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BEFORE THE ARIZONA CORPORATION CO.

COMMISSIONERS

KRISTIN K. MAYES - Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

Arizona Corporation Commission

DOCKETED

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IN THE MATTER OF THE APPLICATION OF
GLOBAL WATER - PICACHO COVE UTILITIES
COMPANY FOR AN EXTENSION OF ITS
EXISTING CERTIFICATE OF CONVENIENCE
AND NECESSITY.

DOCKET NO. SW-20494A-09-0016

IN THE MATTER OF THE APPLICATION OF
GLOBAL WATER - PICACHO COVE WATER
COMPANY FOR AN EXTENSION OF ITS
EXISTING CERTIFICATE OF CONVENIENCE
AND NECESSITY.

DOCKET NO. W-20495A-09-0016

DECISION NO. 71238

OPINION AND ORDER

DATE OF HEARING: April 22, 2009
PLACE OF HEARING: Phoenix, Arizona
ADMINISTRATIVE LAW JUDGE: Yvette B. Kinsey
APPEARANCES: Mr. Timothy J. Sabo, ROSHKA, DEWULF & PATTEN, PLC, on behalf of Applicant; and
Ms. Amanda Ho, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

BY THE COMMISSION:

On January 16, 2009, Global Water - Picacho Cove Utilities Company ("Picacho Utilities" or "PCUC") and Global Water - Picacho Cove Water Company ("Picacho Water" or "PCWC") (collectively "Global Utilities" or "Applicants") jointly filed with the Arizona Corporation Commission ("Commission") an application for approval to extend of their respective Certificates of Convenience and Necessity ("CC&Ns") to include approximately 2,295 acres in Pinal County, Arizona.

On February 11, 2009, the Commission's Utilities Division ("Staff") filed a Sufficiency Letter in this docket stating that Global Utilities' application had met the sufficiency requirements as

1 outlined in the Arizona Administrative Code ("A.A.C.").

2 On February 23, 2009, by Procedural Order, the hearing date was scheduled for April 22,
3 2009, and other procedural deadlines were established.

4 On February 24, 2009, Global Utilities filed a Notice of Filing, containing a letter from the
5 City of Mesa.

6 On March 5, 2009, Global Utilities filed a Notice of Filing, showing notice of the application
7 and hearing date were mailed to the property owners in the proposed extension area and an affidavit
8 of publication showing notice had been published in the *Casa Grande Dispatch*, a newspaper of
9 general circulation on February 28, 2009.

10 On March 20, 2009, Staff filed a Staff Report recommending approval of the application,
11 subject to conditions.

12 On April 20, 2009, Global Utilities filed an updated legal description.

13 On April 21, 2009, Global Utilities filed a letter from a potential landowner in the proposed
14 extension area.

15 On April 22, 2009, a full public hearing was held as scheduled before a duly Authorized
16 Administrative Law Judge ("ALJ") of the Commission at its offices in Phoenix, Arizona. Staff and
17 Global Utilities appeared through counsel and presented evidence and testimony. A representative
18 from the City of Mesa appeared and gave public comments in support of the application. At the
19 conclusion of the hearing, the ALJ ordered Global Utilities to file a late-filed exhibit.

20 On April 24, 2009, Global Utilities filed a copy of the Pinal County water and wastewater
21 franchises.

22 On May 8, 2009, Global Utilities filed a Notice of Filing Late-Filed Exhibit.

23 After receipt of the late-filed exhibit, the matter was taken under advisement pending
24 submission of a Recommended Opinion and Order to the Commission.

25 * * * * *

26 Having considered the entire record herein and being fully advised in the premises, the
27 Commission finds, concludes, and orders that:

28

FINDINGS OF FACT

1
2 1. Picacho Utilities and Picacho Water are Arizona public service corporations in good
3 standing with the Commission's Corporation's Division.

4 2. The Global Utilities received their initial CC&Ns in Commission Decision No. 70312
5 (April 24, 2008).

6 3. PCUC and PCWC are authorized to provide wastewater and water utility services,
7 respectively, within Pinal County, Arizona.

8 4. PCUC and PCWC are owned by Global Water, Inc., whose ultimate parent company
9 is Global Water Resources, LLC ("Global").

10 5. The Global Utilities currently are not serving any customers in their Certificated
11 service areas.

12 6. On January 16, 2009, Global Utilities filed an application to extend their respective
13 CC&Ns in Pinal County. PCUC and PCWC share the same geographical area and their current
14 service territory includes 1,480 acres.

15 7. According to the application, the requested extension area is approximately 2,295
16 acres and includes non-contiguous parcels north of the Applicants' existing CC&N area. (App. at 2)

17 8. The proposed extension area is located within the city limits of the City of Eloy and
18 the real property is owned by the City of Mesa.

19 9. Plans for the proposed extension area are to build a regional transportation hub
20 integrating rail and road services into one central area. (App. at 2) According to the Staff Report, the
21 proposed service area is just east of Highway 87, and is intersected by the Southern Pacific Railroad's
22 rail line running north and south. The proposed extension area is also located four miles north of
23 Interstate 10. (Tr. at 13) Based on the location of the rail line and the extension area's close
24 proximity to Interstate system, it will serve as a consolidated nexus for rail and road services. (App.
25 at 2)

26 10. According to the application, the proposed development in the extension area will
27 provide employment opportunities for the City of Eloy and will directly benefit the local economy.
28 (App. at 2)

1 11. The Applicants anticipate providing service to 100 acres per year, in the extension
2 area, during the first five years. (Tr. at 18)

3 12. Global Utilities' witness testified that in-parcel facilities needed in the extension area
4 will be financed through Advances in Aid of Construction ("AIAC") and backbone plant will be
5 funded by equity from the utility or through the parent company. (Tr. at 20)

6 13. Staff is recommending approval of the Global Utilities' application subject to the
7 following conditions:

8 a. That PCWC file with Docket Control, as a compliance item in this docket,
9 copies of the Approval to Construct ("ATC") for Phase 1 of the development when
10 received by the Company, but in any event no later than two (2) years after the
effective date of a Decision in this matter.

11 b. That PCWC file with Docket Control, as a compliance item in this docket, a
12 copy of the Arizona Department of Water Resources ("ADWR") Designation of
13 Assured Water Supply ("DAWS") or Physical Availability Demonstration ("PAD")
for the CC&N extension area within two (2) years of the effective date of a Decision in
14 this matter.

15 c. That PCUC file with Docket Control, as a compliance item in this docket,
16 copies of the General Permits for Phase 1 of the development when received by
Picacho Cove Utilities, but in any event, no later than two (2) years after the effective
17 date of Decision in this matter.

18 d. That PCUC file with Docket Control, as a compliance item in this docket, a
19 copy of the Aquifer Protection Permit ("APP") within two (2) years of the effective
date of a Decision in this matter.

20 14. Global Utilities' witness testified that the Company is in agreement with all of Staff's
21 recommendations. (Tr. at 18)

22 15. Global Utilities has received a request for service from the City of Mesa, which
23 constitutes 100 percent of requested extension area. (Ex. A-3) During the hearing, a representative
24 from the City of Mesa, Ms. Natalie Lewis, gave public comment in support of the application. Ms.
25 Lewis stated the City of Mesa is currently involved in negotiations with Schuck Arizona, LLLP, to
26 purchase the majority of the land in the proposed extension area from the City of Mesa. (Ex. A-6)
27 She further stated that Schuck Arizona, LLLP, has asked the City of Mesa to reconsider the purchase
28 price for the land due to economic crisis and the land values in the area. (Tr. at 30) Ms. Lewis stated

1 she believed there would be an amended contract within 90 to 180 days from the date of the hearing,
2 and that construction should begin within one and half years to two years. (Tr. at 31)

3 16. Schuck Arizona, LLLP, is negotiating to purchase from the City of Mesa three
4 quarters of the land requested in the proposed extension area. (Tr. at 19)

5 17. Staff's witness stated that if negotiations for the purchase of the real property fell
6 through and the Global Utilities were unable to meet the compliance deadlines recommended by
7 Staff, Staff would make additional recommendations at that time and the Commission would have an
8 opportunity to review the CC&N extension given the circumstances. (Tr. at 39)

9 18. Global Utilities submitted into evidence a letter from Shuck Arizona, LLLP, dated
10 April 20, 2009, which requested water, wastewater, and recycled water service from the Global
11 Utilities. (Ex. A-6) The letter further stated that efforts were continuing towards acquisition and
12 development of the property, and annexation, zoning, and design of the rail service hub and industrial
13 park. (Ex. A-6)

14 19. Global has entered into a Memorandum of Understanding ("MOU") with the City of
15 Eloy. Global Utilities submitted the MOU into evidence to demonstrate the City of Eloy's support
16 for the application. (Ex. A-1) The MOU states the parties have entered into the agreement to facilitate
17 and manage future growth in the City of Eloy, as well as to foster a mutually beneficial working
18 relationship. The MOU states Global will pay to the City of Eloy Franchise fees of 2-3% of gross
19 revenues¹ based on the consumptive use of water and wastewater by residential, commercial, and
20 industrial customers, within the City of Eloy's existing city limits, the extension area, future
21 annexation areas, and Global's regional planning areas. (Id. at Ex. 9) The MOU further states that
22 Global will seek Commission approval to allow for inclusion of all fees (described above) within the
23 monthly consumptive billing of the utilities. Global Utilities did not seek Commission approval of the
24 fees in this proceeding and we make no finding on the recovery of such fees.

25 20. Section 9 of the MOU states that the City of Eloy and Global will jointly work to
26

27 ¹ The MOU defines gross revenues as base fees, consumptive fees, and industrial and commercial reclaimed water sales.
28 According to the MOU, gross revenues do not include revenues from hook up fees, service connection fees, termination
fees, reconnect or disconnect fees, late fees, insufficient check fees, account handling fees, or bulk service rate on the sale
of construction water.

1 support industrial and commercial uses in the City of Eloy, as well as co-funding specific
2 employment generating economic development initiatives. To further their efforts, Global agrees to
3 pay a total of \$369,000, at a rate of \$73,800 per year for five years, to the Economic Development
4 Group of Eloy ("EDGE"). Section 11 of the MOU also states Global will pay a \$100 hook up fee,
5 per connection in the proposed extension area to the City of Eloy.

6 21. Global Utilities witness testified that the Villa Grande Domestic Water Improvement
7 District is located within close proximity to the proposed extension area, but is not capable of serving
8 of the extension area and has not expressed a desire to serve the area. (Tr. at 13)

9 **Proposed Water System**

10 22. Global Utilities' witness testified that plans are to rehabilitate and convert several
11 agricultural wells for potable water use in the proposed extension area. (Tr. at 14) According to
12 Staff's Engineering Report, the proposed water system will consist of a 1.5 million gallons of storage,
13 booster systems, and approximately 19,367 lineal feet of transmission and distribution mains to serve
14 the extension area in the first five years of development.

15 23. The cost of the proposed water plant infrastructure is approximately \$6.4 million. (SR
16 at 2)

17 24. Staff reviewed the proposed costs for the water system and found them to be
18 reasonable and appropriate. However, Staff did not make a "used and useful" determination for the
19 proposed plant-in-service and no conclusion should be inferred for rate making or rate base purposes
20 in the future.

21 25. PCWC has not received an ADEQ ATC for construction of the facilities needed to
22 serve the extension area.

23 26. PCWC is currently not serving customers and therefore no ADWR compliance
24 reporting information is available.

25 27. The extension area is located within the Pinal Active Management Area ("AMA") and
26 PCWC will be subject to Pinal AMA reporting and conservation requirements.

27 28. Picacho Cove Water plans to file a DAWS issued by ADWR for the proposed
28 extension area.

1 29. There are no delinquent compliance issues for Picacho Cove Water.

2 **Proposed Wastewater System**

3 30. According to Staff's Engineering Report, PCUC proposed plant to construct a Water
4 Reclamation Facility ("WRF") which will cost approximately \$5.4 million. Global Utilities testified
5 that initially they will start with a small WRF producing about 400,000 gallons per day and gradually
6 increase to 10 million gallons per day ("MGD"). (Tr. at 15) The WRF will consist of approximately
7 6,325 lineal feet of gravity mains following the downward slope of the land from south to north. (Tr.
8 at 15)

9 31. The recycled portion of the WRF will consist of 6,325 lineal feet, and will be used
10 irrigate turf areas, sales to reuse customers and for construction. Global Utilities' witness stated that
11 the recycled portion of WRF will provide pressurized recycled water to the extension area and will
12 include recharge wells. (Tr. at 15)

13 32. Staff concluded that the proposed cost for the wastewater plant is reasonable and
14 appropriate. However, Staff made no "used and useful" determination and stated no conclusions
15 should be inferred for rate making or rate base purposes.

16 33. Global Utilities' witness testified that there are no proposed large scale turf areas in
17 the extension area, but that groundwater will be used to water small turf areas (ie., landscaping in
18 front of office buildings) in the proposed extension area until enough reclaimed water is available for
19 irrigation. (Tr. at 28) The witness further testified that he believed the irrigation demand in the
20 proposed extension area will be relatively low and that enough recycled water will be generated to
21 meet the demands within the first couple of years. (Id.)

22 34. Since Picacho Cove Water Company is located in the Pinal Active Management Area,
23 it will be required to comply with conservation goals and management practices of the ADWR. In
24 light of the need to conserve groundwater in Arizona, we believe it is reasonable to require Picacho
25 Cove Water Company to go beyond ADWR requirements. Therefore, we will require Picacho Cove
26 Water Company to implement within 90 days of the effective date of this Decision, at least 10 Best
27 Management Practices ("BMPs") (as outlined in ADWR's Modified Non-Per Capita Conservation
28 Program). A maximum of two of these BMP's may come from the "Public awareness/PR or

1 Education and Training” categories of the BMP’s.

2 35. The Commission has become increasingly concerned about the need to conserve
3 groundwater throughout Arizona. Therefore, we believe Picacho Cove Water Company should be
4 prohibited from selling groundwater for the purposes of watering any golf courses or common turfed
5 areas or any ornamental lakes or water features located in the common areas of the proposed new
6 developments within the certificated expansion areas.

7 36. Staff recommends PCUC file an ADEQ General Permit for Phase 1 of the construction
8 of the wastewater facility, and a APP for the wastewater service area.

9 37. Staff’s recommendations are reasonable and should be adopted.

10 38. Because an allowance for property tax expense is included in Picacho Cove Utilities
11 and Picacho Cove Water Company’s rates and will be collected from its customers, the Commission
12 seeks assurances from Picacho Cove Utilities and Picacho Cove Water Company that any taxes
13 collected from ratepayers have been remitted to the appropriate taxing authority. It has come to the
14 Commission’s attention that a number of water and wastewater companies have been unwilling or
15 unable to fulfill their obligation to pay the taxes that were collected from ratepayers, some for as
16 many as twenty years. It is reasonable, therefore, that as a preventative measure, Picacho Cove
17 Utilities and Picacho Water Company shall annually file, as part of their annual reports, affidavit with
18 the Utilities Division attesting that the Companies are current in paying their property taxes in
19 Arizona.

20 CONCLUSIONS OF LAW

21 1. Picacho Cove Utilities and Picacho Cove Water Company are public service
22 corporations within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281, 40-
23 282, and 40-285.

24 2. The Commission has jurisdiction over Picacho Cove Utilities and Picacho Cove Water
25 Company and the subject matter of this application.

26 3. Notice of the application was provided in accordance with the law.

27 4. There is a public need and necessity for water and wastewater service in the proposed
28 extension areas described in Exhibit A, attached hereto and incorporated herein by reference.

1 purposes of watering any golf courses or common turfed areas or any ornamental lakes or water
2 features located in the common areas of the proposed new developments within the certificated
3 expansion areas.

4 IT IS FURTHER ORDERED that Global Water – Picacho Cove Utilities Company shall file
5 with Docket Control, as a compliance item in this docket, copies of the General Permits for Phase 1
6 of the construction for the wastewater facilities, when it is received, but no later than two (2) years
7 after the effective date of this Decision.

8 IT IS FURTHER ORDERED that Global Water – Picacho Cove Utilities Company shall file
9 with Docket Control, as a compliance item in this docket, a copy of the Aquifer Protection Permit,
10 within two (2) years of the effective date of this Decision.

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1 IT IS FURTHER ORDERED that Global Water – Picacho Cove Utilities Company and
2 Global Water – Picacho Cove Water Company shall annually file as part of their annual reports, an
3 affidavit with the Utilities Division attesting that they are current on their property taxes in Arizona.

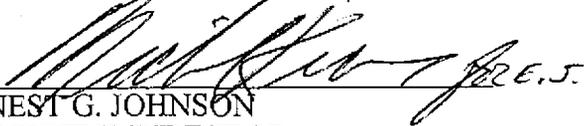
4 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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8 CHAIRMAN  COMMISSIONER

9  COMMISSIONER  COMMISSIONER  COMMISSIONER

11
12 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,
13 Executive Director of the Arizona Corporation Commission,
14 have hereunto set my hand and caused the official seal of the
15 Commission to be affixed at the Capitol, in the City of
16 Phoenix, this 6TH day of AUGUST, 2009.

17 
18 ERNEST G. JOHNSON
19 EXECUTIVE DIRECTOR

20 DISSENT _____

21 DISSENT _____

1 SERVICE LIST FOR: GLOBAL WATER – PICACHO COVE UTILITIES
2 COMPANY and GLOBAL WATER – PICACHO
COVE WATER COMPANY

3 DOCKET NOS.: SW-20494A-09-0016 and W-20495A-09-0016

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EXHIBIT "A"**PROPERTY DESCRIPTION**

(401-48-016B, 016C, 016D, 016E, and 017B)

All of **Section 10**, Township 7 South, Range 8 East, Gila and Salt River Base and Meridian, Pinal County, Arizona;

EXCEPT for any portion lying within the Southern Pacific Railroad right-of-way, described as follows: A strip of land 150 feet in width located in the West Half of said Section 10, the East line of said right-of-way being 1,184.90 feet west of the Northeast corner of said West Half and also being 1,182.09 feet west of the Southeast corner of said West Half of Section 10;

FURTHER EXCEPT a tract of land of approx. 0.86 acres in the Northeast quarter of the Northwest quarter of Section 10, commencing at a point 23.04' West from the North quarter corner thereof; thence continuing West along the North Section line 221.93', thence South 167.91', thence East 221.93', thence North 167.01' to the Point of Beginning.

(401-48-022D)

The West half of **Section 14**, Township 7 South, Range 8 East of Gila and Salt River Base and Meridian, Pinal County, Arizona;

EXCEPT the East 68 acres of the South half of the said West half, described as follows: Beginning at the southeast corner of said south half of the west half of Section 14, thence S89°41'33"W on the south line thereof, a distance of 1120.96 feet; thence N00°07'05"E, a distance of 2642.71 feet to the north line thereof; thence N89°43'53"E a distance of 1120.96 feet to the northeast corner of said south half of the west half of Section 14; thence S00°07'05"W on the east line thereof, a distance of 2641.95 feet to the point of beginning.

FURTHER EXCEPT the East 54 acres of the North half of said West half, described as follows: Beginning at the southeast corner of said north half of the west half of Section 14, thence S89°43'53"W on the south line thereof, a distance of 890.28 feet; thence N00°07'02"E a distance of 2642.56 feet to the north line thereof; thence N89°46'38"E a distance of 890.28 feet to the northeast corner of said north half of the west half of Section 14; thence S00°07'02"W on the east line thereof, a distance of 2641.85 feet to the point of beginning.

(401-48-023C)

All of **Section 15**, Township 7 South, Range 8 East of Gila and Salt River Base and Meridian, Pinal County, Arizona, lying East of the East right-of-way line of said Southern Pacific Railroad;

EXCEPT the following described tract of land, Beginning at the intersection of the Southerly right-of-way of Hanna Road with the Easterly right-of-way of the Southern Pacific Railroad, said point is 33' south of the north line of said Section 15, thence N89°48'38"E along said Southerly right-of-way line of said Hanna Road, a distance of 250 feet; thence S00°08'06"W parallel with said East right-way-line line, a distance of 300 feet; thence S89°48'38"W parallel with said Southerly right-of-way line, a distance of 250 feet; thence N00°08'06"E along said East right-of-way line, a distance of 300 feet to the Point of Beginning. More particularly described as follows: Beginning at the Southeast corner of said Section 15, thence S89°55'51"W on the South line of the Southeast Quarter of said Section 15, a distance of 2645.83 feet to the Southwest corner thereof; thence S89°48'48"W on the South line of the Southwest Quarter of said Section 15, a distance of 1,182.27 feet to the East right-of-way line of said Southern Pacific Railroad; thence N00°08'06"E on said East right-of-way line, a distance of 4,948.88 feet; thence N89°48'38"E a distance of 250.00 feet; thence N00°08'06"E a distance of 300.00 feet; thence S89°48'38"W a distance of 250.00 feet to the East right-of-way line of said Southern Pacific Railroad; thence N00°08'06"E on said East line, a distance of 33.00 feet to the North line of the Northwest Quarter of said Section 15; thence N89°48'38"E on said North line, a distance of 1,182.09 feet to the Northwest corner thereof; thence N89°48'20"E on the North line of the Northeast Quarter of said Section 15, a distance of 2,646.22 feet to the Northeast corner thereof; thence S00°08'34"W on the East line of said Northeast Quarter, a distance of 2,643.97 feet to the Southeast corner thereof; thence S00°07'53"W on the East line of the Southeast Quarter of said Section 15, a distance of 2,643.75 feet to the point of beginning.

(401-48-035B)

All of Section 22, Township 7 South, Range 8 East, Gila and Salt River Base and Meridian, Pinal County, Arizona lying East of the East right-of-way line of the Southern Pacific Railroad. More particularly described as follows: Beginning at the Southeast corner of said Section 22, thence S89°51'41"W on the South line thereof, a distance of 3,821.52 feet to the East right-of-way line of said Southern Pacific Railroad; thence N00°08'03"E on said East line, a distance of 5,284.07 feet to the North line of the Northwest Quarter of said Section 22; thence N89°48'48"E on said North line, a distance of 1,182.27 feet to the Northeast corner thereof; thence N89°55'51"E on the North line of the Northeast Quarter of said Section 22, a distance of 2645.83 feet to the Northeast corner thereof; thence S00°12'04"W on the East line of said Northeast Quarter, a distance of 2,640.25 feet to the Southeast corner thereof; thence S00°12'35"W on the East line of the Southeast Quarter of said Section 22, a distance of 2,641.64 feet to the point of beginning.

(401-52-007)

The West half of the Southwest quarter of Section 23, Township 7 South, Range 8 East, Gila and Salt River Base and Meridian, Pinal County, Arizona;
EXCEPT 1/16 of all oil, gas, and other hydrocarbon substances, helium or other substances of a gaseous nature, coal, metal, mineral, fossils, fertilizer of every name and description, and all materials which may be essential to production of fissionable material as reserved in A.R.S. 37-231, E.

(401-71-001B)

All of Section 27, Township 7 South, Range 8 East, Gila and Salt River Base and Meridian, Pinal County, Arizona, lying East of the East right-of-way line of the Southern Pacific Railroad;
EXCEPT the North 307 feet. More particularly described as follows: Beginning at the Southeast corner of said Section 27, thence S89°52'32"W on the south line thereof, a distance of 3,825.67 feet to the East right-of-way line of said Southern Pacific Railroad; thence N00°08'21"E on said East line, a distance of 936.77 feet; thence S89°51'09"E on said East line, a distance of 75.03 feet; thence N00°07'56"E on said East line, a distance of 3,700.05 feet; thence N89°51'57"W on said East line, a distance of 75.00 feet; thence N00°08'03"E on said East line, a distance of 310.53 feet to a line that is 307 feet south of the North line of said Section 27; thence N89°51'41"E on a line 307 feet south of said North line, a distance of 3,821.73 feet to the East line of the Northeast Quarter said Section 27; thence S00°05'42"W on said East line, a distance of 2334.65 feet to the Southeast corner thereof; thence S00°04'58"W on the East line of the Southeast Quarter of said Section 27, a distance of 2,641.50 feet to the point of Beginning.

[END]