

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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 Nos. W1-11-1889

CONTESTED CASE NAMES: *In re Paul and Sandra Brick*

HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report.

DESCRIPTIVE SUMMARY: Arizona Department of Water Resources directed to map one well in the northwest quarter of section 2 T17S R20 and three wells in the northeast quarter of section 3 T17S R20. Status conference set to determine proceedings necessary to address potential water rights for irrigation use.

NUMBER OF PAGES: 13

DATE OF FILING: October 26, 2018

This contested case involves a potential water right for irrigation uses in the southwest quarter of section 35 T16S R20E identified by the Arizona Department of Water Resources in Watershed File Report No. 112-17-BAA-218 (WFR). The WFR listed four wells and a diversion from the San Pedro River into the Pomerene Water Users Association Canal as the sources of

1 water. A copy of the WFR is attached as Attachment A. A copy of the map prepared by the  
2 Arizona Department of Water Resources for the WFR is attached as Attachment B.

3 Eldon J. Barney filed Statements of Claimant 39-5938, 39-12574, and 39-12575. The  
4 records of the Arizona Department of Water Resources do not show that any of the Statements of  
5 Claimant have been assigned to a successor landowner. The purpose of this case is to address the  
6 seven objections to the potential water right for the irrigation use to the extent that the current  
7 landowner intends to pursue that right from any of the sources of the water listed.  
8

### 9 **Background**

10 Until October 5, 2018, this case was consolidated and a part of that group of cases  
11 known as *In re Pomerene Water Users Association*, contested case no. W1-11-1676. In that  
12 case, the court scheduled a status conference for June 28, 2017 in part to identify the proper  
13 parties. A copy of the order was mailed to Paul Brick. At the status conference, counsel for the  
14 Pomerene Water Users Association was given until October 2, 2017 to provide documentation  
15 concerning the continuing authority of Pomerene Water Users Association to act.  
16

17 By order dated July 26, 2017, the court directed the owners of land for which Arizona  
18 Department of Water Resources had identified as places of use for water diverted through the  
19 Pomerene Canal to file new or amended statements of claimant if they desired to assert a claim  
20 for a right to divert water through the Pomerene Canal for irrigation use. A second status  
21 conference was set for October 18, 2017.  
22

23 At the status conference held on October 18, 2017, the newly elected board of the  
24 Pomerene Water Users Association appeared along with its counsel. The court directed the  
25 Pomerene Water Users Association to file a list by December 29, 2017 that identified those  
26 landowners who were members by the Pomerene Water Users Association and whose interests  
27 would be represented by the Pomerene Water Users Association in this adjudication of water  
28

1 rights. The court also set a third status conference for September 6, 2018. On December 21,  
2 2017, the Pomerene Water Users Association timely filed a list of 26 landowners which included  
3 Paul Brick.

4 On August 31, 2018, Pomerene Water Users Association filed a Notice of Termination.  
5 At the third status conference, counsel for the Pomerene Water Users Association provided a list  
6 of its members who joined the St. David Irrigation District and those members who declined to  
7 join the St. David Irrigation District. Paul Brick was not included on either list.  
8

9 By order dated October 5, 2018, the cases previously consolidated into a single case  
10 known as *In re Pomerene Water Users Association* were separated into individual cases. As a  
11 result, the potential water right analyzed in the WFR will be considered in this separate case or  
12 consolidated with the contested case for the St. David Irrigation District, if appropriate.  
13

14 **Landowner**

15 The first step to adjudicate the water rights identified by the WFR is to identify the current  
16 landowner involved in this case. According to information provided by the Cochise County  
17 Assessor's and Treasurer's Office, the land included in the WFR consists of Tax Parcel no.  
18 20847064. A copy of Cochise County Assessor's map is attached as Attachment C.

19 The second step is to determine whether the wells listed in the WFR are located in the  
20 subflow zone. The third step is to determine whether the landowner intends to pursue claims for  
21 potential water rights described in the WFR, and, if so, to schedule appropriate procedures to  
22 adjudicate those claims. Accordingly,  
23

24 **IT IS ORDERED** that by **November 30, 2018**, the Arizona Department of Water  
25 Resources shall file a map that shows Wells 1, 2, 3, and 4 identified in the WFR relative to the  
26 boundaries of the subflow zone.  
27  
28



1           **IT IS FURTHER ORDERED** that a telephonic status conference shall be held on  
2 **December 13, 2018** at 2:00 p.m. to ascertain whether the landowner intends to pursue the potential  
3 water right set forth in the WFR.

4           Instructions for telephonic participation:  
5           Dial: 602-506-9695 (local)  
6           1-855-506-9695 (toll free long distance)  
7           Dial Collaboration (conference) Code 357264#

8           Failure to participate at the status conference or file a statement of claimant with the Arizona  
9 Department of Water Resources may result in no adjudication of the potential water right  
10 associated with the land described in the WFR.

11  
12  
13  
14             
15           \_\_\_\_\_  
16           SUSAN WARD HARRIS  
17           Special Master

18           On October 26, 2018, the original of the foregoing was  
19 delivered to the Clerk of the Maricopa County Superior  
20 Court for filing and distributing a copy to the persons listed  
21 as Attachment D.  
22  
23  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ATTACHMENT A**

LAND OWNER	WATERSHED FILE
-----	REPORT NUMBER
BRICK, H. PAUL	112-17-BAA-218
& SANDRA L.	

APPLICABLE FILINGS AND DECREES

CLEARLY STATED INFORMATION FROM FILINGS AND DECREES

WI-11-1889

FILING NUMBER	FILING STATUS	USES	QUANTITY IN AFA	USE LOCATION SECTION	TWNP	RNGE	CLAIM DATE	DIVERSION LOCATION SECTION	TWNP	RNGE
39-0005938		IRRIGATION STOCK	3000.00 7.50	02 170S	200E		1910	NENE36	170S	210E
				03 170S	200E			SESENWO2	170S	200E
				36 160S	200E					
39-0012574		IRRIGATION STOCK	1200.00	03 170S	200E		1912	SWNE03	160S	200E
		REC/FISH/WLDF		34 160S	200E			SENE03	160S	200E
39-0012575		IRRIGATION STOCK	1200.00	03 160S	200E		1912	SWNE03	160S	200E
		REC/FISH/WLDF		34 160S	200E			SENE03	160S	200E

DWR ANALYSIS OF FILINGS AND DECREES

FILING NUMBER	USES CLAIMED OR REFERENCED	USES FOUND BY DWR	APPLIES TO DIVERSIONS	APPLIES TO PWR NUMBERS
39-0005938	IRRIGATION STOCK	IRRIGATION INCIDENTAL	DO1,WO4	IROO1
39-0012574	IRRIGATION STOCK	IRRIGATION INCIDENTAL	DO1,WO1,WO2	IROO1
39-0012575	WILDLIFE IRRIGATION STOCK	WILDLIFE IRRIGATION INCIDENTAL	DO1,WO1,WO2	IROO1

DIVERSIONS

DIV #	SECTION	TWNP	RNGE	DIVERSION NAME	WATER SOURCE AND CLASSIFICATION
DO1	NWSENE36	170S	200E	POMERENE CANAL	SURFACE WATER: SAN PEDRO RIVER
WO1	SENWNE03	170S	200E	UNNAMED	SHARED GROUNDWATER : ZONE 2
WO2	SENE03	170S	200E	UNNAMED	SHARED GROUNDWATER : ZONE 2
WO3	NESENE03	170S	200E	UNNAMED	SHARED GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER
WO4	SWSWNO2	170S	200E	UNNAMED	SHARED GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER

USES

PWR #	SECTION	TWNP	RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO SOURCE DATE	SOURCE CHANGE	FACILITY NAME
IROO1	SWSW35	160S	200E	DO1,WO1,WO2 WO3,WO4	SURFACE WATER GROUNDWATER : ZONE 1 GROUNDWATER : ZONE 2	1935	NO	

SHARED USES AND DIVERSIONS

- \*\* DIVERSION DO1 OPERATED BY THE POMERENE WATER USERS ASSOC. (FILE 112-17-89) SUPPLIES WATER TO PWRS IN THIS FILE.
- \*\* WATER FROM WO1 FOUND IN FILE (112-17-BAD-1) IS USED IN THIS FILE
- \*\* WATER FROM WO2 FOUND IN FILE (112-17-BAD-1) IS USED IN THIS FILE
- \*\* WATER FROM WO3 FOUND IN FILE (112-17-BAD-1) IS USED IN THIS FILE
- \*\* WATER FROM WO4 FOUND IN FILE (112-17-BAD-10) IS USED IN THIS FILE

PWR #	APPLICABLE ADJ FILINGS	APPLICABLE PRE FILINGS	*APPARENT FIRST USE DATE* DATE BASIS FOR DATE	WATER SOURCES AND CLASSIFICATIONS
IROO1	39-0005938 39-0012574 39-0012575	NONE	1912 POMERENE W.U.A. INFO	SURFACE WATER: SAN PEDRO RIVER GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER GROUNDWATER : ZONE 2

Q U A N T I T I E S O F U S E

PWR #	QUANTIFICATION TYPE	ACRES	CROP TYPE	EFF	WATER DUTY	ESTIMATED VOLUME	REMARKS
IROO1	MAX. OBSERVED	13.5	MULTI.CROPS	41%	6.6 AF/AC	89.1 AFA	DEFICIT IRRIGATION
	REGIONAL	13.5	AVE. CROP	50%	5.4 AF/AC	72.9 AFA	
	MAX. POTENTIAL	13.5	ALFALFA	41%	8.2 AF/AC	110.7 AFA	

E X P L A N A T I O N

DIVERSIONS

D1 - DIVERSION FROM THE SAN PEDRO RIVER INTO THE POMERENE WATER USERS ASSOCIATION CANAL.  
W1-W4 - WELLS PROVIDE WATER FOR IRRIGATION, STOCKWATERING, AND WILDLIFE WATER USES.

USES AND RESERVOIRS

IR1 - IRRIGATED MULTIPLE CROPS (PINE TREES AND TURF GRASS).

SHARED USES AND DIVERSIONS

W1-W3 - WELLS ARE SHARED WITH W.F.R. #112-17-BAD-1.  
W4 - WELL IS SHARED WITH W.F.R. #112-17-BAD-10.

PWR SUMMARY

FILINGS MADE BY THE POMERENE WATER USERS ASSOCIATION ALSO APPLY TO IRRIGATION USES (IR1) ON THIS PROPERTY. FOR MORE INFORMATION ON THE POMERENE WATER USERS ASSOCIATION, SEE THE MAJOR USERS REPORTS IN VOLUME 1.

1884

LAND OWNER	ZONE 2 WELL
-----	REPORT NUMBER
BRICK, H. PAUL	-----
& SANDRA L.	112-17-BAA-218

WELLS	WELL NAMES	WELL LOCATION			WATER USES SERVED	REMARKS
		SECTION	TWNP	RNGE		
WO1	UNNAMED	SENWNE03	170S	200E	IROO1	WI-11-1889 SHARED
WO2	UNNAMED	SENENE03	170S	200E	IROO1	

WATER USE NUMBERS	WATER USE LOCATION			*** APPARENT FIRST USE ***		APPAR. ANNUAL VOLUME USED	ACRES IRRIGATED
	SECTION	TWNP	RNGE	DATE	BASIS FOR DATE		
IROO1	SWSW35	160S	200E	1912	POMERENE W.U.A. INFO	72.9 AFA	13.5

APPLICABLE STATEMENTS OF CLAIMANT	APPLIES TO:	APPLIES TO:
	WELLS	WATER USES
39-0005938		IROO1
39-0012574	WO1,WO2	IROO1
39-0012575	WO1,WO2	IROO1

EXPLANATION

THE APPARENT ANNUAL VOLUME REPORTED FOR IROO1 IS PARTIALLY SUPPLIED BY SURFACE WATER AND ZONE 1 GROUNDWATER.

\*\* WATER FROM WO1 FOUND IN FILE (112-17-BAD-1) IS USED IN THIS FILE.

\*\* WATER FROM WO2 FOUND IN FILE (112-17-BAD-1) IS USED IN THIS FILE.

W1 & W2 - WELLS PROVIDES WATER FOR IRRIGATION USES.

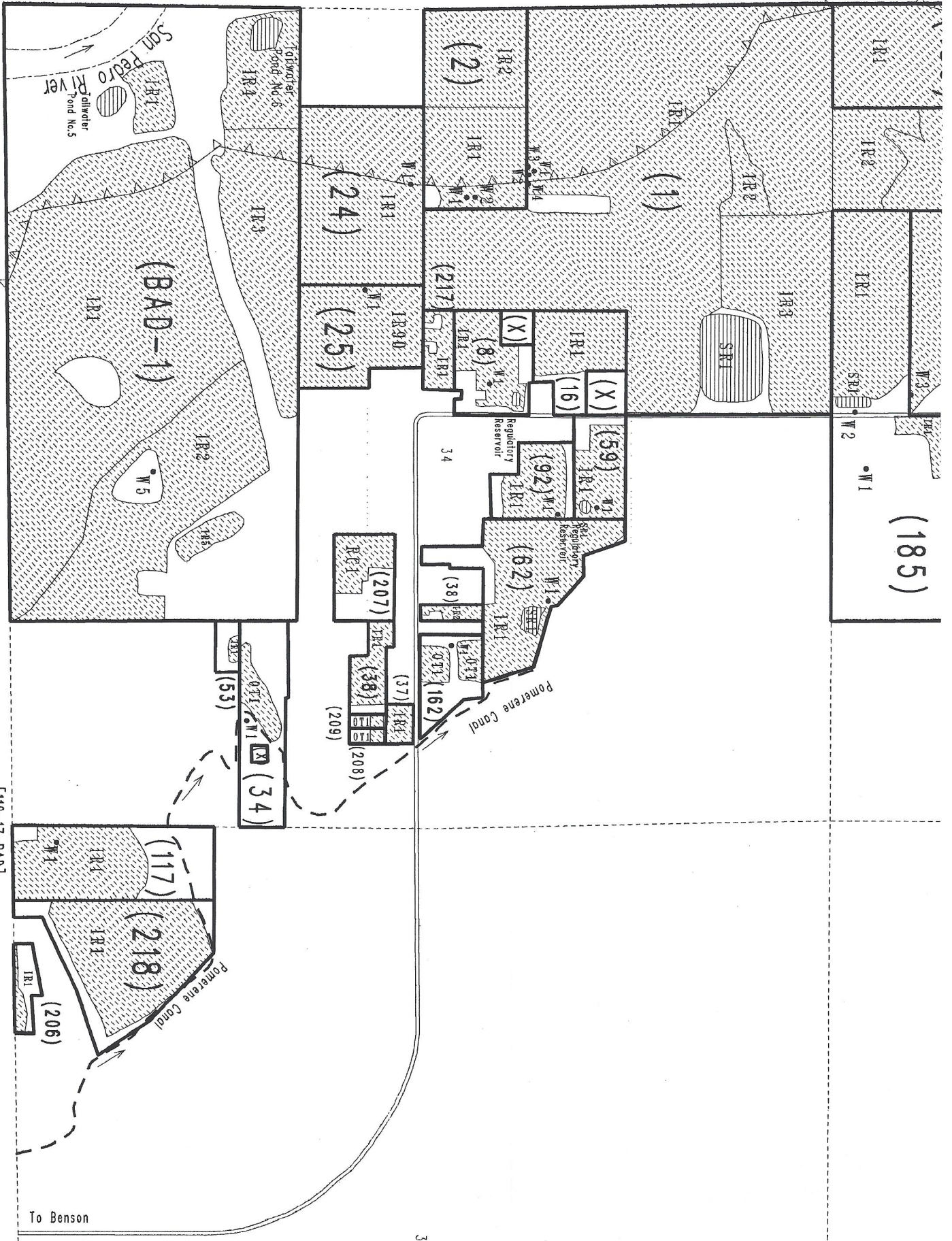
IR1 - IRRIGATED MULTIPLE CROPS (PINE TREES AND TURF GRASS).



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ATTACHMENT B**

T 16 S  
[112-17-BAB]

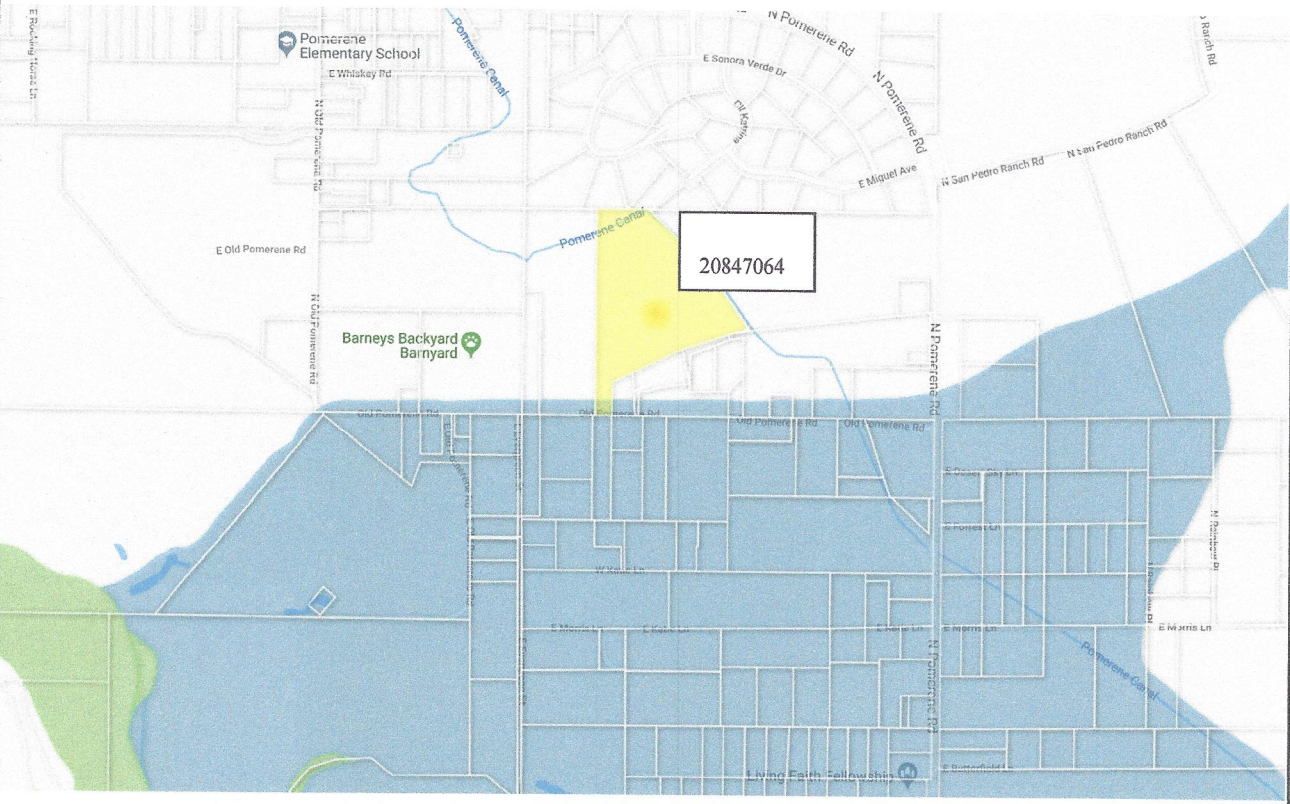


[112-17-BAD]  
R 20 E



# ATTACHMENT C

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



# ATTACHMENT D

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

David Brown  
Brown & Brown Law Offices, P.C.  
P. O. Box 1890  
St. Johns, AZ 85936

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

Kimberly R. Parks and Janet L. Miller  
Arizona Department of Water Resources  
P. O. Box 36020  
Phoenix, AZ 85067

L. J. Caster, B.J. Heiserman, B. J. Pew  
Fennemore Craig, P.C.  
2394 East Camelback Road Ste 600  
Phoenix, AZ 85016-3429

L. William Staudenmaier  
Snell & Wilmer, L. L. P.  
400 E. Van Buren St.  
Suite 1900  
Phoenix, AZ 85004-2202

Linus Everling and Thomas L. Murphy  
Gila River Indian Community  
Office of the General Counsel  
P. O. Box 97  
Sacaton, AZ 85147

Messers. Weldon, McGinnis, Heilman  
Salmon, Lewis and Weldon Plc  
2850 E. Camelback Road Ste 200  
Phoenix, AZ 85016

Paul H. Brick  
P.O. Box 211  
Pomerene, AZ 85627



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

R. Lee Leininger and Andrew Guarino  
U.S. Department Of Justice  
999 18th Street, South Terrace, Suite 37  
Denver, CO 80202

S. Montgomery, R. Interpreter, J. Tomkus  
Montgomery & Interpreter, Plc  
3301 E. Thunderbird Road  
Phoenix, AZ 85032