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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.
W1-11-0381 and W1-11-0384

**ORDER ADDRESSING “MOTION
TO SET ASIDE DEFAULT
JUDGMENT” AND “MOTION FOR
DISMISSAL OF BOTH CASES”
AND SETTING STATUS
CONFERENCE**

CONTESTED CASE NAME: *In re T.W. Manteufel, In re Ruth M. Ryan*
HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report.
DESCRIPTIVE SUMMARY: Clarifying statements made in litigants’ “Motion to Set Aside
Default Judgment” and “Motion to Dismiss.” Order setting **status conference for July 17,
2024 at 10:00 am.**
NUMBER OF PAGES: 8

On April 19, 2024, the Court ordered that by June 15, 2024, Terry Filloon, landowner
in contested cases W1-11-0384 must show cause for her failure to appear at the March 6,
2024, and April 15, 2024, status conferences in these cases. On June 10, 2024, Ms. Filloon
filed a “Motion for Dismissal of Both Cases” and a “Motion to Set Aside Default Judgment.”
This order addresses various statements made in those motions and sets a status conference
to address whether Ms. Filloon seeks to continue participating in this proceeding.

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A. The nature of these proceedings.

The purpose of this proceeding is to recognize and decree water rights throughout the Gila River Basin in Arizona so that the state can manage its surface water resources more fairly and effectively. This is different from a typical lawsuit, as there are neither “plaintiffs” nor “defendants.” No party to this proceeding is claiming that you have done something wrong, and no party is seeking a remedy from you. This case is not an action to prevent you from using water.

Nonetheless, it is important that you participate in this proceeding. Having water rights can protect you from potential, future claims of interference with others’ rights. Further, at a future date, when all water rights claims in the Little Colorado River Basin have been adjudicated and are included in a “final decree,” parties whose claims have been dismissed will have forfeited their water rights. Such a forfeiture could result in legal action under Arizona Revised Statutes section 45-112 or civil liability.

B. ADWR’s October 25, 2023, Report.

On October 25, 2023, the Arizona Department of Water Resources (“ADWR”) filed a report clarifying the boundary of Watershed File Report (“WFR”) 111-20-CA-006.¹ The report corrected a previously incorrect depiction of the land investigated in WFR 111-20-CA-006, and the report stated that well nos. 55-806425 and 55-29189, both supplying Ms. Filloon’s property, were outside the boundaries of WFR 111-20-CA-006.² Ms. Filloon states in her “Motion to Set Aside Default Judgment,” that because the parcels containing those wells are not within the boundaries of WFR 111-20-CA-006, the case should have been closed as a result.³

¹ W1-11-384, ADWR Report at pages 3 and 6, fig. 2 (Oct. 25, 2023).
² ADWR Report at page 3.
³ W1-11-384, Motion to Set Aside Default Judgment at page 1 (June 10, 2024).

1 The ADWR report simply corrected the location of the wells with respect to the
2 boundary of WFR 111-20-CA-006. The wells are still clearly located within the subflow
3 zone⁴ as shown on Figure 2 of the ADWR report, a copy of which is attached to this order
4 as Attachment A. All other information regarding the wells and any objections to the
5 presumed use of appropriable water because the wells are located within the subflow
6 zone still must be resolved. Furthermore, only the Court may dismiss a case. Even if
7 the cases should have been closed as a result of the ADWR report (which they should
8 not), a final order from the Court would still be necessary for the cases to be dismissed.
9

10 **C. The effect of a property conveyance on water rights.**

11 In Ms. Filloon’s “Motion for Dismissal,” she states that the Court does not have
12 jurisdiction over the use of water on her property because any existing water rights
13 appurtenant to the property transferred to her when her predecessor conveyed the property
14 to her.⁵

15 Simply stated, the jurisdiction of this court includes all rights to use appropriable
16 water in the Gila River System and Source, which includes the San Pedro River. Ariz. Rev.
17 Stat. § 45-251(2), (7). Because Ms. Filloon’s wells are within the subflow zone, the water
18 used on Ms. Filloon’s property is presumed to be appropriated from the San Pedro River.
19 The Court has jurisdiction over any water right arising from that use.
20

21 **D. The relevance of the Groundwater Management Act to these proceedings.**

22 In Ms. Filloon’s “Motion for Dismissal,” she states that the Court does not have
23 jurisdiction over the use of water on her property because the wells at issue in these cases
24

25
26 ⁴ Under Arizona law, appropriable water includes surface water and certain subsurface
27 water referred to as “subflow.” Subflow is underground water that is hydraulically connected
28 to a stream and is considered part of the surface stream. Wells pumping subflow are subject
to the same rules of appropriation as the surface stream itself.

⁵ W1-11-384, Motion for Dismissal at page 1 (June 10, 2024)

1 are wells exempt from certain provisions under the Groundwater Code, § 45-401 *et seq.*
2 Motion for Dismissal at 2.

3 The exemptions that Ms. Filloon cites apply only to the Groundwater Code. The
4 exemptions are therefore not relevant to this proceeding, which is located entirely outside
5 the Groundwater Code. As stated above, because the water used on Ms. Filloon’s property
6 is presumed to be pumping subflow from the San Pedro River, which is appropriable water,
7 the Court has jurisdiction.

8
9 **E. Notice procedures for proceedings**

10 Status conferences are one of a number of proceedings before the Special Water
11 Master. These are formal proceedings that are noticed to the parties of a case either through
12 a specific order, or through a Minute Entry.

13 For this case, notice for the February 28, 2024, status conference was included in the
14 July 28, 2023, Minute Entry (6 months was given for ADWR to review their fee structure
15 and present any options to the parties), filed August 1, 2024. Notice for the April 15, 2024,
16 status conference was given in the February 28, 2024, Minute Entry, filed March 6, 2024.

17
18 **IT IS ORDERED** that the Motions to Dismiss and Motion to Set Aside Default
19 Judgment are denied.

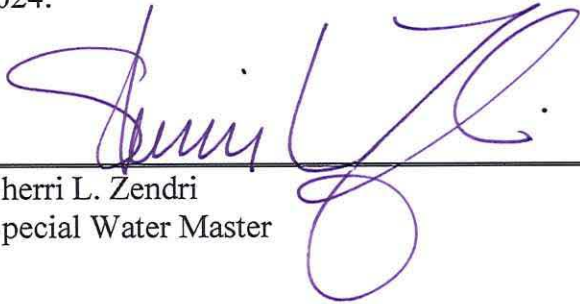
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21 **IT IS FURTHER ORDERED** scheduling a status conference on **July 17, 2024, at**
22 **10:00 a.m.** for Ms. Filloon, Thomas Manteufel, and Robert Manteufel to declare to the
23 Court whether they intend to continue participating in these proceedings. Failure to appear
24 will result in the dismissal of this case and any associated Statements of Claimant.

25 The status conference will be held using the Court Connect program. Instructions for
26 Court Connect are attached as Attachment B. If you receive this Order by email, click on
27 the red box “Join Court Connect Hearing” on the attached instructions to make an
28 appearance. If you do not receive this Order by email, log into the Court Connect program

1 on the internet by typing <https://tinyurl.com/specialwatermaster>. If you do not have access
2 to the internet, you may attend telephonically using the telephone number and access code
3 included in the instructions for Court Connect.

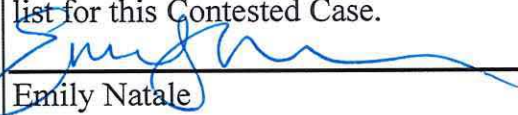
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Signed this 17th day of June 2024.



Sherri L. Zendri
Special Water Master

The original of the foregoing was delivered to the
Clerk of the Maricopa County Superior Court on
June 17, 2024 for filing and distributing a copy
to all persons listed on the Court approved mailing
list for this Contested Case.



Emily Natale

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ATTACHMENT A

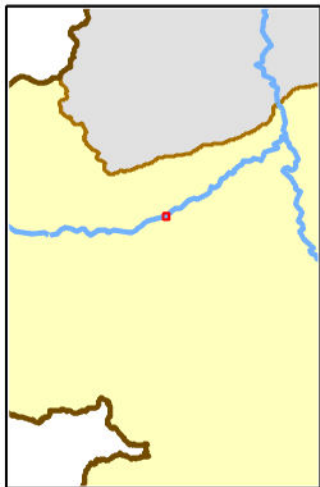
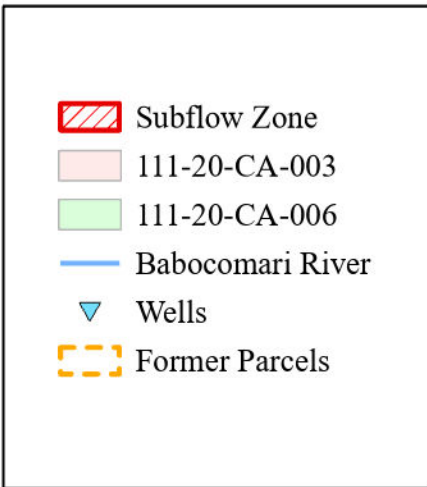
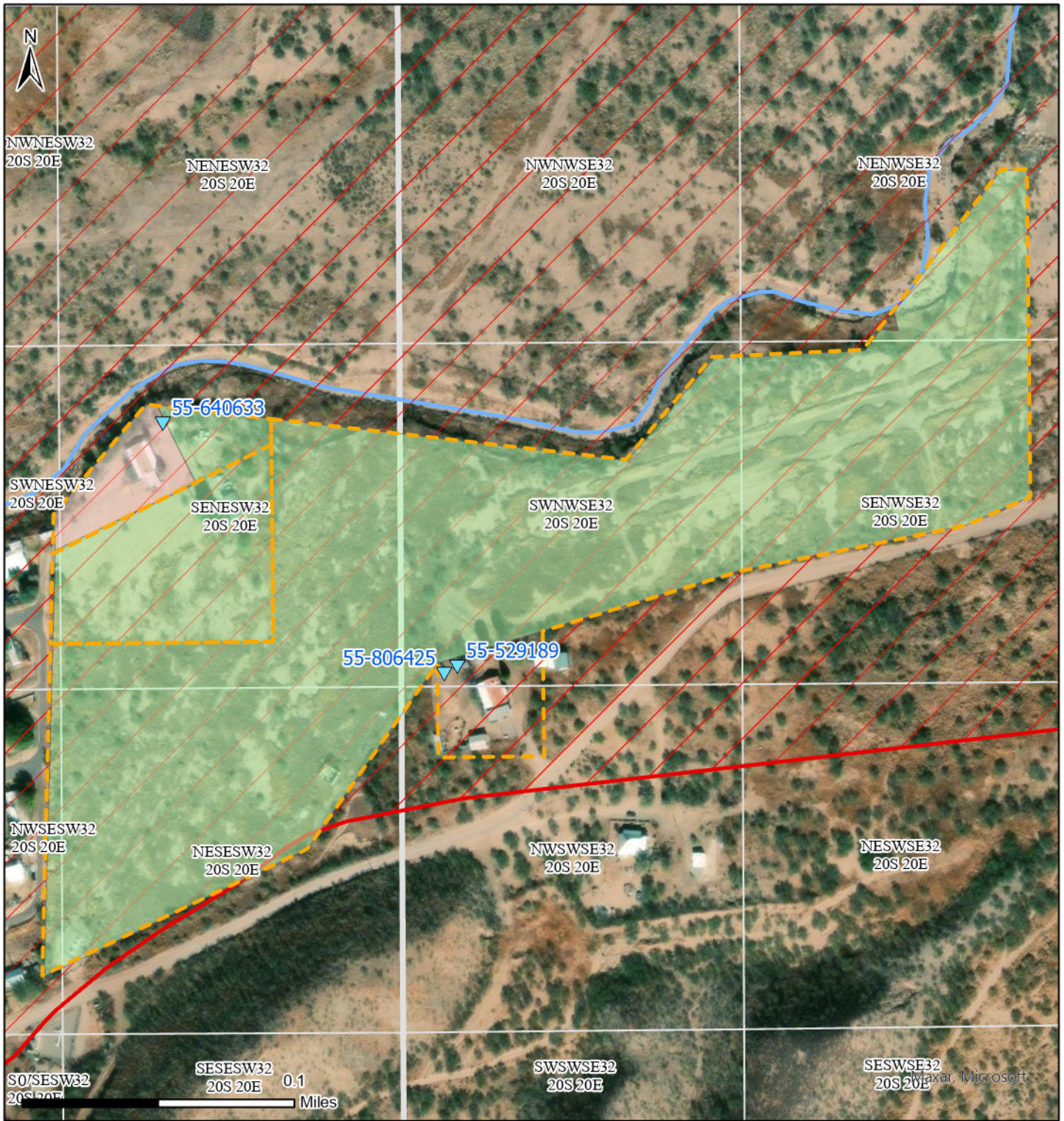



Figure 2.
Parcel and WFR boundaries as of November 1991.

In re Ruth M. Ryan
Contested Case W1-11-0384
Watershed File Report 111-20-CA-006


ADWR October 2023

Data sources include: Parcel Boundaries from Cochise County. Aerial Imagery: ESRI World Imagery

Attachment B



Court Connect Hearing Notice for In re T.W. Manteufel & In re Ruth M. Ryan

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 In re T.W. Manteufel, In re Ruth M. Ryan

Contested Case No. W1-11-0381 & W1-11-0384

Start Date/Time: July 17, 2024, at 10:00 a.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](#)