

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

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

Contested Case No. W1-11-2712

ORDER TO INITIATE CONTESTED
CASE
AND
ORDER TO SET STATUS CONFERENCE

CONTESTED CASE NAME: *In re Carey R. Smith et al.*
HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report
DESCRIPTIVE SUMMARY: Contested case W1-11-2712 initiated and telephonic status conference set for **August 10, 2020 at 1:30 p.m.**
NUMBER OF PAGES: 13
DATE OF FILING: June 8, 2020

General Explanation

This Order begins the formal legal process necessary to determine rights for water from a well located on land that the Cochise County Assessor has identified as owned by The

1 Sweetwater Center, an Arizona non-profit corporation. The land is in Section 4 Township 13S
2 Range 19E and more specifically shown on the map attached as Attachment A. The land
3 involved in this case is labelled as "(22)". The Arizona Department of Water Resources
4 investigated those claims and prepared a report known as Watershed File Report 113-12-DBC-
5 022 ("WFR") published in the Final San Pedro River Watershed Hydrographic Survey Report
6 (1991). The WFR identified one potential water right for irrigation for two acres or less
7 associated with a domestic use. Arizona Department of Water Resources has determined that
8 the well listed as the source of the water is located within the subflow zone of the San Pedro
9 River. A copy of the WFR is attached as Attachment B.

10 After the Arizona Department of Water Resources issued the WFR, objections were filed
11 to the findings made by the Arizona Department of Water Resources in the WFR. The purpose
12 of this case to consider the claims made for water rights that were investigated in the WFR and
13 resolve the objections to the WFR.

14 15 **Claimant & Landowners**

16
17 The WFR identified one Statement of Claimant (SOC) relevant to the potential water
18 right: 39-5823. In 1990, Earl and Norma Kaul assigned the SOCs to El Potrero, Inc., an Arizona
19 corporation. By an assignment filed with the Arizona Department of Water Resources in 2015,
20 El Potrero Inc. assigned the SOC to Sweetwater Center, the Claimant.

21 The WFR named Carey R. Smith *et al.* as the owner of the property described in the
22 WFR. By quit claim deed recorded with the Cochise County Recorder's Office on August 13,
23 1990, Carey R. Smith quit claimed property in section 4 Township 13S Range 19E to the Estate
24 of Hope I. Jones. The records of the Cochise County Assessor identified the Sweetwater Center
25 as the owner of tax parcel 209-31-009A shown on Attachment C that appears to include the land
26 labelled as (22) by ADWR on its map attached as Attachment A.

27
28

1 **IT IS ORDERED:**

2 1. Contested Case. This contested case shall be known as *In re Carey R. Smith* and
3 it will determine water rights asserted in the Statement of Claimant and objections that were filed
4 to Watershed File Report 113-12-DBC-014 published in the Final San Pedro River Watershed
5 Hydrographic Survey Report (1991). Copies of objections can be found under the case name
6 and number on the following website:
7 [http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.](http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp)
8 [asp](http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp)

9 2. Litigants. The litigants in this contested case are the Claimant and all persons who
10 filed objections to the listed watershed file reports who are included on Attachment D, and
11 claimants who are allowed to intervene by order.

12 3. Court-Approved Mailing List.

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

19 B. A copy of any pleading filed with the Clerk of the Maricopa County
20 Superior Court in this case shall be served upon each person listed on the
21 Court-approved mailing list. No pleadings, correspondence, or
22 documents will be accepted by the Special Master that are not also filed
23 with the Clerk of the Maricopa County Superior Court and mailed to each
24 person listed on the Court-approved mailing list.
25
26
27
28

1 C. Claimants wishing to be added or removed from the mailing list shall file
2 a motion with the Special Master. Parties allowed to intervene will be
3 automatically added to the mailing list.

4 4. Courtesy Email List.

5 The Special Master's office will email courtesy copies of orders and minute
6 entries entered in this case to persons listed on Attachment D. Requests for
7 inclusions on the email list should be sent to Barbara Brown at
8 brownb099@superiorcourt.maricopa.gov.

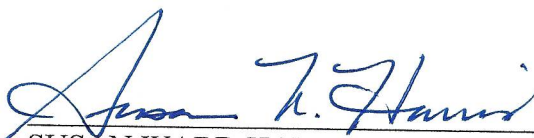
9 5. Status Conference.

10 A. An initial status conference shall be held to determine the current owner
11 of the land identified by ADWR as owned by Carey Smith. In addition,
12 a discussion will be held whether objections to the WFR can be settled
13 and the amount of time that the parties will require to discuss the
14 resolution of the objections. If the objections cannot be settled as
15 between the Claimant and the Objectors, then a scheduling conference
16 will be held at a later date to:

- 17 a. identify issues;
18 b. set deadlines to file disclosure statements, conduct discovery,
19 and submit prehearing motions; and,
20 c. fix a date for a trial on the claimed water rights.
21
22
23
24
25
26
27
28

1 The Telephonic Status Conference shall be held on **August 10, 2020 at 1:30 p.m.**

2 Instructions for telephonic appearance:
3 Dial: 602-506-9695 (local)
4 1-855-506-9695 (toll free long distance)
5 Dial Participant Pass Code 357264#

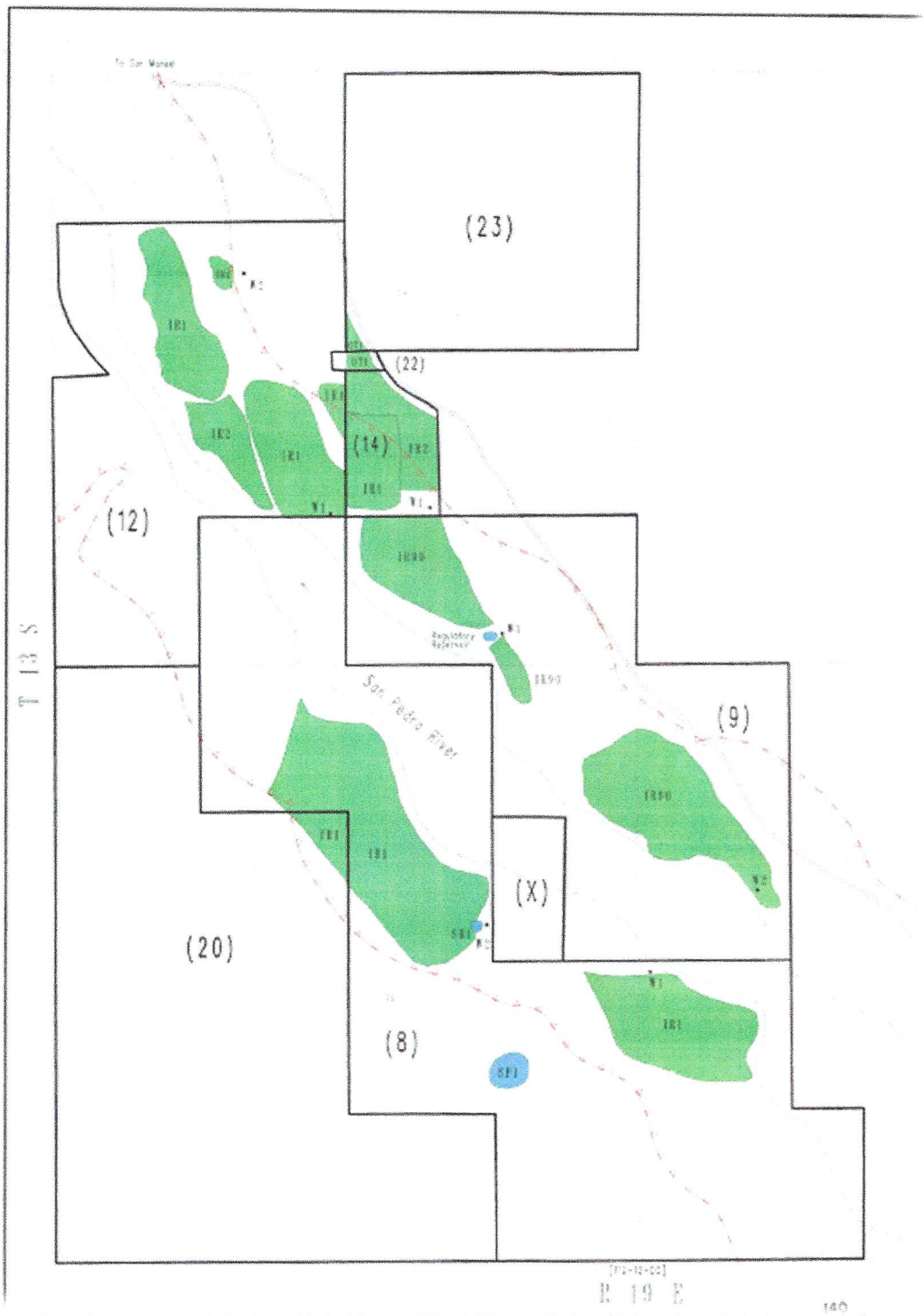
6
7 
8 SUSAN WARD HARRIS
9 Special Master

10 On June 8, 2020, the original of the foregoing was
11 delivered to the Clerk of the Maricopa County Superior
12 Court for filing and distributing a copy to all persons
13 listed on the Court-approved mailing list for this contested
14 case, a copy of which is attached hereto as Attachment D,
15 and to all persons listed on the Court-approved mailing
16 list for W-1, W-2, W-3, and W-4 (Consolidated).
17
18
19
20
21
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

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



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

LAND OWNER
 SMITH, CAREY R., ET AL.

WATERSHED FILE
 REPORT NUMBER
 113-12-DBC-022

APPLICABLE FILINGS AND DECREES

CLEARLY STATED INFORMATION FROM FILINGS AND DECREES

W1-11-2712

FILING NUMBER	FILING STATUS	USES	QUANTITY IN AFA	USE LOCATION SECTION	TWNP	RNGE	CLAIM DATE	DIVERSION SECTION	LOCATION TWNP	RNGE
36-0029151		IRRIGATION	15.91	NWSE04	130S	190E	1963	NWSE04	130S	190E
39-0005823		IRRIGATION	15.91	NWNWSE04	130S	190E	1918	NWNWSE04	130S	190E
		DOMESTIC STOCK	.13							
			.31							

DWR ANALYSIS OF FILINGS AND DECREES

FILING NUMBER	USES CLAIMED OR REFERENCED	USES FOUND BY DWR	APPLIES TO DIVERSIONS	APPLIES TO PWR NUMBERS
36-0029151	IRRIGATION	IRRIGATION	WO1	OTO01
39-0005823	IRRIGATION DOMESTIC STOCK	IRRIGATION NOT APPLICABLE INCIDENTAL	WO1	OTO01

DIVERSIONS

DIV #	LOCATION SECTION	TWNP	RNGE	DIVERSION NAME	WATER SOURCE AND CLASSIFICATION
WO1	SENWSE04	130S	190E	UNNAMED	GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER SHARED

USES

PWR #	LOCATION SECTION	TWNP	RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO SOURCE DATE	SOURCE CHANGE	FACILITY NAME
OTO01	SWNE04	130S	190E	WO1	GROUNDWATER : ZONE 1	1987	NO	

SHARED USES AND DIVERSIONS

** WATER FROM WO1 FOUND IN FILE (113-12DBC-14) IS USED IN THIS FILE

PWR SUMMARY

PWR #	APPLICABLE ADJ FILINGS	APPLICABLE PRE FILINGS	*APPARENT FIRST USE DATE*	DATE BASIS FOR DATE	WATER SOURCES AND CLASSIFICATIONS
OTO01	39-0005823	36-0029151	1987 1987	AERIAL PHOTO	GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER

QUANTITIES OF USE

PWR #	QUANTIFICATION TYPE	ACRES	CROP TYPE	EFF	WATER DUTY	ESTIMATED VOLUME	REMARKS
OTO01	REGIONAL	.9	AVE. CROP	50%	5.4 AF/AC	4.9 AFA	

EXPLANATION

FILINGS AND DECREES
 FILING 39-5823 - CLAIMS A DOMESTIC WATER USE WHICH DOES NOT APPLY TO THIS W.F.R.

DIVERSIONS
 W1 - WELL PROVIDES WATER FOR IRRIGATION AND STOCKWATERING USES.

USES AND RESERVOIRS

FILE 113-12-DBC-022 (CONTINUED)
EXPLANATION (CONTINUED)

CONTINUATION OF PAGE: 235

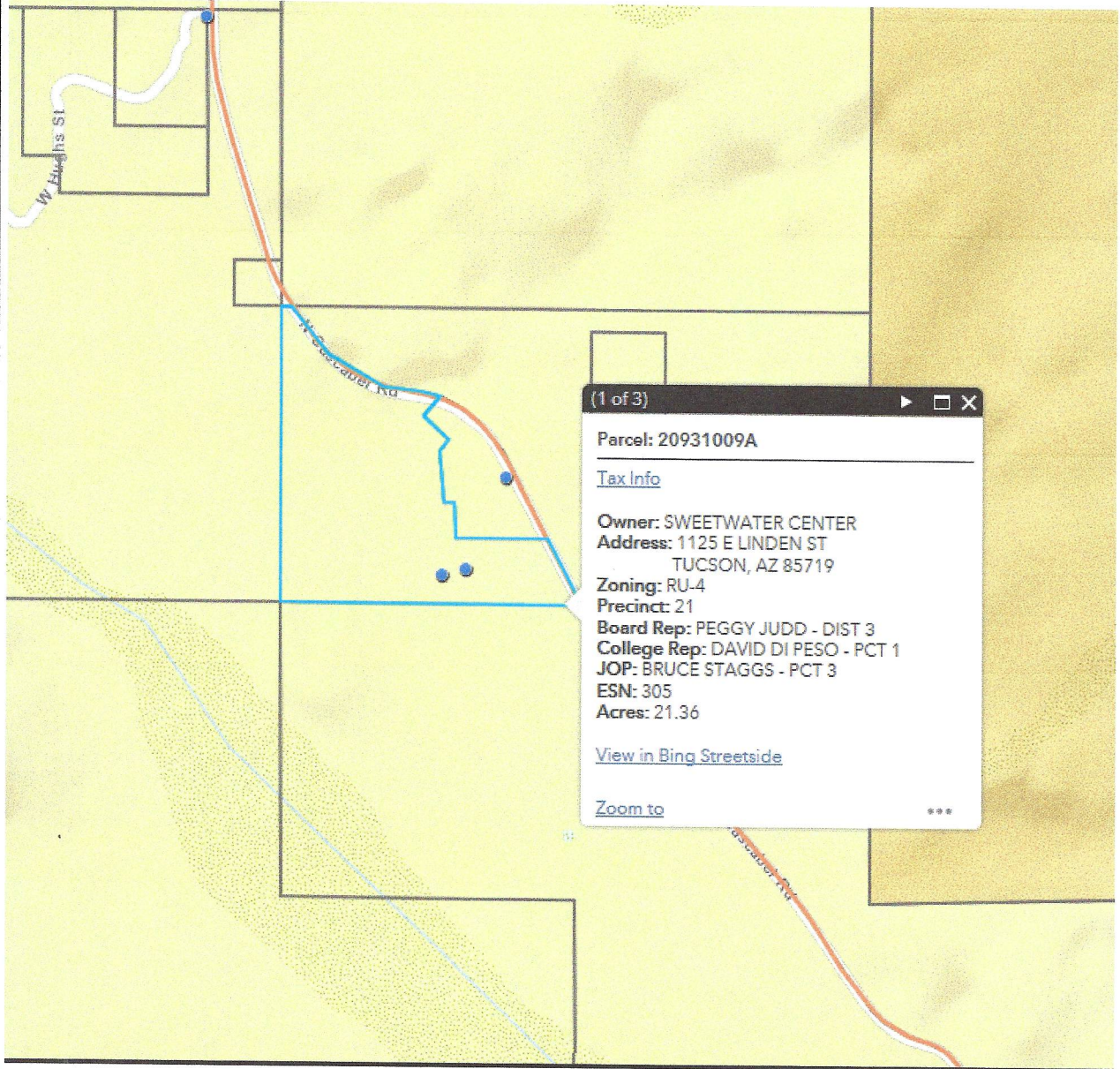
OT1 - IRRIGATION TOTALING LESS THAN TWO ACRES ASSOCIATED WITH A DOMESTIC USE.

SHARED USES AND DIVERSIONS

W1 - WELL IS SHARED WITH W.F.R. #113-12-DBC-14.

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

Arizona Department of Water Resources
Kimberly Parks
P. O. Box 36020
Phoenix, AZ 85067

ASARCO Incorporated
Lauren J. Caster
Fennemore Craig, P.C.
2394 East Camelback Road
Suite 600
Phoenix, AZ 85016-3429

BHP Copper, Inc.
John D. Burnside
Snell & Wilmer, L.L.P.
400 E. Van Buren Street, Ste 1900
Phoenix AZ 85004

Clerk of the Superior Court
Maricopa County
Attn: Water Case
601 West Jackson Street
Phoenix, AZ 85003

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

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

Lucas T. Christian, Julian Nava,
Richard Palmer and J
Rosette, LLP
565 W. Chandler Blvd. Suite 212
Chandler, AZ 85225

- 1 S. Montgomery, R. Interpreter, J. Tomkus
- 2 Montgomery & Interpreter, Plc
- 3 3301 E. Thunderbird Road
- 4 Phoenix, AZ 85032

- 5 Salt River Valley Water Users Association,
- 6 Salt River Project Agricultural Improvement and Power District
- 7 John B. Weldon, Jr. and Mark A. McGinnis
- 8 Salmon, Lewis & Weldon PLC
- 9 2850 E Camelback Rd, Ste. 200
- 10 Phoenix, AZ 85016

- 11 Special Master Susan Ward Harris
- 12 Superior Court of Arizona
- 13 201 W. Jefferson Street
- 14 Courtroom 301
- 15 Phoenix, AZ 85003

- 16 Sweetwater Center
- 17 Thomas V. Orum, statutory agent
- 18 1125 E Linden St
- 19 Tucson, Az 85719

- 20 U. S. Department of Justice
- 21 Patrick Barry, Yosef Negose and Emmi Blades
- 22 Environment and Natural Resources
- 23 P. O. Box 7611
- 24 Washington, D.C. 20044-7611

- 25
- 26
- 27
- 28