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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 No. W1-11-1903

ORDER SETTING STATUS
CONFERENCE

CONTESTED CASE NAMES: *In re Kirk Kading*

HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report.

DESCRIPTIVE SUMMARY: Status conference set to determine proceedings necessary to address potential water rights for irrigation use.

NUMBER OF PAGES: 16.

DATE OF FILING: December 14, 2018

This contested case involves potential water rights for one irrigation use in the northwest quarter of section 2 T17S R20E identified by the Arizona Department of Water Resources in Watershed File Report No. 112-17-BAD-009 (WFR). A copy of the map prepared by the Arizona Department of Water Resources for the WFR is attached as Attachment A. The WFR listed the

1 sources of water as two wells and a diversion from the San Pedro River into the Pomerene Water
2 Users Association Canal. A copy of the WFR is attached as Attachment B. The purpose of this
3 case is to resolve the six objections to the water right to the extent that the current landowners
4 intend to pursue it.

5
6 **Background**

7
8 Until October 5, 2018, this case was consolidated and a part of that group of cases
9 known as *In re Pomerene Water Users Association*, contested case no. W1-11-1676. In that
10 case, the court scheduled a status conference for June 28, 2017 in part to identify the proper
11 parties in the case. At the status conference, counsel for the Pomerene Water Users Association
12 was given until October 2, 2017 to provide documentation concerning its continuing authority to
13 act. No landowners appeared at the status conference.

14
15 By order dated July 26, 2017, the court directed the landowners to file new or amended
16 statements of claimant if they desired to assert a claim for a right to divert water through the
17 Pomerene Canal for irrigation use. A second status conference was set for October 18, 2017. The
18 Statements of Claimant listed by the WFR were filed by Earston Lofgreen and Rex Barney. The
19 records of the Arizona Department of Water Resources do not show that these Statements of
20 Claimant have been assigned to a successor landowner. Robert Nath filed Statement of Claimant
21 39-17926 on December 22, 2017, claiming a right to withdraw water with a claimed priority date
22 of April 25, 2016 from a well located in Section 2 T17S R 20E. Mr. Nath's claim for a water
23 right will not be considered in this case because this case is limited to the irrigation uses analyzed
24 in the WFR from wells located in Section 11 T17S R 20E.

25
26 At the status conference held on October 18, 2017, the newly elected board of the
27 Pomerene Water Users Association appeared along with counsel. The court directed the
28

1 Pomerene Water Users Association to file a list by December 29, 2017 that identified those
2 landowners who are members by the Pomerene Water Users Association and whose interests will
3 be represented by the Pomerene Water Users Association in the adjudication of water rights. The
4 court also set a third status conference for September 6, 2018. On December 21, 2017, the
5 Pomerene Water Users Association timely filed a list of 26 landowners that included Calvin
6 Housley.

7
8 On August 31, 2018, Pomerene Water Users Association filed a Notice of Termination.
9 At the third status conference, counsel for the Pomerene Water Users Association provided a list
10 of its members who joined the St. David Irrigation District and those members who declined to
11 join the St. David Irrigation District. Calvin Housley was not included on either list.

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 rights analyzed in the WFR will be considered in this separate case
15 except to the extent that they will be joined with case established to adjudicate the water rights
16 associated with the St. David Irrigation District.
17

18
19 **Landowners**

20 The first step is to identify the current landowners involved in this case. According to
21 information provided by the Cochise County Assessor's Office, the land shown as irrigated or
22 historically irrigated included in the WFR may consist of tax parcels owned as follows:
23

24	Tax Parcel No.	Landowners
25	12304010E	Housley, Calvin F
26	12304010G	Musselman, Tod A & Katie S
27	12304010H	Gonzales Family Rev Trust
28	12304010J	Gonzales Family Rev Trust
	12304010K	Davis, Tony L & Wendy L
	12304010L	Neill, Anna Marie

1	12304008C	Davis, Thomas & Sherry L.
	12304008H	Nath, Robert & Louise
2	12304008K	Kenyon, Larry K & Shirley E
3	12304008L	Candelaria, Phillip
4	12304008M	Beeman, Randy E & Rebecca R
	12304008N	Maclean, Annie
5	12304008P	Maclean, H Grant
6	12304008Q	Lopez, Martha A
	12304008R	Truppe, Eric P
7	12304011M	Kading, Dewayne L & Mary E Lopshire
8	12304011Q	Amado, Raul Jr & Paula
9	12304011V	Epstein, Marlaine & Jerry Kuc
	12304011X	Gemind, James P & Linda M

10 A copy of the Cochise County Assessor's map is shown on Attachment C.
11

12 The second step is to determine whether the wells listed in the WFR are located in the
13 subflow zone because wells located within the subflow that provide the source of water for an
14 irrigation use are included in this adjudication. The locations of the wells described in the WFR
15 are in the southeast quarter of the northwest quarter of Section 11 T17S R20E. The Arizona
16 Department of Water Resources has determined that the wells are within the subflow zone. A copy
17 of ADWR's map is attached as Attachment D.

18 The third step is to determine whether the Landowners intend to pursue claims for potential
19 water rights described in the WFR, and, if so, to schedule appropriate procedures to adjudicate
20 those claims. Accordingly,

21 **IT IS ORDERED** that a telephonic status conference shall be held on **January 24, 2019** at
22 1:30 p.m. to ascertain whether the Landowners in this case intend to pursue any of the potential
23 water rights set forth in the WFR.

24 Instructions for telephonic participation:

25 Dial: 602-506-9695 (local)

26 1-855-506-9695 (toll free long distance)

27
28 Dial Collaboration (conference) Code 357264#

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Failure to participate at the status conference or file a statement of intent to participate in this case may result in the dismissal of any claims associated with the land owned by the landowner that is described in the WFR.



SUSAN WARD HARRIS
Special Master

On December 14, 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 on Attachment E.

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ATTACHMENT A

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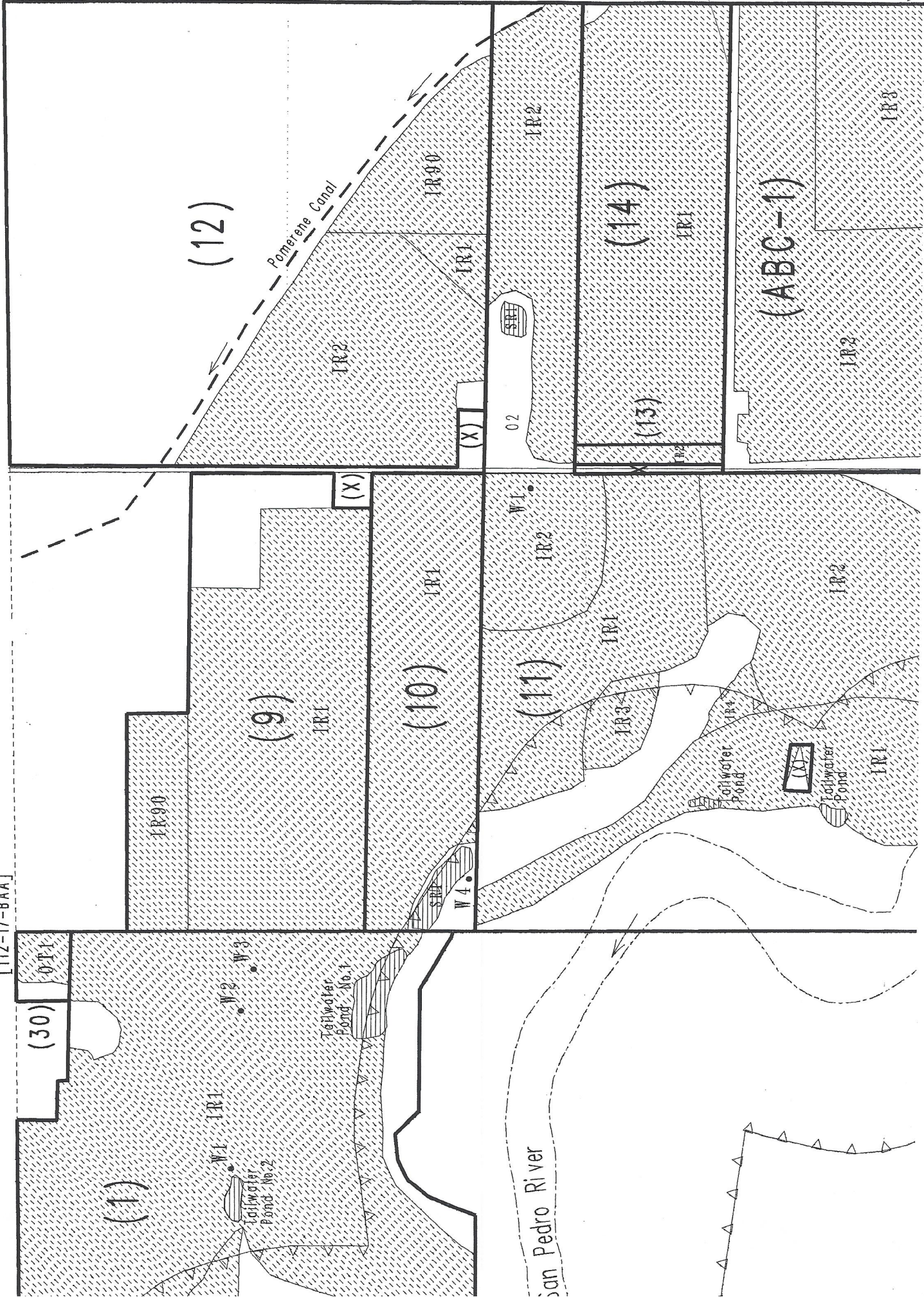
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To Cascabel

[112-17-BAA]



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ATTACHMENT B

LAND OWNER	WATERSHED FILE REPORT NUMBER	LESSEE/ALLOTTEE	LEASE-PERMIT ID
KADING, KIRK	112-17-BAD-009	BARNEY, LELAND K. PAULA F.	

APPLICABLE FILINGS AND DECREES

CLEARLY STATED INFORMATION FROM FILINGS AND DECREES

FILING NUMBER	FILING STATUS	USES	QUANTITY IN AFA	USE LOCATION SECTION	TWNP	RNGE	CLAIM DATE	DIVERSION SECTION	LOCATION TWNP	RNGE
36-0027315		IRRIGATION	1935.61	11	170S	200E	1944			
36-0027317		IRRIGATION	1613.01	11	170S	200E	1948	NW11	170S	200E
36-0027318		IRRIGATION	6452.50	11	170S	200E	1915	SE36	170S	200E
39-0002589		IRRIGATION	210.00	NW02	200S	170E	1906	NENE36	170S	210E
39-0004305		IRRIGATION	1000.00	02	170S	200E	1910	NENE36	170S	210E
		STOCK	4.00	11	170S	200E		SENE11	170S	200E
				SWNE11	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
36-0027315	IRRIGATION	IRRIGATION	WO1	IROO1, IRO90
36-0027317	IRRIGATION	IRRIGATION	WO2	IROO1, IRO90
36-0027318	IRRIGATION	IRRIGATION	DO1	IROO1, IRO90
39-0002589	IRRIGATION	IRRIGATION	DO1	IROO1, IRO90
39-0004305	IRRIGATION	IRRIGATION	DO1, WO1, WO2	IROO1, IRO90
	STOCK	INCIDENTAL		

DIVERSIONS

DIV #	SECTION	TWNP	RNGE	DIVERSION NAME	WATER SOURCE AND CLASSIFICATION
DO1	NWSENE36	170S	200E	POMERENE CANAL	SURFACE WATER: SAN PEDRO RIVER
WO1	SESENW11	170S	200E	UNNAMED	SHARED GROUNDWATER : ZONE 2
WO2	SESENW11	170S	200E	UNNAMED	SHARED GROUNDWATER : ZONE 2

USES

PWR #	SECTION	TWNP	RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO DATE	SOURCE CHANGE	FACILITY NAME
IROO1	NW02	170S	200E	DO1, WO1, WO2	SURFACE WATER	1935	NO	
IRO90	NWNW02	170S	200E	DO1, WO1, WO2	GROUNDWATER : ZONE 2 SURFACE WATER GROUNDWATER : ZONE 2	1935	NO	

SHARED USES AND DIVERSIONS

** DIVERSION DO1 OPERATED BY THE POMERENE WATER USERS ASSOC.
(FILE 112-17-89) SUPPLIES WATER TO PWRS IN THIS FILE.
** WATER FROM WO1 FOUND IN FILE (112-17BAD-28) IS USED IN THIS FILE
** WATER FROM WO2 FOUND IN FILE (112-17BAD-16) IS USED IN THIS FILE

PWR SUMMARY

PWR #	APPLICABLE ADJ FILINGS	APPLICABLE PRE FILINGS	*APPARENT FIRST USE DATE* DATE BASIS FOR DATE	WATER SOURCES AND CLASSIFICATIONS
IROO1	39-0002589 39-0004305	36-0027315 36-0027317 36-0027318	1912 POMERENE W.U.A. INFO	SURFACE WATER: SAN PEDRO RIVER GROUNDWATER : ZONE 2
IRO90	39-0002589 39-0004305	36-0027315 36-0027317 36-0027318	1912 POMERENE W.U.A. INFO	SURFACE WATER: SAN PEDRO RIVER GROUNDWATER : ZONE 2

PWR #	QUANTIFICATION TYPE	ACRES	CROP TYPE	EFF	WATER DUTY	ESTIMATED VOLUME	REMARKS
IROO1	MAX. OBSERVED	51.4	PERM. PSTR	32%	9.9 AF/AC	508.9 AFA	
	REGIONAL	51.4	AVE. CROP	50%	5.4 AF/AC	277.6 AFA	
	MAX. POTENTIAL	51.4	ALFALFA	32%	10.4 AF/AC	534.6 AFA	
IR090	REGIONAL	9.8	NO CROP				DISCONTINUED IRRG.

E X P L A N A T I O N

FILINGS AND DECREES

FILING 39-2589 - CLAIMS A VARIABLE USE AMOUNT OF 210 TO 560 ACRE-FEET PER ANNUM.

DIVERSIONS

D1 - DIVERSION FROM THE SAN PEDRO RIVER INTO THE POMERENE WATER USERS ASSOCIATION CANAL.
 W1 & W2 - WELLS PROVIDE WATER FOR IRRIGATION AND STOCKWATERING USES.

USES AND RESERVOIRS

IR1 - IRRIGATED PASTURE.
 IR90 - DISCONTINUED IRRIGATION: D.W.R. HAS DETERMINED THAT NO IRRIGATION HAS OCCURRED ON A PORTION OF THIS PROPERTY IN THE LAST FIVE YEARS, BUT THERE HAS BEEN IRRIGATION WITHIN THE PAST TEN YEARS BASED UPON A REVIEW OF HISTORICAL AERIAL PHOTOGRAPHY AND FIELD INVESTIGATIONS. DOMESTIC WATER USE IS SUPPLIED BY THE POMERENE DOMESTIC WATER USERS ASSOCIATION.

SHARED USES AND DIVERSIONS

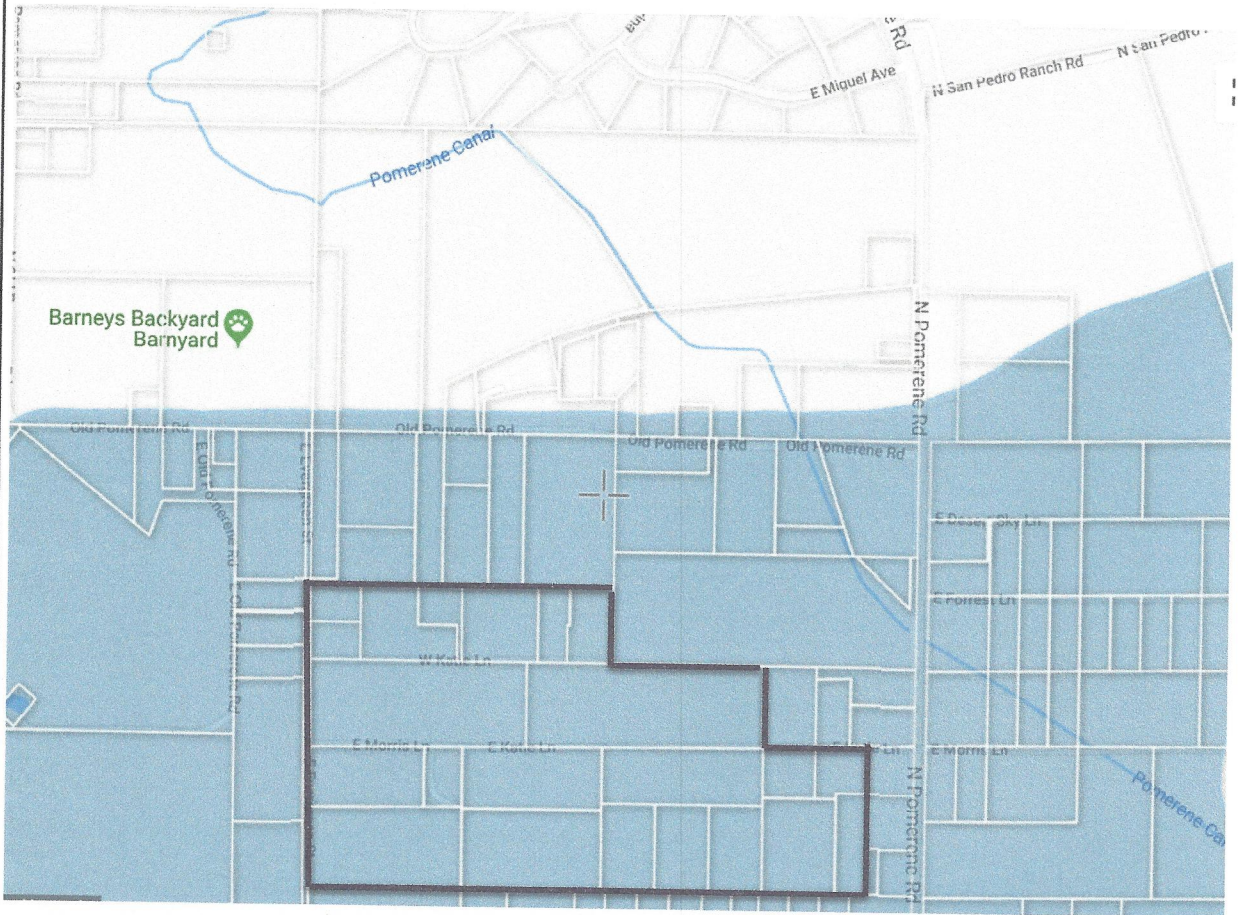
W1 - WELL IS SHARED WITH W.F.R. #112-17-BAD-28.
 W2 - WELL IS SHARED WITH W.F.R. #112-17-BAD-16.

PWR SUMMARY

FILINGS MADE BY THE POMERENE WATER USERS ASSOCIATION ALSO APPLY TO IRRIGATION USES (IR1 & IR90) ON THIS PROPERTY. FOR MORE INFORMATION ON THE POMERENE WATER USERS ASSOCIATION, SEE THE MAJOR USERS REPORTS IN VOLUME 1.

ATTACHMENT C

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ATTACHMENT D



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ATTACHMENT E

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12 Sacaton, Az 85147

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Benson, Az 85602

15 Martha A. Lopez
16 1080 N Annie Ln
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27 Benson, Az 85602

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- 3 Robert & Louise Nath
1010 E Butterfield Ln
- 4 Benson, Az 85602
- 5 S. Montgomery, R. Interpreter, J. Tomkus
6 Montgomery & Interpreter, PLC
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- 7 Phoenix, Az 85032
- 8 Thomas J. & Sherry L. Davis
9 HCL 1075 E Morris Ln
Benson, Az 85602
- 10 Tod A. & Katie S. Musselman
11 1088 E. Katie Ln
12 Benson, Az 85602
- 13 Tony L. & Wendy L. Davis
1787 N. Calle Caya
- 14 Willcox, Az 85643
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