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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. W1-11-1906

ORDER SCHEDULING STATUS
CONFERENCE

CONTESTED CASE NAME: *In re Fenn Enterprises, Inc.*

HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report.

DESCRIPTIVE SUMMARY: Status conference set for landowners and objectors for **January 10, 2019** at 1:30 p.m.

NUMBER OF PAGES: 18

DATE OF FILING: December 4, 2018

This case involves potential water rights for irrigation uses in Cochise County, Arizona on land located within the northeast quarter of section 2 T17S R20E. A copy of the map prepared by ADWR showing the area at issue, which is labelled as "(12)" is attached as Attachment A. In Watershed File Report 112-17-BAD-012 published in the Final San Pedro River Watershed Hydrographic Survey Report (1991), the Arizona Department of Water

1 Resources (ADWR) identified a potential water right to irrigate 39 acres and identified another
2 12.3 acres where no irrigation had occurred for the preceding five years. A copy of the
3 Watershed File Report 112-17-BAD-012 (“WFR”) is attached as Attachment B. The WFR
4 listed the sources of water as three wells and a diversion from the San Pedro River into the
5 Pomerene Water Users Association Canal.

6 The purpose of this case is to resolve the four objections to the potential water rights for
7 irrigation use to the extent that the current landowners intend to pursue them.

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. The
12 Pomerene Water Users Association Canal was listed as one of the sources of water used for
13 the claimed water rights for irrigation use. In that case, the court scheduled a status
14 conference for June 28, 2017 in part to identify the proper parties. At the status conference,
15 counsel for the Pomerene Water Users Association was given until October 2, 2017 to provide
16 documentation concerning the continuing authority of Pomerene Water Users Association to
17 act. No landowners appeared at the status conference.

18
19 By order dated July 26, 2017, the court directed the owners of land for which
20 Arizona Department of Water Resources had identified as places of use for water diverted
21 through the Pomerene Canal to file new or amended statements of claimant if they desired to
22 assert a claim for a right to divert water through the Pomerene Canal for irrigation use. The
23 WFR listed Statements of Claimant 39-4305 and 39-6533, which were filed by Rex Barney
24 and Jeddy B. Fenn. The Arizona Department of Water Resources public records do not
25 include any assignments of these Statements of Claimant nor is there any record of a
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1 Statement of Claimant filed by any of the landowners listed below. A second status
2 conference was set for October 18, 2017.

3 At the status conference held on October 18, 2017, the newly elected board of the
4 Pomerene Water Users Association appeared along with its counsel. The court directed the
5 Pomerene Water Users Association to file a list by December 29, 2017 that identified those
6 landowners who were members by the Pomerene Water Users Association and whose
7 interests would be represented by the Pomerene Water Users Association in the adjudication
8 of water rights. The court also set a third status conference for September 6, 2018. On
9 December 21, 2017, the Pomerene Water Users Association timely filed a list of 26
10 landowners. Kor Chav was included in the list of the represented landowners.
11

12 On August 31, 2018, Pomerene Water Users Association filed a Notice of
13 Termination stating that St. David Irrigation District has claimed the Pomerene diversion
14 structure and the Pomerene canal. At the third status conference, counsel for the Pomerene
15 Water Users Association provided a list of its members who joined the St. David Irrigation
16 District and those members who declined to join the St. David Irrigation District. Kor Chav
17 was not included on either list and he did not appear at the status conference.
18

19 By order dated October 5, 2018, the cases previously consolidated into a single case
20 known as *In re Pomerene Water Users Association* were separated into individual cases. As
21 a result, the potential water rights for irrigation uses analyzed in the WFR will be considered
22 in this separate case or will be consolidated with *In re St. David Irrigation*, contested case no.
23 W1-11-1675 as appropriate.
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1 **Landowners**

2 The first step to adjudicate the water rights identified by the WFR is to identify the
3 current landowners involved in this case. Based on the WFR, the land involved may include all
4 or portion of the following tax parcels:

5

Landowner	Tax Parcel No.
Morris Family Trust	12303011
Lynette M Roberts	12303006J
Timothy Redman	12303006C
Jenna R Galindo, Neal L & Christine V. Ciocchetti	12303006G
Jenna R Galindo, Neal L & Christine V. Ciocchetti	12303006H
Anthony L. & Christina M. Edminston	12303010D
Edward L. and Robin Brown	12303010E
Tina Addison	12303010F
David R. & Elizabeth F. Morris	12303010B
Kor Yun Chav	12303010
Ronald S. & Caralynn Bachtel	12303012A
Dylan M. Layton	12303005A
Jeffrey R. Pickern	12303005B
James A. & Jeanne E. Moore	12303005C
Daniel P. Rutherford	12303008A
James and Loretta Tucker	12303008D
Kevin A. & Kathleen V. Stover	12303001W
David and Miriam Bishop	12303001F

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1 Attached as Attachment C is map of the parcels from the Cochise County Assessor's
2 Office.

3 Three wells provide the sources of water for the potential irrigation water rights. Those
4 wells are located in the southeast quarter of the northwest quarter of section 11 T17S R20E.
5 The second step is to determine whether these wells are located within the subflow zone and
6 therefore subject to this court's jurisdiction. According to the map prepared by ADWR, the
7 three wells that are listed as the sources of water used for irrigation are located within the
8 subflow zone and are thus subject to the jurisdiction of this adjudication. A copy of the map
9 prepared by ADWR, which marks the eastern boundary of the subflow zone in a heavy red line,
10 is attached as Attachment D.
11

12 The third step is to schedule a status conference to determine whether the landowners
13 intend to pursue claims for any potential water rights that ADWR determined are applicable to
14 their land. Failure to participate at the status conference or file a statement of claimant with
15 the Arizona Department of Water Resources may result in no adjudication of the potential
16 water rights associated with the land described in the WFR. Accordingly,
17

18
19 **IT IS ORDERED** that a telephonic status conference shall be held on **January 10,**
20 **2019** at 1:30 p.m.

21 Instructions for telephonic participation:

22 Dial: 602-506-9695 (local)


23 1-855-506-9695 (toll free long distance)

24 Dial Collaboration (conference) Code 357264#
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SUSAN WARD HARRIS
Special Master

On December 4, 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 E.


Barbara Brown

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ATTACHMENT A

[112-17-BAA]

To Cascabel



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ATTACHMENT B

LAND OWNER	WATERSHED FILE
-----	REPORT NUMBER
FENN ENTERPRISES, INC.	112-17-BAD-012

APPLICABLE FILINGS AND DECREES

CLEARLY STATED INFORMATION FROM FILINGS AND DECREES

W1-11-1906

FILING NUMBER	FILING STATUS	USES	QUANTITY IN AFA	USE LOCATION			CLAIM DATE	DIVERSION LOCATION		
				SECTION	TWNP	RNGE		SECTION	TWNP	RNGE
36-0027315		IRRIGATION	1935.61	11	170S	200E	1944	NW11	170S	200E
36-0027317		IRRIGATION	1613.01	11	170S	200E	1948	NW11	170S	200E
36-0027320		IRRIGATION	1774.30	11	170S	200E	1952	NW11	170S	200E
39-0004305		IRRIGATION	1000.00		02	170S 200E	1910	NENE36	170S	210E
		STOCK	4.00		11	170S 200E		SENE11	170S	200E
39-0006533		IRRIGATION	409.00	SWNE11	170S	200E				
				NE02	170S	200E	1908	SE25	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, IROO2, IRO90	
36-0027317	IRRIGATION	IRRIGATION	WO2	IROO1, IROO2, IRO90	
36-0027320	IRRIGATION	IRRIGATION	WO3	IROO1, IROO2, IRO90	
39-0004305	IRRIGATION	IRRIGATION	DO1, WO1, WO2	IROO1, IROO2, IRO90	
	STOCK	INCIDENTAL	WO3		
39-0006533	IRRIGATION	IRRIGATION	DO1	IROO1, IROO2, IRO90	

DIVERSIONS

DIV #	LOCATION			DIVERSION NAME	WATER SOURCE AND CLASSIFICATION
	SECTION	TWNP	RNGE		
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
WO3	SESENW11	170S	200E	UNNAMED	SHARED GROUNDWATER : ZONE 2

USES

PWR #	LOCATION			SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO DATE	SOURCE CHANGE	FACILITY NAME
	SECTION	TWNP	RNGE					
IROO1	SWNE02	170S	200E	DO1, WO1, WO2	SURFACE WATER	1935	NO	
				WO3	GROUNDWATER : ZONE 2			
IROO2	NWNE02	170S	200E	DO1, WO1, WO2	SURFACE WATER	1964	NO	
	SWNE02	170S	200E	WO3	GROUNDWATER : ZONE 2			
IRO90	SENE02	170S	200E	DO1, WO1, WO2	SURFACE WATER	1935	NO	
				WO3	GROUNDWATER : ZONE 2			

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
- ** WATER FROM WO3 FOUND IN FILE (112-17BAD-16) IS USED IN THIS FILE

PWR #	APPLICABLE ADJ FILINGS	APPLICABLE PRE FILINGS	*APPARENT FIRST USE DATE* DATE BASIS FOR DATE	WATER SOURCES AND CLASSIFICATIONS
IROO1	39-0004305 39-0006533	36-0027315 36-0027317 36-0027320	1912 POMERENE W.U.A. INFO	SURFACE WATER: SAN PEDRO RIVER GROUNDWATER : ZONE 2
IROO2	39-0004305 39-0006533	36-0027315 36-0027317 36-0027320	1964 1964 AERIAL PHOTO	SURFACE WATER: SAN PEDRO RIVER GROUNDWATER : ZONE 2
IRO90	39-0004305 39-0006533	36-0027315 36-0027317 36-0027320	1912 POMERENE W.U.A. INFO	SURFACE WATER: SAN PEDRO RIVER 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	2.5	FALL GRAINS	32%	2.1 AF/AC	5.3 AFA	
	REGIONAL	2.5	AVE. CROP	50%	5.4 AF/AC	13.5 AFA	
	MAX. POTENTIAL	2.5	ALFALFA	32%	10.4 AF/AC	26.0 AFA	
IROO2	MAX. OBSERVED	36.5	FALL GRAINS	32%	2.1 AF/AC	76.7 AFA	
	REGIONAL	36.5	AVE. CROP	50%	5.4 AF/AC	197.1 AFA	
	MAX. POTENTIAL	36.5	ALFALFA	32%	10.4 AF/AC	379.6 AFA	
IRO90	REGIONAL	12.3	NO CROP				DISCONTINUED IRRG.

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-W3 - WELLS PROVIDE WATER FOR IRRIGATION USE.

USES AND RESERVOIRS

IR1 & IR2 - IRRIGATED SMALL GRAINS.

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.

SHARED USES AND DIVERSIONS

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

W2 & W3 - WELLS ARE 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.

LAND OWNER	ZONE 2 WELL
-----	REPORT NUMBER
FENN ENTERPRISES, INC.	112-17-BAD-012

WELLS	WELL NAMES	WELL LOCATION			WATER USES SERVED	REMARKS
		SECTION	TWNP	RNGE		
WO1	UNNAMED	SESENW11	17OS	200E	IROO1, IROO2, IRO90	SHARED
WO2	UNNAMED	SESENW11	17OS	200E	IROO1, IROO2, IRO90	SHARED
WO3	UNNAMED	SESENW11	17OS	200E	IROO1, IROO2, IRO90	SHARED

WI-11-1906

WATER USE NUMBERS	WATER USE LOCATION			*** APPARENT FIRST USE ***		APPAR. ANNUAL VOLUME USED	ACRES IRRIGATED
	SECTION	TWNP	RNGE	DATE	BASIS FOR DATE		
IROO1	SWNEO2	17OS	200E	1912	POMERENE W.U.A. INFO	13.5 AFA	2.5
IROO2	NWNEO2	17OS	200E	1964	1964 AERIAL PHOTO	197.1 AFA	36.5
IRO90	SENEO2	17OS	200E	1912	POMERENE W.U.A. INFO		12.3

APPLICABLE STATEMENTS OF CLAIMANT	APPLIES TO: WELLS	APPLIES TO: WATER USES
39-0004305	WO1, WO2, WO3	IROO1, IROO2, IRO90
39-0006533		IROO1, IROO2, IRO90

EXPLANATION

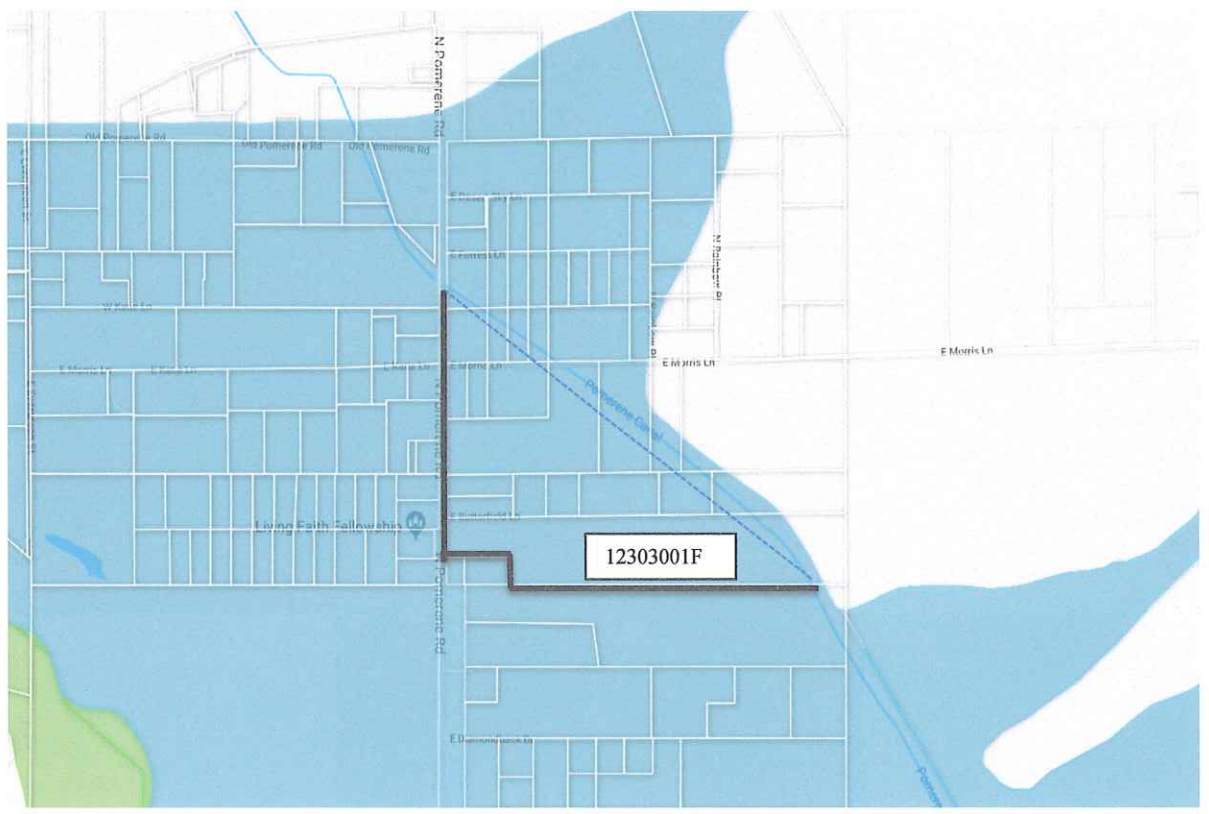
THE APPARENT ANNUAL VOLUME REPORTED FOR IROO1 IS PARTIALLY SUPPLIED BY SURFACE WATER.
 THE APPARENT ANNUAL VOLUME REPORTED FOR IROO2 IS PARTIALLY SUPPLIED BY SURFACE WATER.
 THE APPARENT ANNUAL VOLUME REPORTED FOR IRO90 IS PARTIALLY SUPPLIED BY SURFACE WATER.

** 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.
 ** WATER FROM WO3 FOUND IN FILE (112-17BAD-16) IS USED IN THIS FILE.

W1-W3 - WELLS PROVIDE WATER FOR IRRIGATION USES.
 IR1 & IR2 - IRRIGATED SMALL GRAINS.
 IRO90 - 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.

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ATTACHMENT C



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ATTACHMENT D

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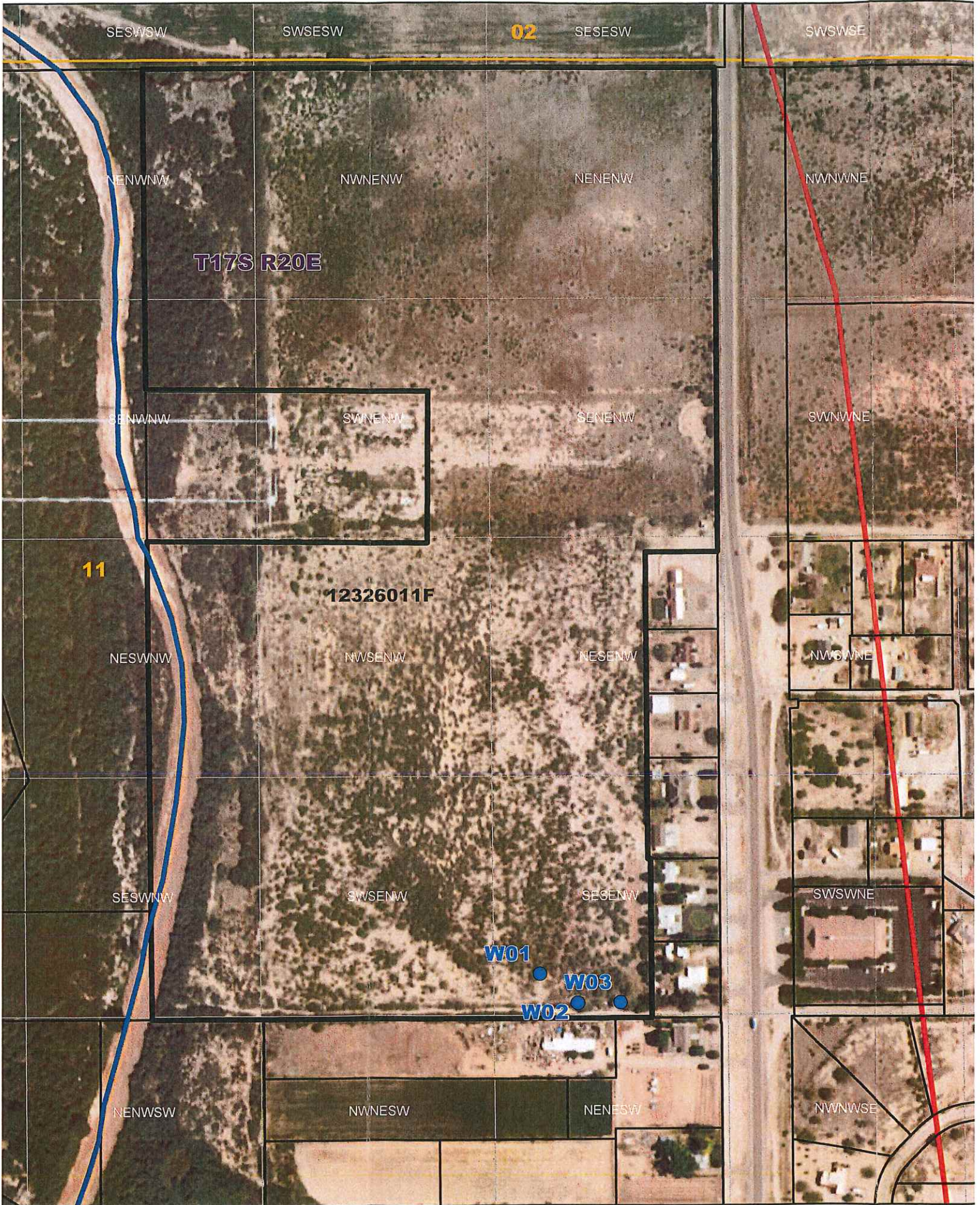
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ATTACHMENT E

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