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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. W1-11-1898

CONTESTED CASE NAMES: *In re Eldon J. & Shirley Barney*
HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report.
DESCRIPTIVE SUMMARY: Arizona Department of Water Resources directed to map one well in the northwest quarter of section 2 T17S R20, three wells in the northeast quarter of section 3 T17S R20 and one well in the southeast quarter of section 34 T16S R20 with respect to the subflow zone. Status conference set to determine proceedings necessary to address potential water rights for irrigation use.
NUMBER OF PAGES: 16
DATE OF FILING: October 24, 2018

This contested case involves a potential water right for irrigation uses in sections 3 and 34 T16S R20E and section 3 T17S R20E identified by the Arizona Department of Water Resources in Watershed File Report No. 112-17-BAD-001 (WFR). The WFR listed the sources

1 of water as five wells and a diversion from the San Pedro River into the Pomerene Water Users
2 Association Canal. A copy of the WFRs is attached as Attachment A. A copy of the map
3 prepared by the Arizona Department of Water Resources for the WFR is attached as Attachment
4 B.

5 Eldon J. Barney filed Statements of Claimant 39-5938, 39-12574, and 39-12575. The
6 records of the Arizona Department of Water Resources do not show that any of the Statements of
7 Claimant have been assigned to a successor landowner. The purpose of this case is to resolve the
8 six objections to the potential water rights for irrigation uses to the extent that the current
9 landowners intend to pursue those rights.
10

11 **Background**

12 Until October 5, 2018, this case was consolidated and a part of that group of cases
13 known as *In re Pomerene Water Users Association*, contested case no. W1-11-1676. In that
14 case, the court scheduled a status conference for June 28, 2017 in part to identify the proper
15 parties. At the status conference, counsel for the Pomerene Water Users Association was given
16 until October 2, 2017 to provide documentation concerning the continuing authority of Pomerene
17 Water Users Association to act on its behalf or on behalf of its members.
18

19 By order dated July 26, 2017, the court directed the owners of land for which Arizona
20 Department of Water Resources had identified as places of use for water diverted through the
21 Pomerene Canal to file new or amended statements of claimant if they desired to assert a claim
22 for a right to divert water through the Pomerene Canal for irrigation use. A second status
23 conference was set for October 18, 2017.
24

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

1 landowners who were members by the Pomerene Water Users Association and whose interests
2 would be represented by the Pomerene Water Users Association in this adjudication of water
3 rights. The court also set a third status conference for September 6, 2018. On December 21,
4 2017, the Pomerene Water Users Association timely filed a list of 26 landowners which included
5 Shirley Barney.

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. It also provided a contact list which identified the property
10 owned by Shirley Barney located within the WFR and the representation that the land had been
11 transferred to Jay Barney and to Flint Barney. It further advised that Jay Barney and Fred and
12 Beverly Kartchner have petitioned to join the St. David Irrigation District and that Flint Barney
13 had declined to join the St. David Irrigation District.

14 By order dated October 5, 2018, the cases previously consolidated into a single case
15 known as *In re Pomerene Water Users Association* were separated into individual cases. As a
16 result, the potential water rights analyzed in the WFR will be considered in this separate case,
17 unless otherwise consolidated with the contested case for St. David Irrigation District.

18
19
20 **Landowners**

21 The first step to adjudicate the water rights identified by the WFR is to identify the current
22 owners of the land included in the WFR. According to information provided by the Cochise
23 County Assessor, the Cochise County Treasurer and the Pomerene Water Users Association, the
24 land included in the WFR consists of the following tax parcels:
25

26

Landowners	Tax Parcels
Flint Barney; Jay Barney	12307011G

27
28

1	Marco Family Limited Partnership	12307011H
2	Flint Barney; Jay Barney	12307011J
3	Marco Family Limited Partnership	12307002C
4	Ralph and Karen Florer	12307002E
5	Kevin E Lester	12307002R
6	Cynthia L Hillesland	12307002Q
7	Jolene Archambeau	12307002P
8	Fred and Beverly Kartchner	12307002T
9	Rhonda Kingsford	12307002U
10	Flint Barney; Jay Barney	2084004F, 2084008H
11	Flint Barney	20840004G
12		
13		
14		

15 A copy of Cochise County Assessor's map is attached as Attachment C.

16 The second step is to determine whether the wells listed in the WFR are located in the
17 subflow zone. The third step is to determine the landowners who intend to pursue claims for
18 potential water rights described in the WFR, and, if so, to schedule appropriate procedures to
19 adjudicate those claims or, where appropriate, to consolidate their claims with the St. David
20 Irrigation contested case. Accordingly,

22 **IT IS ORDERED** that by **November 30, 2018**, the Arizona Department of Water
23 Resources shall file a map that shows Wells 1, 2, 3, and 4 identified in the WFR relative to the
24 boundaries of the subflow zone.

26 **IT IS FURTHER ORDERED** that a telephonic status conference shall be held on
27 **December 13, 2018** at 1:30 p.m. to ascertain whether the landowners intend to pursue the potential
28 water right set forth in the WFR.

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Instructions for telephonic participation:
Dial: 602-506-9695 (local)
1-855-506-9695 (toll free long distance)
Dial Collaboration (conference) Code 357264#

Failure to participate at the status conference or file a statement of claimant with the Arizona Department of Water Resources may result in no adjudication of the potential water rights associated with the land described in the WFR.



SUSAN WARD HARRIS
Special Master

On October 24, 2018, the original of the foregoing was delivered to the Clerk of the Maricopa County Superior Court for filing and distributing a copy to the persons listed as Attachment D.



Barbara Brown

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ATTACHMENT A

LAND OWNER	WATERSHED FILE
-----	REPORT NUMBER
BARNEY, ELTON J.	112-17-BAD-001
& SHIRLEY	

APPLICABLE FILINGS AND DECREES

CLEARLY STATED INFORMATION FROM FILINGS AND DECREES *W1-11-1898*

FILING NUMBER	FILING STATUS	USES	QUANTITY IN AFA	USE LOCATION SECTION	TWNP	RNGE	CLAIM DATE	DIVERSION SECTION	LOCATION TWNP	RNGE
39-0005938		IRRIGATION STOCK	3000.00 7.50	02 170S	200E		1910	NENE36	170S	200E
				03 170S	200E			SESENW02	170S	200E
				34 160S	200E					
39-0012574		IRRIGATION STOCK	1200.00	03 170S	200E		1912	SWNE03	160S	200E
				34 160S	200E			SENE03	160S	200E
39-0012575		IRRIGATION STOCK	1200.00	03 170S	200E		1912	SWNE03	160S	200E
				34 160S	200E			SENE03	160S	200E

DWR ANALYSIS OF FILINGS AND DECREES

FILING NUMBER	USES CLAIMED OR REFERENCED	USES FOUND BY DWR	APPLIES TO DIVERSIONS	APPLIES TO PWR NUMBERS
39-0005938	IRRIGATION STOCK	IRRIGATION INCIDENTAL	DO1, WO4	IROO1, IROO2, IROO3
39-0012574	IRRIGATION STOCK	IRRIGATION INCIDENTAL	DO1, WO1, WO2	IROO4, IROO5
39-0012575	IRRIGATION STOCK	IRRIGATION INCIDENTAL	DO1, WO1, WO2	IROO1, IROO2, IROO3
				IROO4, IROO5

DIVERSIONS

DIV #	SECTION	TWNP	RNGE	DIVERSION NAME	LOCATION	WATER SOURCE AND CLASSIFICATION
DO1	NWSENE36	170S	200E	POMERENE CANAL		SURFACE WATER: SAN PEDRO RIVER
WO1	SENWNE03	170S	200E	UNNAMED		SHARED GROUNDWATER : ZONE 2
WO2	SENE03	170S	200E	UNNAMED		SHARED GROUNDWATER : ZONE 2
WO3	NESENE03	170S	200E	UNNAMED		SHARED GROUNDWATER : ZONE 2
WO4	SWSWNO2	170S	200E	UNNAMED		SHARED GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER
WO5	NWSWSE34	160S	200E	UNNAMED		SHARED GROUNDWATER : ZONE 2

USES

PWR #	SECTION	TWNP	RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO DATE	SOURCE CHANGE	FACILITY NAME
IROO1	03 170S	200E		DO1, WO1, WO2	SURFACE WATER	1935	NO	
	34 160S	200E		WO3, WO4, WO5	GROUNDWATER : ZONE 1			
					GROUNDWATER : ZONE 2			
IROO2	NESW34	160S	200E	DO1, WO5	SURFACE WATER	1955	NO	
	NWSE34	160S	200E		GROUNDWATER : ZONE 2			
	SESW34	160S	200E					
	SWSE34	160S	200E					
IROO3	NESW34	160S	200E	DO1, WO5	SURFACE WATER	1964	NO	
	NWSW34	160S	200E		GROUNDWATER : ZONE 2			
IROO4	NWNE03	170S	200E	DO1, WO1, WO2	SURFACE WATER	1972	NO	
	NWSW34	160S	200E	WO3, WO4, WO5	GROUNDWATER : ZONE 1			
					GROUNDWATER : ZONE 2			
IROO5	NWSE34	160S	200E	WO5	GROUNDWATER : ZONE 2	1976	NO	
	SWSE03	160S	200E		GROUNDWATER : ZONE 2			

** DIVERSION DO1 OPERATED BY THE POMERENE WATER USERS ASSOC.
 (FILE 112-17-89) SUPPLIES WATER TO PWRS IN THIS FILE.
 ** WATER FROM WO1 IS SHARED WITH THESE ADDITIONAL FILES:
 112-17BAA206, 112-17BAA218
 ** WATER FROM WO2 IS SHARED WITH THESE ADDITIONAL FILES:
 112-17BAA206, 112-17BAA218, 112-17BAD-10
 ** WATER FROM WO3 IS SHARED WITH THESE ADDITIONAL FILES:
 112-17BAA206, 112-17BAA218, 112-17BAD-10
 ** WATER FROM WO4 FOUND IN FILE (112-17BAD-10) IS USED 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	39-0005938 39-0012574 39-0012575	NONE	1912 POMERENE W.U.A. INFO	SURFACE WATER: SAN PEDRO RIVER GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER GROUNDWATER : ZONE 2
IROO2	39-0005938 39-0012574 39-0012575	NONE	1955 1955 AERIAL PHOTO	SURFACE WATER: SAN PEDRO RIVER GROUNDWATER : ZONE 2
IROO3	39-0005938 39-0012574 39-0012575	NONE	1964 1964 AERIAL PHOTO	SURFACE WATER: SAN PEDRO RIVER GROUNDWATER : ZONE 2
IROO4	39-0005938 39-0012574 39-0012575	NONE	1972 1972 AERIAL PHOTO	SURFACE WATER: SAN PEDRO RIVER GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER GROUNDWATER : ZONE 2
IROO5	39-0005938 39-0012574 39-0012575	NONE	1976 1976 AERIAL PHOTO	GROUNDWATER : ZONE 2 GROUNDWATER : ZONE 2

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	186.5	MULTI.-DBL.	45%	5.7 AF/AC	1063.1 AFA	
	REGIONAL	186.5	AVE. CROP	50%	5.4 AF/AC	1007.1 AFA	
IROO2	MAX. POTENTIAL	186.5	ALFALFA	45%	7.4 AF/AC	1380.1 AFA	
	MAX. OBSERVED	23.3	MULTI.-DBL.	45%	4.2 AF/AC	97.9 AFA	
IROO3	REGIONAL	23.3	AVE. CROP	50%	5.4 AF/AC	125.8 AFA	
	MAX. POTENTIAL	23.3	ALFALFA	45%	7.4 AF/AC	172.4 AFA	
IROO4	MAX. OBSERVED	15.7	MULTI.-DBL.	45%	6.1 AF/AC	95.8 AFA	
	REGIONAL	15.7	AVE. CROP	50%	5.4 AF/AC	84.8 AFA	
IROO5	MAX. POTENTIAL	15.7	ALFALFA	45%	7.4 AF/AC	116.2 AFA	
	MAX. OBSERVED	11.9	MULTI.-DBL.	45%	6.1 AF/AC	72.6 AFA	
IROO6	REGIONAL	11.9	AVE. CROP	50%	5.4 AF/AC	64.3 AFA	
	MAX. POTENTIAL	11.9	ALFALFA	45%	7.4 AF/AC	88.1 AFA	
IROO7	MAX. OBSERVED	1.5	PERM. PSTR	45%	7.0 AF/AC	10.5 AFA	
	REGIONAL	1.5	AVE. CROP	50%	5.4 AF/AC	8.1 AFA	
IROO8	MAX. POTENTIAL	1.5	ALFALFA	45%	7.4 AF/AC	11.1 AFA	

E X P L A N A T I O N

DIVERSIONS

D1 - DIVERSION FROM THE SAN PEDRO RIVER INTO THE POMERENE WATER USERS ASSOCIATION CANAL.
 W1-W5 - WELLS PROVIDE WATER FOR IRRIGATION AND STOCKWATERING USES.

USES AND RESERVOIRS

IR1-IR4 - IRRIGATED MULTIPLE-DOUBLE CROPS (SUMMER AND WINTER PASTURE, AND CORN).
 IR5 - IRRIGATED PASTURE.
 DOMESTIC WATER USE IS SUPPLIED BY THE POMERENE DOMESTIC WATER USERS ASSOCIATION.
 TAILWATER RESERVOIRS ARE USED FOR IRRIGATION AND STOCKWATERING PURPOSES.

SHARED USES AND DIVERSIONS

W1 - WELL IS SHARED WITH W.F.R.'S #112-17-BAA-206 & #112-17-BAA-218.
 W2 & W3 - WELLS ARE SHARED WITH W.F.R.'S #112-17-BAA-206, #112-17-BAA-218 & #112-17-BAD-10.
 W4 - WELL IS SHARED WITH W.F.R. #112-17-BAD-10.

PWR SUMMARY

FILINGS MADE BY THE POMERENE WATER USERS ASSOCIATION ALSO APPLY TO IRRIGATION USES (IR1) ON

FILE 112-17-BAD-001 (CONTINUED)
E X P L A N A T I O N (CONTINUED)

CONTINUATION OF PAGE: 18

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
BARNEY, ELDON J. & SHIRLEY	112-17-BAD-001

WELLS	WELL NAMES	WELL LOCATION			WATER USES SERVED	REMARKS
		SECTION	TWNP	RNGE		
W01	UNNAMED	SENWNE03	17OS	200E	IROO1, IROO4	SHARED
W02	UNNAMED	SENE03	17OS	200E	IROO1, IROO4	SHARED
W03	UNNAMED	NESENE03	17OS	200E	IROO1, IROO4	SHARED
W05	UNNAMED	NWSWSE34	16OS	200E	IROO1, IROO2, IROO3 IROO4, IROO5	

WI-11-1898

WATER USE NUMBERS	WATER USE LOCATION			*** APPARENT FIRST USE ***	DATE	BASIS FOR DATE	APPAR. ANNUAL VOLUME USED	ACRES IRRIGATED
	SECTION	TWNP	RNGE					
IROO1	03	17OS	200E	1912	POMERENE W.U.A. INFO	1,007.1 AFA	186.5	
IROO2	34	16OS	200E	1955	1955 AERIAL PHOTO	125.8 AFA	23.3	
	NESW34	16OS	200E					
	NWSE34	16OS	200E					
	SESW34	16OS	200E					
IROO3	SWSE34	16OS	200E	1964	1964 AERIAL PHOTO	84.8 AFA	15.7	
	NESW34	16OS	200E					
IROO4	NWSW34	16OS	200E	1972	1972 AERIAL PHOTO	64.3 AFA	11.9	
	NWNE03	17OS	200E					
IROO5	NWSW34	16OS	200E	1976	1976 AERIAL PHOTO	8.1 AFA	1.5	
	NWSE34	16OS	200E					
	SWSE03	16OS	200E					

APPLICABLE STATEMENTS OF CLAIMANT	APPLIES TO: WELLS	APPLIES TO: WATER USES
39-0005938		IROO1, IROO2, IROO3 IROO4, IROO5
39-0012574	W01, W02	IROO1, IROO2, IROO3 IROO4, IROO5
39-0012575	W01, W02	IROO1, IROO2, IROO3 IROO4, IROO5

EXPLANATION

THE APPARENT ANNUAL VOLUME REPORTED FOR IROO1 IS PARTIALLY SUPPLIED BY SURFACE WATER AND ZONE 1 GROUNDWATER.

THE APPARENT ANNUAL VOLUME REPORTED FOR IROO2 IS PARTIALLY SUPPLIED BY SURFACE WATER.

THE APPARENT ANNUAL VOLUME REPORTED FOR IROO3 IS PARTIALLY SUPPLIED BY SURFACE WATER.

THE APPARENT ANNUAL VOLUME REPORTED FOR IROO4 IS PARTIALLY SUPPLIED BY SURFACE WATER AND ZONE 1 GROUNDWATER.

** WATER FROM W01 IS SHARED WITH THESE ADDITIONAL FILES:

112-17BAA206, 112-17BAA218

** WATER FROM W02 IS SHARED WITH THESE ADDITIONAL FILES:

112-17BAA206, 112-17BAA218, 112-17BAD-10

** WATER FROM W03 IS SHARED WITH THESE ADDITIONAL FILES:

112-17BAA206, 112-17BAA218, 112-17BAD-10

W1-W3 & W5 - WELLS PROVIDE WATER FOR IRRIGATION USES.

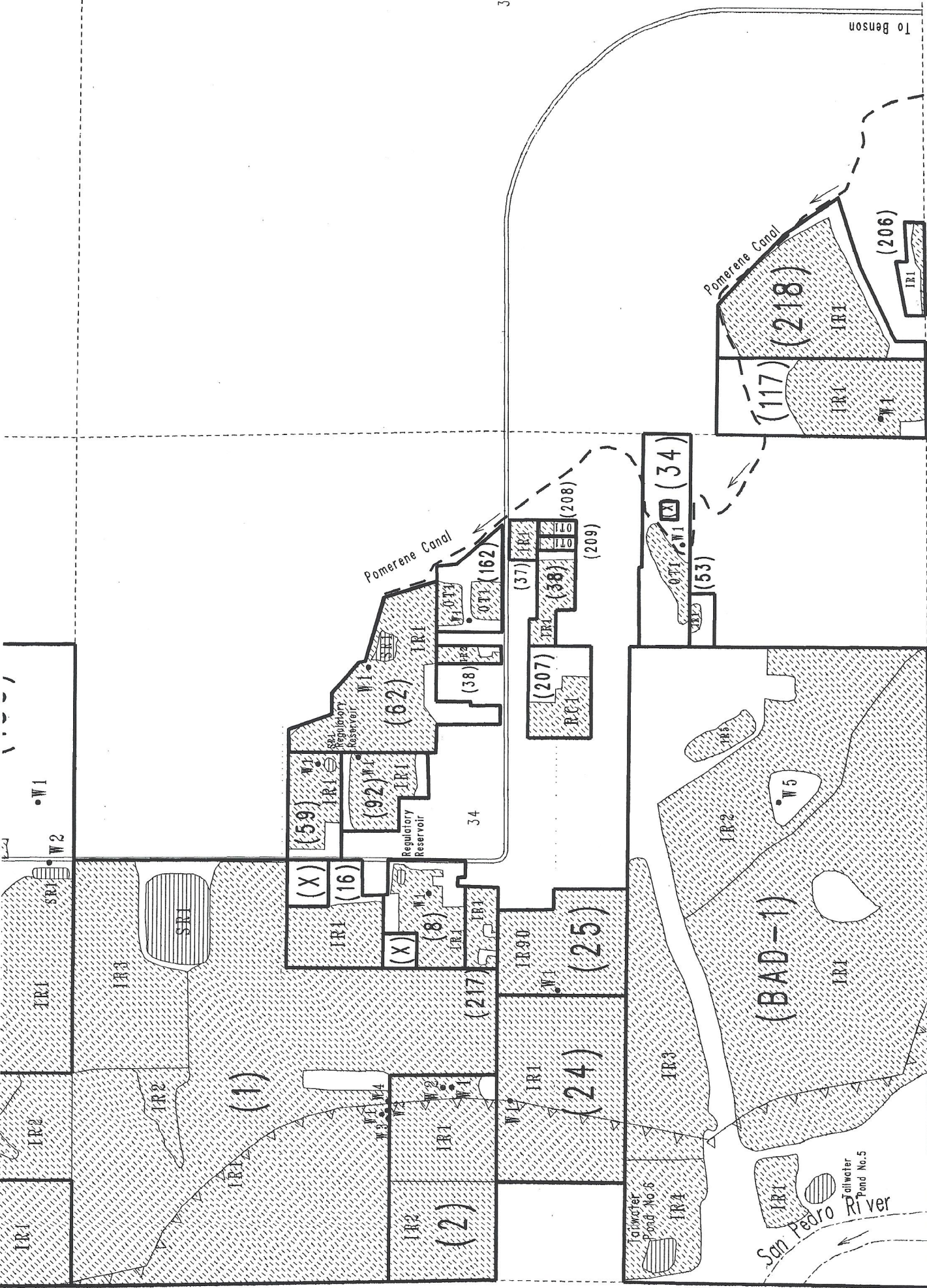
IR1-IR4 - IRRIGATED MULTIPLE-DOUBLE CROPS (SUMMER AND WINTER PASTURE, AND CORN).

IR5 - IRRIGATED PASTURE.

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ATTACHMENT B

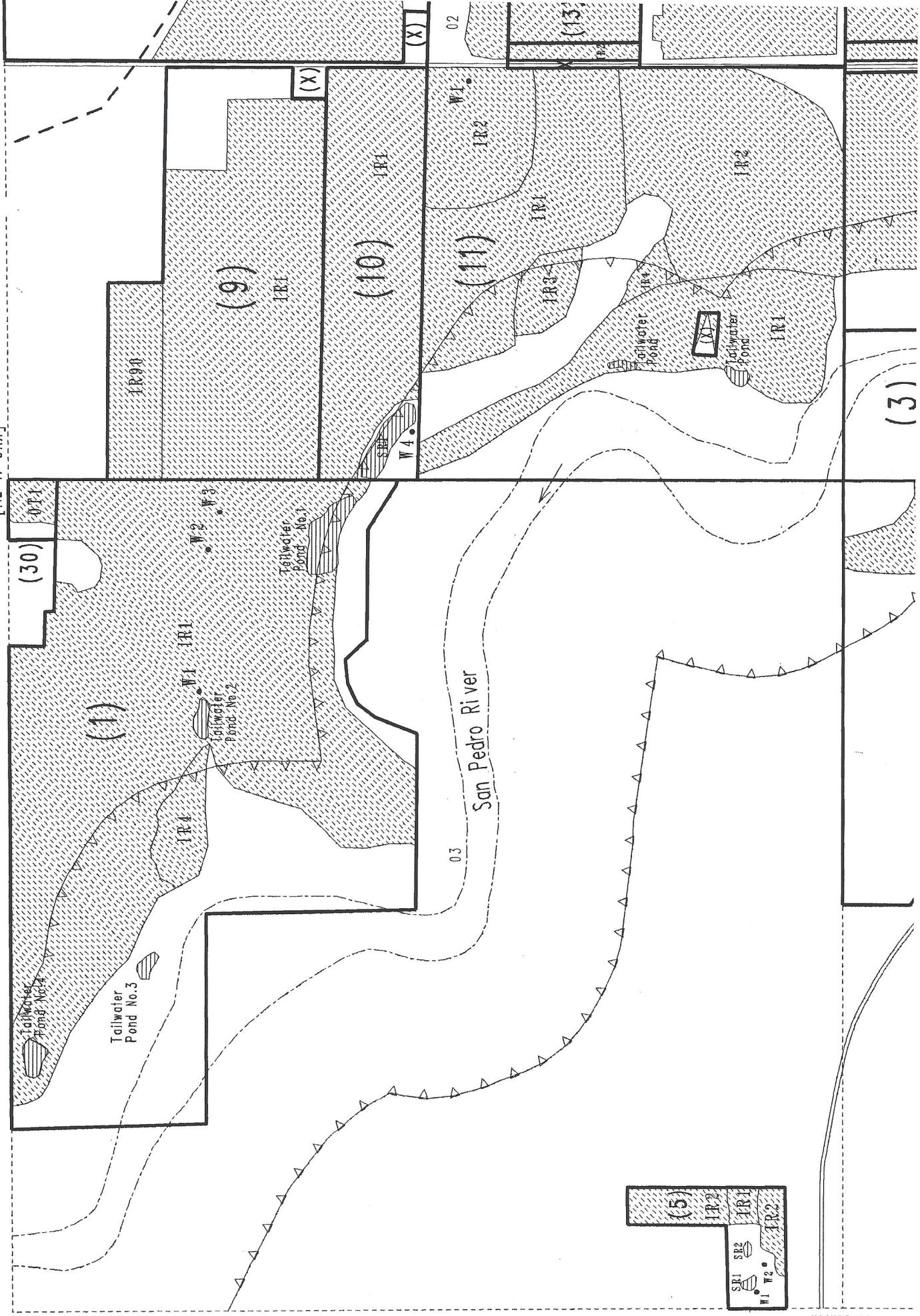
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[112-17-BAD]
R 20 E

[112-17-BAA]

To Cascabel



San Pedro River

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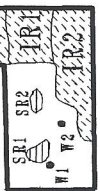
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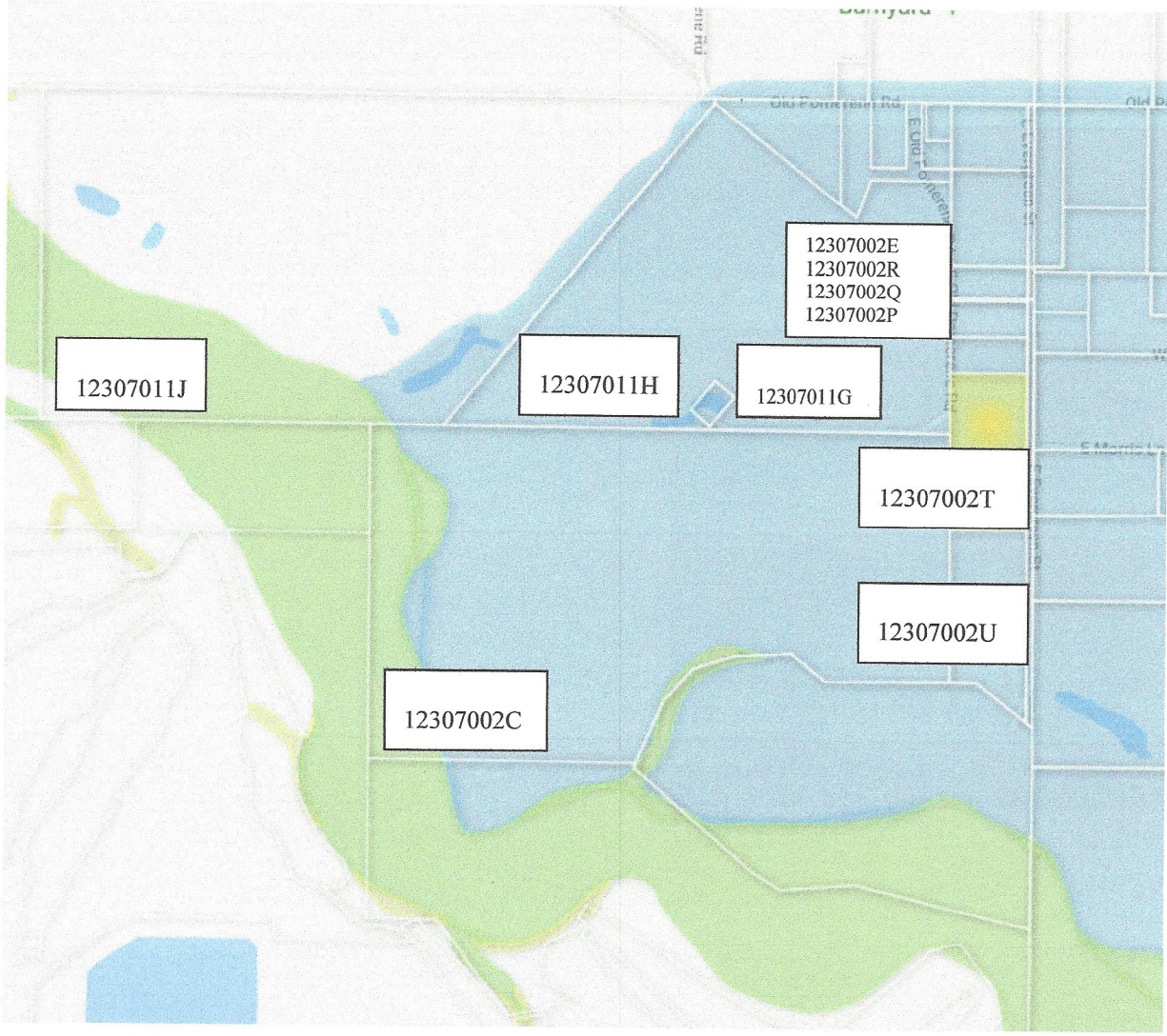
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ATTACHMENT C

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ATTACHMENT D

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- 11 4825 S Manning Camp Ct
- 12 Tucson, Az 85747

- 13 Messers. Weldon, McGinnis, Heilman
- 14 Salmon, Lewis And Weldon Plc
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- 17 R. Lee Leininger And Andrew Guarino
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- 19 999 18th Street, South Terrace, Suite 37
- 20 Denver, Co 80202

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- 22 206 W 6th St
- 23 Benson, Az 85602

- 24 Rhonda Kingsford
- 25 420 S Lee St
- 26 Saint David, Az 85630

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