1 2 3 4 5 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA 6 7 IN AND FOR THE COUNTY OF APACHE 8 IN RE THE GENERAL 9 ADJUDICATION OF ALL RIGHTS Civil 6417-33-6781 TO USE WATER IN THE LITTLE 10 COLORADO RIVER SYSTEM AND 11 **SOURCE** ORDER TO INITIATE CONTESTED CASE 12 13 14 CONTESTED CASE NAME: *In re Lakeside Irrigation Company* 15 16 HSR INVOLVED: Silver Creek Hydrographic Survey 17 DESCRIPTIVE SUMMARY: The Clerk of Apache County is directed to initiate Civil 6417-33-6781. Status conference set for September 29, 2022 at 1:30 p.m. 18 19 NUMBER OF PAGES: 20 20 DATE OF FILING: August 4, 2022 21 **General Explanation** 22 This Order continues the process necessary to adjudicate claims made for rights to 23 appropriable water by Lakeside Irrigation Company, Inc. This contested case was consolidated 24 with CV 6417-33-9005 and litigation begun. The litigation appears to have ceased in 1994 25 without decision. By Order dated August 3, 2022, this case has been separated from and is no 26 longer consolidated with CV 6417-33-9005. 27

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This contested case is one of the many cases in the Arizona General Stream Adjudication for the Silver Creek Watershed to determine legal rights to water. The purpose of the General Adjudication is to determine the rights of those persons who filed Statements of Claimant for rights to use appropriable water in Arizona. The General Adjudication will also determine water rights for the Hopi Reservation, the Navajo Reservation, and other watersheds included in the Little Colorado River Watershed.

Lakeside Irrigation Company, Inc. ("Claimant") filed Statement of Claimant ("SOC") 39-84141 on March 4, 1985, for rights to water from Adair Spring diverted from the NENENE Section 36 T9N R22E. According to the SOC, the place of use is in parts of Sections 23, 24, 25, 26, and 36 T9N R22E. The Lakeside Irrigation Company, Inc. claimed 322 to 483 acre-feet of water per year. The Arizona Department of Water Resources ("ADWR") investigated the claim, which it characterized as a claim for irrigation and stock watering uses, and prepared a report known as Watershed File Report No. 033-56-73 ("WFR") published in the Final Silver Creek Watershed Hydrographic Survey Report (1991) ("Silver Creek HSR"). A copy of the WFR is attached as Attachment A.

Arizona Department of Water Resources proposed a water right to divert 1.3 cubic feet per second ("cfs") and a maximum demand rate of 1.4 cfs. It included a longer discussion of water use by the Lakeside Irrigation Company, Inc. in the Silver Creek HSR. A copy of the analysis from the Silver Creek HSR is attached as Attachment B. In that discussion, it found that the Lakeside Irrigation Company, Inc. provided water for 61.9 acres and delivered a total volume of 204 acre-feet annually. Vol. 1 Silver Creek HSR at 194. A copy of the map showing place of use prepared by ADWR is attached as Attachment C.

After ADWR issued the WFR, objections were filed to the findings made in the WFR by the Arizona State Land Department, Arizona Game and Fish Commission, Salt River Project, and the United States, joined by the Hopi Tribe and the Navajo Nation. The purpose of this case is to consider the claims made for water rights that are the subject of the WFR and resolve the objections to the WFR.

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IT IS ORDERED:

- 1. Contested Case. This contested case shall be known as In re Lakeside Irrigation Company and it will determine appropriable water rights asserted in the Statement of Claimant and objections that were filed to Watershed File Report No. 033-56-73 published in the Final Silver Creek Watershed Hydrographic Survey Report (1991). Copies of objections can be found under the case name and number on the following website: http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew. asp
- 2. <u>Litigants</u>. The litigants in this contested case are the Claimant and all persons who filed objections to the WFR, and parties who are allowed to intervene by order.

3. <u>Court-Approved Mailing List.</u>

- A. The initial Court-approved mailing list for this case shall include all persons listed on Attachment D to this order. The list may be modified only by filing a motion with the Special Master to amend the Court-approved mailing list. Litigants are responsible for using the current Court-approved mailing list.
- B. A copy of any pleading filed with the Clerk of the Apache County

 Superior Court in this case shall be served upon each person listed on the

 Court-approved mailing list.
- 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 Court-approved mailing list.
- D. The Clerk of the Court will send copies of all minute entries and orders issued in this case to the parties listed on the Court-approved mailing list.

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4. <u>Status Conference</u> . A status conference shall be held to determine the parties
that must be included as part of the contested case and the appropriate procedures that will be
implemented to continue the adjudication of the claimed water rights. Claimant shall be prepared
by the status conference to identify the current shareholders of Lakeside Irrigation Company,
Inc. their current mailing addresses, and the tax parcels numbers for the land served by the
Lakeside Irrigation Company, Inc. The Status Conference shall be held on September 29, 2022
at 1:30 p.m. The Status Conference shall be held using the Court Connect program. Instructions
for Court Connect are attached as Attachment E. If you receive this Order by email, click on
the red box "Join Court Connect Hearing" on the attached instructions to make an appearance.
If you do not receive this Order by email, log into the Court Connect program on the internet by
typing https://tinyurl.com/specialwatermaster . If you do not have access to the internet, you may
attend telephonically using the telephone number and access code included in the instructions
for Court Connect. Alternatively, you may attend telephonically using the following
instructions:

Instructions for telephonic appearance:

Dial: 602-506-9695 (local)

1-855-506-9695 (toll free long distance)

Dial Participant Pass Code 357264#

SUSAN WARD HARRIS

Special Master

On August 4, 2022, the original of the foregoing was delivered to the Clerk of the Apache 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 CV 6417.

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Emily Natale

ATTACHMENT A

LAND OWNER

WATERSHED FILE NO.

LAKESIDE IRRIGATION CO.

033-56-073

APPLICABLE FILINGS AND DECREES

CLEARLY STATED INFORMATION FROM FILINGS AND DECREES

FILING NUMBER	FILING STATUS	USES	QUANTITY IN AFA	USE L		N RNGE	CL	AIM TE	DIVERSION SECTION		ATION RNGE

36-0065549		IRRIGATION		23	090N	220E	<	1905	NENE36	090N	220F
		DOMESTIC		24	090N	220E				090N	
00 0004444		Management and American		25	090N	220E				090N	
39-0084141		DOMESTIC	200.00	23	090N	220E	<	1905	NENENE36		
		IRRIGATION	160.00	24	090N	220E		Action Control		0.011	
				25	090N	220E					

DWR ANALYSIS OF FILINGS AND DECREES

FILING NUMBER	USES CLAIMED OR REFERENCED	USES FOUND BY DWR	APPLIES TO DIVERSIONS	APPLIES TO PWR NUMBERS	
36-0065549	IRRIGATION	IRRIGATION	SO1	DV001	
	DOMESTIC	NONE	301	D V 001	
39-0084141	IRRIGATION	IRRIGATION	SO1	DV001	
	DOMESTIC NONE			2,001	
	STOCKWATERING	INCIDENTAL			

DIVERSIONS

	LOCATION	DRAINAGE AREA/			
DIV #		WATER SOURCE NAME	DIVERSION NAME	REMARKS	
SO1	NENENE36 090N 220E	BILLY OBEEK			
501	NEINESS USON 220E	BILLY CREEK	ADAIR SPRING	SHARED	

USES

	LOCATION	SUPPLIED BY	WATER	PHOTO	SOURCE	
PWR #	SECTION TWNP RNGE	DIVERSIONS	SOURCE			FACILITY NAME
DV001	NENENE36 090N 220E	501	SURFACE		NO	ADAIR SPRING

SHARED USES AND DIVERSIONS

** SEE THE MAJOR USERS REPORTS LOCATED IN VOLUME 1 FOR A COMPLETE LISTING OF ALL THE FILES SERVED BY THIS ENTITY.

PWR SUMMARY

	APPLICABLE APPL PWR # ADJ FILINGS PRE	PRE FILINGS		ARENT FIRST USE ** DATA SOURCE	DRAINAGE AREA/ WATER SOURCE NAME	
DV001	39-0084141	36-0065549	1905	39-84141	BILLY CREEK	

QUANTITIES OF USE

DIVERSION PWR NOS.	DIVERSION CAPACITY	DECREED RATE	MAXIMUM DEMAND RATE
DVO01	1.3 CFS		
D 1 0 0 1	1.3 653		1 4 CFS

EXPLANATION

FILINGS AND DECREES

FILING 36-65549 CLAIMS IRRIGATION AND DOMESTIC USES FROM ADAIR SPRING. NO DOMESTIC USE WAS FOUND AT THE CLAIMED LOCATION.

DIVERSIONS

S1/DV1 - DIVERSION FROM ADAIR SPRING INTO THE LAKESIDE IRRIGATION COMPANY DISTRIBUTION SYSTEM.

FILE 033-56-073 (CONTINUED) E X P L A N A T I O N (CONTINUED)

CONTINUATION OF PAGE: 206

THE DIVERSION IS LOCATED WITHIN THE BILLY CREEK DRAINAGE AREA. FOR MORE INFORMATION ON THE LAKESIDE IRRIGATION COMPANY, SEE MAJOR USERS REPORTS IN VOLUME 1.

ATTACHMENT B

that the plaintiff district has the right to construct and maintain weirs in the ditches of defendants for the purpose of limiting water use to the decreed quantities.

The decree does not specify a priority date for the diversion or the irrigated acreage, stating, "This decree shall not be construed as a determination of priorities between defendants and members of plaintiff district."

The distribution system from the Silver Creek diversion has been totally converted to pipeline with the exception of a weir section at the pipeline junction. However, flow measurements with a current meter are not possible at this site. The diverted flow passing this point may be estimated by gaging the height of water passing over the rectangular, sharp crested weir. Survey measurements of the diversion structures taken by DWR personnel have been used to calculate a maximum theoretical diversion rate of 3.35 cfs. This is approximately nine percent higher than the decreed rate of 1.74 cfs for the south ditch plus 1.33 cfs for the north ditch equalling 3.07 cfs. DWR estimated the flow rate during October 1989 at the weir to be 1.88 cfs.

The irrigated lands and water conveyance system are shown in detail on subregion maps 51-BDA and 51-BDD in Volume 6 of this HSR, and in Figure 3-12 and Plate 3 in Volume 1.

LAKESIDE IRRIGATION COMPANY (WFR #033-56-73)

The Lakeside Irrigation Company (LIC) operates a pipeline system that diverts water from Adair Spring for irrigation use in and around the community of Lakeside. Irrigated lands consist of native pasture, orchards, and lawn/garden irrigation associated with residential areas. The Lakeside Irrigation Company supplies water to fifty-one land owners/shareholders who irrigate a total of 61.9 acres. The general location of the irrigated lands is shown on Figure 3-12 in this volume of the HSR. The irrigated lands and water conveyance system are shown in detail on subregion maps 56-ACAC, 56-ACAD, 56-ACDA, 56-ACDB, and 56-ACDD in Volume 6 of this HSR.

History

Lakeside was settled in the 1880s by Mormon pioneers, and was originally known as "Fairview." The name "Lakeside" was given to the area in 1905 after the completion of the nearby Rainbow Lake Dam.

Irrigation diversions from Adair Spring are claimed to have been in use since 1905, the date of organization of the Lakeside Irrigation Company. Statements filed by the President of the Lakeside Irrigation Company, J. Larson, indicate that Adair Springs was put to beneficial use for irrigation purposes by homesteader Will Amos for several years prior to 1905, in an area immediately east of Rainbow Lake. The original conveyance system was mostly an open, earthen ditch. Water from the spring and distribution system was also an important source for domestic supply in the early days of the community. In the early 1960s, the LIC converted the entire distribution system to pipeline, with the exception of some lateral ditches. By the time of completion of the irrigation pipeline, all or most residences in the community received domestic water from privately operated wells or by local water companies.

Many of the irrigated parcels in the Lakeside townsite that receive water from Adair Springs have remained virtually unchanged since 1935, the date of earliest aerial photography of the area. Several areas, however, no longer appear capable of receiving irrigation water from this system. Before installation of the pipeline in the early 1960s, a lateral ditch and flume reportedly carried water over Billy Creek to irrigate land in Section 24, Township 9 North, Range 24 East. This ditch has been unused since completion of the pipeline project. Another lateral in Section 25, Township 9 North, Range 22 East, west of the Blue Ridge High School, has also been unused for an undetermined amount of time. This lateral was apparently installed to supply a planned storage reservoir on Billy Creek that was never built. An area of irrigated pasture in Section 26, Township 9 North, Range 22 East, near the eastern edge of Rainbow Lake, has recently undergone development as a lakefront residential subdivision. The acreage on this property (WFR #033-56-ACDB-25) has been taken out of irrigation use. The remaining properties now share a larger proportion of Adair Spring discharge per acre of of irrigated land.

Organization and Operation

The LIC is run by a five member board of directors elected annually by the shareholders. Water is distributed by shares with one share reported to equal one-half hour of water every 7½ days. Water is reported to be available all year, however, almost all consumptive water use occurs during the irrigation season. Ownership of shares may be rented to non-shareholders. All functions of operation and maintenance are the responsibility of the board and all costs are borne by the shareholders.

The area that is served irrigation water by the LIC includes lands located within Sections 23, 24, 25, and 26, Township 9 North, Range 22 East. LIC shareholders are listed in Table 5-2.

TABLE 5-2

LAKESIDE IRRIGATION COMPANY
LIST OF SHAREHOLDERS AS OF 1989(1)

NAME	SHARES	NAME	SHARES
Allison, James T.	11	Jarvis, Rex	2
Allmand, Bertha	1	Kay, Joseph W.	8
Bowers, M.R.	4	Langford, Robert & Donna	3
Broken Arrow Lodge	4	Larson, Jeff	44
Burke, Ethel	6	LDS Church	6
Dysterheft, Arnold	6	Lee, Esther	6
Earle, Hazel	2	Less Allen Estate	25-1/3
Faas, Larry	2	Marble, Carles	2
Fish, Veda	21	Middleton, Barrie	2
Frost, Cliff	2	Moya, Cliff	2
Gardner, Glen	2-2/3	Myers, Jessie	2
Gardner, Joe	2	Pennington, Gene A.	ī
Gardner, Madge	2	Penrod, Louise	2
Glasgow, Dale	1	Peterson Estate	10
Gobel, Mary	2	Rhoton, Dow	9
Hansen, Ben S.	16	Rhoton, Helen	11
Hansen, E.H. & Sons	88	Southwood, Glen	1
Hansen, Kevin	2	Sutton, Louise	ā
Hays, Wayne	8	Thines, Tom (Robert Veres)	2
Heal, Joe		Walker, Duane	6
Hoopes, Veldon	2	Webb, Inza	4
Hudson, DeVore	2	Wilber, Tilden	2
Iaquinto, Joseph	3	Other	2
Jackson, C. Gilmore	9 2 2 3 2		
Jackson, Ray	3	TOTAL	360

⁽¹⁾List supplied by the Lakeside Irrigation Company.

Applicable Filings

On May 24, 1978, the Lakeside Irrigation Company filed one water right registration with the Arizona State Land Department under provisions of the 1974 Water Rights Registration Act. Filing 36-65549 claims the waters of Adair Spring for irrigation and domestic uses. The filing claims "all output" of Adair Spring for the entire year. The diversion location is claimed within the NE¼, NE¼, Section 36, Township 9 North, Range 22 East. Places of use are claimed within Sections 23, 24, 25, 26, and 36 of Township 9 North, Range 22 East. Claimed date of first beneficial use is 1905.

One statement of claimant (39-84141) for the Little Colorado River system adjudication was filed by the Lakeside Irrigation Company, Inc. on March 4, 1985. The claimed water source is Adair Spring, tributary to Rainbow Lake. The diversion point is listed at the NE¼, NE¼, NE¼, Section 36, Township 9 North, Range 22 East, which is the correct legal description for the Adair Springs diversion site. The filing claims places of use within the "Lakeside Township and immediate environs, parts of Sections 23, 24, 25, 26, and 36, Township 9 North, Range 22 East." The claimed maximum flow rate is 200 to 300 gpm (total annual flow of 322 to 483 acre-feet is claimed). One hundred and sixty acre-feet annually is the total claimed for irrigation, 200 acre-feet annually is claimed for domestic use. Claimed storage right is for eighteen acre-feet. The claimed priority date is 1905. The water is claimed for domestic, irrigation, and stockwatering uses.

Facilities

The LIC operates and maintains a spring box and pipeline diversion from Adair Spring at the discharge point of the spring. Plate 1 shows the LIC water conveyance system. The delivery system is mostly pipeline with some earthen lateral ditches. The main pipeline is approximately two miles long.

The pipeline inlet at Adair Springs diverts the entire flow of the spring into the pipeline. The flow is apparently diverted throughout the year. The maximum diversion flow rate recorded by DWR at a system junction turnout is 0.62 cfs. Minimum flow rate recorded is 0.38 cfs. DWR measurements on the spring were first recorded in 1987. Historical records of the flow from Adair Springs show more variation over the longer period of measurement record. Mann (1976) lists some historical flow recordings of Adair Spring taken by

United States Geological Survey (USGS) staff. Maximum flow rate recorded was 0.76 cfs (1952). Minimum flow rate recorded was 0.22 cfs (1972). The LIC system has no meters or other permanent measuring devices, however, DWR and the Lakeside Irrigation Company plan to install a continuous monitoring gage at the spring box to monitor seasonal and long-term fluctuations in discharge from Adair Spring.

The Adair Spring diversion is the only water source for the LIC. Several shareholders own wells to supplement surface water irrigation, but the district does not own or operate any wells. Two storage reservoirs are claimed by the company on a map attached to statement of claimant 39-84141. The first reservoir, in the SE½, Section 23, Township 9 North, Range 22 East, is on Billy Creek at the site of the Porter Mountain Road bridge crossing. This reservoir is at the terminus of one leg of the distribution system. The reservoir receives tailwater from several acres of orchard/garden along the east side of State Route 260, as well as flow from Billy Creek. The spillway on the structure is directly under the bridge. The LIC does not operate an

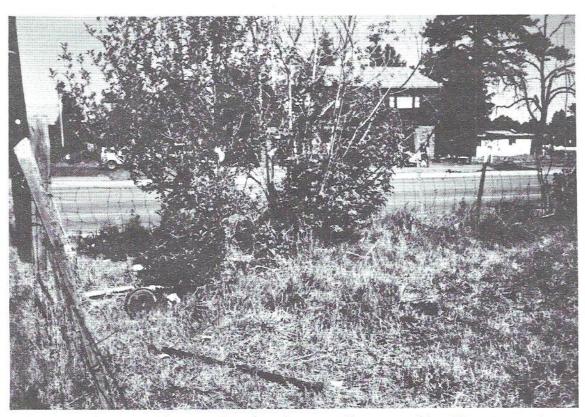


Figure 5-2. Lakeside Irrigation Company System. Pipeline turnout valve.

irrigation diversion from this reservoir on Billy Creek. The impoundment may be used as stockwatering or recreational/wildlife facility, but apparently not for irrigation storage. It is reported as small reservoir SR1 in WFR #033-56-ACAC-63. The second reservoir, in the NE $\frac{1}{4}$, Section 26, Township 9 North, Range 22 East, receives tailwater from several acres of native pasture. The pond is situated on a shallow draw draining into Rainbow Lake. The pond may have stored water at one time for irrigation use on pasture now being developed as a lakefront residental subdivision. This impoundment is reported as a stockpond in WFR #033-56-58. Both impoundments are less than two surface acres, and less than fifteen acre-feet in capacity. Water not used for irrigation within the system returns to Rainbow Lake and/or Billy Creek.

Quantity of Use

Tables 5-3 and 5-4 show the results of DWR's water use determinations made for the LIC Adair Spring diversion. Note that the maximum demand discharge in Table 5-3 is greater than the maximum theoretical canal discharge and more than twice as great as the average measured discharge (These terms were defined in Chapter 3 and the methodology used to calculate their values are included in APPENDIX A). This indicates that the canal system has insufficient capacity to meet the optimum irrigation requirements for the lands served by the LIC system during the peak monthly demand period, which occurs in June. It may also indicate that the discharge of Adair Spring is inadequate to meet the complete needs of the acreage served by LIC.

The efficiency in Table 5-4 is eighty-five percent, indicating that water deliveries to the fields over the course of the growing season are approaching a deficit supply situation. At an efficiency of 100 percent or greater, less water is applied to the fields over the growing season than is needed for optimum plant growth and yield, after accounting for elevation and effective precipitation.

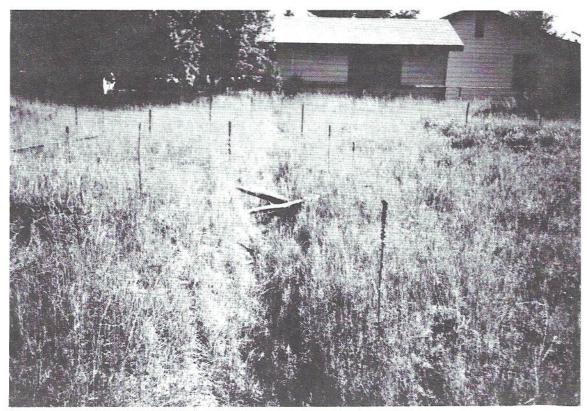


Figure 5-3. Lakeside Irrigation Company system. Lateral ditch from the pipeline supplying irrigation water to a residential area.

TABLE 5-3

LAKESIDE IRRIGATION COMPANY DIVERSION QUANTITIES

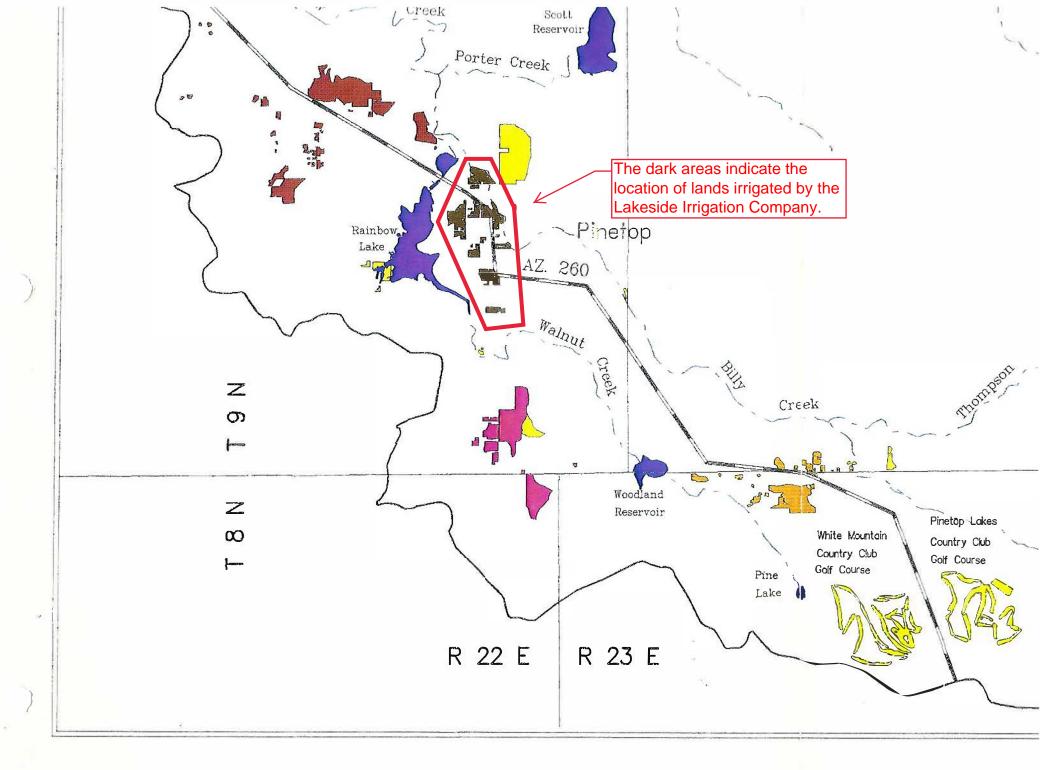
DIVERSION NAME	ACRES SERVED	MAXIMUM THEORETICAL DISCHARGE (CFS)	MAXIMUM DEMAND DISCHARGE (CFS)	MAXIMUM MEASURED DISCHARGE (CFS)	AVERAGE MEASURED DISCHARGE (CFS)	TOTAL VOLUME DELIVERED (AF)
Adair Spring	61.9	1.28	1.44	0.62	0.48	204

TABLE 5-4

LAKESIDE IRRIGATION COMPANY DIVERSION LOSSES AND EFFICIENCY

DIVERSION NAME	MAINLINE CANAL LENGTH (FT)	CANAL SYSTEM LOSSES (AF)	NET VOLUME DELIVERED (AF)	TOTAL IRRIGATION REQUIREMENT (AF)	EFFICIENCY (%)
Adair Spring	Pipeline	0	203	172	85

ATTACHMENT C



ATTACHMENT D

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3		
	Arizona Department of Water Resources	Navajo Nation
4	Kimberly Parks	Evan Hiller, Candace French
5	P. O. Box 36020	Jeffrey Leonard, Judith Dworkin and
5	Phoenix, AZ 85067	Kathryn Hoover
6		SACKS TIERNEY P.A.
	Arizona Game and Fish Commission	4250 N. Drinkwater Blvd., 4th Floor
7	5000 West Carefree Highway	Scottsdale, AZ 85251
	Phoenix, AZ 85086	
8		Rodgerick T. Begay
9	Arizona State Land Department	Stanley M. Pollack and Doreen N. McPaul
9	Carrie Brennan and Kevin Crestin	Navajo Nation Depart. of Justice
10	Arizona Attorney General	P.O. Box 2010
	Natural Resources Section	Window Rock, AZ 86515-2010
11	2005 North Central	
	Phoenix, AZ 85004	Salt River Project
12		J. B. Weldon, M. A. McGinnis, M. K. Foy
13	Clerk of the Superior Court	Salmon, Lewis & Weldon
13	Apache County	2850 E. Camelback Rd. Suite 200
14	P. O. Box 365	Phoenix, AZ 85016
	St Johns, AZ 85936	
15		Special Master Susan Ward Harris
1.	Hopi Tribe	Superior Court of Arizona
16	General Counsel of the Hopi Tribe	201 W. Jefferson Street
17	P. O. Box 123	Courtroom 301
1 /	Kykotsmovi, AZ 86039	Phoenix, AZ 85003
18		
	C. Campbell, P. Londen, P. Bowden	U. S. Department of Justice
19	OSBORN MALEDON, P.S.	Andrew Guarino
20	2929 North Central Avenue,	Vanessa Boyd Willard
ا ۲۷	Ste 2100	999 18 th Street, Suite 370
21	Phoenix, AZ 85012	Denver, CO 80202
22	Lakeside Irrigation Company, Inc.	United States of America
	Don Hansen, statutory agent	P. O. Box 607
23	1634 Niels Hansen Ln.	Albuquerque, New Mexico 87103
24	Lakeside, AZ 85929	
∠ +		
25		

ATTACHMENT E



Court Connect Hearing Notice for In re Lakeside Irrigation Company

This hearing will be conducted through the new Court Connect program offered by the Superior Court of Arizona in Maricopa County. This new and innovative program allows Court participants to appear online, rather than in a physical courtroom. Hearings are preferably conducted by videoconference but can also be conducted by phone. Lawyers (and self-representing litigants) are responsible for distributing this notice to anyone who will be appearing on their behalf.

All participants must use the JOIN COURT CONNECT HEARING button or the dial in information below to participate.

Participants: Please follow the steps below to participate in the remote proceeding.

- 1. Click the JOIN COURT CONNECT HEARING button below.
- 2. Enter your full name and role in name field.
- 3. Wait for the facilitator to admit you to the proceeding.

Remember to keep this email handy so you can use it to participate in the following proceeding.

Case Name: In re Lakeside Irrigation Company, Contested Case No. CV6417-33-6781 Start Date/Time: September 29, 2022 at 1:30 p.m.

JOIN COURT CONNECT HEARING

Dial-in Information: +1 917-781-4590

Private Dial-in Information: for privacy purposes, you can block your phone number by dialing *67 +1 917-

781-4590

Dial-in Access Code: 688 970 203#

Tiny URL: https://tinyurl.com/specialwatermaster

To ensure an optimal experience, please review the brief Court Connect training prior to the hearing: Here

