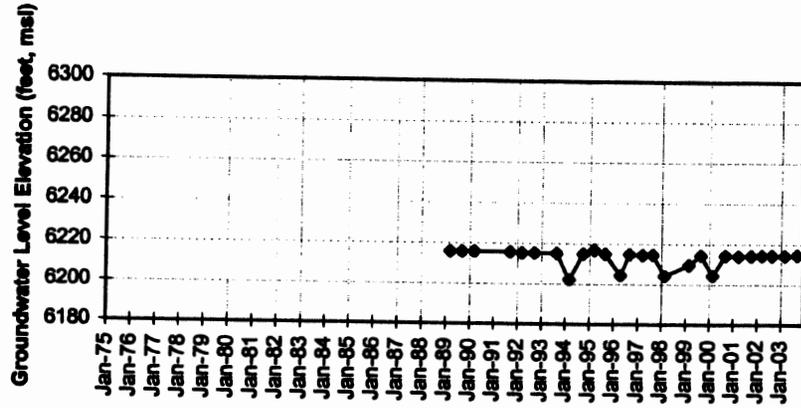
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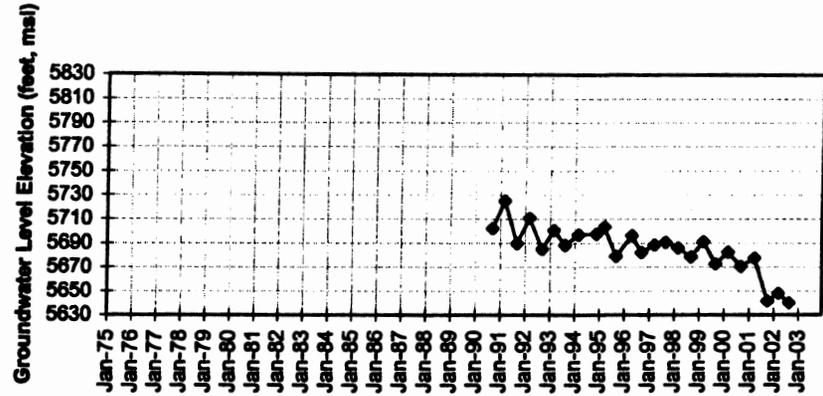
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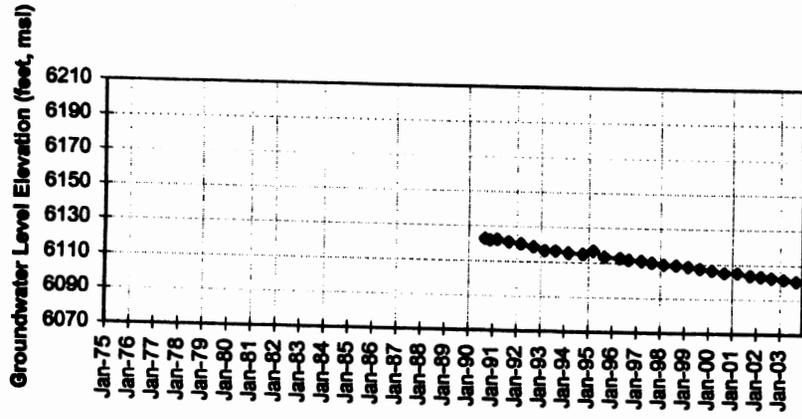
**Water Levels, 90W, 1975 - 2003**



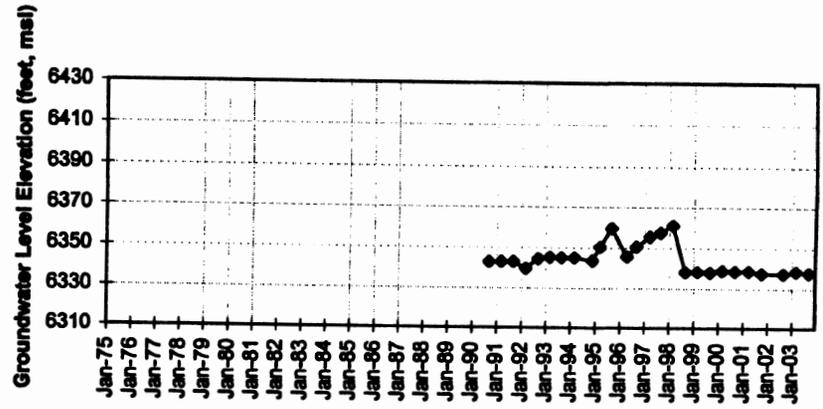
**Water Levels, 91W, 1975 - 2003**



**Water Levels, 93W, 1975 - 2003**



**Water Levels, 94W, 1975 - 2003**



**WATER LEVEL DATA, ELEVATION  
CHANGES AND HYDROGRAPHS FOR  
WELLS MONITORED NEAR THE  
SPRINGERVILLE GENERATING STATION**

**Data Source: EMAI, 2004.**

**WATER LEVEL ALTITUDE AND WATER LEVEL CHANGE FOR  
WELLS COMPLETED IN THE KAIBAB-COCONINO AQUIFER  
IN THE SPRINGVILLE GENERATING STATION AREA  
APACHE COUNTY, ARIZONA**

STATE WELL NUMBER	WELL IDENTIFER	WATER LEVEL ALTITUDE .....(feet, msl) <sup>a</sup> .....			WATER LEVEL CHANGE <sup>b</sup> .....(feet).....	
		JANUARY 1981	FEBRUARY 2003	FEBRUARY 2004	1981-2004	2003-2004
(A-11-29)28dbb	E-1	6,011.39	5937.61 <sup>f</sup>	5931.94 <sup>f</sup>	-79.45	-5.67
(A-11-29)23aba	E-2	6,143.16	6,143.61	6,143.53	0.37	-0.08
(A-11-29)34cdc	E-3	6,012.55 <sup>c</sup>	5947.21 <sup>f</sup>	5,946.87	-65.68	-0.34
(A-10-29)12ddd	E-4	6,029.61	5,981.09	5,978.59	-51.02	-2.50
(A-10-29)14aab	E-5	6,011.67	5,950.51	5,947.18	-64.49	-3.33
(A-10-29)10dab	E-6	6,011.89	5,950.45	5,947.39	-64.50	-3.06
(A-10-29)10bbc	E-7	6,012.31	5921.57 <sup>f</sup>	5,946.39	-65.92	24.82
(A-11-29)20abc	E-8	6,010.24	5,949.68	5,946.23	-64.01	-3.45
(A-11-30)29bdd	P-1	6,254.98 <sup>d</sup>	6,258.30	6,258.71	3.73	0.41
(A-11-29)24bad	P-3	6,167.44 <sup>e</sup>	6,167.42	6,167.33	-0.11	-0.09
(A-11-29)13cca	P-4	6,150.59	6,152.58	6,152.74	2.15	0.16
(A-11-30)19cdc	P-5	6,202.45	6,204.53	6,205.07	2.62	0.54
(A-11-30)30aad	P-6	6,232.93 <sup>d</sup>	6,237.09	6,238.32	5.39	1.23
(A-10-29)10bcb	P-7	6,012.93	---	5,946.75	-66.18	---
(A-10-29)15aba	P-8	6,015.08	---	5,943.94	-71.14	---
(A-10-29)14bdc	P-9	6,014.86	---	5,946.86	-68.00	---
(A-10-29) 3bcc	P-10	6,010.95	---	---	---	---
(A-11-29)33dab	P-11	6,011.54	5,950.11	5,946.16	-65.38	-3.95
(A-10-29)10ccc	P-12	6,015.11	---	5,949.29	-65.82	---
(A-10-30)18ccb	P-13	6,043.19	5,997.80	5,995.00	-48.19	-2.80
(A-11-29)28dbc	P-14	6,011.65	---	---	---	---
(A-10-29) 4abb	P-15	---	5,949.90	5,946.40	---	-3.50
(A-11-29)12aaa	M-3	6,139.91	6,139.40	6,139.40	-0.51	0.00
(A-11-29)31cdc	M-4	6,048.59	6,003.08	5,999.91	-48.68	-3.17
(A-10-29)20aad	M-5	6,091.52	6,067.25	6,065.63	-25.89	-1.62
(A-11-28)22bda2	M-6	6,005.18	5,978.38	5,976.13	-29.05	-2.25
(A-11-28) 5acd	M-7	---	5,930.64	5,929.08	---	-1.56
(A-12-27)26ccb	M-8	---	5,930.96	5,929.94	---	-1.02
(A-12-29)23aaa	M-9	---	5,993.43	5,992.70	---	-0.73
(A-13-28)26dcb	M-10	---	5,615.46	5,613.31	---	-2.15
(A-11-30) 7abc1	Stock	6,151.35	6,150.65	6,150.45	-0.90	-0.20
(A-11-28)22bda1	Tenneco	6,005.27	5,978.36	5,976.09	-29.18	-2.27

<sup>a</sup>feet, msl = feet above mean sea level

<sup>b</sup>Minus sign (-) indicates water level decline; positive sign (+) indicates water level rise

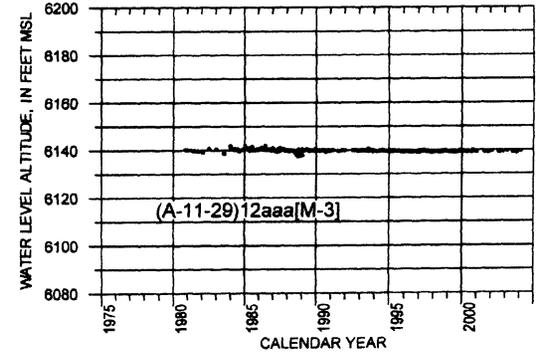
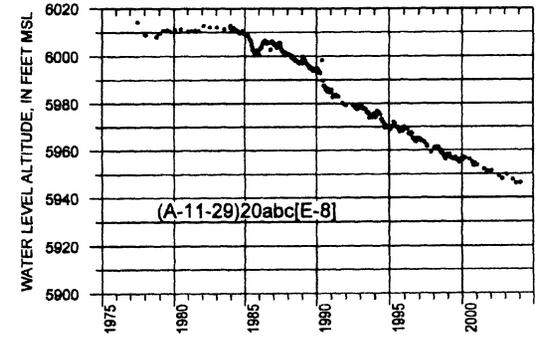
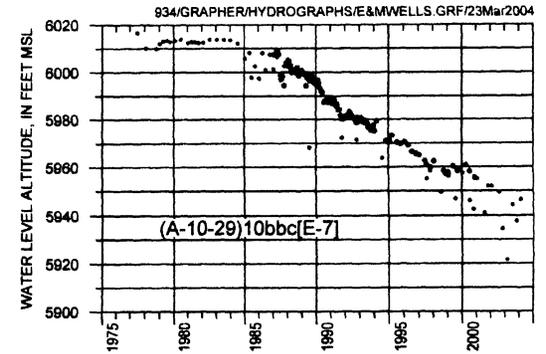
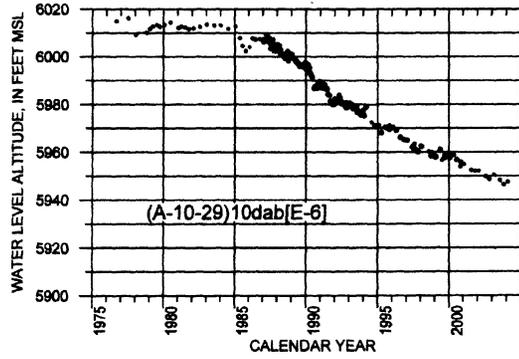
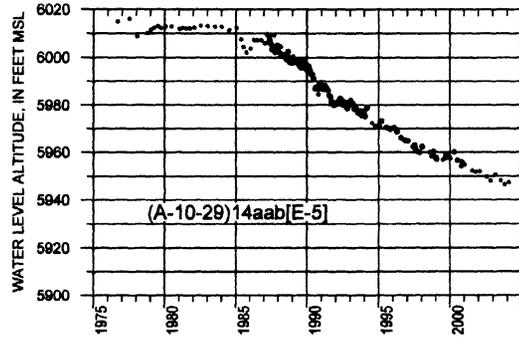
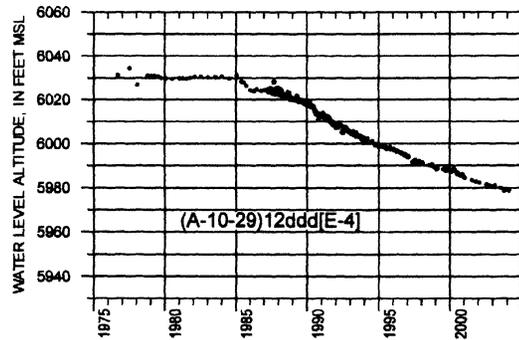
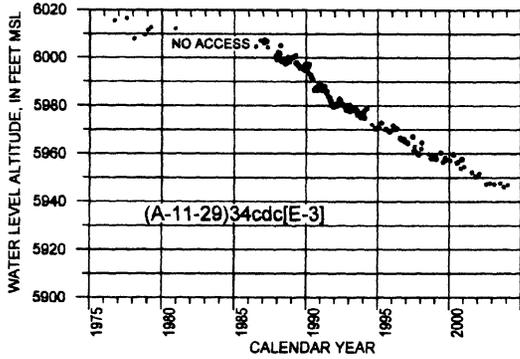
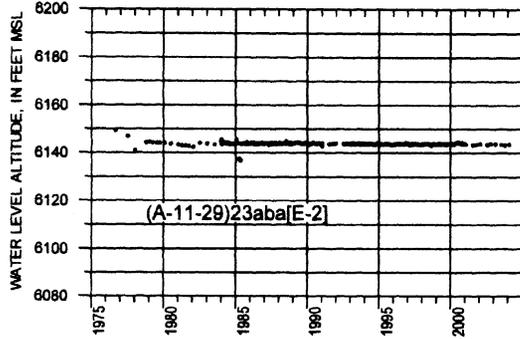
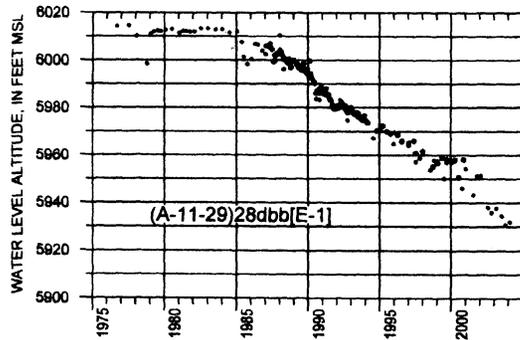
<sup>c</sup>Water level altitude - April 1979

<sup>d</sup>Water level altitude - April 1981

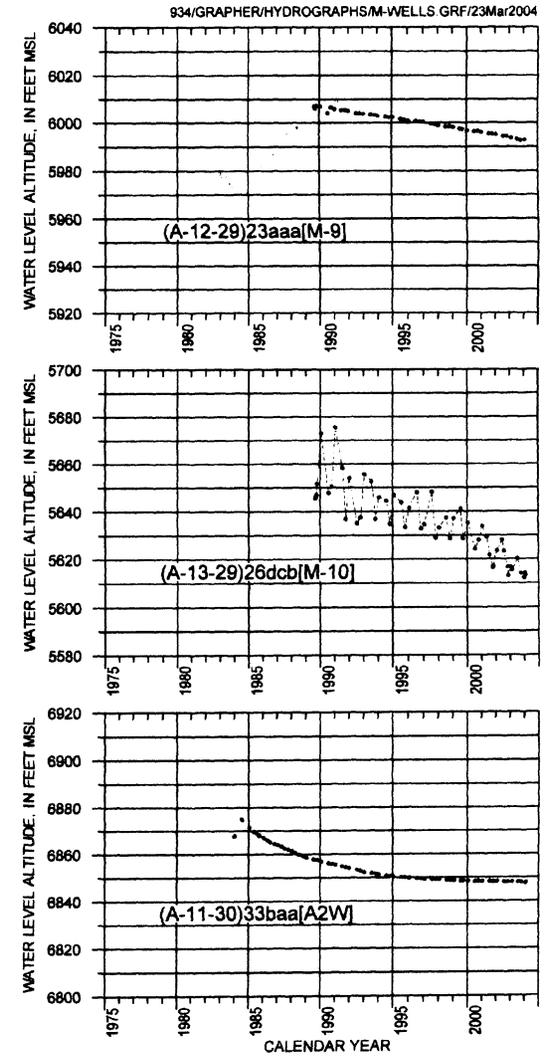
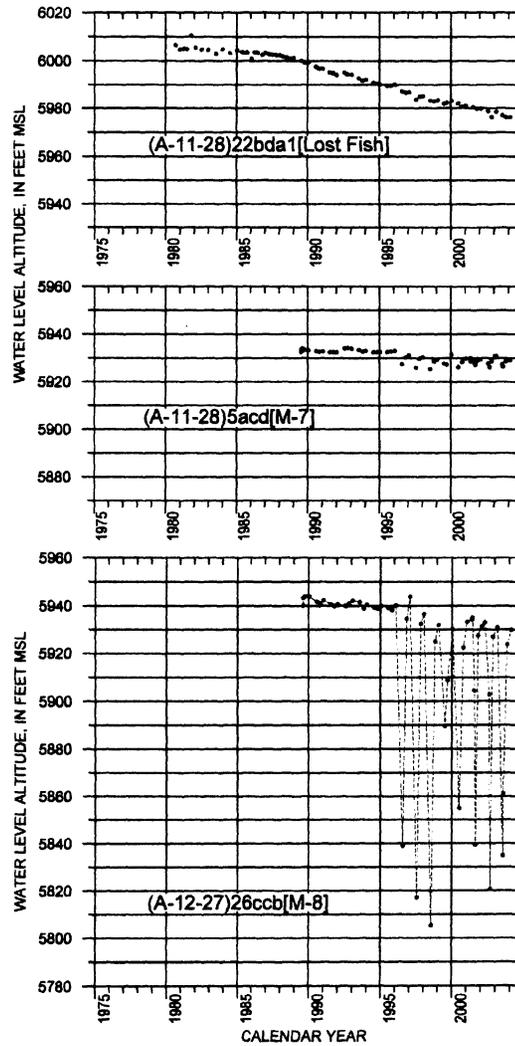
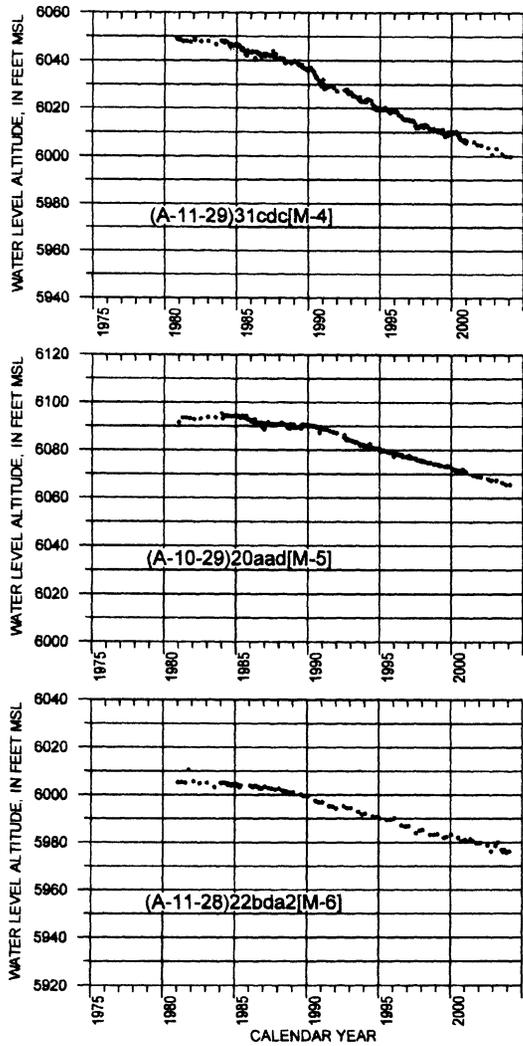
<sup>e</sup>Water level altitude - July 1980

<sup>f</sup>Water level influenced by pumping of nearby production well

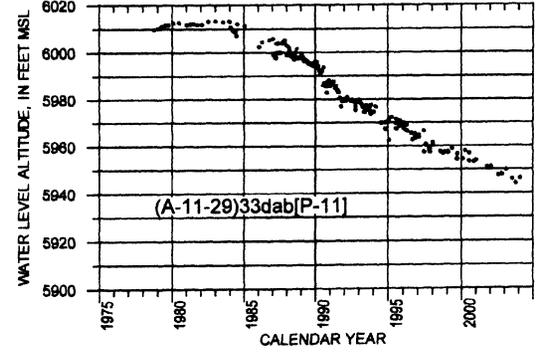
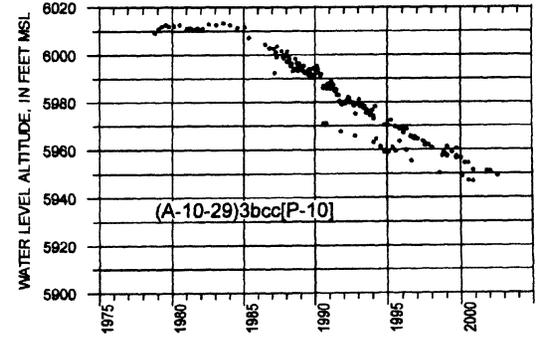
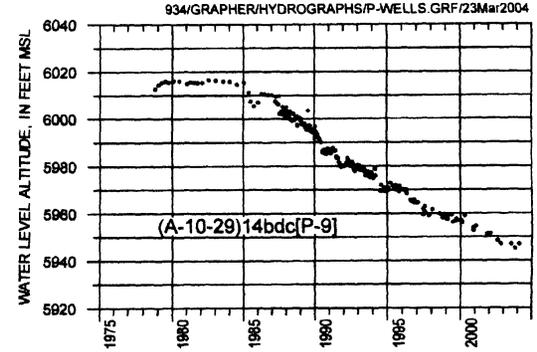
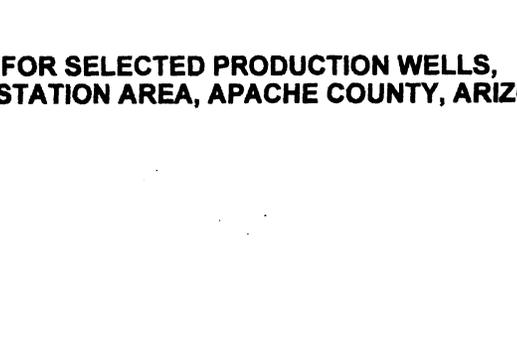
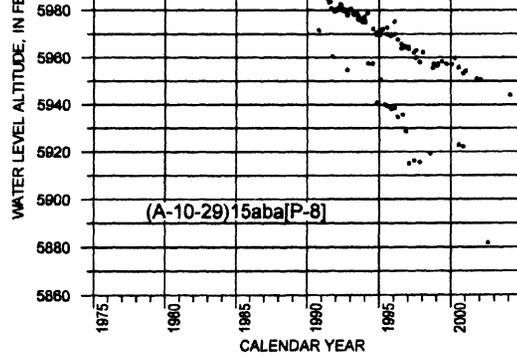
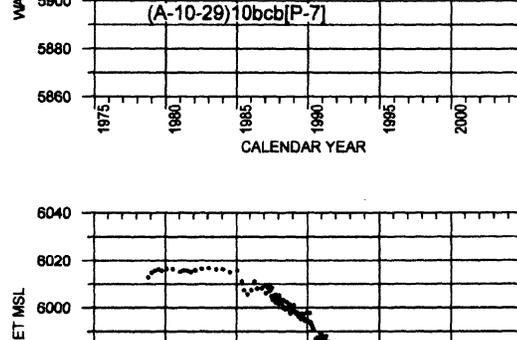
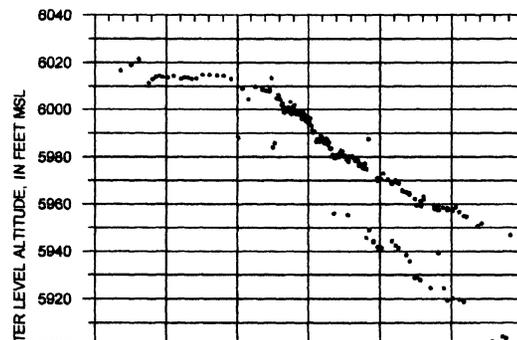
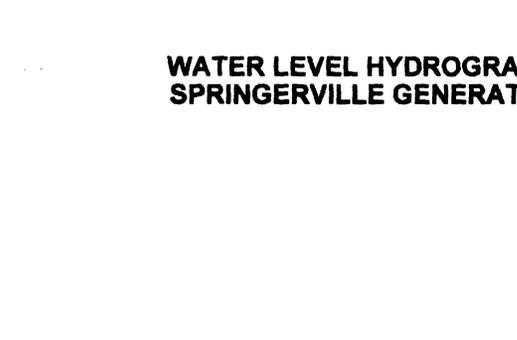
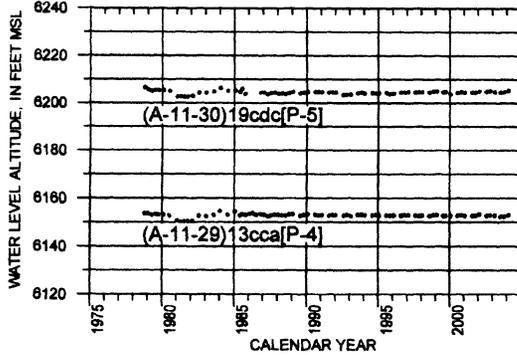
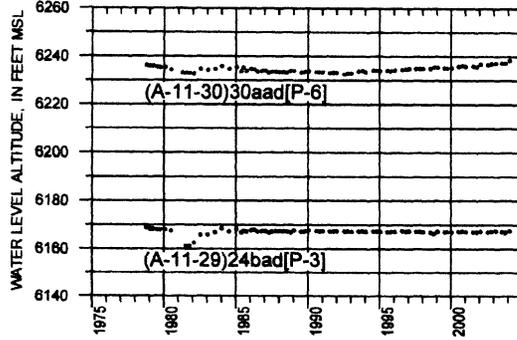
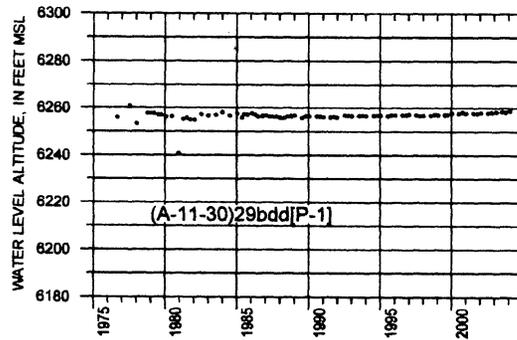
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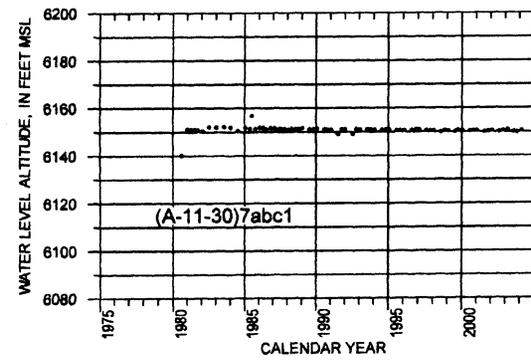
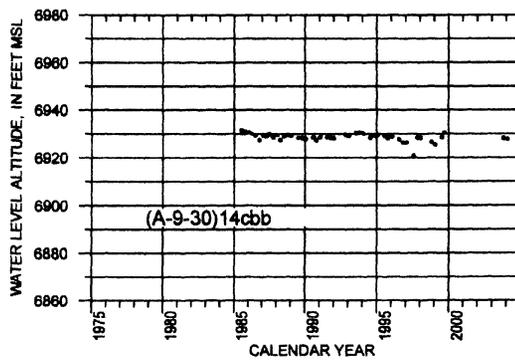
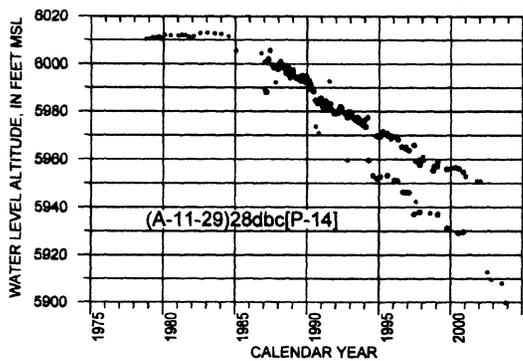
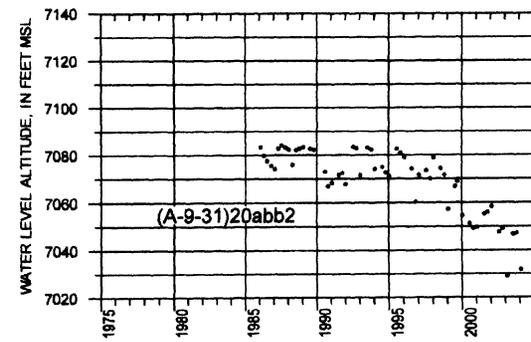
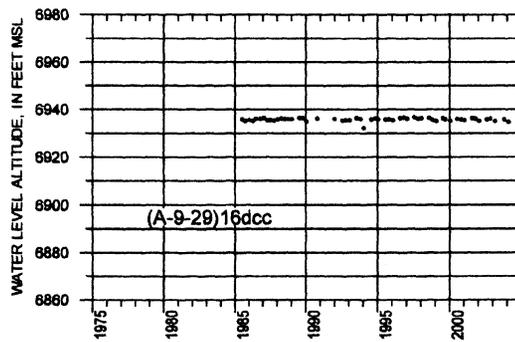
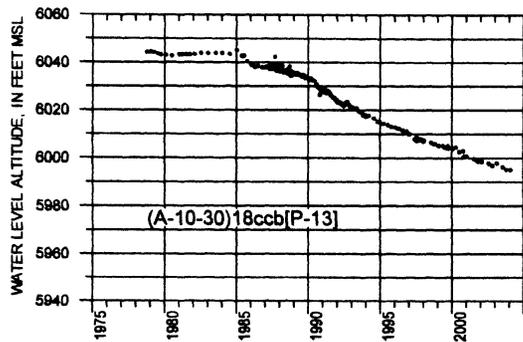
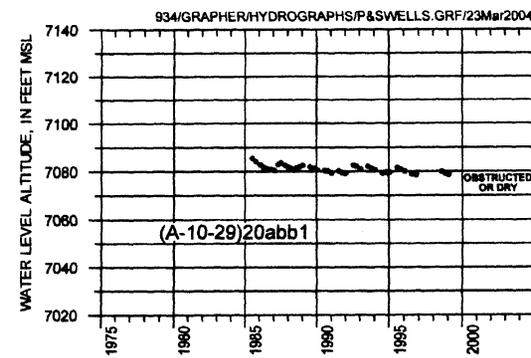
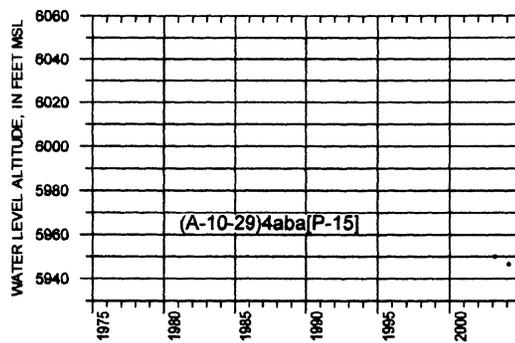
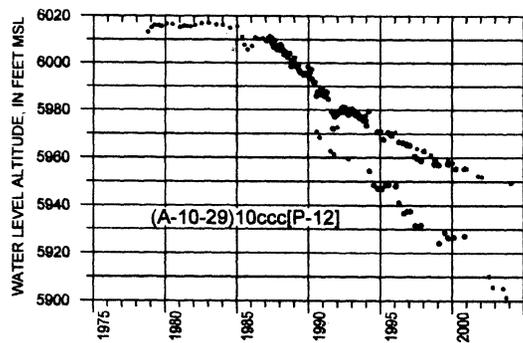
**WATER LEVEL HYDROGRAPHS FOR SELECTED EXPLORATION AND MONITOR WELLS,  
SPRINGVILLE GENERATING STATION AREA, APACHE COUNTY, ARIZONA**



**WATER LEVEL HYDROGRAPHS FOR SELECTED MONITOR WELLS,  
SPRINGVILLE GENERATING STATION AREA, APACHE COUNTY, ARIZONA**



**WATER LEVEL HYDROGRAPHS FOR SELECTED PRODUCTION WELLS,  
SPRINGVILLE GENERATING STATION AREA, APACHE COUNTY, ARIZONA**



**WATER LEVEL HYDROGRAPHS FOR SELECTED PRODUCTION AND STOCK WELLS,  
SPRINGVILLE GENERATING STATION AREA, APACHE COUNTY, ARIZONA**