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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

CONTESTED CASE NO. W1-11-3312

ORDER INITIATING CONTESTED CASE

CONTESTED CASE NAME: *In re Brighthawk LLC*.  
HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report.  
DESCRIPTIVE SUMMARY: The Special Master initiates a contested case to address objections to watershed file report 115-04-ADB-001 and sets a Scheduling Conference.  
NUMBER OF PAGES: 9  
DATE OF FILING: June 27, 2017.

This Order initiates a contested case to resolve objections to watershed file report 115-04-ADB-001 that sets forth water rights proposed by Arizona Department of Water Resources to Aravaipa Creek for irrigation use on NENE Sec. 34 T6S, R17E that is diverted from the Aravaipa Creek at NENE Sec. 34 T6S, R17E.

1 Jephtha and Peggy White filed Statements of Claimant 39-2673 and 39-14112 that  
2 were analyzed in the watershed file report. Following a sale of the property in 1999, the  
3 Whites assigned the statements of claimant to Bill and Debra Burnstein in 2001. Based on  
4 the records maintained by the Pinal County Recorder, Mr. and Mrs. Burnstein executed a  
5 deed recorded on February 14, 2001, in favor of Brighthawk LLC, an Arizona limited  
6 liability company. The Arizona Department of Water Resources' records includes an  
7 assignment of the Statements of Claimant 39-2673 and 39-14112 from Bill and Debra  
8 Burnstein to Brighthawk, LLC.

9 In 1991, the Arizona Department of Water Resources issued Watershed File Report  
10 115-04-ADB-001 as part of the Final San Pedro Hydrographic Survey Report. It identified  
11 the point of diversion of surface water from Aravaipa Creek as NENE Sec. 34 T6S, R17E. It  
12 proposed two water rights: one water right for domestic use from a Zone 2 well and one  
13 water right for irrigation use on NE Sec. 34 T6S R17E. A copy of the watershed file report  
14 is attached as Appendix A. Objections to the watershed file report have been filed by those  
15 entities listed on Appendix B.

16 **IT IS ORDERED:**

17  
18 1. Contested Case Designation and Docket Number. This contested case shall  
19 be known as *In re Brighthawk LLC*, and it will address the claims for water rights to surface  
20 water diverted from the Aravaipa Creek analyzed in and the objections that were filed to the  
21 watershed file report 115-04-ADB-001 published in the Final San Pedro River Watershed  
22 Hydrographic Survey Report (1991).

23 2. Litigants. The litigants in this contested case are Brighthawk, LLC and all  
24 persons who filed objections to watershed file report 115-04-ADB-001 listed on Appendix  
25 B, and claimants who are allowed to intervene by order.

26 3. Court-Approved Mailing List.

27 A. The initial Court-approved mailing list for this case shall include all  
28 persons listed on Appendix B of this order as well as Janet Miller for the

1 Arizona Department of Water Resources. The list may be modified only by  
2 filing a motion with the Special Master to amend the Court-approved mailing  
3 list. Litigants are responsible for using the current Court-approved mailing  
4 list.

5  
6 B. A copy of any pleading filed with the Clerk of the Maricopa County  
7 Superior Court in this case shall be served upon each person listed on the  
8 Court-approved mailing list which can be found at:  
9 <https://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/maillingLists.asp>.

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

13 5. Scheduling Conference. Pursuant to §8.03[1], Rules for Proceedings before  
14 the Special Master, a scheduling conference shall be held to address the adjudication of this  
15 case, a schedule to identify issues, file disclosure statements, conduct discovery, submit  
16 prehearing motions, and set a trial date, if needed. No party shall conduct any discovery or  
17 file any motions prior to the Scheduling Conference. The Scheduling Conference shall be  
18 held **Wednesday, August, 23, 2017, at 1:30 p.m.** before:

19  
20 Special Master Susan Ward Harris  
21 Superior Court of Arizona  
22 201 West Jefferson Street  
23 Courtroom 301  
24 Phoenix, AZ 85003-2202

25 Instructions for telephonic appearance:  
26 Dial: 602-506-9695 (local)  
27 1-855-506-9695 (toll free long distance)  
28 Dial Participant Pass Code 357264#

  
SUSAN WARD HARRIS  
Special Master

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On June 27, 2017 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 Appendix B.

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**ATTACHMENT A**



LAND OWNER	WATERSHED FILE
-----	REPORT NUMBER
WHITE, JEPHTHA O. & PEGGY MARIE	115-04-ADB-001

A P P L I C A B L E F I L I N G S A N D D E C R E E S

CLEARLY STATED INFORMATION FROM FILINGS AND DECREES

FILING NUMBER	FILING STATUS	USES	QUANTITY IN AFA	USE LOCATION SECTION	TWNP	RNGE	CLAIM DATE	DIVERSION SECTION	LOCATION TWNP	RNGE
36-0059854		IRRIGATION DOMESTIC STOCK	220.00	NE34	060S	170E	1912	SESE27	060S	170E
39-0002673		IRRIGATION DOMESTIC STOCK	2000.00	SESE27	060S	170E	1912	SESE27	060S	170E
39-0014112		IRRIGATION DOMESTIC STOCK	7.50	34	060S	170E	1990	NENENE34	060S	170E

D W R A N A L Y S I S O F F I L I N G S A N D D E C R E E S

FILING NUMBER	USES CLAIMED OR REFERENCED	USES FOUND BY DWR	APPLIES TO DIVERSIONS	APPLIES TO PWR NUMBERS
36-0059854	IRRIGATION DOMESTIC STOCK	IRRIGATION DOMESTIC INCIDENTAL	WO1, PO1, PO2	DMOO1, IROO1
39-0002673	IRRIGATION DOMESTIC STOCK	IRRIGATION DOMESTIC INCIDENTAL	WO1	DMOO1, IROO1
39-0014112	IRRIGATION DOMESTIC STOCK	IRRIGATION DOMESTIC INCIDENTAL	WO1	DMOO1, IROO1

D I V E R S I O N S

DIV #	LOCATION SECTION	TWNP	RNGE	DIVERSION NAME	WATER SOURCE AND CLASSIFICATION
PO1	NENENE34	060S	170E	UNNAMED	SURFACE WATER: ARAVAIPA CREEK
PO2	SWNENE34	060S	170E	UNNAMED	SURFACE WATER: ARAVAIPA CREEK
WO1	NWNENE34	060S	170E	UNNAMED	GROUNDWATER : ZONE 2

U S E S

PWR #	LOCATION SECTION	TWNP	RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO SOURCE DATE	SOURCE CHANGE	FACILITY NAME
DMOO1	NWNENE34	060S	170E	WO1	GROUNDWATER : ZONE 2		YES	
IROO1	NENE34	060S	170E	PO1, PO2, WO1	SURFACE WATER	1935	YES	
	NWNE34	060S	170E		GROUNDWATER : ZONE 2			

P W R S U M M A R Y

PWR #	APPLICABLE ADJ FILINGS	APPLICABLE PRE FILINGS	*APPARENT FIRST USE DATE*	WATER SOURCES AND CLASSIFICATIONS
DMOO1	39-0002673 39-0014112	36-0059854		GROUNDWATER : ZONE 2
IROO1	39-0002673 39-0014112	36-0059854	1912 FILING 36-59854	SURFACE WATER: ARAVAIPA CREEK GROUNDWATER : ZONE 2

PWR #	QUANTIFICATION TYPE	ACRES	CROP TYPE	EFF	WATER DUTY	ESTIMATED VOLUME	REMARKS
DMO01							
IROO1	MAX. OBSERVED	6.6	MULTI.CROPS	48%	3.1 AF/AC		SEE VOLUME 1 - GENERAL ASSESSMENT
	REGIONAL	6.6	AVE. CROP	50%	5.4 AF/AC	20.5 AFA	
	MAX. POTENTIAL	6.6	ALFALFA	48%	7.0 AF/AC	35.6 AFA 46.2 AFA	

E X P L A N A T I O N

DIVERSIONS

P1 & P2 - INSTREAM PUMPS DIVERT WATER FROM ARAVAIPA CREEK INTO A PIPELINE SYSTEM.  
 W1 - WELL PROVIDES WATER FOR IRRIGATION, DOMESTIC, AND STOCKWATERING USES.

USES AND RESERVOIRS

DM1 - DOMESTIC USE.  
 IR1 - IRRIGATED MULTIPLE CROPS.

DISPOSITION OF LAND OWNER/CLAIMANT COMMENTS

A COMMENT WAS RECEIVED FROM THE LAND OWNER WHICH DESCRIBED THE LOCATION OF A NEW WELL WHICH HAS REPLACED THE OLD HAND DUG WELL.

# ATTACHMENT B

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4 ASARCO LLC.

Lauren J. Caster and Gregory L. Adams  
5 Fennemore Craig, P.C.  
2394 East Camelback Road, Suite 600  
6 Phoenix, AZ 85016-3429

7 BHP Copper, Inc.

8 John D. Burnside and Megan Tracy  
Snell & Wilmer, L.L.P.  
9 400 East Van Buren, Suite 1900  
10 Phoenix, AZ 85004

11 Brighthawk, LLC

Thomas K Wagner  
12 4545 N. 32nd Street, #5  
13 Phoenix, AZ 85018

14 Gila River Indian Community

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

18 Salt River Valley Water Users' Association and  
the Salt River Project Agricultural  
19 Improvement and Power District

John B. Weldon, Jr. and Mark A. McGinnis  
20 Salmon, Lewis & Weldon PLC  
21 2850 E Camelback Rd, Ste 200  
Phoenix, AZ 85016

22 San Carlos Apache Tribe

23 Tonto Apache Tribe

24 Joe P. Sparks, Julia M. R. Kolsrud and  
Laurel A. Hermann

25 The Sparks Law Firm, P.C.  
7503 First Street  
26 Scottsdale, AZ 85251-4573

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28



1 United States  
2 R. Lee Leininger  
3 U.S. Department of Justice  
4 Natural Resources Section  
5 999 18th Street, So Terrace, Suite 370  
6 Denver, CO 80202

7 United States  
8 David Negri  
9 U. S. Department of Justice  
10 800 Park Boulevard, #600  
11 Boise, ID 83712

12 Yavapai-Apache Nation,  
13 Camp Verde Reservation  
14 Susan B. Montgomery/Robyn L. Interpreter  
15 Montgomery & Interpreter, PLC  
16 3301 E. Thunderbird Road  
17 Phoenix, AZ 85032

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