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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

Contested Case Nos. W1-11-1878

ORDER STAYING ADJUDICATION OF
POTENTIAL WATER RIGHTS

CONTESTED CASE NAMES: *In re Ernest Sherman*
HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report.
DESCRIPTIVE SUMMARY: Adjudication of potential water rights listed in Watershed File Report 112-17-BAA-117 stayed.
NUMBER OF PAGES: 15.
DATE OF FILING: January 15, 2019

This contested case involves a potential water right for irrigation uses in the southwest quarter of section 35 T16S R20E identified by the Arizona Department of Water Resources in Watershed File Report No. 112-17-BAA-117 (WFR). The WFR listed one well and a diversion from the San Pedro River into the Pomerene Water Users Association Canal as the sources of

1 water. A copy of the WFR is attached as Attachment A. A copy of the map prepared by the
2 Arizona Department of Water Resources for the WFR is attached as Attachment B.

3 Ernest Sherman filed Statement of Claimant 39-6582. The records of the Arizona
4 Department of Water Resources do not show that the Statement of Claimant has been assigned to
5 a successor landowner. The purpose of this case is to address the four objections to the potential
6 water right for the irrigation use to the extent that the current landowners intend to pursue that
7 right from any of the sources of the water listed.
8

9 **Background**

10 Until October 5, 2018, this case was consolidated and a part of that group of cases
11 known as *In re Pomerene Water Users Association*, contested case no. W1-11-1676. In that
12 case, the court had scheduled a status conference for June 28, 2017 in part to identify the proper
13 parties. At the status conference, counsel for the Pomerene Water Users Association was given
14 until October 2, 2017 to provide documentation concerning the continuing authority of Pomerene
15 Water Users Association to act.
16

17 By order dated July 26, 2017, the court directed the owners of land for which Arizona
18 Department of Water Resources had identified as places of use for water diverted through the
19 Pomerene Canal to file new or amended statements of claimant if they desired to assert a claim
20 for a right to divert water through the Pomerene Canal for irrigation use. A copy of the order was
21 sent to Allan and Robin Housley and Caleb and Brea Larson. A second status conference was set
22 for October 18, 2017.
23

24 At the status conference held on October 18, 2017, the newly elected board of the
25 Pomerene Water Users Association appeared along with its counsel. The court directed the
26 Pomerene Water Users Association to file a list by December 29, 2017 that identified those
27 landowners who were members by the Pomerene Water Users Association and whose interests
28

1 would be represented by the Pomerene Water Users Association in this adjudication of water
2 rights. The court also set a third status conference for September 6, 2018. A copy of the order
3 was sent to Allan and Robin Housley and Caleb and Brea Larson. On December 21, 2017, the
4 Pomerene Water Users Association timely filed a list of 26 landowners which included Allan and
5 Robin Housley and Caleb and Brea Larson.

6 On August 31, 2018, Pomerene Water Users Association filed a Notice of Termination.
7 At the third status conference, counsel for the Pomerene Water Users Association provided a list
8 of its members who joined the St. David Irrigation District and those members who declined to
9 join the St. David Irrigation District. Allan and Robin Housley and Caleb and Brea Larson were
10 listed as having declined to join the St. David Irrigation District.
11

12 By order dated October 5, 2018, the cases previously consolidated into a single case
13 known as *In re Pomerene Water Users Association* were separated into individual cases. As a
14 result, the potential water right analyzed in the WFR will be considered in this separate case.
15

16 **Landowners**

17 The first step to adjudicate the water rights identified by the WFR is to identify the current
18 landowners involved in this case. According to information provided by the Cochise County
19 Assessor's and Treasurer's Office, the land included in the WFR consists of Tax Parcel nos.
20 20847002A and 20847002B. A copy of Cochise County Assessor's map is attached as
21 Attachment C. The Cochise County Treasurer's Office identifies the owners of the properties as
22 Caleb and Brea Larson and Allan and Robin Housley, respectively.
23

24 The second step is to focus on the sources of water for the potential water right. The
25 watershed file report lists diversions from the Pomerene Canal and a well. It, however, only listed
26 the Pomerene Canal as the source of water because ADWR determined that the well was not used.
27 Based on the proceedings in *In re Pomerene Water Users Association*, the St. David Irrigation
28

1 District has taken over the canal and Caleb and Brea Larson and Allan and Robin Housley have
2 declined to join the St. David Irrigation District. The only other source of water identified in the
3 watershed file report is an unused well. The well, as shown on Attachment B, is located in the
4 SWSWSW 35 T16S R20E. The map prepared by ADWR shows the boundary of the subflow zone
5 by a dark line running northeast on the map attached as Attachment D. Based on this map, the well
6 is located north of the subflow zone. Thus, at this time no further action can be taken with respect
7 to a water right based on water from the well, assuming that the well does provide a source of
8 water for irrigation. At this time, the court has not approved a test to determine the impact of a
9 well located outside the lateral boundaries of the subflow zone on the volume of surface flow and
10 subflow. Thus, it is premature to adjudicate any claims for water rights for use on the land
11 identified in Watershed File Report 112-17-BAA-117 based on the designated well as the source of
12 water. No further action will be taken at this time to adjudicate the potential water right for
13 irrigation use. Accordingly,
14
15

16 **IT IS ORDERED** staying the adjudication of the potential water right listed in Watershed
17 File Report 112-17-BAA-117 until such time as a court-approved test exists with respect to wells
18 located outside the boundaries of the subflow zone.
19

20
21 
22 SUSAN WARD HARRIS
23 Special Master
24

25 On January 15, 2019, the original of the foregoing was
26 delivered to the Clerk of the Maricopa County Superior
27 Court for filing and distributing a copy to the persons listed
28 on Attachment E.

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ATTACHMENT A

LAND OWNER	WATERSHED FILE
-----	REPORT NUMBER
SHERMAN, ERNEST A., ETAL.	112-17-BAA-117

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

W1-11-1878

FILING NUMBER	FILING STATUS	USES	QUANTITY IN AFA	USE LOCATION SECTION	TWNP	RNGE	CLAIM DATE	DIVERSION LOCATION SECTION	TWNP	RNGE
39-0006582	QUE.RECD	IRRIGATION DOMESTIC		SWSW35	160S	200E	1908	SWNE36	170S	200E

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
39-0006582	IRRIGATION DOMESTIC	IRRIGATION MUNICIPAL	DO1,WO1	IROO1

D I V E R S I O N S

DIV #	LOCATION SECTION	TWNP	RNGE	DIVERSION NAME	WATER SOURCE AND CLASSIFICATION
DO1	NWSENE36	170S	200E	POMERENE CANAL	SURFACE WATER: SAN PEDRO RIVER
WO1	SWSWSW35	160S	200E	UNNAMED	SHARED GROUNDWATER : ZONE 2 UNUSED

U S E S

PWR #	LOCATION SECTION	TWNP	RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO SOURCE DATE	SOURCE CHANGE	FACILITY NAME
IROO1	SWSW35	160S	200E	DO1	SURFACE WATER	1935	NO	

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

** DIVERSION DO1 OPERATED BY THE POMERENE WATER USERS ASSOC. (FILE 112-17-89) SUPPLIES WATER TO PWRS IN THIS FILE.

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
IROO1	39-0006582	NONE	1912	POMERENE W.U.A. INFO	SURFACE WATER: SAN PEDRO RIVER

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
IROO1	MAX. OBSERVED	8.7	MULTI.CROPS	45%	3.8 AF/AC	33.1 AFA	
	REGIONAL	8.7	AVE. CROP	50%	5.4 AF/AC	47.0 AFA	
	MAX. POTENTIAL	8.7	ALFALFA	45%	7.4 AF/AC	64.4 AFA	

E X P L A N A T I O N

FILINGS AND DECREES
 FILING 39-6582 - A UNIFORM QUESTIONNAIRE WAS RECEIVED WHICH PROVIDED ADDITIONAL INFORMATION ABOUT THE FIRST DATE OF WATER USE.

D I V E R S I O N S

- D1 - DIVERSION FROM THE SAN PEDRO RIVER INTO THE POMERENE WATER USERS ASSOCIATION CANAL.
- W1 - UNUSED WELL.

USES AND RESERVOIRS

IR1 - IRRIGATED MULTIPLE CROPS (PASTURE AND ALFALFA).

DOMESTIC WATER USE IS SUPPLIED BY THE POMERENE DOMESTIC WATER USERS ASSOCIATION.

PWR SUMMARY

FILINGS MADE BY THE POMERENE WATER USERS ASSOCIATION ALSO APPLY TO IRRIGATION USES (IR1) ON THIS PROPERTY. FOR MORE INFORMATION ON THE POMERENE WATER USERS ASSOCIATION, SEE THE MAJOR USERS REPORTS IN VOLUME 1.

LAND OWNER	ZONE 2 WELL
-----	REPORT NUMBER
SHERMAN, ERNEST A., ETAL.	112-17-BAA-117

WELLS	WELL NAMES	WELL LOCATION	WATER USES SERVED	REMARKS
-----	-----	SECTION · TWP · RNGE	-----	-----
WO1	UNNAMED	SWSWSW35 160S 200E		WI-11-1878 UNUSED

APPLICABLE STATEMENTS OF CLAIMANT	APPLIES TO: WELLS	APPLIES TO: WATER USES
-----	-----	-----
39-0006582	WO1	

EXPLANATION

W1 - UNUSED WELL.

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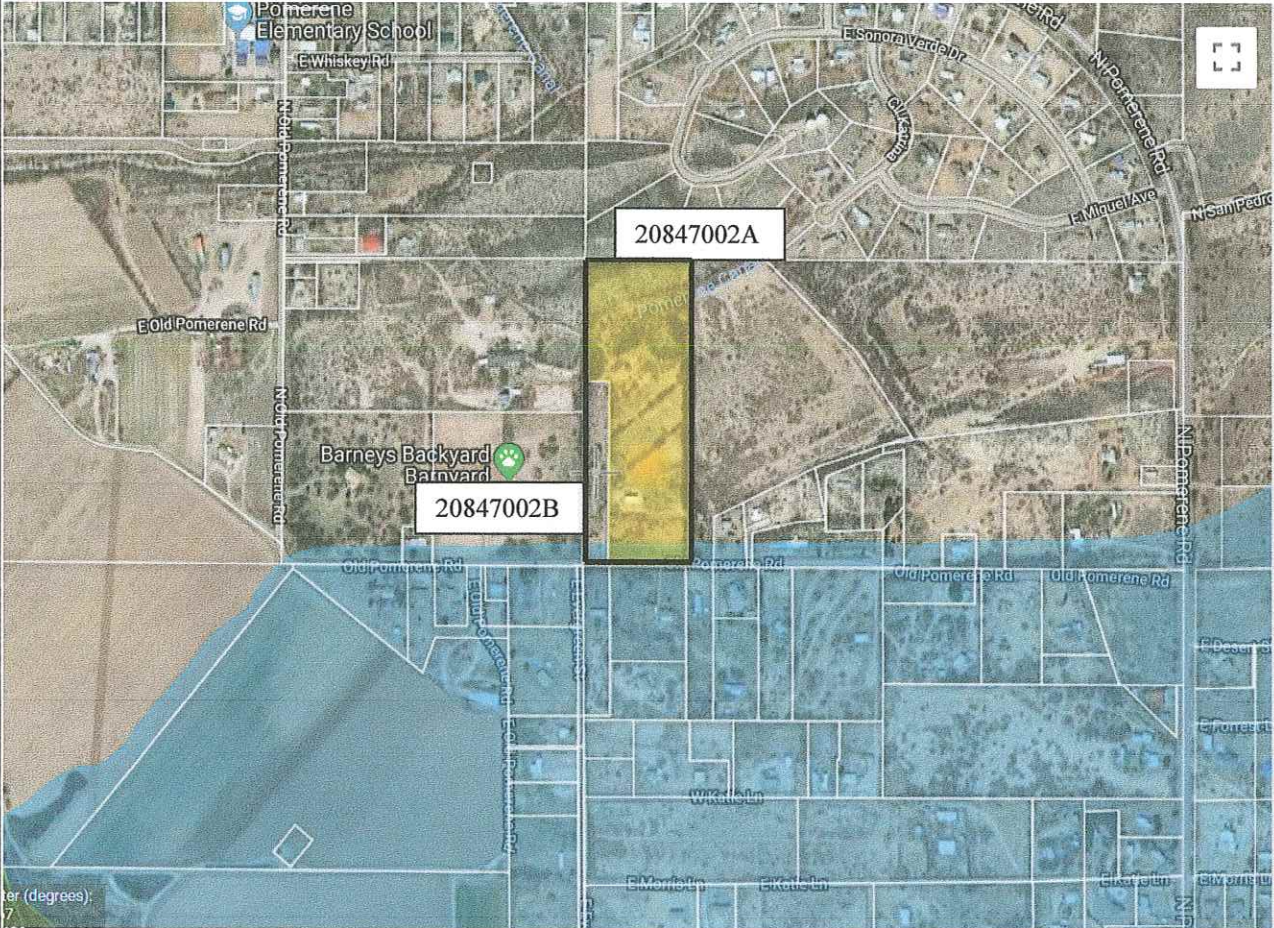
ATTACHMENT B



[112-17-BAD]
R 20 E

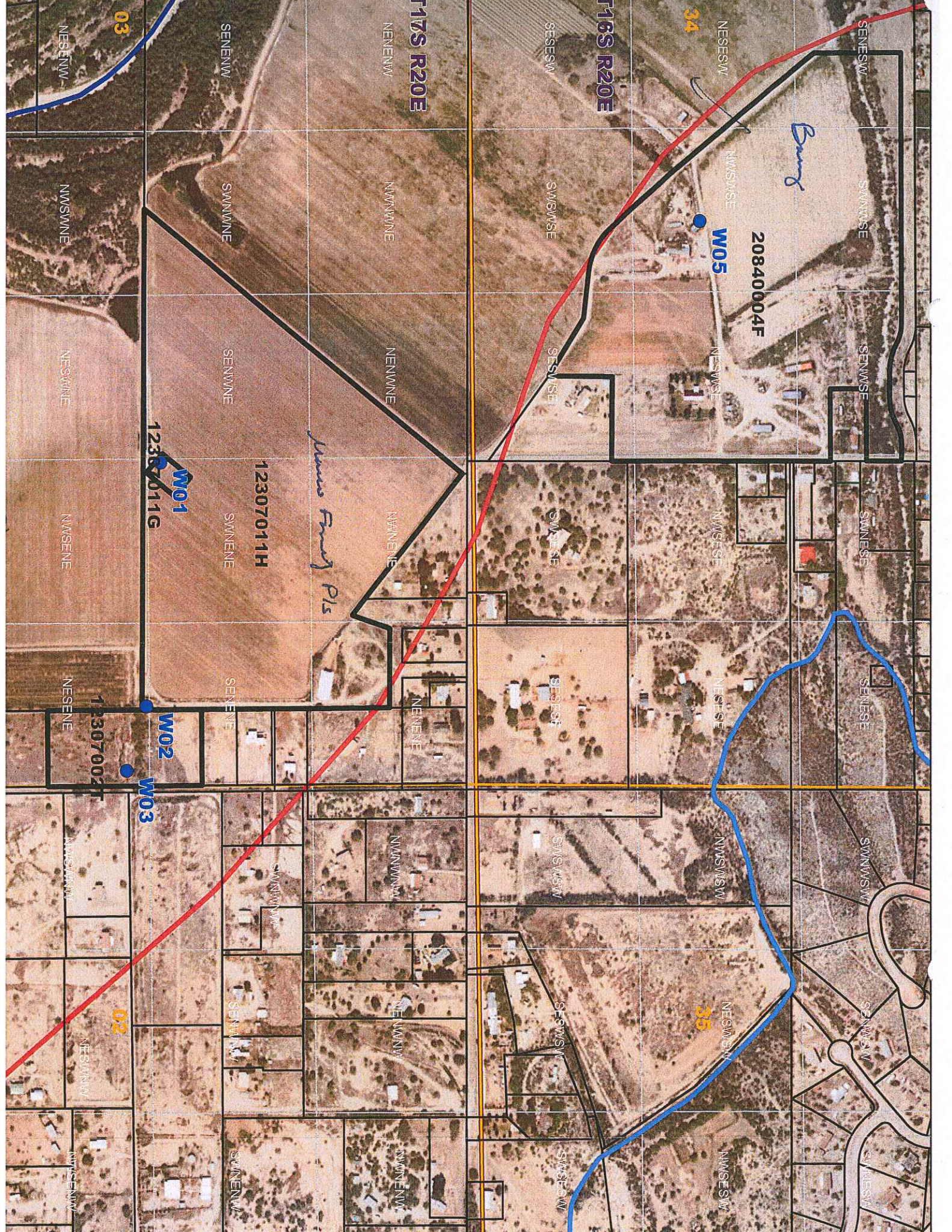
ATTACHMENT C

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ATTACHMENT D



T17S R20E

T16S R20E

W05

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W01

12307011H

12307011G

W02

W03

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Bank

James Erney Pls

ATTACHMENT E

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