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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 Nos. W1-11-3367

ORDER TO INITIATE CONTESTED CASE

AND

ORDER TO ADWR TO PREPARE A MAP

CONTESTED CASE NAME: *In re Magoffin II*  
HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report  
DESCRIPTIVE SUMMARY: Contested case W1-11-3367 is initiated. ADWR is directed to map the area investigated in Watershed File Report 115-05-048 by **May 22, 2020**.  
NUMBER OF PAGES: 12  
DATE OF FILING: March 16, 2020

**General Explanation**

This contested case is one of the many cases in the General Stream Adjudication, a judicial proceeding authorized under Arizona law to determine water rights. The purpose of the General

1 Adjudication is to determine the rights of people and entities who have filed claims with the Arizona  
2 Department of Water Resources (“ADWR”) to the use of water in the San Pedro, Upper Salt, Verde,  
3 Upper Gila, Lower Gila, Agua Fria and the Upper Santa Cruz watersheds. This case concerns the  
4 San Pedro River watershed and, more specifically, rights to water in the Aravaipa subwatershed.  
5 Other cases in the Aravaipa subwatershed have been completed, are in process, or have not begun  
6 yet.

7  
8 This Order begins this contested case that will eventually determine rights to water for which  
9 claims have been filed for use on land that includes the land that the Graham County Assessor reports  
10 as owned by the trustees of the Magoffin Family Trust and the trustees of the Zachek Family Living  
11 Trust. Claims for water rights have been filed by the trustees of the Magoffin Family Trust and by  
12 the landowner who transferred property to the trustees of the Zachek Family Living Trust.

13  
14 Arizona Department of Water Resources investigated the claims filed for water rights prior  
15 to 1990. In 1990, ADWR issued a report known as Watershed File Report 115-05-048 (“WFR”)  
16 listing potential water rights for domestic and stock watering uses on the land. Objections to the  
17 WFR were subsequently filed. A determination of water rights that landowners have claimed  
18 requires a resolution of those objections.

19  
20  
21 **Claimants and Landowners**

22 **A. Claimants**

23  
24 People who file Statements of Claimant with ADWR are known as Claimants.

25 The WFR identified two applicable Statements of Claimant (SOC): 39-5285 and 39-11600.  
26 On July 11, 1980, Hugh Claridge & Sons filed SOC 39-5285 claiming a right to water for stock  
27 watering based on Statement of Claim 36-71345 that identified the place of use as the southeastern  
28

1 quarter of the northwestern quarter of section 27 T7S R20E. Lower Rattlesnake Spring was named  
2 as the source of water. On August 16, 1988, Statement of Claim 36-71345 was assigned to Deer  
3 Creek Ranch, Inc. The public records maintained by Arizona Department of Water Resources do  
4 not contain an assignment of the Statement of Claimant 39-5285.

5 On December 26, 1984, Patricia Hughes filed SOC 39-11600 claiming a water right for  
6 irrigation and domestic use listing a well as the source of water. The public records maintained by  
7 Arizona Department of Water Resources do not contain an assignment of SOC 39-11600. The  
8 records of Arizona Department of Water Resources do not include a Statement of Claimant filed by  
9 the trustees of the Zachek Family Living Trust.  
10

11 On November 26, 2019, the trustees of the Magoffin Family Trust filed Statement of Claim  
12 36-105936 for water for irrigation and stock and wildlife watering on tax parcel 110-45-036 in  
13 Section 27 T7S R20E with a claimed priority date of February 8, 1941. In addition, they filed an  
14 amended Statement of Claimant 39-6478.  
15

#### 16 17 **Landowners**

18 Arizona Department of Water Resources identified the owners of land investigated for the  
19 WFR as Patricia Hughes and Carl and Laurlea Butt<sup>1</sup>. The public records of Graham County include  
20 a Warranty Deed dated April 14, 1980 that names Patricia H. Hughes as the grantee of the “West  
21 half of the Northeast Quarter and the Southeast Quarter of the Northeast Quarter and the Northwest  
22 Quarter of the Southeast Quarter of Section 27, Township 7 South, Range 20 East”. See Warranty  
23 Deed at Docket 325-45. In 1994, a Warranty Deed was recorded in which Patricia Hughes was  
24 named as the grantor and Leroy Davis Zachek and Brenda Jane Zachek as trustees of the Zachek  
25  
26

27 \_\_\_\_\_  
28 <sup>1</sup> A Joint Tenancy Deed dated April 26, 1974 recorded with the Graham County Recorder at Docket 425 page 513  
named Carl and Laurlea Bott as a grantor of the property to Cipriano and Sharon Trillo, grantees.



1 Family Living Trust were named as grantees of the same property that was also identified as tax  
2 parcel 110-45-009. *See* Warranty Deed at Docket 479-81.

3 In 2014, the trustees of the Zachek Family Living Trust executed a warranty deed for a  
4 portion of tax parcel 110-45-009 to the trustees of the Magoffin Family Trust. *See* Warranty Deed  
5 at 2014-03684. On October 25, 2019, the trustees of the Magoffin Trust filed with ADWR a copy  
6 of the Graham County Minor Land Division Affidavit which stated that the original tax parcel, 110-  
7 45-099, had split. The Graham County Assessor identifies Matthew O. and Anna M. Magoffin as  
8 Trustees of the Magoffin Family Trust as the owners of tax parcel 110-45-035 and Leroy Davis  
9 Zachek and Brenda Jane Zachek as trustees of the Zachek Family Living Trust as the owner of tax  
10 parcel 110-45-036. A copy of a map from the Graham County Assessor is attached as Attachment  
11 C.  
12

13 As shown on the maps prepared by ADWR and the Graham County Assessor, neither the  
14 land labelled as “(48)” nor tax parcels 110-45-035 and 110-45-036 include land in the western  
15 portion of Section 27 T7S R20E which is the subject of Statement of Claim 36-71345 and Statement  
16 of Claimant 39-5285. In contrast, the WFR includes a potential water right in the southeastern  
17 quarter of Section 27 T7S R20E. Thus, in order to assure that all of the proper parties are included  
18 in this case, the first step is that ADWR will map the area included in the investigation that resulted  
19 in the WFR. The map shall include the boundaries of the investigated area and shall also include  
20 the borders of the tax parcels included in investigated area.  
21

22 Upon receipt of the map from ADWR, the second step will be to add any landowner to this  
23 case that owns land within the area designated by ADWR. The third step will be to schedule a  
24 status conference where the identified landowners will be asked whether they intend to assert rights  
25 for use of water on their property and, if so, the types of use for which they will claim water rights.  
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1 Based on that information, decisions can be made about how to proceed with the determination of  
2 water rights in this case.

3  
4 **IT IS ORDERED:**

5  
6 1. Contested Case. This contested case shall be known as *In re Magoffin II*. and it will  
7 address the Statements of Claimant and objections that were filed to Watershed File Report 115-05-  
8 048 published in the Final San Pedro River Watershed Hydrographic Survey Report (1991). Copies  
9 of objections can be found under the case name and number on the following website:  
10 <http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp>

11  
12 2. Litigants. The litigants in this contested case are the Claimants, the current  
13 landowners, all persons who filed objections to the listed WFR who are listed on Attachment D,  
14 and Claimants who are allowed to intervene by order.

15  
16 3. Court-Approved Mailing List.

17  
18 A. The initial Court-approved mailing list for this case shall include all persons  
19 listed on Attachment D to this order. The list may be modified only by filing a motion  
20 with the Special Master to amend the Court-approved mailing list. Litigants are  
21 responsible for using the current Court-approved mailing list.  
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23 B. A copy of any pleading filed with the Clerk of the Maricopa County Superior  
24 Court in this case shall be served upon each person listed on the Court-approved  
25 mailing list.  
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C. Claimants wishing to be added or removed from the mailing list shall file a motion with the Special Master. Parties allowed to intervene will be automatically added to the mailing list.

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

5. Map from ADWR. The Arizona Department of Water Resources shall prepare and file a map of the area investigated by Watershed File Report 115-05-048 by **May 22, 2020**. The map shall include the boundaries of the investigated area and shall also include the borders of the tax parcels included in investigated area.

  
\_\_\_\_\_  
Susan Ward Harris  
Special Master

On March 16, 2020, the original of the foregoing was delivered to the Clerk of the Maricopa County Superior Court for filing and distributing a copy to all persons listed on the Court-approved mailing list for this contested case, a copy of which is attached hereto as 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
HUGHES, PATRICIA H.	115-05-048
BUTT, CARL & LAURLEA	

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
36-0071345		STOCK	.16	SENW27	07OS	200E	1910	SENW27	07OS	200E
39-0005285		STOCK	.16	SENW27	07OS	200E	1910	SENW27	07OS	200E
39-0011600		DOMESTIC IRRIGATION			27	07OS 200E	1940		27	07OS 200E

DWR ANALYSIS OF FILINGS AND DECREES

FILING NUMBER	USES CLAIMED OR REFERENCED	USES FOUND BY DWR	APPLIES TO DIVERSIONS	APPLIES TO PWR NUMBERS
36-0071345	STOCK	SPRING		SW001
39-0005285	STOCK	SPRING		SW001
39-0011600	IRRIGATION DOMESTIC	NONE DOMESTIC		DM001, DM002, DM003

USES

PWR #	LOCATION SECTION	TWNP	RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO DATE	SOURCE CHANGE	FACILITY NAME
DM001	SENENW27	07OS	200E		GROUNDWATER : CATALOGUED		NO	
DM002	NWSENW27	07OS	200E		GROUNDWATER : CATALOGUED		NO	
DM003	NESWNE27	07OS	200E		GROUNDWATER : CATALOGUED		NO	
SW001	SWNWSE27	07OS	200E		SURFACE WATER		NO	LOWER RATTLESNAKE SP

PWR SUMMARY

PWR #	APPLICABLE ADJ FILINGS	APPLICABLE PRE FILINGS	*APPARENT FIRST USE DATE*	WATER SOURCES AND CLASSIFICATIONS
DM001	39-0011600	NONE		GROUNDWATER : CATALOGUED
DM002	39-0011600	NONE		GROUNDWATER : CATALOGUED
DM003	39-0011600	NONE		GROUNDWATER : CATALOGUED
SW001	39-0005285	36-0071345	1910 FILING 36-71345	SURFACE WATER: ARAVAIPA CREEK

QUANTITIES OF USE

PWR #	QUANTIFICATION TYPE	ACRES	CROP TYPE	EFF	WATER DUTY	ESTIMATED VOLUME	REMARKS
DM001							SEE VOLUME 1 - GENERAL ASSESSMENT
DM002							SEE VOLUME 1 - GENERAL ASSESSMENT
DM003							SEE VOLUME 1 - GENERAL ASSESSMENT
SW001							SEE VOLUME 1 - GENERAL ASSESSMENT

EXPLANATION

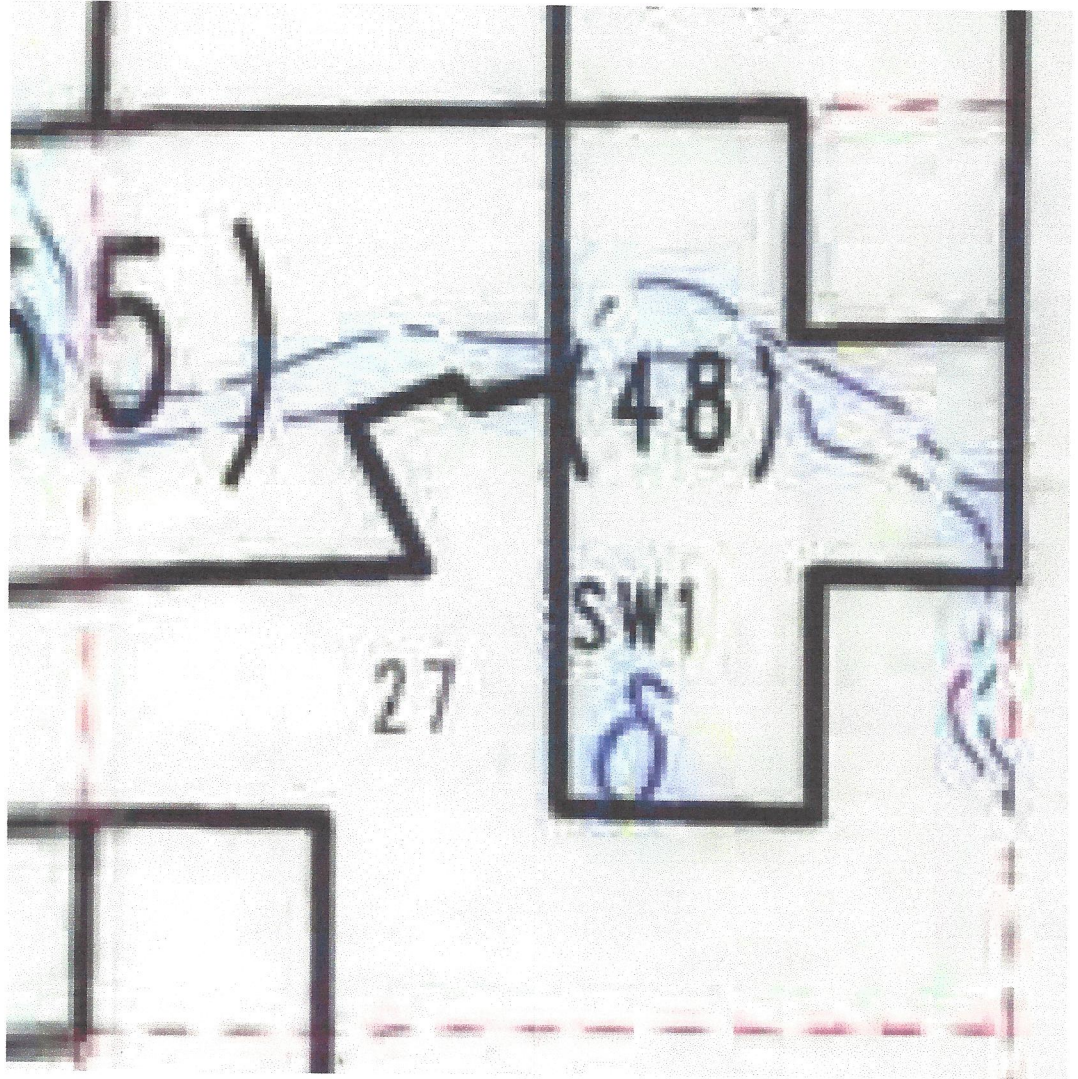
FILINGS AND DECREES  
 FILING 39-11600 - CLAIMS IRRIGATION AND DOMESTIC WATER USES. NO IRRIGATION WAS FOUND AT THE CLAIMED LOCATION.

USES AND RESERVOIRS  
 DM1-DM3 - DOMESTIC USES.  
 SW1 - STOCKWATERING USE FROM LOWER RATTLESNAKE SPRING.



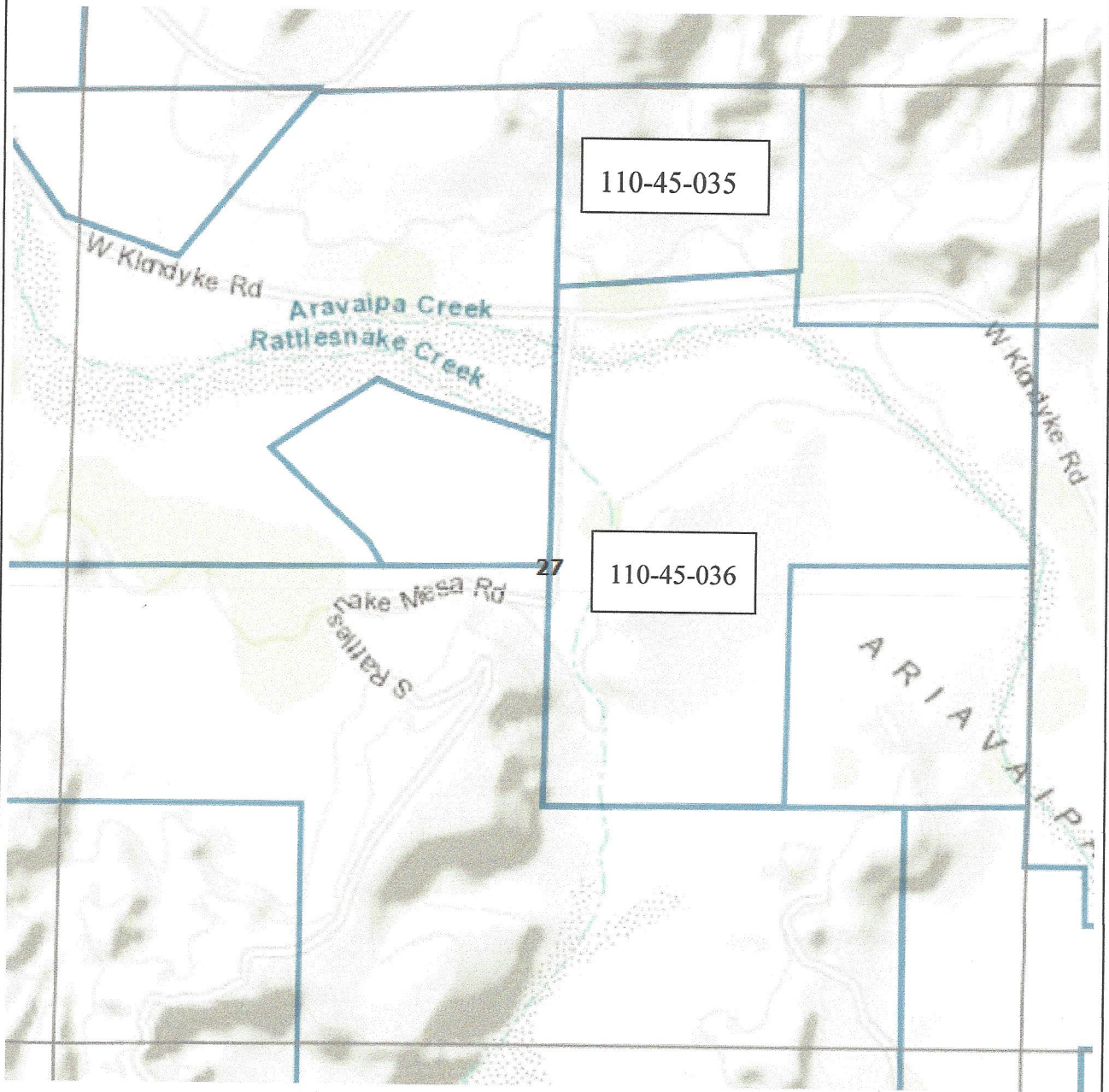
# ATTACHMENT B

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# ATTACHMENT C

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# ATTACHMENT D

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

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

Hugh Claridge & Sons  
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Pima, Arizona 85543

Gila River Indian Community  
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Office of the General Counsel  
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The Zachek Family Living Trust  
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Willcox, AZ 85643-7502

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

Matthew O. and Anna M. Magoffin  
Magoffin Family Trust  
P.O. Box 1021  
Douglas, AZ 85608

1 Matthew O. and Anna M. Magoffin  
Magoffin Family Trust  
2 W 34625 Klondyke Rd.  
Willcox, AZ 85643  
3  
4 Patricia H. Hughes  
2211 North 56<sup>th</sup> Street  
5 Mesa, AZ 85205  
6 S. Montgomery, R. Interpreter, J. Tomkus  
Montgomery & Interpreter, Plc  
7 3301 E. Thunderbird Road  
Phoenix, AZ 85032  
8  
9 Special Master Susan Ward Harris  
Superior Court of Arizona  
10 201 W. Jefferson Street  
Courtroom 301  
11 Phoenix, AZ 85003  
12 U. S. Department of Justice  
13 Patrick Barry, Emmi Blades and Yosef Negose  
U.S. Department of Justice  
14 Environment and Natural Resources  
P. O. Box 7611  
15 Washington, D.C. 20044-7611  
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