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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. W1-11-3323

ORDER TO INITIATE CONTESTED
CASE

CONTESTED CASE NAME: *In re Wallace*

HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report

DESCRIPTIVE SUMMARY: Contested case W1-11-3323 initiated and status conference set for **July 18, 2019 at 2:30 PM.**

NUMBER OF PAGES: 12

DATE OF FILING: June 7, 2019

This Order initiates a contested case to consider the claims and resolve objections to Watershed File Report 115-04-ADC-004 (“WFR”) published in the Final San Pedro River Watershed Hydrographic Survey Report (1991). The WFR identified potential water rights for irrigation and domestic uses for the land described in the WFR located in the southwest quarter and the southeast quarter of section 04 Township 7S Range 17E. A copy of the WFR is attached as Attachment A. A copy of the map prepared by Arizona Department of Water

1 Resources for the land included in the WFR is attached as Attachment B and the land is marked
2 with a (4). The WFR identifies a well located in the NWSWSE 04 T07S R17E as the source of
3 water for the potential water rights.
4

5 **Claimants & Landowners**

6 The WFR identified Albert N. and K. Wallace as the landowners of the property
7 included in the WFR. On May 10, 1979, Albert Wallace filed statement of Claimant 39-0329
8 to claim 34 acre feet of water annually (AFA) for irrigation use, one AFA for domestic use,
9 and two AFA for stock watering use diverted from surface flow of Aravaipa Creek. On May
10 6, 1980, Mr. Wallace filed statement of Claimant 39-3215 for 5.2 AFA for irrigation,
11 domestic, and stock watering use listing the sources as a diversion of surface water from
12 Aravaipa Creek and a well. The land included in the WFR has been divided into three parcels
13 consisting of: tax parcel 300-42-009H owned by William K. Walker and Penny R. Walker as
14 Trustees of a Revocable Living Trust Agreement dated 12/17/2007; tax parcel 300-42-008B
15 owned by Fred D. Miller; and, tax parcel 300-42-008A owned by Julia Pemberton and Holly
16 Pemberton as co-trustees of the Julia Pemberton Trust. A copy of the current tax parcel map
17 is attached as Attachment C.
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20 The public records of ADWR do not contain an assignment of the statement of
21 claimant originally filed by Albert Wallace. Fred Miller filed Statements of Claimant 39-
22 15825 for domestic and irrigation use with a 1957 priority date. William and Penny Walker
23 filed Statement of Claimant 39-15764 for domestic use for a well with a claimed priority date
24 of January 28, 2001. The date of the Walker well is after the date of the WFR so it will not
25 be considered in this proceeding which will only adjudicate claims investigated by ADWR
26 and included in the WFR.
27
28

1 **IT IS ORDERED:**

2 1. Contested Case. This contested case shall be known as *In re Wallace* and it will
3 address objections that were filed to the watershed file report 115-04-ADC-003 published in
4 the Final San Pedro River Watershed Hydrographic Survey Report (1991). Copies of
5 objections can be found under the case name and number on the following website:

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

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

11 3. Court-Approved Mailing List.

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

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

22 4. Courtesy Email List.

23 The Special Master's office will email courtesy copies of orders and minute
24 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
27
28

brownb099@superiorcourt.maricopa.gov.

1
2 5. Status Conference. An initial status conference shall be held to address the
3 parties who own the land on which ADWR has determined there are potential
4 water rights, determine the basis of claims for water rights, and ascertain
5 whether the objections to the potential water rights can be settled. If the
6 objections cannot be settled, then a subsequent date will be set for a scheduling
7 conference to identify issues, file disclosure statements, conduct discovery,
8 submit prehearing motions, and hold a trial. The Status Conference shall be
9 held on **July 18, 2019** at 2:30 PM before:

10
11 Special Master Susan Ward Harris
12 Superior Court of Arizona
13 201 West Jefferson Street
14 Courtroom 301
Phoenix, AZ 85003-2202

15 Instructions for telephonic appearance:
16 Dial: 602-506-9695 (local)
17 1-855-506-9695 (toll free long distance)
18 Dial Participant Pass Code 357264#

19
20 
21 SUSAN WARD HARRIS
22 Special Master

23 On June 7, 2019, the original of the foregoing was
24 delivered to the Clerk of the Maricopa County Superior
25 Court for filing and distributing a copy to all persons
26 listed on the Court-approved mailing list for this
27 contested case, a copy of which is attached hereto as
28 Attachment D, and to all persons listed on the Court-
approved mailing list for W-1, W-2, W-3, and W-4
(Consolidated).

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ATTACHMENT A

LAND OWNER	WATERSHED FILE
-----	REPORT NUMBER
WALLACE, A.N. & K.	115-04-ADC-004

APPLICABLE FILINGS AND DECREES

CLEARLY STATED INFORMATION FROM FILINGS AND DECREES **W1-11-3323**

FILING NUMBER	FILING STATUS	USES	QUANTITY IN AFA	USE LOCATION SECTION	TWNP	RNGE	CLAIM DATE	DIVERSION LOCATION SECTION	TWNP	RNGE
36-0041254		IRRIGATION DOMESTIC STOCK	37.00	SWSE04	070S	170E	1916	NWSE04	070S	170E
39-0000329	QUE.RECD	IRRIGATION DOMESTIC STOCK	34.00 1.00 2.00	SWSE04	070S	170E	1916	NWSE04	070S	170E
39-0003215	QUE.RECD	IRRIGATION DOMESTIC STOCK	4.00 .18 1.00	NWSE04 SWSE04	070S	170E	1916	SWSE04	070S	170E

DWR ANALYSIS OF FILINGS AND DECREES

FILING NUMBER	USES CLAIMED OR REFERENCED	USES FOUND BY DWR	APPLIES TO DIVERSIONS	APPLIES TO PWR NUMBERS
36-0041254	IRRIGATION DOMESTIC STOCK	IRRIGATION DOMESTIC INCIDENTAL	WO1	DM001, IROO1
39-0000329	IRRIGATION DOMESTIC STOCK	IRRIGATION DOMESTIC INCIDENTAL	WO1	DM001, IROO1
39-0003215	IRRIGATION DOMESTIC STOCK	IRRIGATION DOMESTIC INCIDENTAL	WO1	DM001, IROO1

DIVERSIONS

DIV #	LOCATION SECTION	TWNP	RNGE	DIVERSION NAME	WATER SOURCE AND CLASSIFICATION
WO1	NWSWSE04	070S	170E	UNNAMED	GROUNDWATER : ZONE 1 OF THE ARAVAIPA CREEK

USES

PWR #	LOCATION SECTION	TWNP	RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO SOURCE DATE	SOURCE CHANGE	FACILITY NAME
DM001	SWSE04	070S	170E	WO1	GROUNDWATER : ZONE 1		NO	
IROO1	SESWO4	070S	170E	WO1	GROUNDWATER : ZONE 1	1935	NO	

PWR SUMMARY

PWR #	APPLICABLE ADJ FILINGS	APPLICABLE PRE FILINGS	*APPARENT FIRST USE DATE*	WATER SOURCES AND CLASSIFICATIONS
DM001	39-0000329	36-0041254		GROUNDWATER : ZONE 1 OF THE ARAVAIPA CREEK
IROO1	39-0003215	36-0041254	1916 FILING 36-41254	GROUNDWATER : ZONE 1 OF THE ARAVAIPA CREEK

QUANTITIES OF USE

PWR #	QUANTIFICATION TYPE	ACRES	CROP TYPE	EFF	WATER DUTY	ESTIMATED VOLUME	REMARKS
DM001							SEE VOLUME 1 - GENERAL ASSESSMENT
IROO1	MAX. OBSERVED REGIONAL	3.1	FRUIT W/GC	45%	7.8 AF/AC	24.2 AFA	
	MAX. POTENTIAL	3.1	AVE. CROP	50%	5.4 AF/AC	16.7 AFA	
		3.1	ALFALFA	45%	7.4 AF/AC	22.9 AFA	

FILINGS AND DECREES

FILINGS 39-329 & 39-3215 - UNIFORM QUESTIONNAIRES WERE RECEIVED WHICH PROVIDED ADDITIONAL INFORMATION ABOUT DIVERSIONS ON THIS PROPERTY.

DIVERSIONS

W1 - WELL PROVIDES WATER FOR IRRIGATION, DOMESTIC AND STOCKWATERING USES.

USES AND RESERVOIRS

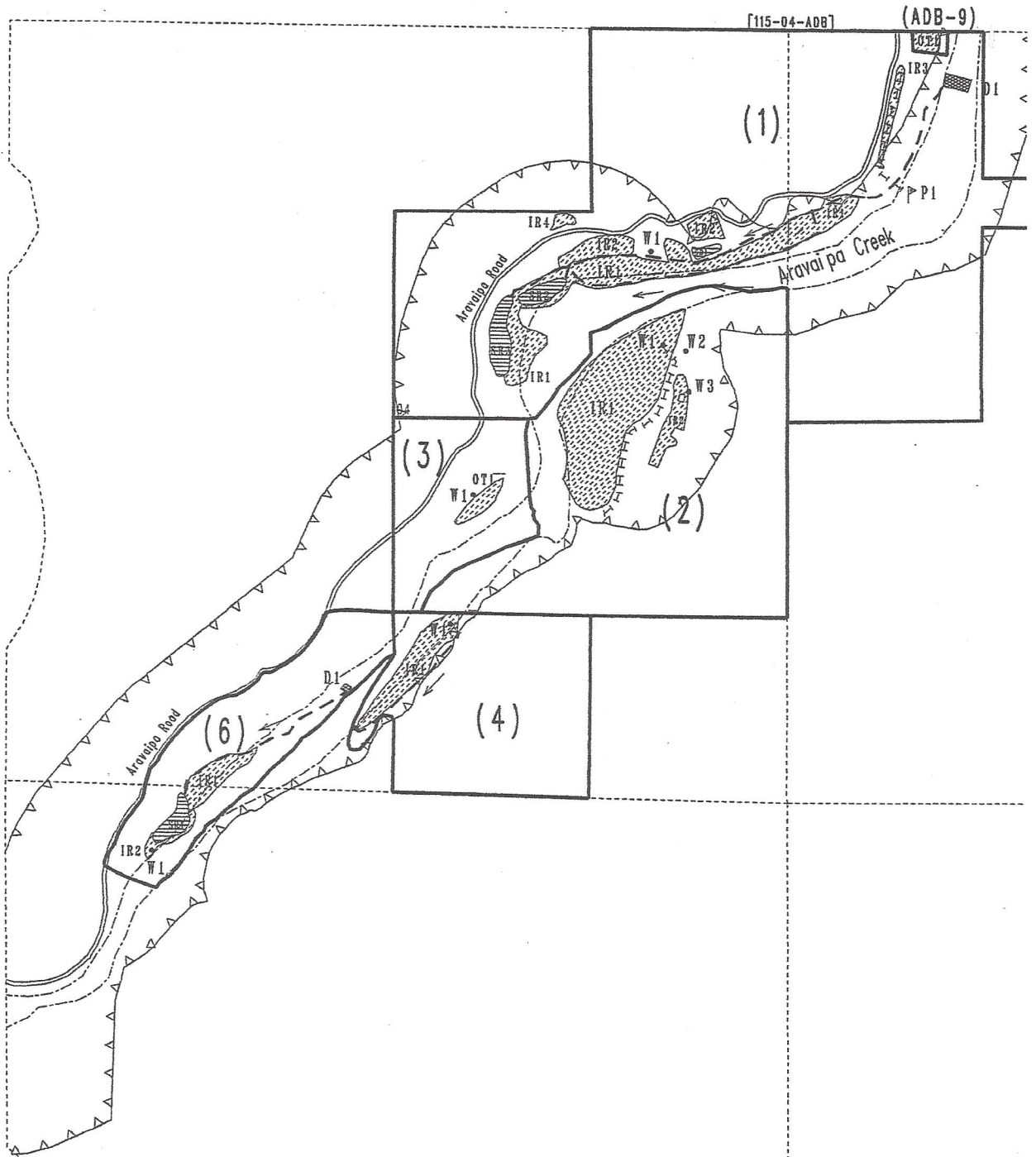
DM1 - DOMESTIC USE.

IR1 - IRRIGATED FRUIT AND PECAN ORCHARD.

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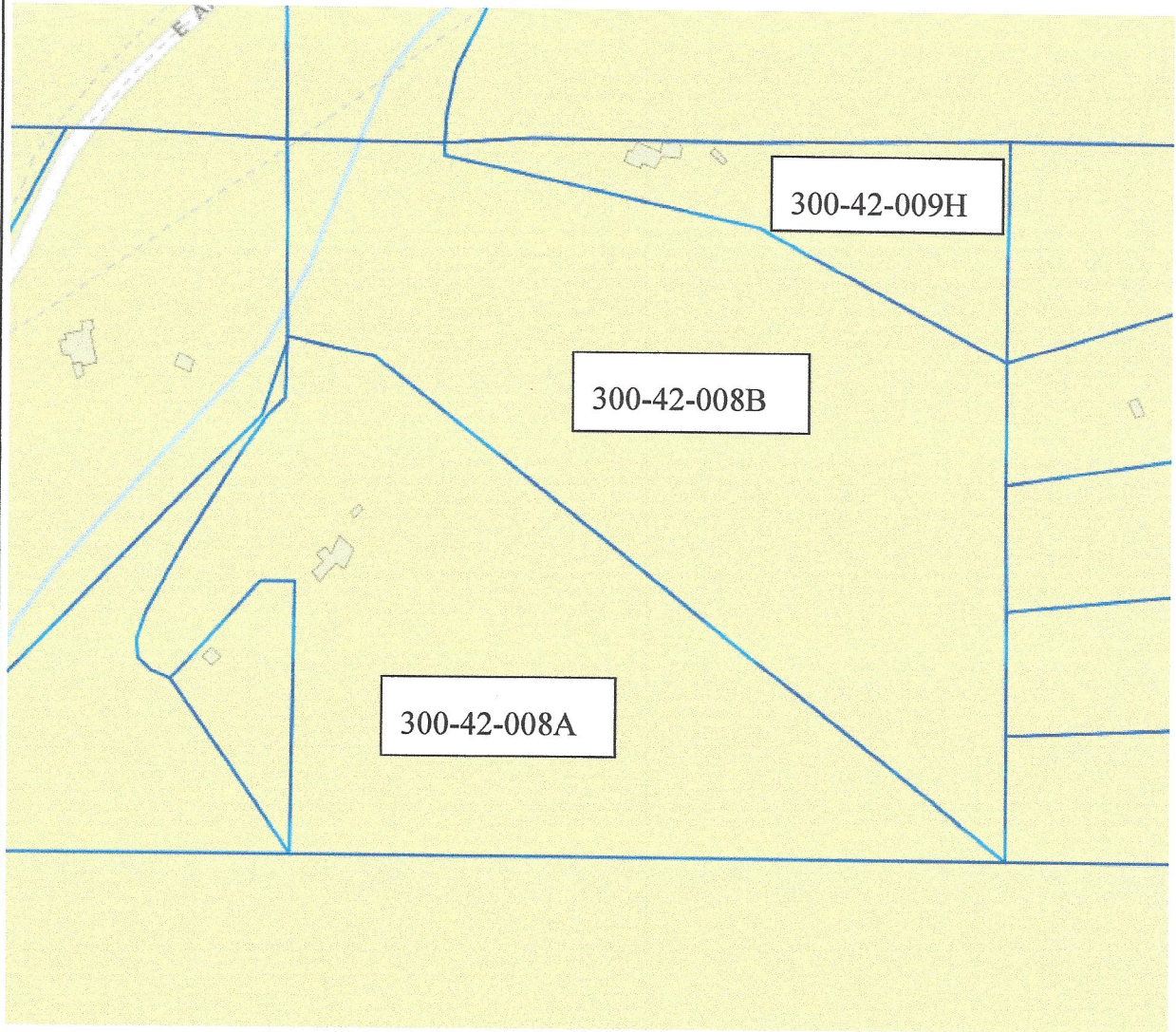
ATTACHMENT B

T 7 S



ATTACHMENT C

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ATTACHMENT D

1
2
3 Albert N. and Katherine Wallace
4 PO Box 714
5 Mammoth, AZ 85618

6 ASARCO Incorporated
7 Lauren J. Caster
8 Fennemore Craig, P.C.
9 2394 East Camelback Road
10 Suite 600
11 Phoenix, AZ 85016-3429

12 Arizona Department of Water Resources
13 Kimberly Parks
14 Janet L. Miller
15 P. O. Box 36020
16 Phoenix, AZ 85067

17 BHP Copper, Inc.
18 C/O CT Corporation System
19 3800 North Central Ave. Ste. 460
20 Phoenix, AZ 85012

21 Clerk of the Superior Court
22 Maricopa County
23 Attn: Water Case
24 601 West Jackson Street
25 Phoenix, AZ 85003

26 Fred Delvin Miller
27 PO Box 611
28 Jerome, AZ 86331

Fred Delvin Miller
88885 E. Aravaipa Vistas
Dudleyville, AZ 85192

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.

1 7503 First Street
Scottsdale, Az 85251-4573

2
3 Julia Pemberton and Holly Pemberton
Trustee of the Julia Pemberton Trust
PO Box 1095
4 Jerome, AZ 86331

5
6 Julia Pemberton and Holly Pemberton
Trustee of the Julia Pemberton Trust
88725 E. Aravaipa Vistas
7 Dudleyville, AZ 85192

8
9 Penny R. Walker and William K. Walker
Trustee of the William K. Walker and Penny R. Walker Revocable Living Trust
88981 E. Aravaipa Vistas
10 Dudleyville, AZ 85192

11
12 Penny R. Walker and William K. Walker
Trustee of the William K. Walker and Penny R. Walker Revocable Living Trust
10357 W. Loma Blanca Dr.
13 Sun City, AZ 85351

14
15 S. Montgomery, R. Interpreter, J. Tomkus
Montgomery & Interpreter, Plc
3301 E. Thunderbird Road
16 Phoenix, Az 85032

17
18 Salt River Valley Water Users Association and the Salt River Project Agricultural
Improvement and Power District
John B. Weldon, Jr. and Mark A. McGinnis
19 Salmon, Lewis & Weldon PLC
2850 E Camelback Rd, Ste 200
20 Phoenix, AZ 85016

21
22 Special Master Susan Ward Harris
Superior Court of Arizona
201 W. Jefferson Street
23 Courtroom 301
Phoenix, AZ 85003

24
25 U. S. Department of Justice
Patrick Barry and Yosef Negose
26 U.S. Department of Justice
Environment and Natural Resources
P. O. Box 7611
27 Washington, D.C. 20044-7611

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