1 2 3 4 5 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA 6 7 IN AND FOR THE COUNTY OF MARICOPA 8 9 IN RE THE GENERAL ADJUDICATION W-1, W-2, W-3, W-4 (Consolidated) OF ALL RIGHTS TO USE WATER IN 10 THE GILA RIVER SYSTEM AND **SOURCE** Contested Case No. W1-11-0212 11 12 ORDER TO SET TELEPHONIC STATUS **CONFERENCE** 13 **AND** 14 ORDER TO ADWR TO REVIEW ABSTRACTS FOR DE MINIMIS WATER 15 RIGHTS AND PREPARE MAP 16 17 18 **CONTESTED CASE NAME**: In re Pyeatt Group of Cases 19 **HSR INVOLVED**: San Pedro River Watershed Hydrographic Survey Report 20 **DESCRIPTIVE SUMMARY**: Telephonic status conference set for May 20, 2021 at 1:30 p.m. 21 **NUMBER OF PAGES: 20** 22 **DATE OF FILING**: March 19, 2016 23 24 This case began almost thirty years ago as part of the general adjudication of legal rights 25 to use water. The prior proceedings did not result in an adjudication of rights claimed by the 26 landowner and little activity has occurred with respect to the claimed rights for a number of years. 27

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The case will again enter an active phase to determine legal rights to divert water from the Babocomari River for irrigation, domestic, stock watering and stockpond uses.

Brief Explanation of the General Adjudication

This contested case is one of the many cases in the General Stream Adjudication for the San Pedro River watershed. The purpose of the General Adjudication is to determine the legal rights of those persons who filed statement of claimants to use water from the San Pedro watershed. The Babocomari River is located in the San Pedro watershed.

Other cases in which claims have been made to water in the San Pedro River watershed have been completed, are in the process of determining water rights, or awaiting initiation. The General Adjudication will also determine water rights in the Upper Salt, Verde, Upper Gila, Lower Gila, Agua Fria and Upper Santa Cruz watersheds. Persons who fail to timely file statements of claimant will forfeit any rights to the use of water in this river system and source.

Claims for Water Rights

This contested case will determine water rights investigated by Arizona Department of Water Resources. The claims for water rights are the subject of two reports, which are known as Watershed File Reports, that were published in 1991 as part of the San Pedro Hydrographic Survey Report. Watershed File Reports 111-19-DC-010 and 111-19-DDC-001 are attached as Attachment A.

1. Watershed File Report 111-19-DC-010

In 1979, James Pyeatt filed Statement of Claimant 39-1609 for a water right for domestic Mr. Pyeatt listed the source of water as Lyle Canyon, a tributary to the Babocomri River. He subsequently amended the Statement of Claimant to include claims for water for livestock

2. Watershed File Report 111-19-DDC-001

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The Arizona Department of Water Resources also investigated water uses on land located in the southwest quarter of section 31 Township 21S Range 19E and prepared Watershed File Report 111-19-DDC-001. The land is more specifically shown on the map attached as

use. The Watershed File Report found a domestic use of water on the southeastern quarter of the southeastern quarter of section 31 Township 21S R19E, Gila and Salt River Base and Meridian, Cochise County, Arizona. The Watershed File Report also noted that Pyeatt spring provides water for stockwatering uses and further stated that the domestic use includes stockwatering uses.

In 2016, the Statement of Claimant was assigned to the trustee of the Pyeatt Living Trust. According to the public records of the Cochise County Treasurer, the south half of the south half of section 31 Township 21S R19E, tax parcel 106-45-002G, is owned by Pyeatt Ranch, LLC. A copy of the Cochise County Treasurer's map is attached as Attachment B. The public records of the Arizona Department of Water Resources do not include an assignment of the Statement of Claimant from Marie Pyeatt, as trustee of the Pyeatt Living Trust, to the Pyeatt Ranch, LLC.

Expedited procedures have been adopted to determine water rights in the San Pedro watershed for domestic uses, stock watering, and certain stockponds. *See* Memorandum Decision, Findings of Fact, and Conclusions of Law for Group 1 Cases involving Stockwatering, Stockponds, and Domestic Uses, dated November 14, 1994, amended February 23, 1995, approved and modified September 27, 2002 ("Decision"). The first step in the process is the preparation of proposed abstracts for the water rights. In accordance with the Decision, proposed abstracts have been prepared for domestic and stock watering uses. The abstracts are attached as Attachment C. Arizona Department of Water Resources shall review the abstracts and provide the parties in this case with its comments along with a map that shows the boundaries of the land investigated by Watershed File Report 111-19-DC-010 and the location of the domestic use and stock watering use.

Attachment D. The land involved in this case is labelled as "(1)". The Watershed File Report identified potential water rights for domestic use, irrigation, and a stockpond on the land.

After the Arizona Department of Water Resources issued the Watershed File Report in 1991, James Pyeatt filed Statements of Claimant 39-15150, 39-15151 and 39-15152 for domestic and irrigation uses and Statement of Claimant 39-15153 for a stockpond use. These Statements of Claimant were subsequently assigned to Marie Pyeatt, as trustee of the Pyeatt Living Trust. According to the public records of the Cochise County Treasurer, the south half of the south half of section 31 Township 21S R19E, tax parcel 106-45-002G, is owned by Pyeatt Ranch, LLC. The public records of the Arizona Department of Water Resources do not include an assignment of the Statements of Claimant from Marie Pyeatt, as trustee of the Pyeatt Living Trust, to the Pyeatt Ranch, LLC.

As explained above, the expedited procedures will be applied to the potential water rights found by ADWR for domestic use and the stockpond. Proposed abstracts for domestic use and for the stock pond are attached as Attachment E. Arizona Department of Water Resources shall review the abstracts and provide the parties in this case with a map that shows the location of the domestic use and the stockpond.

IT IS ORDERED:

A. <u>Litigants</u>. The litigants in this contested case are the Claimant, Marie Pyeatt, as trustee of the Pyeatt Living Trust, the current landowner, Pyeatt Ranch, LLC, all persons who filed objections to the listed watershed file reports, who are included on Attachment F, and claimants who are allowed to intervene by order.

B. Court-Approved Mailing List.

1. The initial Court-approved mailing list for this case shall include all persons listed on Attachment F to this order. The list may be modified

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only by filing a motion with the Special Master to amend the Courtapproved mailing list. Litigants are responsible for using the current Court-approved mailing list.

- A copy of any pleading filed with the Clerk of the Maricopa County Superior Court in this case shall be served upon each person listed on the Court-approved mailing list.
- Claimants wishing to be added or removed from the mailing list shall file
 a motion with the Special Master. Parties allowed to intervene will be
 automatically added to the mailing list.
- C. <u>Courtesy Email List.</u> The Special Master's office will email courtesy copies of orders and minute entries entered in this case to persons listed on Attachment F. Requests for inclusions on the email list should be sent to Durina Farrall at durina.farrall@jbazmc.maricopa.gov.
- D. <u>Review.</u> Arizona Department of Water Resources shall review the attached abstracts, and provide comments and maps. The report and maps shall be filed by ADWR by **May 10, 2021**.

E. Status Conference.

 An initial status conference shall be held to determine whether the Pyeatt Ranch, LLC intends to pursue claims for water rights and whether Pyeatt Ranch, LLC will obtain assignments of the Statements of Claimant from Marie Pyeatt, as trustee.

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- 2. If water rights for irrigation use will be pursued with respect to the land, then another purpose of the initial status conference will be to determine whether objections to the potential water rights for irrigation can be settled and the amount of time that the parties will require to discuss the resolution of the objections.
- 3. If the objections cannot be settled, then a subsequent date will be set for a scheduling conference to identify issues, file disclosure statements, conduct discovery, submit prehearing motions, and hold a trial. No party shall conduct any discovery or file any motions prior to the Status Conference.

A telephonic Status Conference shall be held on May 20, 2021 at 1:30 p.m.

Instructions for telephonic appearance:

Dial: 602-506-9695 (local)

1-855-506-9695 (toll free long distance)

Dial Participant Pass Code 357264#

SUSAN WARD HARRIS

Special Master

On March 19, 2021, the original of the foregoing was delivered to the Clerk of the Maricopa County Superior Court for filing and distributing a copy to all persons listed on the Court-approved mailing list for this contested case, a copy of which is attached hereto as Attachment E,

Durina Farrall

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ATTACHMENT A

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2 3 FILED 4 WATERSHED FILE 190 JUDITH ALLEN, Clerk REPORT NUMBER LAND DWNER 5 PYEATT, JUDITH E. 111-19-DC-010 Deputy APPLICABLE FILINGS AND DECREES 6 CLEARLY STATED INFORMATION FROM FILINGS AND DECREES WI-11-2127 QUANTITY FILING USE LOCATION CLAIM DIVERSION LOCATION IN AFA SECTION TWNP RNGE SECTION TWNP RNGE FILING NUMBER STATUS DATE 1928 8 20-0207069 31 210S 190E 31 210S 190E SWSW31 2105 190E SESE36 2105 180E 36-0042687 STOCK SWSW31 210S 190E 1899 .50 39-0001609 QUE.RECD DOMESTIC SESE36 210S 180E 1928 9 DWR ANALYSIS OF FILINGS AND DECREES 10 USES CLAIMED OR USES FOUND APPLIES TO FILING NUMBER REFERENCED BY DWR DIVERSIONS APPLIES TO PWR NUMBERS 11 20-0207069 STOCK STOCK 502 INCIDENTAL 36-0042687 STOCK 502 39-0001609 DOMESTIC DOMESTIC SO2 DMO01 12 DIVERSIONS 13 LOCATION DIV # SECTION TWNP RNGE DIVERSION NAME WATER SOURCE AND CLASSIFICATION 14 SURFACE WATER: BABOCOMARI RIVER SESESE31 210S 190E PYEATT SPRING SHARED 15 USES PHOTO SOURCE LOCATION SUPPLIED BY 16 SECTION TWNP RNGE DIVERSIONS WATER SOURCES DATE CHANGE FACILITY NAME PWR # SESESE31 210S 190E 502 SURFACE WATER NO 17 USES AND DIVERSIONS 18 ** WATER FROM SO2 FOUND IN FILE (111-19-DDC-1) IS USED IN THIS FILE 19 SUMMARY APPLICABLE APPLICABLE *APPARENT FIRST USE DATE* 20 WATER SOURCES AND CLASSIFICATIONS PWR # ADJ FILINGS PRE FILINGS DATE BASIS FOR DATE DM001 39-0001609 20-0207069 SURFACE WATER: BABDCOMARI RIVER 21 36-0042687 QUANTITIES OF USE ESTIMATED QUANTIFICATION PWR # ACRES CROP TYPE EFF REMARKS TYPE 23 DMO01 SEE VOLUME 1 -GENERAL ASSESSMENT 24 EXPLANATION 25 FILINGS AND DECREES 26

FILINGS AND DECREES

FILING 39-1609 - A UNIFORM QUESTIONNAIRE WAS RECEIVED WHICH PROVIDED NEW INFORMATION ON THE WATER USE AMOUNT AND CLAIM DATE.

DECREE 20-0207069 - HENRY PYEATT -VS- HUACHUCA QUEEN MINING COMPANY, ISSUED IN JUNE 1928 STATED THAT THE DEFENDANTS (MCFADDIN AKA HUACHUCA QUEEN MINING CO.) WERE RESTRAINED FROM PUMPING MINE WATERS TO THE EXTENT THAT IT INTERFERED WITH PLAINTIFF PYEATT'S SPRING FLOW. FOR MORE INFORMATION ON THIS DECREE, SEE CHAPTER 1 IN VOLUME 1.

FILE 111-19-DC-010 (CONTINUED) E X P L A N A T I O N (CONTINU CONTINUATION OF PAGE: 265 (CONTINUED) DIVERSIONS , S2 - DIVERSION FROM PYEATT SPRING INTO A PIPELINE. THIS SPRING PROVIDES WATER FOR DOMESTIC AND STOCKWATERING USES. USES AND RESERVOIRS

DM1 - DOMESTIC WATER USE INCLUDES STOCKWATERING USES. SHARED USES AND DIVERSIONS S2 - SPRING IS SHARED WITH W.F.R. #111-19-DDC-1. Attachment to Watershed File Report: 111-19-DC-010 Phoenix objects to Categories 8 and 9 for the reason that: DWR reports that Decree No. 20-0207069 is applicable to DM001 yet DWR fails to report either the decreed volume in the "Quantities of Use" section or the decreed date of first use in "Potential Water Right Summary". (910) (920) (1010)

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LAND OWNER REPORT NUMBER
PYEATT, ROLAND 111-19-DDC-O01

FILED

WALLEN 1902

HUDITH ALLEN, Clerk

By

Deputy

APPLICABLE FILINGS AND DECREES

CLEARLY STATED INFORMATION FROM FILINGS AND DECREES W1-11-213

FILING NUMBER	FILING STATUS	USES	QUANTITY IN AFA	USE LO		ON RNGE	CLAIM DATE	DIVERSION SECTION		ATION RNGE
20-0207069				31	2105	190E	1928	31	2105	190E
36-0028444		DOMESTIC STOCK	4.60	SWSW31	2105	190E	1899	SWSW31	2105	190E
36-0028529		STOCK	1.10	SWSW25	2105	180E	1905	SWSW25	2105	180E
36-0028734		DOMESTIC STOCK	3.07	SWSW31	2105	190E	1899	SWSW31	2105	190E
36-0042687		STOCK	.61	SWSW31	2105	190E	1899	SWSW31	2105	190E
39-0000586	QUE . RECD	STOCK	1.12	NENWSE36	2105	180E	1979	NENWSE36	2105	180E

DWR ANALYSIS OF FILINGS AND DECREES

FILING NUMBER	USES CLAIMED OR REFERENCED	USES FOUND BY DWR	APPLIES TO DIVERSIONS	APPLIES TO PWR NUMBERS
20-0207069	DOMESTIC	DOMESTIC	SO1.SO2	DMOO 1
36-0028444	DOMESTIC	DOMESTIC	SO1	DMOO1
	STOCK	SPRING		
36-0028529	STOCK	STOCKWELL		
36-0028734	DOMESTIC	DOMESTIC	502	DMOO1,SPOO1
	STOCK	STOCK		
36-0042687	STOCK	STOCK	502	SP001
39-0000586	STOCK	STOCKWELL		

DIVERSIONS

LOCATION

DIV #	SECTION	TWNP	RNGE	DIVERSION NAME	WATER SOURCE AND CLASSIFICATION
SO1	SESWSW31	2105	190E	UNNAMED SPRING	SURFACE WATER: BABOCOMARI RIVER
502	SWSESW31	2105	190E	PYEATT SPRING	SURFACE WATER: BABOCOMARI RIVER
					SHARED

USES

		ATION		SUPPLIED BY			SOURCE	
PWR #	SECTION	TWNP	RNGE	DIVERSIONS	WATER SOURCES	DATE	CHANGE	FACILITY NAME
DMOO 1	SWSESW31	2105	190E	SO1, SO2	SURFACE WATER		NO	
IROO1	SWSW31	2105	190E	SO1.SO2	SURFACE WATER	1935	NO	

RESERVOIRS

	LOCATION	SUPPLIED BY		PHOTO		STORAGE
		 			RESERVOIR NAME	PURPOSE
SPOO1 NWSE			SURFACE WATER		PYEATT SPRING	STOCKWATERING

SHARED USES AND DIVERSIONS

** WATER FROM SO2 IS SHARED WITH THESE ADDITIONAL FILES: 111-19-DC-10

PWR SUMMARY

PWR /	APPLICABLE ADJ FILINGS	PRE FILINGS	 WATER SOURCES AND CLASSIFICATION	_
DMOO	NONE	20-0207069 36-0028444	SURFACE WATER: BABOCOMARI RIVER	
		36-0028734	•	

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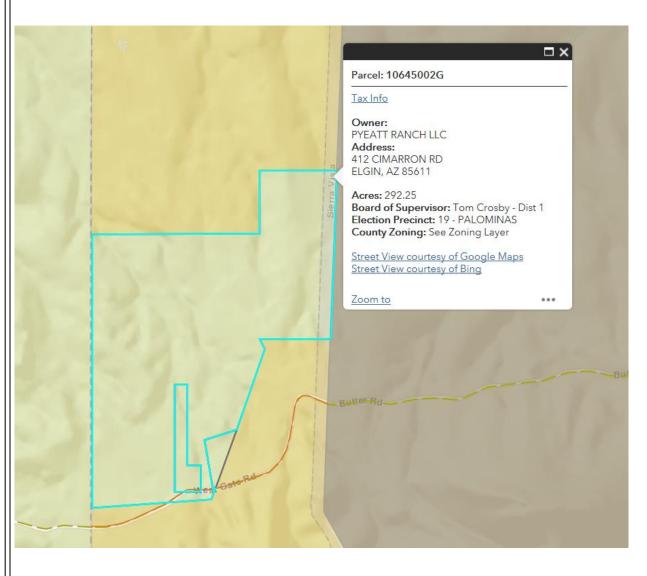
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ATTACHMENT B

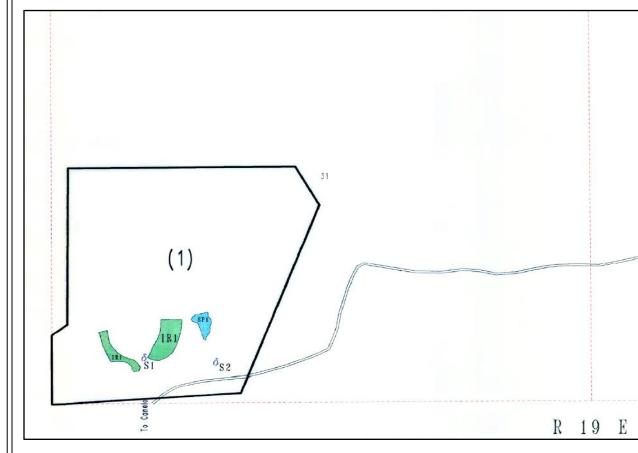


ATTACHMENT C

Attribute	Proposed Abstract of	ADWR Comments
	Water Right	
1. Proposed Water Right No.:	111-19-DC-001-DM001	
2. Owner of Water Right:		
3. Landowner:	Pyeatt Ranch, LLC	
4. Statement of Claimant No.(s):	39-0001609	
5. Statement of Claimant Name(s):	Pyeatt Living Trust	
6. Lessee or Permitee:	N/A	
7. Basis of Right:	20-0207069	
	36-0042687	
8. Beneficial Use:	Domestic use	
9. Priority Date:	6/19/1928	
10. Quantity:	Not to exceed (≤) one acre foot	
11. Place of Use:	SESESE Section 31 T21S R19E	
	Gila and Salt River Base and	
	Meridian, Cochise County, AZ	
12. Point of Diversion:	SESESE Section 31 T21S R19E	
	Gila and Salt River Base and	
	Meridian, Cochise County, AZ	
13. Source of Water:	Surface Water: Pyeatt Spring	

Attribute	Proposed Abstract of	ADWR Comments
	Water Right	
1. Proposed Water Right No.:	111-19-DC-001-SW001	
2. Owner of Water Right:		
3. Landowner:	Pyeatt Ranch, LLC	
4. Statement of Claimant No.(s):	39-0001609	
5. Statement of Claimant Name(s):	Pyeatt Living Trust	
6. Lessee or Permitee:	N/A	
7. Basis of Right:	20-0207069	
	36-0042687	
8. Beneficial Use:	Stock and wildlife watering	
9. Priority Date:	6/19/1928	
10. Quantity:	Reasonable use	
11. Place of Use:	SWSW Section 31 T21S R19E	
	Gila and Salt River Base and	
	Meridian, Cochise County, AZ	
12. Point of Diversion:	SWSW Section 31 T21S R19E	
	Gila and Salt River Base and	
	Meridian, Cochise County, AZ	
13. Source of Water:	Surface Water: Pyeatt Spring	

ATTACHMENT D



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ATTACHMENT E

Attribute	Proposed Abstract of	ADWR Comments
	Water Right	
1. Proposed Water Right No.:	111-19-DDC-SP001	
2. Owner of Water Right:		
3. Landowner:	Pyeatt Ranch, LLC	
4. Statement of Claimant No.(s):	39-15153	
5. Statement of Claimant Name(s):	Pyeatt Living Trust	
6. Lessee or Permitee:	N/A	
7. Basis of Right:	20-0207069	
	36-028734	
	36-42687	
8. Beneficial Use:	Stock watering from a Stock Pond	
9. Priority Date:	12/31/1984	
10. Quantity:	Not to exceed (≤) 4 acre feet	
	annually with continuous fill	
11. Place of Use:	NWSESW Section 31 T21S R19E	
	Gila and Salt River Base and	
	Meridian, Cochise County, AZ	
12. Point of Diversion:	NWSESW Section 31 T21S R19E	
	Gila and Salt River Base and	
	Meridian, Cochise County, AZ	
13. Source of Water:	Surface Water: Babocomari River	
14. Facility	Spring Stock Pond: Pyeatt Spring	

Attribute	Proposed Abstract of	ADWR Comments
	Water Right	
1. Proposed Water Right No.:	111-19-DDC-001-DM001	
2. Owner of Water Right:		
3. Landowner:	Pyeatt Ranch, LLC	
4. Statement of Claimant No.(s):	39-15150	
	39-15151	
	39-15152	
5. Statement of Claimant Name(s):	Pyeatt Living Trust	
6. Lessee or Permitee:	N/A	
7. Basis of Right:	20-0207069	
	36-0028444	
	36-0028734	
8. Beneficial Use:	Domestic use	
9. Priority Date:	12/31/1899	
10. Quantity:	Not to exceed (≤) one acre foot	
11. Place of Use:	SWSESW Section 31 T21S R19E	
	Gila and Salt River Base and	
	Meridian, Cochise County, AZ	
12. Point of Diversion:	SWSESW Section 31 T21S R19E	
	Gila and Salt River Base and	
	Meridian, Cochise County, AZ	
13. Source of Water:	Surface Water: Pyeatt Spring	

ATTACHMENT F

1	ATTA
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3	Arizona Department of Water Resources
4	Kimberly Parks P. O. Box 36020
5	Phoenix, AZ 85067
6	ASARCO Incorporated
7	Lauren J. Caster Fennemore Craig, P.C.
8	2394 East Camelback Road Suite 600
9	Phoenix, AZ 85016-3429
10	BHP Copper, Inc.
11	John D. Burnside Snell & Wilmer, L.L.P.
12	400 E. Van Buren Street, Ste 1900 Phoenix AZ 85004
13	Charles Cahov
14	Charles Cahoy City of Phoenix Attorney's Office
15	200 W. Washington 13th Flr. Phoenix, AZ 85003
16	Clerk of the Superior Court
17	Maricopa County
18	Attn: Water Case 601 West Jackson Street
19	Phoenix, AZ 85003
20	Gila River Indian Community
21	Linus Everling and Thomas L. Murphy Office of the General Counsel
22	P. O. Box 97 Sacaton, AZ 85147
23	Judith G. Pyeatt
24	HCR Box 431
25	Elgin, AZ 85611

Joe P. Sparks and Laurel A. Herrmann The Sparks Law Firm, P.C. 7503 First Street Scottsdale, AZ 85251-4573

1	Lucas T. Christian & Julian Nava Rosette, LLP
2	565 W. Chandler Blvd. Suite 212
3	Chandler, AZ 85225
4	Pyeatt Ranch LLC
	Manuel R. Murrietta, Statutory Agent 415 Cimarron Road
5	Elgin, Arizona 85611
6	S. Montgomery, R. Interpreter, J. Tomkus
7	Montgomery & Interpreter, Plc 3301 E. Thunderbird Road
8	Phoenix, AZ 85032
9	Salt River Valley Water Users Association,
10	Salt River Project Agricultural Improvement and Power District
11	John B. Weldon, Jr. and Mark A. McGinnis Salmon, Lewis & Weldon PLC
12	2850 E Camelback Rd, Ste. 200 Phoenix, AZ 85016
13	
14	Special Master Susan Ward Harris Superior Court of Arizona
	201 W. Jefferson Street
15	Courtroom 301 Phoenix, AZ 85003
16	2 10 5 1 m., 1 2
17	U. S. Department of Justice
18	Patrick Barry and Emma Blades
19	Environment and Natural Resources P. O. Box 7611
20	Washington, D.C. 20044-7611
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