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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

W-1, W-2, W-3, W-4
(Consolidated)

Contested Case No. W1-11-2444

ORDER INITIATING CASE

AND

ORDER SETTING TELEPHONIC STATUS
CONFERENCE

CONTESTED CASE NAME: *In re Virgil T. Mercer - Irrigation*

HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report

DESCRIPTIVE SUMMARY: Telephonic status conference set for **July 13, 2020** at 1:30 p.m.

NUMBER OF PAGES: 11

DATE OF FILING: May 4, 2020

1 This Order initiates a contested case to consider the claims for water rights filed by
2 Mercer Ranch Land Holdings LLC and resolve objections to Watershed File Report 113-08-AA-
3 001 ("WFR") published in the Final San Pedro River Watershed Hydrographic Survey Report
4 (1991). The WFR identified a potential water right for domestic use and it stated that irrigation
5 had occurred in the preceding ten years on the land described in the WFR located in sections 3,
6 4, and 33 T9S R17E. One well is listed as the source of the water. The WFR notes the presence
7 of another well on the property but states that it is unused. A copy of the WFR is attached as
8 Attachment A. A copy of the map prepared for the WFR is attached as Attachment B.

9
10 **Claimant & Landowners**

11 The WFR identified three Statements of Claimant (SOC) relevant to the potential water
12 rights which have been assigned as shown below:

13

SOC	Claimant	Assignee
39-4463	Virgil Mercer	Mercer Ranch Land Holdings, LLC
39-4464	Virgil Mercer	Mercer Ranch Land Holdings, LLC
39-4484	Virgil Mercer	Mercer Ranch Land Holdings, LLC

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21 Based on the public records of Pinal County Assessor's Office, the land included within
22 the boundaries of the WFR is owned by Michael Mercer, Sombrero Butte Cattle, LLC, and
23 Mercer Ranch Land Holdings LLC. A copy of the current tax parcel map is attached as
24 Attachment C.

25 **IT IS ORDERED:**

26 1. Contested Case. This contested case shall be known as *In re In re Virgil T. Mercer*
27 *- Irrigation* and it will address the Statements of Claimant listed above and the objections to
28 Watershed File Report 113-08-AA-001 published in the Final San Pedro River Watershed

1 Hydrographic Survey Report (1991). Copies of objections can be found under the case name
2 and number on the following website:

3 [http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.
4 asp](http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp)

5 2. Litigants. The litigants in this contested case are Mercer Ranch Land Holdings,
6 LLC, which is the Claimant, the other two successor landowners, all persons who filed objections
7 to the WFR who are included in the list on Attachment D, and claimants who are allowed to
8 intervene by order.

9
10 3. Court-Approved Mailing List.

11 A. The initial Court-approved mailing list for this case shall include all
12 persons listed on Attachment D to this order. The list may be modified only by
13 filing a motion with the Special Master to amend the Court-approved mailing list.
14 Litigants are responsible for using the current Court-approved mailing list.

15
16 B. A copy of any pleading filed with the Clerk of the Maricopa County
17 Superior Court in this case shall be served upon each person listed on the Court-
18 approved mailing list.


19
20 C. Claimants wishing to be added or removed from the mailing list shall file
21 a motion with the Special Master. Parties allowed to intervene will be
22 automatically added to the mailing list.

23 4. Courtesy Email List. The Special Master's office will email courtesy copies of
24 orders and minute entries entered in this case to persons listed on Attachment D. Requests for
25 inclusions on the email list should be sent to Barbara Brown at
26 brownb099@superiorcourt.maricopa.gov.

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1 5. Status Conference. A telephonic status conference shall be held on July 13, 2020
2 at 1:30 p.m. At the status conference, Michael J. Mercer, or a representative of Michael J. Mercer
3 shall advise whether any or all of the landowners intend to assert claims for rights to water for
4 irrigation or domestic use on the land included within the boundaries of the WFR. If rights to
5 water use will be pursued, then during the telephonic conference there will also be a discussion
6 about the identification of the correct landowner to assert the rights, any necessary assignments of
7 the filed Statements of Claimant, and the next steps in this process to adjudicate claimed water
8 rights.

9 Instructions for telephonic appearance:
10 Dial: 602-506-9695 (local)
11 1-855-506-9695 (toll free long distance)
12 Dial Participant Pass Code 357264#

13
14
15 
16 _____
17 SUSAN WARD HARRIS
18 Special Master

19 On May 4, 2020, the original of the foregoing was
20 delivered to the Clerk of the Maricopa County Superior
21 Court for filing and distributing a copy to all persons
22 listed on the Court-approved mailing list for this contested
23 case, a copy of which is attached hereto as Attachment D,
24 and to all persons listed on the Court-approved mailing
25 list for W-1, W-2, W-3, and W-4 (Consolidated).
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ATTACHMENT A

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LAND OWNER	WATERSHED FILE
-----	REPORT NUMBER
MERCER, VIRGIL E.	113-08-AA-001

APPLICABLE FILINGS AND DECREES

CLEARLY STATED INFORMATION FROM FILINGS AND DECREES

FILING NUMBER	FILING STATUS	USES	QUANTITY IN AFA	USE LOCATION SECTION	TWNP	RNGE	CLAIM DATE	DIVERSION LOCATION SECTION	TWNP	RNGE
10-1116354.1100		IRRIGATION	3600.00	SESE33	080S	170E	1919	34	080S	170E
36-0081055		STOCK	5.60	NENE04	090S	170E	1925	NENE04	090S	170E
36-0081057		IRRIGATION	138.10	SENE04	090S	170E	1952	SENE04	090S	170E
36-0081058		IRRIGATION	16.63	SENE04	090S	170E	1952	SENE04	090S	170E
39-0004463		IRRIGATION	2450.00	SWSW03	080S	170E	1952	SWSENE04	090S	170E
				NE04	090S	170E				
39-0004464		IRRIGATION	130.00	SWSE33	080S	170E	1952	SWSENE04	090S	170E
				SWSW03	090S	170E				
				NE04	090S	170E				
39-0004484		DOMESTIC STOCK	2.24 5.60				1925	SWNENE04	090S	170E

DWR ANALYSIS OF FILINGS AND DECREES

FILING NUMBER	USES CLAIMED OR REFERENCED	USES FOUND BY DWR	APPLIES TO DIVERSIONS	APPLIES TO PWR NUMBERS
10-1116354.1100	IRRIGATION	NONE		
36-0081055	STOCK	STOCKWELL		
36-0081057	IRRIGATION	DISCONTINUED	WO2	IR091, IR092
36-0081058	IRRIGATION	DISCONTINUED	WO1	IR090, IR091, IR092
39-0004463	IRRIGATION	DISCONTINUED	WO1	IR090, IR091, IR092
39-0004464	IRRIGATION	DISCONTINUED	WO2	IR091, IR092
39-0004484	DOMESTIC STOCK	DOMESTIC INCIDENTAL		DM001

DIVERSIONS

DIV #	LOCATION SECTION	TWNP	RNGE	DIVERSION NAME	WATER SOURCE AND CLASSIFICATION
WO1	SWSENE04	090S	170E	UNNAMED	GROUNDWATER : ZONE 2
WO2	NWSENE04	080S	170E	SMALL PUMP WELL	GROUNDWATER : ZONE 2 UNUSED

USES

PWR #	LOCATION SECTION	TWNP	RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO DATE	SOURCE CHANGE	FACILITY NAME
DM001	NWNENE04	090S	170E	WO1	GROUNDWATER : ZONE 2		NO	
IR090	NE04	090S	170E	WO1	GROUNDWATER : ZONE 2	1955	NO	
	SE33	080S	170E					
IR091	NE04	090S	170E	WO1	GROUNDWATER : ZONE 2	1969	NO	
	SE04	090S	170E					
IR092	NE04	090S	170E	WO1	GROUNDWATER : ZONE 2	1979	NO	
	NW03	090S	170E					
	SE04	090S	170E					
	SW03	090S	170E					

RESERVOIRS

PWR #	LOCATION SECTION	TWNP	RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO DATE	RESERVOIR NAME	STORAGE PURPOSE
PS001	NWNWNW03	090S	170E		SURFACE WATER	1969	UNNAMED	STOCKWATERING WILDLIFE FLOOD CONTROL

PWR #	APPLICABLE ADJ FILINGS	APPLICABLE PRE FILINGS	*APPARENT FIRST USE DATE* DATE BASIS FOR DATE	WATER SOURCES AND CLASSIFICATIONS
DMOO1	39-0004463 39-0004484	36-0081058		GROUNDWATER : ZONE 2
IRO90	39-0004463	36-0081058	1952 39-4463 & 36-81058	GROUNDWATER : ZONE 2
IRO91	39-0004463 39-0004464	36-0081057 36-0081058	1969 1969 AERIAL PHOTO	GROUNDWATER : ZONE 2
IRO92	39-0004463 39-0004464	36-0081057 36-0081058	1979 1979 AERIAL PHOTO	GROUNDWATER : ZONE 2
PSOO1	NONE	NONE	1969 1969 AERIAL PHOTO	SURFACE WATER: SAN PEDRO RIVER
NONE	NONE	10-1116354.1100 36-0081055		

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
DMOO1							SEE VOLUME 1 - GENERAL ASSESSMENT DISCONTINUED IRRG.
IRO90	REGIONAL	50.2	NO CROP				DISCONTINUED IRRG.
IRO91	REGIONAL	56.0	NO CROP				DISCONTINUED IRRG.
IRO92	REGIONAL	42.2	NO CROP				DISCONTINUED IRRG.
PSOO1	MAX. AREA/CAP	6.5				65.8 AF	

E X P L A N A T I O N

FILINGS AND DECREES

FILING 10-1116354-11 - CLAIMS IRRIGATION WATER USES FROM A DIVERSION ON COPPER CREEK. NO IRRIGATION WAS FOUND AT THE CLAIMED LOCATION.
FILINGS 36-81055 & 39-4484 - CLAIM A DOMESTIC AND STOCK WELL THAT WAS NOT LOCATED DURING FIELD INVESTIGATIONS.
FILINGS 39-4463 & 39-4464 - ALSO REFERENCE LOCATIONS OF NW1/4, SW 1/4, SECTION 3, T.9S., R.17E., AND NE1/4, SE1/4, SECTION 4, T.9S., R.17E.

DIVERSIONS

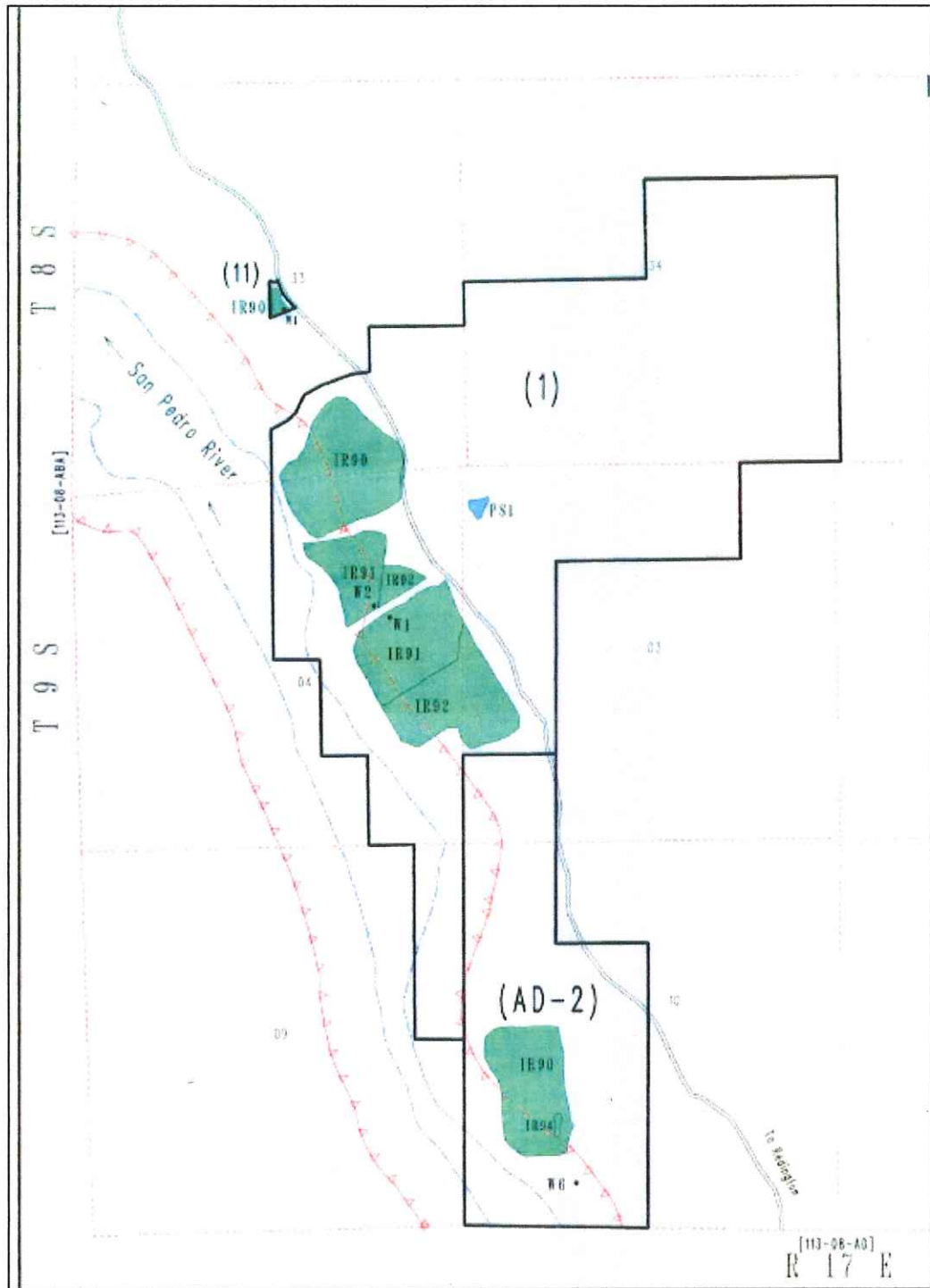
W1 - WELL PROVIDES WATER FOR DOMESTIC AND IRRIGATION USES.
W2 - UNUSED WELL.

USES AND RESERVOIRS

DM1 - DOMESTIC USE.
IRO90-IR92 - DISCONTINUED IRRIGATION: D.W.R. HAS DETERMINED THAT NO IRRIGATION HAS OCCURRED ON THIS PROPERTY IN THE LAST FIVE YEARS, BUT THERE HAS BEEN IRRIGATION WITHIN THE PAST TEN YEARS BASED UPON A REVIEW OF HISTORICAL AERIAL PHOTOGRAPHY AND FIELD INVESTIGATIONS.
PS1 - PRIMARY STORAGE RESERVOIR, USED FOR STOCKWATERING, WILDLIFE, AND FLOOD CONTROL PURPOSES, IS LOCATED ON AN UNNAMED TRIBUTARY TO MULBERRY WASH.

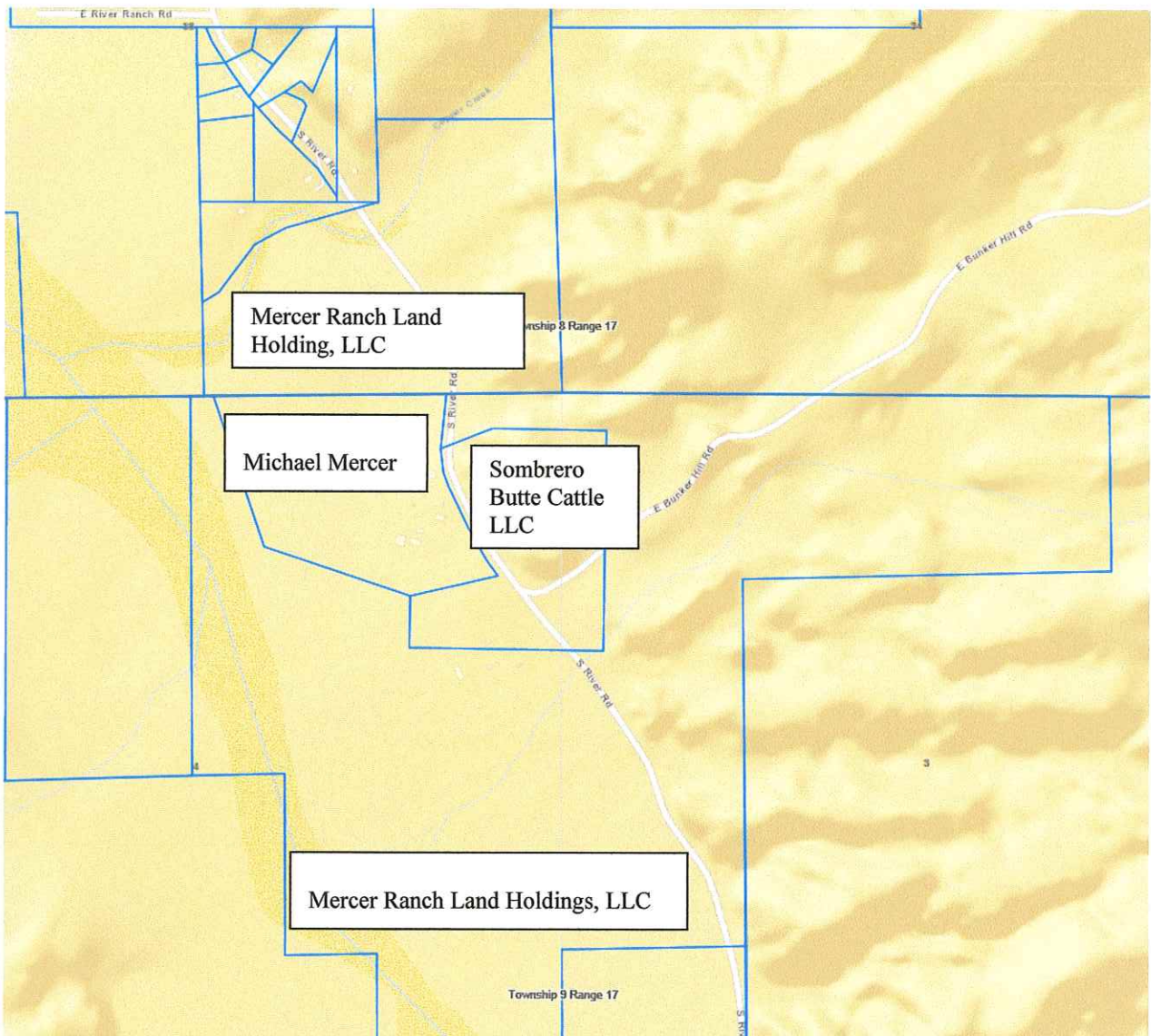
ATTACHMENT B

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ATTACHMENT C

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ATTACHMENT D

1
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3 Arizona Department of Water Resources
4 Kimberly Parks
5 P. O. Box 36020
6 Phoenix, AZ 85067

7 Clerk of the Superior Court
8 Maricopa County
9 Attn: Water Case
10 601 West Jackson Street
11 Phoenix, AZ 85003

12 Joe P. Sparks and Laurel A. Herrmann
13 The Sparks Law Firm, P.C.
14 7503 First Street
15 Scottsdale, Az 85251-4573

16 L. Wm. Staudenmaier and John D. Burnside
17 Snell & Wilmer, L. L. P.
18 400 E. Van Buren Street, Ste 1900
19 Phoenix, AZ 85004-2202

20 L. J. Caster, B.J. Heiserman, B. J. Pew
21 Fennemore Craig, P.C.
22 2394 East Camelback Road Ste 600
23 Phoenix, AZ 85016-3429

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

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Mia A. Montoya Hammersley
2 Montgomery & Interpreter, PLC
3301 E. Thunderbird Road
3 Phoenix, AZ 85032

4 Salt River Valley Water Users Association,
5 Salt River Project Agricultural Improvement and Power District
John B. Weldon, Jr. and Mark A. McGinnis
6 Salmon, Lewis & Weldon PLC
2850 E Camelback Rd, Ste. 200
7 Phoenix, AZ 85016

8 Special Master Susan Ward Harris
9 Superior Court of Arizona
201 W. Jefferson Street
10 Courtroom 301
Phoenix, AZ 85003

11 U. S. Department of Justice
12 Patrick Barry, Josef Negose, and Emmi Blades
13 Environment and Natural Resources
P. O. Box 7611
14 Washington, D.C. 20044-7611

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