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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

CIVIL NO. W1-11-3384

ORDER INITIATING CONTESTED
CASE

CONTESTED CASE NAME: *In re Arizona Chapter of the Nature Conservancy –Aravaipa Creek I.*
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 115-05-AC-005 and sets a Scheduling Conference.
NUMBER OF PAGES: 11
DATE OF FILING: February 28, 2017.

This Order initiates a contested case to address objections to watershed file report 115-05-AC-005 that sets forth proposed water rights to surface water with apparent first use dates of 1867 and 1880.

1 **IT IS ORDERED:**

2 1. Contested Case Designation and Docket Number. This contested case will
3 address the objections that were filed to the watershed file report 115-05-AC-005), a copy of
4 which is attached as Attachment A, published in the Final San Pedro River Watershed
5 Hydrographic Survey Report (1991), provided, however, the contested case shall be
6 confined to proposed water rights for which surface water is the water source.

7 2. Contested Case Designation and Docket Number. The objections filed to the
8 watershed file report 115-05-AC-005 will be resolved as part of *In re Arizona Chapter of*
9 *Nature Conservancy – Aravaipa Creek I.*, Contested Case No. W1-11-3384.

10 3. Litigants. The litigants in this contested case are the claimant, namely the
11 Arizona Chapter of the Nature Conservancy, all persons who filed objections to watershed
12 file report 115-05-AC-005 listed on Attachment B, and claimants who are allowed to
13 intervene by order.

14 4. Court-Approved Mailing List.

15 A. The initial Court-approved mailing list for this case shall include all
16 persons listed on Attachment B of this order. The list may be modified only
17 by filing a motion with the Special Master to amend the Court-approved
18 mailing list, which the Special Master grants. Litigants are responsible for
19 using the current Court-approved mailing list.

20 B. A copy of any pleading filed with the Clerk of the Maricopa County
21 Superior Court in this case shall be served upon each person listed on the
22 Court-approved mailing list.

23 C. Claimants wishing to be added or removed from the mailing list shall file a
24 motion with the Special Master. Parties allowed to intervene will be
25 automatically added to the mailing list.
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ATTACHMENT A

CLEARLY STATED INFORMATION FROM FILINGS AND DECREES

FILING NUMBER	FILING STATUS	USES	QUANTITY IN AFA	USE LOCATION			CLAIM DATE	DIVERSION LOCATION		
				SECTION	TWNP	RNGE		SECTION	TWNP	RNGE
39-0005523		REC/FISH/WLDFL	.55	SENW20	060S	190E		SENW20	060S	190E

DWR ANALYSIS OF FILINGS AND DECREES

FILING NUMBER	USES CLAIMED OR REFERENCED	USES FOUND BY DWR	APPLIES TO DIVERSIONS	APPLIES TO PWR NUMBERS	
10-0503231.1100	IRRIGATION DOMESTIC	IRRIGATION DOMESTIC			DMO03, IRO94
36-0037250.0001	STOCK	STOCKWELL			
36-0037251.0001	IRRIGATION	NONE	W11		
36-0037252.0001	IRRIGATION	NONE			
36-0037253.0001	IRRIGATION	DISCONTINUED	DO3		IRO91
36-0037254.0001	IRRIGATION	DISCONTINUED			IRO90
36-0037255.0001	IRRIGATION	DISCONTINUED			IRO90
36-0037258	DOMESTIC	NOT APPLICABLE	WO2		
36-0037259.0001	DOMESTIC	DOMESTIC			DMO03
36-0037260.0001	DOMESTIC	DOMESTIC			DMO03
36-0037261.0001	DOMESTIC	DOMESTIC			DMO02
36-0037262.0001	DOMESTIC	DOMESTIC			DMO01
36-0037264.0001	DOMESTIC	DOMESTIC			DMO01
36-0047357	IRRIGATION DOMESTIC	DISCONTINUED NONE	DO2		IRO91
36-0047416	STOCK IRRIGATION DOMESTIC	INCIDENTAL DISCONTINUED NONE	DO1		IRO90
36-0048809	STOCK IRRIGATION	INCIDENTAL NOT APPLICABLE	DO1		
36-0061144	STOCK IRRIGATION	NOT APPLICABLE DISCONTINUED	DO1		IRO90
36-0065216.0001	STOCK IRRIGATION	INCIDENTAL DISCONTINUED	DO1		IRO90
36-0068212	STOCK IRRIGATION	INCIDENTAL DISCONTINUED	DO1		IRO90
36-0068497	STOCK IRRIGATION DOMESTIC	INCIDENTAL DISCONTINUED NONE	DO7		IRO93
39-0000333	STOCK IRRIGATION	INCIDENTAL NOT APPLICABLE	DO1		
39-0000334	STOCK IRRIGATION	NOT APPLICABLE NOT APPLICABLE	DO1		
39-0000335	STOCK IRRIGATION	NOT APPLICABLE NOT APPLICABLE	DO1		
39-0000336	STOCK IRRIGATION DOMESTIC	NOT APPLICABLE DISCONTINUED NONE	DO2		IRO91
39-0001173	STOCK IRRIGATION DOMESTIC	INCIDENTAL DISCONTINUED NONE	DO1		IRO90
39-0002645	STOCK IRRIGATION	INCIDENTAL DISCONTINUED	DO1		IRO90
39-0003958	STOCK IRRIGATION DOMESTIC	INCIDENTAL DISCONTINUED NONE	DO7		IRO93
39-0005489	STOCK DOMESTIC	INCIDENTAL NONE			
39-0005507	STOCK WILDLIFE	INCIDENTAL INCIDENTAL	DO1		
39-0005508	STOCK WILDLIFE	STOCK INCIDENTAL			SW001
39-0005509	STOCK WILDLIFE	INCIDENTAL INCIDENTAL	DO2		
39-0005511	STOCK WILDLIFE	INCIDENTAL INCIDENTAL	DO3		
39-0005512	STOCK WILDLIFE	INCIDENTAL STOCKWELL			
39-0005513	DOMESTIC	STOCKWELL			DMO02
39-0005514	DOMESTIC	DOMESTIC			DMO03
39-0005516	DOMESTIC	NONE	WO2		
39-0005518	DOMESTIC WILDLIFE	DOMESTIC INCIDENTAL			DMO01
39-0005521	STOCK WILDLIFE	NONE NONE			

DWR ANALYSIS OF FILINGS AND DECREES (CONTINUED)

FILING NUMBER	USES CLAIMED OR REFERENCED	USES FOUND BY DWR	APPLIES TO DIVERSIONS	APPLIES TO PWR NUMBERS
39-0005522	DOMESTIC	DOMESTIC		DMO03
39-0005523	WILDLIFE	WILDLIFE		SWO01

D I V E R S I O N S

DIV #	SECTION	TWNP	RNGE	DIVERSION NAME	WATER SOURCE AND CLASSIFICATION
DO1	SENWNE28	060S	190E	SALAZAR-TAPIA DITCH	SURFACE WATER: ARAVAIPA CREEK SHARED
DO2	SWNWSW27	060S	190E	UNNAMED	SURFACE WATER: ARAVAIPA CREEK SHARED
DO3	SWSWSE27	060S	190E	UNNAMED	SURFACE WATER: ARAVAIPA CREEK
DO7	NWSESW27	060S	190E	CLARIDGE DITCH	SURFACE WATER: ARAVAIPA CREEK SHARED
WO2	NENWNW35	060S	190E	EASTERN WELL #1	GROUNDWATER : ZONE 2 SHARED
W11	SWNWNW35	060S	190E	UNNAMED	GROUNDWATER : ZONE 2 UNUSED

U S E S

PWR #	SECTION	TWNP	RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO DATE	SOURCE CHANGE	FACILITY NAME
DMO01	SWSWSE21	060S	190E		GROUNDWATER : CATALOGUED		NO	
DMO02	SESENE28	060S	190E		GROUNDWATER : ZONE 1		NO	
DMO03	NWNENE34	060S	190E		GROUNDWATER : ZONE 1		NO	
	SWSESE27	060S	190E					
	SWSESW27	060S	190E					
IRO90	NWNE28	060S	190E	DO1	SURFACE WATER	1935	NO	
	SWSE21	060S	190E					
IRO91	NWNE28	060S	190E	DO2	SURFACE WATER	1935	NO	
	SENE28	060S	190E					
	SWSE28	060S	190E					
IRO92	NWSW27	060S	190E	DO3	SURFACE WATER	1935	NO	
	SESW27	060S	190E					
	SWSW27	060S	190E					
IRO93	NENE28	060S	190E	DO7	SURFACE WATER	1935	NO	
	SENE28	060S	190E					
IRO94	NENE34	060S	190E	WO2	GROUNDWATER : ZONE 2	1935	NO	
	NWNW35	060S	190E					
SWO01	SESWNE35	060S	190E		SURFACE WATER		NO	INSTREAM USE

S H A R E D U S E S A N D D I V E R S I O N S

- ** WATER FROM DO1 IS SHARED WITH THESE ADDITIONAL FILES:
115-05-AB-1, 115-05-AB-2, 115-05-AB-3, 115-05-AB-4
- ** WATER FROM DO2 IS SHARED WITH THESE ADDITIONAL FILES:
115-05-AC-10
- ** WATER FROM DO7 IS SHARED WITH THESE ADDITIONAL FILES:
115-05-AC-4
- ** WATER FROM WO2 IS SHARED WITH THESE ADDITIONAL FILES:
115-05-AC-6

P W R S U M M A R Y

PWR #	APPLICABLE ADJ FILINGS	APPLICABLE PRE FILINGS	*APPARENT FIRST USE DATE* DATE BASIS FOR DATE	WATER SOURCES AND CLASSIFICATIONS
DMO01	39-0005518	36-0037262.0001 36-0037264.0001		GROUNDWATER : CATALOGUED
DMO02	39-0005513	36-0037261.0001		GROUNDWATER : ZONE 1 OF THE ARAVAIPA CREEK
DMO03	39-0005514 39-0005522	10-0503231.1100 36-0037259.0001 36-0037260.0001		GROUNDWATER : ZONE 1 OF THE ARAVAIPA CREEK
IRO90	39-0000333 39-0000334 39-0000335	36-0037254.0001 36-0037255.0001 36-0047416	1867 FILING 36-65216.0001	SURFACE WATER: ARAVAIPA CREEK

PWR #	APPLICABLE ADJ FILINGS	APPLICABLE PRE FILINGS	*APPARENT FIRST USE DATE* DATE BASIS FOR DATE	WATER SOURCES AND CLASSIFICATIONS
IR090	39-0001173 39-0002645 39-0005507	36-0047416 36-0048809 36-0061144 36-0065216.0001 36-0068212		
IR091	39-0000336 39-0005509	36-0037253.0001 36-0047357 36-0047357	1880 FILING 36-37253.0001	SURFACE WATER: ARAVAIPA CREEK
IR092	39-0005511	36-0037253.0001	1880 FILING 36-37253.0001	SURFACE WATER: ARAVAIPA CREEK
IR093	39-0003958	36-0068497	1867 FILING 36-68497	SURFACE WATER: ARAVAIPA CREEK
IR094	39-0005516	10-0503231.1100 36-0037258	1880 FILING 36-37258	GROUNDWATER : ZONE 2
SW001	39-0005508 39-0005523	NONE		SURFACE WATER: ARAVAIPA CREEK
NONE	39-0005489 39-0005512 39-0005521	36-0037250.0001 36-0037251.0001 36-0037252.0001		

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
DM003							SEE VOLUME 1 - GENERAL ASSESSMENT
IR090	REGIONAL	1.6	NO CROP				GENERAL ASSESSMENT
IR091	REGIONAL	24.4	NO CROP				DISCONTINUED IRRG.
IR092	REGIONAL	28.4	NO CROP				DISCONTINUED IRRG.
IR093	REGIONAL	15.6	NO CROP				DISCONTINUED IRRG.
IR094	REGIONAL	11.5	NO CROP				DISCONTINUED IRRG.
SW001							SEE VOLUME 1 - GENERAL ASSESSMENT

E X P L A N A T I O N

FILINGS AND DECREES

FILINGS 36-37251 & 36-37252 - CLAIM IRRIGATION WATER USES. NO IRRIGATION WAS FOUND AT THE CLAIMED LOCATIONS.

FILINGS 36-37258, 36-48809, 39-333, 39-334 & 39-335 - CLAIM WATER USES WHICH DO NOT APPLY TO THIS W.F.R.

FILINGS 36-47416, 36-68497, 39-336 & 39-3958 - CLAIM IRRIGATION, DOMESTIC, AND STOCKWATERING USES. NO DOMESTIC USE WAS FOUND AT THE CLAIMED LOCATION.

FILING 39-117 - CLAIMS IRRIGATION AND DOMESTIC WATER USES. NO DOMESTIC USE WAS FOUND AT THE CLAIMED LOCATION.

FILINGS 39-333, 39-336, 39-1173 & 39-2645 - UNIFORM QUESTIONNAIRES WERE RECEIVED WHICH REFLECT INFORMATION PREVIOUSLY PROVIDED IN THE ORIGINAL STATEMENTS OF CLAIMANT.

FILINGS 39-5489 & 39-5516 - CLAIM DOMESTIC WATER USES. NO DOMESTIC USES WERE FOUND AT THE CLAIMED LOCATIONS.

FILING 39-5521 - CLAIMS STOCKWATERING AND WILDLIFE WATER USES. NO STOCKWATERING OR WILDLIFE USES WERE FOUND AT THE CLAIMED LOCATION.

DIVERSIONS

D1 - DIVERSION FROM ARAVAIPA CREEK INTO THE SALAZAR-TAPIA DITCH.

D2 - DIVERSION FROM ARAVAIPA CREEK INTO THE NATURE CONSERVANCY/WEST DITCH.

D3 - DIVERSION FROM ARAVAIPA CREEK INTO AN UNNAMED DITCH. THE DIVERSION WAS DESTROYED IN THE OCTOBER 1983 FLOOD, BUT RECONSTRUCTION IS PLANNED.

D7 - DIVERSION FROM ARAVAIPA CREEK INTO THE CLARIDGE DITCH.

W2 - WELL PROVIDES WATER FOR IRRIGATION USE.

W11 - UNUSED WELL.

USES AND RESERVOIRS

DM1-DM3 - DOMESTIC USES.

IR90-IR94 - DISCONTINUED IRRIGATION: D.W.R. HAS DETERMINED THAT NO IRRIGATION HAS OCCURRED ON THIS PROPERTY IN THE LAST FIVE YEARS, BUT THERE HAS BEEN IRRIGATION WITHIN THE PAST TEN YEARS BASED UPON A REVIEW OF HISTORICAL AERIAL PHOTOGRAPHY AND FIELD INVESTIGATIONS.

SW1 - INSTREAM STOCK AND WILDLIFE WATERING USES FROM ARAVAIPA CREEK.

SHARED USES AND DIVERSIONS

- D1 - DIVERSION IS SHARED WITH W.F.R.'S #115-05-AB-1 THROUGH #115-05-AB-4.
- D2 - DIVERSION IS SHARED WITH W.F.R. #115-05-AC-10.
- D7 - DIVERSION IS SHARED WITH W.F.R. #115-05-AC-4.
- W2 - WELL IS SHARED WITH W.F.R. #115-05-AC-6.

DISPOSITION OF LAND OWNER/CLAIMANT COMMENTS

A COMMENT WAS RECEIVED FROM THE LAND OWNER WHICH INDICATED THAT FILINGS 36-37253, 36-37254, 36-37255, 36-37258, 39-5512 & 39-5518 SHOULD BE AMENDED.

ATTACHMENT B

1
2
3 Arizona Department of Water Resources
4 Janet L. Miller
5 P. O. Box 36020
6 Phoenix, Arizona 85067

7 ASARCO, Incorporated
8 Lauren J. Caster and Gregory L. Adams
9 Fennemore Craig, P.C.
2394 East Camelback Road, Suite 600
Phoenix, Arizona 85016-3429

10 BHP Copper Inc. (fmr. Magma Copper Co.)
11 Lucas J. Narducci, Christopher Payne
12 and Mitchell Klein
13 Snell & Wilmer, L.L.P.
400 East Van Buren Street, Suite 1900
Phoenix, Arizona 85004-2202

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

17 The Nature Conservancy
18 Stephen C. Cann
19 2424 Spruce Street, Suite 100
Boulder, Colorado 80302

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

24 San Carlos Apache Tribe
25 Tonto Apache Tribe
26 Camp Verde Reservation
27 Joe P. Sparks, Julia M. R. Kolsrud and
28 Laurel A. Hermann
The Sparks Law Firm, P.C.
7503 First Street
Scottsdale, AZ 85251-4573

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
8 David Negri
9 U. S. Department of Justice
10 800 Park Boulevard, #600
11 Boise , ID 83712
12
13 Yavapai-Apache Nation
14 Susan B. Montgomery/Robyn L. Interpreter
15 Montgomery & Interpreter, PLC
16 3301 E. Thunderbird Road
17 Phoenix, AZ 85032
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