

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. W1-11-3199

ORDER TO STAY PROCEEDINGS IN  
THIS CONTESTED CASE

CONTESTED CASE NAME: *In re Artemisa Arbizo*  
HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report  
DESCRIPTIVE SUMMARY: Order staying contested case. No party is required to take further action in this contested case at this time.  
NUMBER OF PAGES: 3  
DATE OF FILING: January 21, 2020

Since the initiation of this contested case, four Statements of Claimant have been filed claiming water rights for domestic use on land included in Watershed File Report 114-04-BDD-016 (“WFR”). Four separately registered wells are identified as the sources of water in the Statements of Claimant described as follows:

<b>Claimant</b>	<b>Statement of Claimant No.</b>	<b>Well Registration No.</b>	<b>Claimed Priority Date</b>	<b>Claimed Quantity of Water</b>	<b>Pump Capacity</b>
Joe Arbizo et al.	39-18067	55-529427	No date provided	No amount included	≤ 35 gallons per minute
Sonia Contreras	39-18068	55-650920	No date provided	No amount included	≤ 35 gallons per minute
John & Angelica Gaona	39-18066	55-213957	March 14, 2009	1.34 acre feet	> 35 gallons per minute
Eva Lopez	39-17915	55-226036	No date provided	1.34 acre feet	≤ 35 gallons per minute

In addition, ASARCO has filed an amendment to its Objection clearly stating that it does not claim a right to use water on any of the property owned by any of the land owners listed in the Order dated October 24, 2019, and that the claims in this contested case do not need to be adjudicated with the irrigation claims asserted by ASARCO.

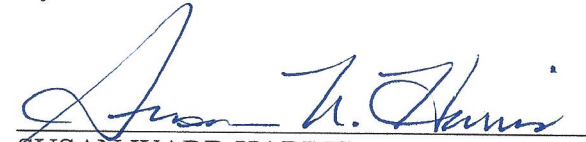
In 2017, the Arizona legislature amended the statutes governing the General Adjudication of water rights to generally provide that claims to water from a well that have a maximum pumping capacity of not more than 35 gallons per minute shall not be considered until other claims for water rights in the subwatershed have been determined. A.R.S. §45-257 (A). Exceptions to the rule do not apply in this case where it appears that the claimants are only seeking water rights from the listed wells for domestic use. Thus, no further action will be taken at this time with respect to claims for water rights filed by Joe Arbizo *et al.*, Sonia Contreras, and Eva Lopez.

The Statement of Claimant filed by John and Angelica Gaona involves a larger well so it is not subject to the rule deferring adjudication of a water right. It is, however, subject to another provision in Arizona law which requires that the Arizona Department of Water Resources investigate the claimed use and prepare a report. Here, Arizona Department of Water Resources conducted an investigation at some time before 1990, found potential water rights for domestic and irrigation use, and prepared the WFR that identified the source of water

1 as a well located in NENESE section 9 T7S R16E. The Statement of Claimant filed by John  
2 and Angelica Gaona asserts only a domestic use and no irrigation use, lists a priority date after  
3 the date that Arizona Department of Water Resources conducted its investigation, and,  
4 according to the Well Driller Report and Well Log for Well Registration No. 213957, the well  
5 is located in SESENW section 9 T7S R16E. Thus, in view of the claimed use, the priority date  
6 and the location of the well, it is not appropriate to consider this claim until Arizona  
7 Department of Water Resources has investigated the use and prepared the necessary report.

8 For the reasons listed above, no further action will be taken at this time in this case and  
9 proceedings in this case are stayed. This Order is not a finding as to the validity of a claim or  
10 a finding that a party does not need to take further action to assert a water right. Instead, this  
11 Order is simply advising the parties that at this time the Court will not proceed forward with  
12 the case and it is not requiring any party to take further action in this matter at this time.

13 **IT IS ORDERED that this case is stayed.**

14  
15   
16 SUSAN WARD HARRIS  
17 Special Master

18 On January 21, 2020, 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 all persons  
21 listed on the Court-approved mailing list for this  
22 contested case  
23  
24  
25  
26  
27  
28