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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 No. W1-11-0491

ORDER TO INITIATE CONTESTED CASE

AND

ORDER SETTING STATUS CONFERENCE

CONTESTED CASE NAME: *In re Antonio and Elizabeth Fontana*
HSR INVOLVED: San Pedro River Watershed Hydrographic Survey WFR
DESCRIPTIVE SUMMARY: Case initiated and status conference set for **October 27, 2022 at 2:30 p.m.**
NUMBER OF PAGES: 14
DATE OF FILING: September 20, 2022

General Explanation

This Order begins the process necessary to adjudicate claims made for rights to appropriable water for use on land that the Cochise County Assessor has identified as owned by Allan Davidson, Donald and Amity Wells, Triumph Property LLC, Robert Masulli, Hugh Gesher, and Susan Florness and Terrie and Jerry Hauer. This contested case is one of the many

1 cases in the General Stream Adjudication for the San Pedro River watershed to determine legal
2 rights to water. Other cases in which claims have been made for legal rights to water in the San
3 Pedro River watershed have been completed, are in the process of determining water rights, or
4 are awaiting initiation. The purpose of the General Adjudication is to determine the rights of
5 those persons who filed statements of claimant for rights to use appropriable water in the San
6 Pedro River Watershed. The General Adjudication will also determine water rights in the Upper
7 Salt, Verde, Upper Gila, Lower Gila, Agua Fria, and Upper Santa Cruz watersheds.

8 In this case, Elsie M. Doss filed Statement of Claim 36-46704 on June 29, 1977, for rights
9 to water for use on land in SWSW Section 23 Township 19S Range 22E. Ms. Doss described
10 the uses as “undeveloped.” The Arizona Department of Water Resources (“ADWR”)
11 investigated the claim, which it characterized as claims for irrigation, domestic, and stock-
12 watering uses, and prepared a report known as Watershed File Report No. 111-21-BB-006
13 (“WFR”) published in the Final San Pedro River Watershed Hydrographic Survey WFR (1991).
14 A copy of the WFR is attached as Attachment A. Arizona Department of Water Resources did
15 not publish a map of the land investigated.

16 The WFR found no use of water on the land and no sources of water for use on the land.
17 After ADWR issued the WFR, objections were filed to the WFR. The purpose of this case is to
18 consider any claims made for water rights investigated by ADWR and reported in the WFR and
19 resolve the objections to the WFR.
20

21 **Landowners**

22 The WFR identified one Statement of Claim relevant to the potential water right: 36-
23 46704. The WFR lists Antonio and Elizabeth Fontana as the owners of the property described
24 as located in the southwest quarter of the southwest quarter of Section 23 Township 19S Range
25 22E. The public records maintained by ADWR do not include an assignment of the filing from
26 the Elsie M. Doss to the successor landowners.
27
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1 The records of the Cochise County Recorder include a warranty deed from Antonio
2 Fontana to Singing Valley Trust in 1996, recorded as document 1996-23051, that identified the
3 property tax parcel 108-11-006. Subsequently, Singing Valley Trust deeded the property to
4 Rodger Lester. That deed is recorded at document 1996-24610 and identifies the land as tax
5 parcel 108-11-006. In 2002, it appears that the property was split into smaller parcels. The
6 Cochise County Assessor lists Hugh Gesher, Susan Florness and Terrie and Jerry Hauer, Donald
7 and Amity Wells, Triumph Property LLC, Allan Davidson, and Robert Masulli, as owners of tax
8 parcels 108-11-006B, D, E, G, H, and J, respectively. Each parcel is included in SWSW of
9 Section 23 T19S R22 E. A copy of the maps prepared by the Cochise County Assessor showing
10 tax parcels 108-11-006B, D, E, G, H, and J are attached as Attachment B. The public records of
11 ADWR do not include a Statement of Claimant filed by Hugh Gesher, Susan Florness and Terrie
12 and Jerry Hauer, Donald and Amity Wells, Triumph Property LLC, Allan Davidson, or Robert
13 Masulli.
14

15
16 **IT IS ORDERED:**

17 1. Contested Case. This contested case shall be known as *In re Antonio and*
18 *Elizabeth Fontana* and it will determine appropriable water rights if a Statement of Claimant is
19 filed and objections that were filed to Watershed File report 111-23-AC-044 published in the
20 Final San Pedro River Watershed Hydrographic Survey Report (1991). Copies of objections can
21 be found under the case name and number on the following website:
22 [http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.](http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp)
23 [asp](http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp)
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26 2. Litigants. The litigants in this contested case are the current landowners, all
27 persons who filed objections to the WFR, who are included on Attachment C, and parties who
28 are allowed to intervene by order.

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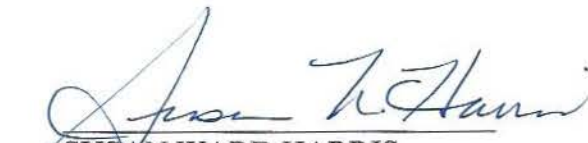
3. Court-Approved Mailing List.

- A. The initial Court-approved mailing list for this case shall include all persons listed on Attachment C 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 Maricopa 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 to 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. Upon request, the Clerk of the Court will provide copies by email. Parties may request emailed copies of minute entries and orders by completing and submitting a CONSENT FOR ELECTRONIC RECEIPT OF WATER CASE DOCUMENTS, which is attached as Attachment D.

4. Status Conference. An initial status conference shall be held to determine whether Allan Davidson, Donald and Amity Wells, Triumph Property LLC, Robert Masulli, Hugh Gesher or Susan Florness and Terri and Jerry Hauer intend to file a Statement of Claimant and pursue claims for rights to appropriable water for domestic or irrigation use. If no landowner

1 appears at the Status Conference, then this case will be dismissed, and no further action will be
2 taken with respect to the WFR or the objections filed to the WFR.

3 The Status Conference shall be held on **October 27, 2022 at 2:30 p.m.** The Status
4 Conference shall be held using the Court Connect program. Instructions for Court Connect are
5 attached as Attachment E. If you receive this Order by email, click on the red box "Join Court
6 Connect Hearing" on the attached instructions to make an appearance. If you do not receive this
7 Order by email, log into the Court Connect program on the internet by typing
8 <https://tinyurl.com/specialwatermaster>. If you do not have access to the internet, you may attend
9 telephonically using the telephone number and access code included in the instructions for Court
10 Connect.
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15 SUSAN WARD HARRIS
16 Special Master
17

18 On September 20, 2022, the original of the foregoing was
19 delivered to the Clerk of the Maricopa County Superior
20 Court for filing and distributing a copy to all persons
21 listed on the Court-approved mailing list for this contested
22 case, a copy of which is attached hereto as Attachment C,
23 and to all persons listed on the Court-approved mailing
24 list for W-1, W-2, W-3, and W-4 (Consolidated).

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23 Emily Natale

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ATTACHMENT A

W1-11-491

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| LAND OWNER | WATERSHED FILE |
| ----- | REPORT NUMBER |
| FONTANA, ANTONIO | 111-21-BB-006 |
| & ELIZABETH | |

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 |
|---------------|---------------|---------------------------------|-----------------|----------------------|-----------|------------|----------------------------|-----------|
| 36-0046704 | | IRRIGATION DOMESTIC STOCK | | SWSW23 | 190S 220E | | SWSW23 | 190S 220E |

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 |
|---------------|---------------------------------|----------------------|-----------------------|------------------------|
| 36-0046704 | IRRIGATION DOMESTIC STOCK | NONE NONE NONE | | |

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 |
|-------|------------------------|------------------------|--|-----------------------------------|
| NONE | NONE | 36-0046704 | | |

E X P L A N A T I O N

FILINGS AND DECREES

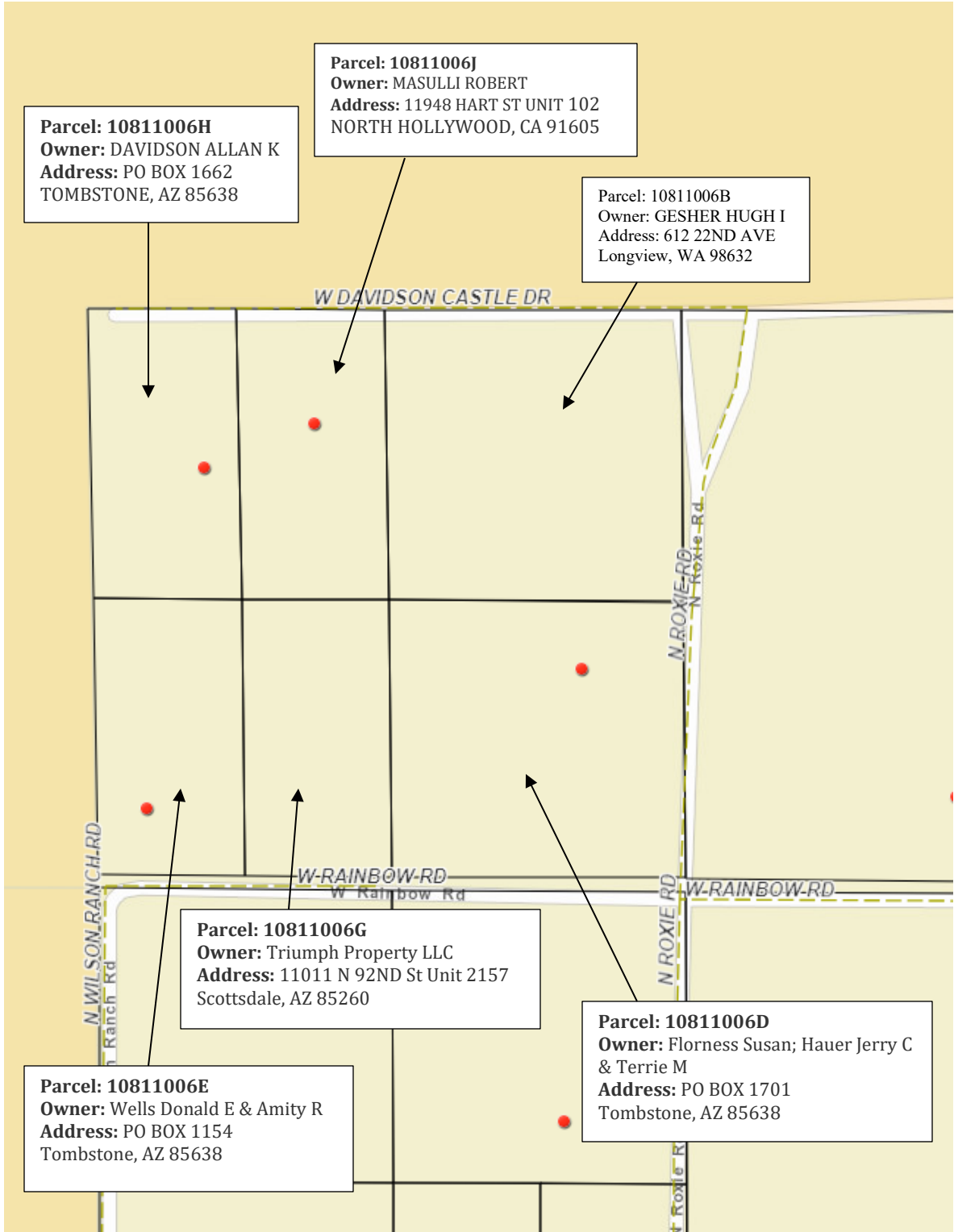
FILING 36-46704 - CLAIMS IRRIGATION, DOMESTIC, AND STOCKWATERING USES. NO IRRIGATION, DOMESTIC, OR STOCKWATERING USES WERE FOUND AT THE CLAIMED LOCATION.

DISPOSITION OF LAND OWNER/CLAIMANT COMMENTS

A COMMENT FROM THE 1987 PRELIMINARY H.S.R. WAS RECEIVED FROM THE LAND OWNER WHICH VERIFIED LAND OWNERSHIP.
A COMMENT WAS RECEIVED FROM THE LAND OWNER WHICH STATED THAT NO WATER USES OCCUR ON THIS PROPERTY.

ATTACHMENT B

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ATTACHMENT C

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Arizona Department of Water Resources
Kimberly Parks & Kome Akpolo
1110 West Washington, Suite 310
Phoenix, AZ 85067

Clerk of the Superior Court
Maricopa County
Attn: Water Case
601 West Jackson Street
Phoenix, AZ 85003

Gila River Indian Community
Thomas L. Murphy
Office of the General Counsel
P. O. Box 97
Sacaton, AZ 85147

Allan K. Davidson
P. O. Box 1662
Hereford, AZ 85615

Donald and Amity Wells
P. O. Box 1154
Tombstone, AZ 85638

Triumph Property LLC
11011 N. 92nd St. Unit 2157
Scottsdale, AZ 85260

Robert Masulli
11948 Hart St. Unit 102
North Hollywood, CA 91605

Hugh Gesher
612 22nd Ave
Longview, WA 98632

Susan Florness and Terrie and Jerry Hauer
P. O. Box 1701
Tombstone, AZ 85638

Joe P. Sparks and Laurel A. Herrmann
The Sparks Law Firm, P.C.
7503 First Street
Scottsdale, AZ 85251-4573

Richard Palmer, Jr., Jeremiah Weiner
and Lauren Mulhern
Rosette, LLP
565 W. Chandler Blvd. Suite 212
Chandler, AZ 85225

S. Montgomery, R. Interpreter, J. Tomkus
Montgomery & Interpreter, Plc
3301 E. Thunderbird Road
Phoenix, AZ 85032

Special Master Susan Ward Harris
Superior Court of Arizona
201 W. Jefferson Street
Courtroom 301
Phoenix, AZ 85003

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ATTACHMENT D

**CLERK OF THE COURT
SUPERIOR COURT OF ARIZONA**

Jeff Fine
Clerk

**MARICOPA COUNTY
Customer Service Center
601 West Jackson
Phoenix, AZ 85003**

602 372-4115
Water Case Clerk

CONSENT FOR ELECTRONIC RECEIPT OF WATER CASE DOCUMENTS

In an effort to provide more timely and cost effective distribution of copies of filed Water Case documents, the Clerk of the Superior Court would like implement electronic distribution via email. To do so, we require your consent to receive copies of documents electronically at an email address provided to our office.

This consent is voluntary and can be rescinded if you so choose. If you no longer wish to receive Water Case documents from the Clerk of Superior Court electronically, please send written notification to the Clerk of the Superior Court Water Case Specialist at the email address below requesting that all future records be sent in paper form.

Please note that if you consent to receive documents via email, you must notify the Clerk's Office of any change to your email address to avoid delay in receiving future filings. In the event there is no valid email address on file with the Clerk of the Superior Court Water Case Specialist, documents will be mailed to the address provided.

If you wish to consent to receive future documents via email, please either fill out the information below and mail to our office or provide the below information to Mayra.Antelo@Maricopa.Gov.

Preferred email address:

Alternate email address:

Physical address:

Phone number:

Firm Name:

Name [Printed]:

Signature:

Date:

Thank you,

Mayra Antelo
Clerk of the Superior Court
Water Case Specialist
(602) 372-5375 options 7,1,3,4

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ATTACHMENT E



Court Connect Hearing Notice for In re Antonio & Elizabeth Fontana

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 Antonio & Elizabeth Fontana, Contested Case No. W1-11-0419

Start Date/Time: October 27, 2022 at 2:30 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](#)

