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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. W1-11-1864

ORDER TO INITIATE CONTESTED
CASE

AND

ORDER TO SET A STATUS
CONFERENCE

CONTESTED CASE NAME: *In re Leland and Paula Barney*
HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report
DESCRIPTIVE SUMMARY: Contested case initiated and status conference set for **December 3, 2021 at 3:00 PM**
NUMBER OF PAGES: 19
DATE OF FILING: October 12, 2021

General Explanation

This Order begins the process necessary to adjudicate claims made for rights to appropriate water for use on land previously owned by Leland K. and Paula Barney. This

1 contested case is one of the many cases in the General Stream Adjudication for the San Pedro
2 River Watershed to determine legal rights to water. Other cases in which claims have been
3 made for legal rights to water in the San Pedro River Watershed have been completed, are in
4 the process of determining water rights, or awaiting initiation. The purpose of the General
5 Adjudication is to determine the rights of those persons who filed statements of claimant for
6 rights to use appropriable water in Arizona. The General Adjudication will also determine
7 water rights in the Upper Salt, Verde, Upper Gila, Lower Gila, Agua Fria, and Upper Santa
8 Cruz watersheds.
9

10 In this case, Barney Leland ("Claimant") filed a Statement of Claimant on June 16,
11 1980 for rights to water in Sections 27 and 34 of Township 16S Range 20E. The Arizona
12 Department of Water Resources ("ADWR") investigated the claims, which it characterized as
13 claims for three irrigation uses and one stock watering use and prepared a report known as
14 Watershed File Report ("WFR") 112-17-BAA-001 and Zone 2 Well Report 112-17-BAA-001
15 published in the Final San Pedro River Watershed Hydrographic Survey Report (1991) ("San
16 Pedro HSR"). The Zone 2 Well Report 112-17-BAA-001 listed one well that was found to be
17 unused. A copy of the WFR and Zone 2 Well Report is attached as Attachment A. A copy of
18 the map of 112-17-BAA-001 prepared by ADWR for the WFR is attached as Attachment B
19 with the land associated with this case labeled as "(1)".
20
21

22 In the San Pedro HSR, ADWR noted that the Pomerene Canal formerly supplied water
23 to irrigate the land, but no longer served as a source of water. The Arizona Department of
24 Water Resources expressed the opinion that the termination of water from the Pomerene Canal
25 "may be due to the PWUA having an inadequate supply to provide these acres or the
26 development of a separate water source." Vol. 1, San Pedro HSR at 330. The WFR found three
27 irrigation uses and one stock watering use of water supplied by two wells located within the
28

1 subflow zone on the land described in the WFR. After ADWR issued the WFR, objections
2 were filed to the findings made in the WFR. The purpose of this case is to consider the claims
3 made for water rights that are the subject of the WFR and resolve the objections to the WFR.

4 **Claimants & Landowners**

5
6 The WFR identified one Statement of Claimant (“SOC”) relevant to the potential water
7 right: 39-4306. Barney Leland filed the SOC claiming water for irrigation and stock watering
8 uses. The WFR lists Leland K. and Paula Barney as the owners of the property described,
9 located in the southwest quarter of Section 27 and the northwest quarter of Section 34 of
10 Township 16S Range 20E. The public records of the ADWR do not contain an assignment of
11 the SOC.
12

13 The Cochise County Assessor lists the following parties as the current owners of the
14 now subdivided land described in the WFR along with the corresponding tax parcel number:
15

Owner	Parcel No.
Mission Thomas Enters., LLC	208-41-001, 208-40-001D
Wilfredo & Stephanie Reyes	208-40-002
Temporary tax parcel	208-40-001R
Temporary tax parcel	208-40-001Q
William E. Sweeney	208-40-001H
Jerry & Clarie Pemberton	208-40-001J
Michael & Patricia Compton	208-40-001E
Joshua McManus & Kelly Martin	208-37-008F
Jeffery & Suzanne Runyan	208-37-008H
East Family Properties, LLC	208-37-008G
Judy & Sam Fadala	208-37-008K
Bradley & Breanne Akers	208-37-008D, 208-37-008J
Cody & Sarah Elmer	208-40-001K

Owner	Parcel No.
Pomerene Domestic Water Imp. Dist.	208-40-001G
Builder Developer, LLC	208-40-001L
Neal & Diane Lemerise	208-40-001M
John Copp	208-40-001N

A copy of a map prepared by the Cochise County Assessor showing these tax parcels is attached as Attachment C. The WFR area is outlined in blue on the tax parcel map in Attachment C.

IT IS ORDERED:

1. Contested Case. This contested case shall be known as *In re Leland and Paula Barney* and it will determine appropriable water rights asserted in the Statements of Claimant and objections that were filed to Watershed File Report and Zone 2 Well Report 112-17-BAA-001 published in the Final San Pedro River Watershed Hydrographic Survey Report (1991). Copies of objections can be found under the case name and number on the following website: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp>

2. Litigants. The litigants in this contested case are the Claimant, the current landowners, all persons who filed objections to the Watershed File Report who are listed on Attachment D, and parties who are allowed to intervene by order.

3. Court-Approved Mailing List.

A. The initial Court-approved mailing list for this case shall include all persons listed on Attachment D 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.

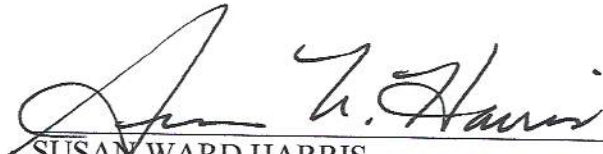
1 B. A copy of any pleading filed with the Clerk of the Maricopa County
2 Superior Court in this case shall be served upon each person listed on the Court-
3 approved mailing list.

4 C. Claimants wishing to be added or removed from the mailing list shall file
5 a motion with the Special Master. Parties allowed to intervene will be
6 automatically added to the Court-approved mailing list.
7


8 D. The Clerk of the Court will send copies of all minute entries and orders
9 issued in this case to the parties listed on the Court-approved mailing list. Upon
10 request, the Clerk of the Court will provide copies by email. Parties may
11 request emailed copies of minute entries and orders by completing and
12 submitting a CONSENT FOR ELECTRONIC RECEIPT OF WATER CASE
13 DOCUMENTS, which is attached as Attachment E.
14

- 15 4. Status Conference. An initial status conference shall be held to determine whether
16 the current landowners intend to pursue claims for rights to appropriable water for
17 irrigation and stock watering uses. The Status Conference shall be held on
18 **December 3, 2021 at 3:00 p.m.** The Status Conference shall be held using the
19 Court Connect program. Instructions for Court Connect are attached as Attachment
20 F. If you receive this Order by email, click on the red box "Join Court Connect
21 Hearing" on the attached instructions to make an appearance. If you do not receive
22 this Order by email, log into the Court Connect program on the internet by typing
23 <https://tinyurl.com/specialwatermaster>. If you do not have access to the internet,
24 you may attend telephonically using the telephone number and access code included
25 in the instructions for Court Connect. Alternatively, you may also appear
26 telephonically using the following instructions:
27
28

1 Instruction for telephonic appearance:
2 Dial: 602-506-9695 (local)
3 1-855-506-9695 (toll free long distance)
4 Dial Participant Pass Code 357264#

5 
6 SUSAN WARD HARRIS
7 Special Master
8

9
10 On October 12, 2021, the original of the foregoing was
11 delivered to the Clerk of the Maricopa County Superior
12 Court for filing and distributing a copy to all persons
13 listed on the Court-approved mailing list for this
14 contested case, a copy of which is attached hereto as
15 Attachment D, and to all persons listed on the Court-
16 approved mailing list for W-1, W-2, W-3, and W-4
(Consolidated).

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Emily Natale

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ATTACHMENT A

||

LAND OWNER

 BARNEY, LELAND K. & PAULA

WATERSHED FILE
 REPORT NUMBER

 112-17-BAA-001

APPLICABLE FILINGS AND DECREES

CLEARLY STATED INFORMATION FROM FILINGS AND DECREES

W1-11-1864

FILING NUMBER	FILING STATUS	USES	QUANTITY IN AFA	USE LOCATION SECTION	TWNP	RNGE	CLAIM DATE	DIVERSION SECTION	LOCATION TWNP	RNGE	
10-0222159.1100		IRRIGATION	1448.00	W234	160S	200E	1913		11	170S	200E
36-0027316		IRRIGATION	1613.01	27	160S	200E	1934	SWSW27	160S	200E	
36-0027319		IRRIGATION		27	160S	200E	1974	SWSW27	160S	200E	
39-0004306		IRRIGATION	520.00	27	170S	200E	1910	NENE36	170S	200E	
		STOCK	4.00	34	170S	200E		NESWNW34	170S	200E	

DWR ANALYSIS OF FILINGS AND DECREES

FILING NUMBER	USES CLAIMED OR REFERENCED	USES FOUND BY DWR	APPLIES TO DIVERSIONS	APPLIES TO PWR NUMBERS
10-0222159.1100	IRRIGATION	IRRIGATION		IROO1, IROO2, IROO3
36-0027316	IRRIGATION	IRRIGATION	WO1, WO2, WO3 WO4	IROO1, IROO2, IROO3
36-0027319	IRRIGATION	IRRIGATION	WO1	IROO1, IROO2, IROO3
39-0004306	IRRIGATION STOCK	IRRIGATION INCIDENTAL	WO1, WO2	IROO1, IROO2, IROO3 SROO1

DIVERSIONS

DIV #	LOCATION SECTION	TWNP	RNGE	DIVERSION NAME	WATER SOURCE AND CLASSIFICATION
WO1	NESWNW34	160S	200E	UNNAMED	GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER
WO2	NESWNW34	160S	200E	UNNAMED	GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER
WO3	NESWNW34	160S	200E	UNNAMED	GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER UNUSED
WO4	NESWNW34	160S	200E	UNNAMED	GROUNDWATER : ZONE 2 UNUSED

USES

PWR #	LOCATION SECTION	TWNP	RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO DATE	SOURCE CHANGE	FACILITY NAME
IROO1	NW34	160S	200E	WO1, WO2	GROUNDWATER : ZONE 1	1935	NO	
	SW27	160S	200E					
IROO2	NENW34	160S	200E	WO1, WO2	GROUNDWATER : ZONE 1	1955	NO	
	NWNW34	160S	200E					
	SWSW27	160S	200E					
IROO3	NENW34	160S	200E	WO1, WO2	GROUNDWATER : ZONE 1	1972	NO	

RESERVOIRS

PWR #	LOCATION SECTION	TWNP	RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO DATE	RESERVOIR NAME	STORAGE PURPOSE
SROO1	NENENW34	160S	200E	WO1	GRNDWTR : ZONE 1	1972	UNNAMED	STOCKWATERING FLOOD CONTROL

PWR SUMMARY

PWR #	APPLICABLE ADJ FILINGS	APPLICABLE PRE FILINGS	*APPARENT FIRST USE DATE*	DATE BASIS FOR DATE	WATER SOURCES AND CLASSIFICATIONS
IROO1	39-0004306	10-0222159.1100 36-0027316 36-0027319	1912	POMERENE W.U.A. INFO	GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER
IROO2	39-0004306	10-0222159.1100 36-0027316 36-0027319	1955	1955 AERIAL PHOTO	GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER

PWR #	APPLICABLE ADJ FILINGS	APPLICABLE PRE FILINGS	*APPARENT FIRST USE DATE*	DATE BASIS FOR DATE	WATER SOURCES AND CLASSIFICATIONS
IROO3	39-0004306	10-0222159.1100 36-0027316 36-0027319	1972	1972 AERIAL PHOTO	GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER
SROO1	39-0004306	36-0027316 36-0027319	1972	1972 AERIAL PHOTO	GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER

QUANTITIES OF USE

PWR #	QUANTIFICATION TYPE	ACRES	CROP TYPE	EFF	WATER DUTY	ESTIMATED VOLUME	REMARKS
IROO1	MAX. OBSERVED	104.4	MULTI.-DBL.	45%	5.0 AF/AC	522.0 AFA	
	REGIONAL	104.4	AVE. CROP	50%	5.4 AF/AC	563.8 AFA	
	MAX. POTENTIAL	104.4	ALFALFA	45%	7.4 AF/AC	772.6 AFA	
IROO2	MAX. OBSERVED	8.9	DBL.CROPPED	45%	6.1 AF/AC	54.3 AFA	
	REGIONAL	8.9	AVE. CROP	50%	5.4 AF/AC	48.1 AFA	
	MAX. POTENTIAL	8.9	ALFALFA	45%	7.4 AF/AC	65.9 AFA	
IROO3	MAX. OBSERVED	16.4	DBL.CROPPED	45%	6.1 AF/AC	100.0 AFA	
	REGIONAL	16.4	AVE. CROP	50%	5.4 AF/AC	88.6 AFA	
	MAX. POTENTIAL	16.4	ALFALFA	45%	7.4 AF/AC	121.4 AFA	
SROO1	MAX. AREA/CAP	3.8				12.8 AF	

EXPLANATION

FILINGS AND DECREES

FILING 39-4306 - CLAIMS WATER FROM THE POMERENE WATER USERS ASSOCIATION CANAL. NO USE OF THIS DIVERSION HAS BEEN APPARENT ON THIS PROPERTY SINCE 1955.

DIVERSIONS

W1 & W2 - WELLS PROVIDE WATER FOR IRRIGATION AND STOCKWATERING USES.
 W3 & W4 - UNUSED WELLS.

USES AND RESERVOIRS

IR1- IRRIGATED MULTIPLE-DOUBLE CROPS (SMALL GRAIN, SORGHUM, PASTURE AND ALFALFA).
 IR2 & IR3 - IRRIGATED DOUBLE CROPS (WINTER AND SUMMER PASTURE).
 SR1 - SMALL RESERVOIR IS USED FOR STOCKWATERING AND FLOOD CONTROL PURPOSES. SOME OVERFLOW FROM THE END OF THE POMERENE CANAL DRAINS INTO SR1.
 DOMESTIC WATER USE IS SUPPLIED BY THE POMERENE DOMESTIC WATER USERS ASSOCIATION.

LAND OWNER

ZONE 2 WELL
REPORT NUMBER

BARNEY, LELAND K. & PAULA

112-17-BAA-001

WELLS WELL NAMES

WELL LOCATION
SECTION TWNP RNGE

WATER USES SERVED

REMARKS

W1-11-1864

W04 UNNAMED

NESWNW34 160S 200E

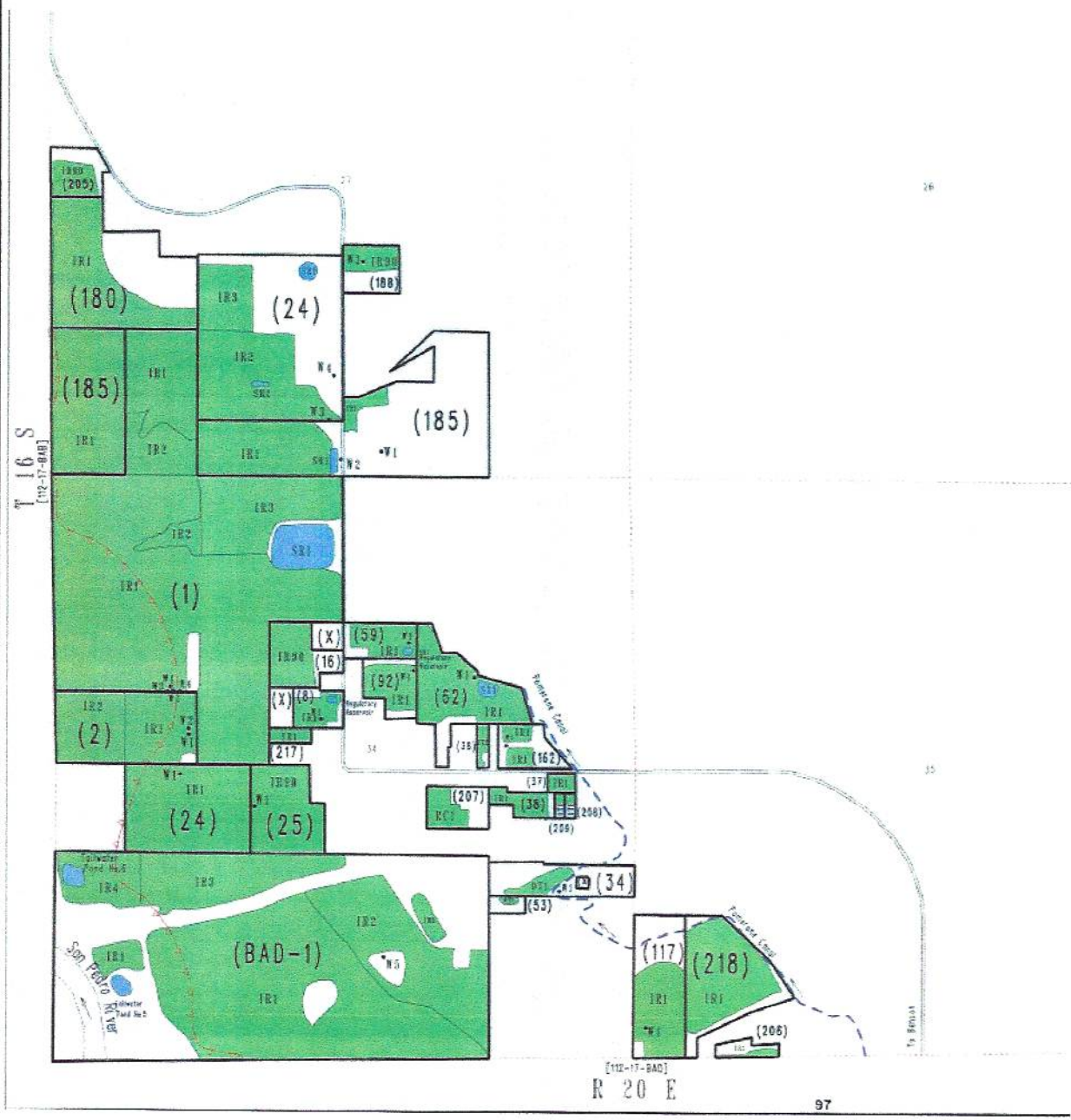
UNUSED

EXPLANATION

W4 - UNUSED WELL.

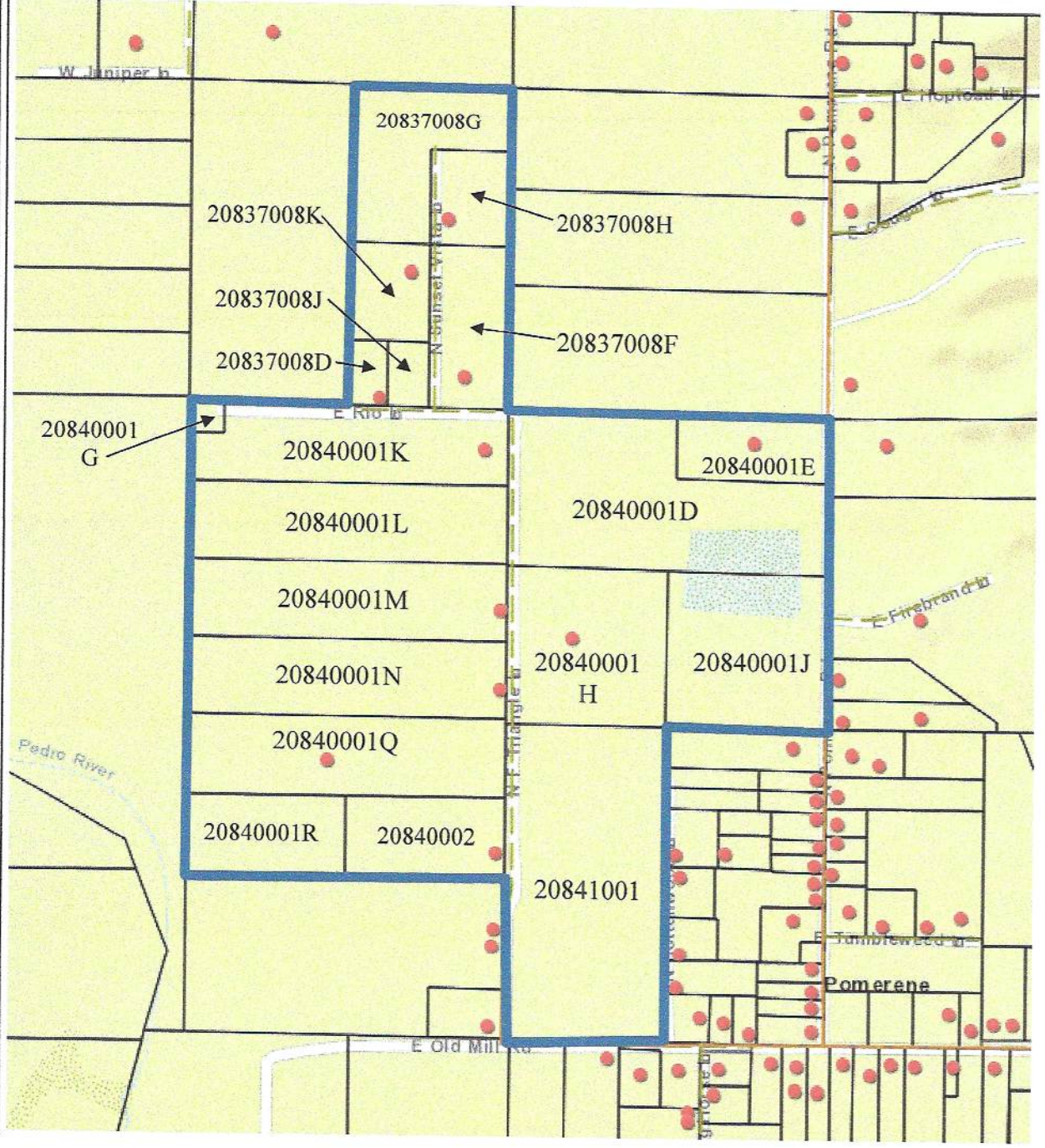
ATTACHMENT B

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ATTACHMENT D

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Arizona Department of Water Resources
Kimberly Parks
Janet L. Miller
P. O. Box 36020
Phoenix, AZ 85067

ASARCO Incorporated
Lauren J. Caster
Fennemore Craig, P.C.
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Barney Properties II, LLC
1229 E. Diamondback Dr.
Benson, AZ 85602

Barney Properties II, LLC
Ryan T. Barney
801 W. 4th Street
Benson, AZ 85602

BHP Copper, Inc.
John D. Burnside
Snell & Wilmer, L.L.P.
400 E. Van Buren Street, Ste 1900
Phoenix AZ 85004

Bradley and Breanne Akers
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Benson, AZ 85602

Brayden Palmer and Leah Tyra
1408 N. Alvie Lee Ln.
Benson, AZ 85602

Builder Developer, LLC
Xuan Ngo
949 N. Canyon Moonlight Pl.
Tucson, AZ 85745

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

Cody and Sarah Elmer
191 E. Rio Ln.
Benson, AZ 85602

David P. Kilpatrick
Judith A. Dyer
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Benson, AZ 85602

East Family Properties, LLC
Northwest Registered Agent, LLC
1846 E. Innovation Park Dr.
Suite 100
Oro Valley, AZ 85755

Gila River Indian Community
Linus Everling and Thomas L. Murphy
Office of the General Counsel
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Sacaton, AZ 85147

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Pomerene, AZ 85627

Jerry E. and Clarie J. Pemberton
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Tucson, AZ 85719

John Copp
3357 Wilcox Ranch Rd.
Reno, NV 89510

Joshua McManus
Kelly Martin
1527 N. Sunset Vista Ln.
Pomerene, AZ 85627

1 Judy C. and Sam N. Fadala
P.O. Box 273
2 Pomerene, AZ 85627
3 Michael C. and Patricia G. Compton
P.O. Box 77
4 Pomerene, AZ 85627
5 Mission Thomas Enterprises, LLC
6 Yolanda Thomas
5210 E. River Rd.
7 Tucson, AZ 85718
8 Neal and Diane Lemerise
9 P.O. Box 100
Pomerene, AZ 85627
10 Pomerene Domestic Water Improvement
11 District
P.O. Box 265
12 Pomerene, AZ 85627
13 San Carlos Apache Tribe
14 Joe P. Sparks and Laurel A. Herrmann
The Sparks Law Firm, P.C.
15 7503 First Street
16 Scottsdale, AZ 85251-4573
17 Salt River Project
John B. Weldon, Jr., Mark A. McGinnis,
18 and Michael Foy
19 Salmon, Lewis & Weldon PLC
2850 E Camelback Rd.
20 Suite 200
Phoenix, AZ 85016
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Special Master Susan Ward Harris
Superior Court of Arizona
201 W. Jefferson Street
Courtroom 301
Phoenix, AZ 85003

The United States
F. Patrick Barry
U.S. Department of Justice
P. O. Box 7611
Washington, DC 20044-7611

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

Wilfredo and Stephanie Reyes
P.O. Box 267
Pomerene, AZ 85627

William E. Sweeney
P.O. Box 394
Grand Canyon, AZ 86023

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

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ATTACHMENT E

**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 F



Court Connect Hearing Notice for In re Leland and Paula Barney

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 Leland and Paula Barney, Contested Case No. W1-11-1864

Start Date/Time: December 3, 2021 at 3:00 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](#)

