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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

IN RE THE GENERAL ADJUDICATION
OF ALL RIGHTS TO USE WATER IN
THE GILA RIVER SYSTEM AND
SOURCE

Contested Case No. W1-11-2694

ORDER RE:
SECOND JOINT SETTLEMENT REPORT
AND
PROPOSED ABSTRACTS

CONTESTED CASE NAME: *In re Pima County Irrigation*
HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report
DESCRIPTIVE SUMMARY: A second joint settlement report shall be filed by November 9, 2018. Suggested corrections to proposed abstracts for *de minimis* water uses shall be filed by December 10, 2018. ADWR shall submit a report and a map detailing the place of use for PWR 113-12-001-SW001.
NUMBER OF PAGES: 11
DATE OF FILING: October 9, 2018

Watershed File Report 113-12-BD-002

On August 31, 2018, the parties filed a Joint Settlement Report (“the Report”).
According to the Report, proposed abstracts for water rights analyzed in Watershed File

1 Report 113-12-BD-002 (the "WFR") were prepared by counsel for Pima Counsel and
2 circulated among the parties who filed objections to the WFR. The proposed abstracts appear
3 to be acceptable to BHP Copper, Inc. and ASARCO, LLC for purposes of settling their
4 objections. As to the remaining objectors, the Report states that certain water right
5 characteristics appear to be resolved while other characteristics are either under study or the
6 subject of objections by the parties. The United States and the Gila Indian Community had
7 only recently received the proposed abstracts at the time of the filing of the Report so their
8 position with respect to the abstracts is unknown.
9

10 Counsel for the Yavapai-Apache Nation shall consult with each of the parties and
11 prepare a Second Joint Settlement Report approved by all objectors that includes the most
12 recent abstracts proposed by Pima County and lists with specificity those characteristics in the
13 proposed abstracts to which objections currently exist.
14

15 **Watershed File Reports 111-19-001, 113-11-003 and 113-12-001**

16 This case also involves *de minimis* claims for water rights analyzed by Watershed File
17 Reports Nos. 111-19-001, 113-11-003 and 113-12-001 included in the final hydrographic
18 survey report for the San Pedro Watershed ("San Pedro HSR") filed on November 20, 1991.
19 In 1994, the Special Master issued a Memorandum Decision, Findings of Fact, and
20 Conclusions of Law for Group 1 Cases involving Stockwatering, Stockponds, and Domestic
21 Uses, dated November 14, 1994, amended February 23, 1995, approved and modified
22 September 27, 2002 ("Decision"). The Decision established the procedures for adjudicating
23 *de minimis* water rights for claims in the San Pedro watershed.
24

25 Once the proposed water right abstracts have been prepared, "the litigants will be
26 provided an opportunity to suggest the correction of mistakes in the proposed abstracts."
27 Decision, p. 47. This proceeding is not a forum in which to relitigate the Decision, which
28

1 the subject of years of briefing and has now been affirmed for more than 14 years.
2 Subsequently, these abstracts will be included in a catalog of proposed water rights where
3 they will be subject to very limited set of objections and ultimately in a final decree.

4 As required by the Decision, six proposed water right abstracts have been prepared
5 for the *de minimis* water rights analyzed by Watershed File Reports Nos. 111-19-001, 113-11-
6 003 and 113-12-001 which are attached as Appendix A. The parties shall be permitted 60
7 days to file suggested corrections to the proposed abstracts. No abstract was prepared for
8 PWR 113-12-001-SW001 because uncertainty exists as to the correct legal description for the
9 place of use. *See Report re Land Ownership in WFR 113-12-001*, filed by the Arizona State
10 Land Department on April 23, 2018.¹

11 **IT IS ORDERED:**

- 12 1. A Joint Settlement Report shall be filed by November 9, 2018.
- 13 2. Any suggested corrections to the proposed abstracts shall be filed on or before
14 December 10, 2018.
- 15 3. Arizona Department of Water Resources shall review PWR no. 113-12-001-
16 SW001 and submit a report and map of use defining the place of use by November 9, 2018.

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22 _____
23 SUSAN WARD HARRIS
24 Special Master
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26
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28 ¹ No water right will be issued for 113-12-001-SW003. *See Minute Entry*, dated June 19, 2018.

1 On October 9, 2018, the original of the foregoing was
2 delivered to the Clerk of the Maricopa County Superior
3 Court for filing and distributing a copy to all persons
4 listed on the Court-approved mailing list for this
5 contested case.
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ATTACHMENT A

**Abstract of Water Right
San Pedro Watershed**

1. Proposed Water Right No.:	111-19-001-SP001
2. Owner of Water Right:	Pima County
3. Landowner:	Pima County
4. Statement of Claimant No.(s):	39-1726
5. Statement of Claimant Name(s):	Pima County
6. Lessee or Permittee:	None
7. Basis of Right:	38-19770; 38-59306
8. Beneficial Use:	Stockpond
9. Priority Date:	December 31, 1937
10. Quantity:	4 acre feet annually with continuous refill
11. Place of Use:	SWNWSW 27 T19S R18E
12. Point of Diversion:	SWNWSW 27 T19S R18E
13. Source of Water:	Babocomari River
14. Name of Facility:	Hospital Tank

**Abstract of Water Right
San Pedro Watershed**

1. Proposed Water Right No.:	113-11-003-SP001
2. Owner of Water Right:	Pima County
3. Landowner:	Pima County
4. Statement of Claimant No.(s):	39-5395
5. Statement of Claimant Name(s):	Pima County
6. Lessee or Permittee:	None
7. Basis of Right:	38-15228
8. Beneficial Use:	Stockpond
9. Priority Date:	July 3, 1964
10. Quantity:	4 acre feet annually with continuous refill
11. Place of Use:	NWSENE 21 T11S R17E
12. Point of Diversion:	NWSENE 21 T11S R17E
13. Source of Water:	San Pedro River
14. Name of Facility:	South Mesa Tank

**Abstract of Water Right
San Pedro Watershed**

1. Proposed Water Right No.:	113-12-001-SP001
2. Owner of Water Right:	Pima County
3. Landowner:	Pima County
4. Statement of Claimant No.(s):	39-2050
5. Statement of Claimant Name(s):	Pima County
6. Lessee or Permittee:	None
7. Basis of Right:	38-18307
8. Beneficial Use:	Stockpond
9. Priority Date:	September 1, 1967
10. Quantity:	4 acre feet annually with continuous refill
11. Place of Use:	NWNENW 30 T12S R18E
12. Point of Diversion:	NWNENW 30 T12S R18E
13. Source of Water:	San Pedro River
14. Name of Facility:	Piety Hill

**Abstract of Water Right
San Pedro Watershed**

1. Proposed Water Right No.:	113-12-001-SP002
2. Owner of Water Right:	Pima County
3. Landowner:	Pima County
4. Statement of Claimant No.(s):	39-2052
5. Statement of Claimant Name(s):	Pima County
6. Lessee or Permittee:	None
7. Basis of Right:	38-18305
8. Beneficial Use:	Stockpond
9. Priority Date:	June 30, 1970
10. Quantity:	4 acre feet annually with continuous refill
11. Place of Use:	SESESW 7 T13S R18E
12. Point of Diversion:	SESESW 7 T13S R18E
13. Source of Water:	San Pedro River
14. Name of Facility:	Jerry Tank

**Abstract of Water Right
San Pedro Watershed**

1. Proposed Water Right No.:	113-12-001-SP003
2. Owner of Water Right:	Pima County
3. Landowner:	Pima County
4. Statement of Claimant No.(s):	39-2062
5. Statement of Claimant Name(s):	Pima County
6. Lessee or Permittee:	None
7. Basis of Right:	38-18304
8. Beneficial Use:	Stockpond
9. Priority Date:	September 30, 1965
10. Quantity:	4 acre feet annually with continuous refill
11. Place of Use:	SWNWNE 17 T13S R18E
12. Point of Diversion:	SWNWNE 17 T13S R18E
13. Source of Water:	San Pedro River
14. Name of Facility:	Youtcy Pasture Tank

**Abstract of Water Right
San Pedro Watershed**

1. Proposed Water Right No.:	113-12-001-SW002
2. Owner of Water Right:	Pima County
3. Landowner:	Pima County
4. Statement of Claimant No.(s):	39-2770
5. Statement of Claimant Name(s):	Floyd and Lavita Bingham Family Trust
6. Lessee or Permittee:	None
7. Basis of Right:	36-18385
8. Beneficial Use:	Stock watering
9. Priority Date:	December 31, 1906
10. Quantity:	Reasonable Use
11. Place of Use:	NENWSE 7 T12S R18E
12. Point of Diversion:	NENWSE 7 T12S R18E
13. Source of Water:	Buehman Spring