

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

CONTESTED CASE NO. W1-11-3310

ORDER INITIATING CONTESTED CASE

CONTESTED CASE NAME: *In re Larsen.*
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-ADA-001 and sets a Scheduling Conference.
NUMBER OF PAGES: 10
DATE OF FILING: June 27, 2017.

This Order initiates a contested case to resolve objections to watershed file report 115-04-ADA-001 that sets forth proposed water rights to Aravaipa Creek for domestic and irrigation use.

1 Background

2 On September 19, 1977, James T. O'Neil filed a Statement of Claim of Right to Use
3 Public Waters of the State no. 36-48316 to use 200 acre feet of water from the Aravaipa
4 Creek for irrigation and domestic purposes. Approximately two years later, James T. O'Neil
5 filed Statement of Claimant 39-1486 claiming a water right for 200 acre feet for irrigation to
6 be used on the SESW Sec. 26 T6S R17E and on NE2 Sec. 23 T6S R17E and an additional
7 amount of water for domestic use. On or about July 14, 1980, James T. O'Neil and Mary
8 E. O'Neil filed Statement of Claimant 39-12598 for a right to 200 acre feet of water for
9 irrigation on 125 acres located in sections 23 and 26, T6 R17E and 50 acre feet/gallons
10 (units not specified) for domestic use.

11 On May 4, 1988, James T. O'Neil and Mary O'Neil signed a Deed of Gift that
12 transferred to Kathleen Larsen 5.57 acres of land in NW Sec. 26 T6S R17E. Later that
13 same year, Mary Kathleen Larsen filed a Statement of Claimant dated October 19, 1988, for
14 8.8 acre feet of water for irrigation, approximately 0.28 acre feet for domestic use (54,750
15 gallons for domestic use and 36,500 gallons for a garden) and 18,250 gallons for
16 stockwatering. Ms. Larsen explained in the Statement of Claimant that the claim resulted
17 from the 1988 gift of land and the claim is a part of Statement of Claimant 39-1486 that was
18 amended by Statement of Claimant 39-12598. On October 19, 1988, James T. O'Neil and
19 Mary O'Neil signed an Assignment of Statements of Claimant 39-1486 and 39-12598 in
20 favor of Ms. Larsen (1988 Assignment).¹ In a subsequently filed document Ms. Larsen
21 attached an explanation stating that the 1988 Assignment was intended as a partial
22 assignment of claims for water rights that pertained to the 5.57 acres of land gifted to Ms.
23 Larsen. Partial Assignment of Statement of Claimant dated March 29, 1994 (1994 Partial
24 Assignment).

25
26
27
28 ¹ On March 15, 1989, James T. O'Neil and Mary O'Neil signed a second assignment of Statement of
Claimant in favor of Mary Kathleen Larsen which listed Statements of Claimant 39-1486 and 39-12598.

1 By a deed recorded April 18, 1994 (1994 Deed), James T. O’Neil in his individual
2 capacity and as personal representative of the estate of Mary O’Neil conveyed portions of
3 sections 23 and 26 T6S R17E to Philip W. Hedrick and Catherine J. Gorman. The Partial
4 Assignment represented that the 1994 Deed conveyed the balance of Mr. O’Neil’s 123 acres
5 reduced by the 5.57 acres gifted to Ms. Larsen. It also assigned to “Philip W. Hedrick and
6 Catherine J. Gorman that portion of Statements of Claimant 39-1486 and 39-12598 which
7 pertains to the property purchased by them from James T. O’Neil, located in sections 23 and
8 26 T6S R17E GSRBM, Pinal County, Arizona.” Partial Assignment, Explanatory Note, p.
9 2. By deed recorded in Pinal County in March 15, 2005, Philip W. Hedrick and Catherine
10 J. Gorman conveyed to Linda S. Peck and William J. McGuire, portions of Sec. 26, T6S,
11 R17E. On July 11, 2013, Philip W. Hedrick and Catherine J. Gorman transferred portions
12 of sections 23 and 26, T6S, R17E to Philip W. Hedrick and Catherine J. Gorman as trustees
13 of the Hedrick-Gorman Trust, dated June 26, 2013. The preceding statements do not
14 constitute a finding of fact regarding legal ownership. Instead, these statements are intended
15 as a summary of the documents filed with the Pinal County Recorder. The readily available
16 public records maintained by the Arizona Department of Water Resources do not contain an
17 assignment of claims for water rights from Philip W. Hedrick and Catherine Gorman to
18 Linda S. Peck and William J. McGuire.

19
20 Watershed File Report 115-04-ADA-001

21
22 In 1991, the Arizona Department of Water Resources issued Watershed File Report
23 115-04-ADA-001 (WFR) as part of the San Pedro Hydrographic Survey Report. It
24 proposed four water rights: two water rights for domestic use on Sec. 26 T6S R17E and two
25 water rights for irrigation uses for use on sections 23 and 26 T6S R17E. A copy of the
26 WFR is attached as Appendix A. The WFR describes water right claims or uses that are less
27 than 500 acre feet per year. James T. O’Neil and Mary Kathleen Larsen filed extensive
28

1 objections to the WFR. Objections have also been filed by those entities listed on Appendix
2 B.

3 **IT IS ORDERED:**

4 1. Contested Case Designation and Docket Number. This contested case shall
5 be known as *In re Larsen* and it will address the objections that were filed to the watershed
6 file report 115-04-ADA-001 published in the Final San Pedro River Watershed
7 Hydrographic Survey Report (1991).

8 2. Litigants. The litigants in this contested case are the claimants, namely Mary
9 Kathleen Larsen and Philip W. Hedrick and Catherine Gorman, all persons who filed
10 objections to watershed file report 115-04-ADA-001 listed on Appendix B, and claimants
11 who are allowed to intervene by order.

12 3. Court-Approved Mailing List.

13 A. The initial Court-approved mailing list for this case shall include all
14 persons listed on Appendix B of this order as well as Janet Miller at the
15 Arizona Department of Water Resources. A courtesy copy of this Order
16 shall be sent to Linda S. Peck and William J. McGuire at their address shown
17 by the Pinal County Tax Assessor's Office. The list may be modified only
18 by filing a motion with the Special Master to amend the Court-approved
19 mailing list. Litigants are responsible for using the current Court-approved
20 mailing list which can be found at:
21 <https://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/maillingLists.asp>.

22 B. A copy of any pleading filed with the Clerk of the Maricopa County
23 Superior Court in this case shall be served upon each person listed on the
24 Court-approved mailing list.
25
26
27
28

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

4
5 4. Scheduling Conference. Pursuant to §8.03[1], Rules for Proceedings before
6 the Special Master, a scheduling conference shall be held to address the adjudication of this
7 case, a schedule to identify issues, file disclosure statements, conduct discovery, submit
8 prehearing motions, and set a trial date, if needed. No party shall conduct any discovery or
9 file any motions prior to the Scheduling Conference. The Scheduling Conference shall be
10 held **Wednesday, August 23, 2017, at 1:30 p.m.** before:

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

16 Instructions for telephonic appearance:

17 Dial: 602-506-9695 (local)

18 1-855-506-9695 (toll free long distance)

19 Dial Participant Pass Code 357264#

20
21 
22 _____
23 SUSAN WARD HARRIS
24 Special Master

25 On June 27, 2017 the original of the foregoing was
26 delivered to the Clerk of the Maricopa County
27 Superior Court for filing and distributing a copy to all
28 persons listed on the Court-approved mailing list for
this contested case, a copy of which is attached hereto
as Appendix B.

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

APPENDIX A

LAND OWNER	WATERSHED FILE
-----	REPORT NUMBER
LARSEN, MARY KATHLEEN	115-04-ADA-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 LOCATION SECTION	TWNP	RNGE
10-1104199.1100		IRRIGATION OTHER		NW26	060S	170E	1891	NE26	060S	170E
10-1104565.1200		IRRIGATION	90000.00	SENE26	060S	170E	1894	NWSW24	060S	170E
10-1105634.1200		IRRIGATION	9000.00	SE23	060S	170E	1899	NWSESE23	060S	170E
				NENE26	060S	170E		SESESE23	060S	170E
				SWSW26	060S	170E		SENE26	060S	170E
10-1112496.1100		IRRIGATION		SWNESE26	060S	170E	1910	NWSW24	060S	170E
				NWSESE23	060S	170E				
10-1113412.1100		IRRIGATION	10800.00	SESE23	060S	170E	1911	SESE23	060S	170E
				NENE26	060S	170E				
36-0048316		IRRIGATION DOMESTIC	200.00	SESE23	060S	170E	1900	SESE23	060S	170E
				N223	060S	170E		NENE26	060S	170E
				SESW26	060S	170E				
39-0001486		IRRIGATION DOMESTIC	200.00 .18	SESE23	060S	170E	1890	SESE23	060S	170E
				N223	060S	170E				
				SESW26	060S	170E				
39-0012598		IRRIGATION DOMESTIC	200.00 .50	SESE23	060S	170E	1900	SESE23	060S	170E
				NE26	060S	170E		NENE26	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
10-1104199.1100	IRRIGATION OTHER	NOT APPLICABLE NOT APPLICABLE		
10-1104565.1200	IRRIGATION	NOT APPLICABLE		
10-1105634.1200	IRRIGATION	IRRIGATION		IROO1
10-1112496.1100	IRRIGATION	NONE		
10-1113412.1100	IRRIGATION	IRRIGATION		IROO1
36-0048316	IRRIGATION DOMESTIC	IRRIGATION DOMESTIC	PO1, WO1, WO2 WO3	DMOO1, DMOO2, IROO1 IROO2
39-0001486	IRRIGATION DOMESTIC	IRRIGATION DOMESTIC	PO1, PO2, WO1 WO2, WO3	DMOO1, DMOO2, IROO1
39-0012598	IRRIGATION DOMESTIC	IRRIGATION DOMESTIC	PO1, PO2, WO1 WO2, WO3	DMOO1, DMOO2, IROO1

D I V E R S I O N S

DIV #	SECTION	TWNP	RNGE	DIVERSION NAME	WATER SOURCE AND CLASSIFICATION
PO1	SWNENE26	060S	170E	UNNAMED	SURFACE WATER: ARAVAIPA CREEK
PO2	NWSWNE26	060S	170E	UNNAMED	SURFACE WATER: ARAVAIPA CREEK
WO1	SWSESE23	060S	170E	UNNAMED	GROUNDWATER : ZONE 1 OF THE ARAVAIPA CREEK
WO2	SESESE23	060S	170E	UNNAMED	GROUNDWATER : ZONE 1 OF THE ARAVAIPA CREEK
WO3	NESWNE26	060S	170E	UNNAMED	GROUNDWATER : ZONE 1 OF THE ARAVAIPA CREEK

U S E S

PWR #	SECTION	TWNP	RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO DATE	SOURCE CHANGE	FACILITY NAME
DMOO1	NWNENE26	060S	170E	WO1, WO3	GROUNDWATER : ZONE 1		NO	
DMOO2	SENWNE26	060S	170E	WO1, WO3	GROUNDWATER : ZONE 1		NO	
IROO1	NENE26	060S	170E	PO1, WO1, WO2	SURFACE WATER	1935	YES	
	SESE23	060S	170E		GROUNDWATER : ZONE 1			
IROO2	NENE26	060S	170E	PO2	SURFACE WATER	1980	NO	
	SWNE26	060S	170E					

PWR #	APPLICABLE ADJ FILINGS	APPLICABLE PRE FILINGS	*APPARENT FIRST USE DATE* DATE BASIS FOR DATE	WATER SOURCES AND CLASSIFICATIONS
DM001	39-0001486 39-0012598	36-0048316		GROUNDWATER : ZONE 1 OF THE ARAVAIPA CREEK
DM002	39-0001486 39-0012598	36-0048316		GROUNDWATER : ZONE 1 OF THE ARAVAIPA CREEK
IR001	39-0001486 39-0001486 39-0012598 39-0012598	10-1105634.1200 10-1113412.1100 36-0048316	1890 FILING 39-1486	SURFACE WATER: ARAVAIPA CREEK GROUNDWATER : ZONE 1 OF THE ARAVAIPA CREEK
IR002	39-0001486 39-0012598	36-0048316	1980 1980 AERIAL PHOTO	SURFACE WATER: ARAVAIPA CREEK
NONE	NONE	10-1104199.1100 10-1104565.1200 10-1112496.1100		

Q U A N T I T I E S O F U S E

PWR #	QUANTIFICATION TYPE	ACRES	CROP TYPE	EFF	WATER DUTY	ESTIMATED VOLUME	REMARKS
DM001							SEE VOLUME 1 - GENERAL ASSESSMENT
DM002							SEE VOLUME 1 - GENERAL ASSESSMENT
IR001	MAX. OBSERVED REGIONAL	5.3	FRUIT W/GC	67%	5.3 AF/AC	28.1 AFA	
	MAX. POTENTIAL	5.3	AVE. CROP	50%	5.4 AF/AC	28.6 AFA	
IR002	MAX. OBSERVED REGIONAL	2.3	ALFALFA	67%	5.0 AF/AC	26.5 AFA	
	MAX. POTENTIAL	2.3	PERM. PSTR	61%	3.3 AF/AC	7.6 AFA	DEFICIT IRRIGATION
		2.3	AVE. CROP	50%	5.4 AF/AC	12.4 AFA	
		2.3	ALFALFA	61%	5.4 AF/AC	12.4 AFA	

E X P L A N A T I O N

FILINGS AND DECREES

FILING 10-1104199-11 - CLAIMS IRRIGATION AND OTHER WATER USES FROM ARAVAIPA CREEK. THE CLAIMED USES DO NOT APPLY TO THIS W.F.R.
 FILING 10-1104565-12 - CLAIMS IRRIGATION AN IRRIGATION WATER USE FROM ARAVAIPA CREEK. NO WATER USES APPLY TO THIS FILING.
 FILING 10-1112496-11 - CLAIMS IRRIGATION WATER USES FROM ARAVAIPA CREEK. NO IRRIGATION WAS FOUND AT THE CLAIMED LOCATION.

DIVERSIONS

P1 & P2 - PORTABLE INSTREAM PUMP DIVERSIONS FROM ARAVAIPA CREEK INTO A PIPELINE SYTEM.
 W1 - WELL PROVIDES WATER FOR IRRIGATION AND DOMESTIC USES.
 W2 - WELL PROVIDES WATER FOR IRRIGATION USE.
 W3 - WELL PROVIDES WATER FOR DOMESTIC USE.

USES AND RESERVOIRS

DM1 & DM2 - DOMESTIC USES.
 IR1 - IRRIGATED ORCHARD WITH GROUND COVER USED FOR PASTURE.
 IR2 - IRRIGATED PASTURE.
 A RESERVOIR ON THIS PROPERTY IS PRESENTLY BREACHED AND UNUSED.

DISPOSITION OF LAND OWNER/CLAIMANT COMMENTS

AN EXTENSIVE COMMENT WAS RECEIVED WHICH CLARIFIED LAND OWNERSHIP, DIVERSIONS, DISTRIBUTION METHODS, AND DAMAGES DUE TO FLOODING OF ARAVAIPA CREEK.

APPENDIX B

1
2
3 ASARCO LLC

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

8 BHP Copper, Inc.

9 John D. Burnside and Megan Tracy
10 Snell & Wilmer, L.L.P.
11 400 East Van Buren, Suite 1900
12 Phoenix, AZ 85004

13 Gila River Indian Community

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

19 Philip W. Hedrick and Catherine J. Gorman
20 92425 E Aravaipa Road
21 Winkelman, AZ 85192

22 Mary Kathleen Larsen
23 402 E. Paseo DeEnrique
24 Casa Grande, AZ 85222

25 Salt River Valley Water Users' Association and the
26 Salt River Project Agricultural Improvement and Power District
27 John B. Weldon, Jr. and Mark A. McGinnis
28 Salmon, Lewis & Weldon PLC
29 2850 E Camelback Rd, Ste 200
30 Phoenix, AZ 85016

31 San Carlos Apache Tribe

32 Tonto Apache Tribe
33 Joe P. Sparks, Julia M. R. Kolsrud and
34 Laurel A. Hermann
35 The Sparks Law Firm, P.C.
36 7503 First Street
37 Scottsdale, AZ 85251-4573
38

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

United States
David Negri
U. S. Department of Justice
800 Park Boulevard, #600
Boise, ID 83712

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

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