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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. W1-11-1908

CONTESTED CASE NAMES: *In re Rex O. and Gail Barney*
HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report.
DESCRIPTIVE SUMMARY: Arizona Department of Water Resources directed to map three wells in Section 11, T17S 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: 13
DATE OF FILING: October 30, 2018

This contested case involves potential water rights for one irrigation use in the southeast quarter of section 2 T17S R20E identified by the Arizona Department of Water Resources in Watershed File Report No. 112-17-BAD-014 (WFR). The WFR listed the sources of water as

1 three wells and a diversion from the San Pedro River into the Pomerene Water Users Association
2 Canal. A copy of the WFR is attached as Attachment A. Rex Barney filed the applicable
3 adjudication filing, which is Statement of Claimant 39-4305. The records of the Arizona
4 Department of Water Resources do not show that this Statement of Claimant has been assigned to
5 a successor landowner. A copy of the map prepared by the Arizona Department of Water
6 Resources for the WFR is attached as Attachment B. The purpose of this case is to resolve the six
7 objections to the water right to the extent that the current landowners intend to pursue them.
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10 **Background**

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

18 By order dated July 26, 2017, the court directed the landowners to file new or amended
19 statements of claimant if they desired to assert a claim for a right to divert water through the
20 Pomerene Canal for irrigation use. A second status conference was set for October 18, 2017.
21 Copies of the order were sent, among others, to: Brett and Elizabeth Barney, Ryan Barney, Gary
22 and Doris Ellingson Revocable Trust, Timothy and Brenda Kilpatrick, Harold and Katie Owles,
23 James and Angela Palmer, Scott and Karen Welker, and Joseph and Gloria Zumwalt. No
24 Statements of Claimant have been filed by Brett and Elizabeth Barney, Ryan Barney, Gary and
25 Doris Ellingson Revocable Trust, Timothy and Brenda Kilpatrick, Harold and Katie Owles, James
26 and Angela Palmer, Scott and Karen Welker, and Joseph and Gloria Zumwalt.
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1 At the status conference held on October 18, 2017, the newly elected board of the
2 Pomerene Water Users Association appeared along with counsel. The court directed the
3 Pomerene Water Users Association to file a list by December 29, 2017 that identified those
4 landowners who are members by the Pomerene Water Users Association and whose interests will
5 be represented by the Pomerene Water Users Association in the adjudication of water rights. The
6 court also set a third status conference for September 6, 2018. Copies of the order were sent to
7 the landowners listed above. On December 21, 2017, the Pomerene Water Users Association
8 timely filed a list of 26 landowners that included Brett and Elizabeth Barney, Ryan Barney, James
9 and Angela Palmer, Scott and Karen Welker, and Joseph and Gloria Zumwalt.

11 On August 31, 2018, Pomerene Water Users Association filed a Notice of Termination.
12 At the third status conference, Pomerene Water Users Association represented that James and
13 Angela Palmer has transferred their property to Jim and Shari Tearney and that Ryan Barney had
14 transferred his property to Randy Merrill. Counsel for the Pomerene Water Users Association
15 also provided a list of its members who joined the St. David Irrigation District and those members
16 who declined to join the St. David Irrigation District. Scott and Karen Welker, Randy Merrill and
17 James and Shari Tearney were listed as members who declined to join the St. David Irrigation
18 District. By order dated October 5, 2018, the cases previously consolidated into a single case
19 known as *In re Pomerene Water Users Association* were separated into individual cases. As a
20 result, the potential water rights analyzed in the WFR will be considered in this separate case.
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23 24 **Landowners**

25 The first step is to identify the current landowners involved in this case. According to
26 information provided by the Cochise County Assessor's Office, the land included in the WFR
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1 consists of the following tax parcels which the Cochise County Treasurer's Office reports as
2 owned by the following landowners:

Tax Parcel No.	Landowner
12306002D	Welker Scott and Karen
12306002F	Tearney James E and Shari Anne
12306002J	Merrill Randy D and Mysti
12306002K	Welker Scott and Karen
12306002L	Palmer James and Angela
12306002M	Barney Gerald Arthur and Judy
12306002N	Barney Brett and Elizabeth
12306002P	Kilpatrick Timothy R and Brenda S
12306002Q	Barney Gerald and Judy
12306002R	Barney Gerald and Judy
12306002U	Owles Harold G and Katie M
12306002V	Ellingson Gary N and Doris J Revocable Trust
12306002W	Ellingson Gary N and Doris J Revocable Trust
12306002X	Barney Gerald and Judy
12306002Y	Zumwalt Joseph H and Gloria S

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16 The second step is to determine whether the wells listed in the WFR are located in the
17 subflow zone. Accordingly,

18 **IT IS ORDERED** that by **November 26, 2018**, the Arizona Department of Water
19 Resources shall file a map that shows Wells 1, 2, and 3 identified in Watershed File Report 112-
20 17-BAD-014 relative to the boundaries of the Subflow Zone.

21 The third step is to determine whether the Landowners intend to pursue a claim for the
22 potential water right described in the WFR, and, if so, to schedule appropriate procedures to
23 adjudicate the claim.

24 **IT IS FURTHER ORDERED** that a telephonic status conference shall be held on
25 December 13, 2018 at 3:00 p.m. to ascertain whether the Landowners in this case intend to pursue
26 the potential 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#

A landowner who cannot be available to participate in the status conference and who desires to pursue a claim for a water right listed in the WFR shall file a statement of the landowner's intent with the Clerk of the Superior Court, Maricopa County, Attn. Water Case No. W1-11-1908, 601 West Jackson Street, Phoenix, AA 85003 by December 7, 2018 and shall provide a copy of the statement to each person listed on Attachment C. Failure to participate at the status conference or file a statement of intent may result in the dismissal of the claim associated with the land owned by the landowner that is described in the WFR.


SUSAN WARD HARRIS
Special Master

On October 30, 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 included on Attachment C.

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ATTACHMENT A

LAND OWNER	WATERSHED FILE
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BARNEY, REX O. & GAIL	112-17-BAD-014

APPLICABLE FILINGS AND DECREES

CLEARLY STATED INFORMATION FROM FILINGS AND DECREES *W11-11-1908*

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			
36-0027317		IRRIGATION	1613.01	11	170S	200E	1948	NW11	170S	200E
36-0027320		IRRIGATION	1774.31	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
				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
36-0027317	IRRIGATION	IRRIGATION	WO2	IROO1
36-0027320	IRRIGATION	IRRIGATION	WO3	IROO1
39-0004305	IRRIGATION	IRRIGATION	DO1,WO1,WO2	IROO1
	STOCK	INCIDENTAL	WO3	

DIVERSIONS

DIV #	LOCATION			DIVERSION NAME	WATER SOURCE AND CLASSIFICATION
	SECTION	TWNP	RNGE		
DO1	NWSENE36	170S	200E	POMERENE CANAL	SURFACE WATER: SAN PEDRO RIVER SHARED
WO1	SESENW11	170S	200E	UNNAMED	GROUNDWATER : ZONE 2 SHARED
WO2	SESENW11	170S	200E	UNNAMED	GROUNDWATER : ZONE 2 SHARED
WO3	SESENW11	170S	200E	UNNAMED	GROUNDWATER : ZONE 2 SHARED

USES

PWR #	LOCATION			SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO DATE	SOURCE CHANGE	FACILITY NAME
	SECTION	TWNP	RNGE					
IROO1	SE02	170S	200E	DO1,WO1,WO2 WO3	SURFACE WATER GROUNDWATER : ZONE 2	1955	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
- ** WATER FROM WO3 FOUND IN FILE (112-17BAD-16) IS USED IN THIS FILE

PWR SUMMARY

PWR #	APPLICABLE ADJ FILINGS	APPLICABLE PRE FILINGS	*APPARENT FIRST USE DATE*		WATER SOURCES AND CLASSIFICATIONS
			DATE BASIS FOR DATE	DATE	
IROO1	39-0004305	36-0027315 36-0027317 36-0027320	1944 FILING	36-27315	SURFACE WATER: SAN PEDRO RIVER GROUNDWATER : ZONE 2

PWR #	QUANTIFICATION TYPE	ACRES	CROP TYPE	EFF	WATER DUTY	ESTIMATED VOLUME	REMARKS
IROO1	MAX. OBSERVED	47.5	MULTI.-DBL.	45%	4.8 AF/AC	228.0 AFA	
	REGIONAL	47.5	AVE. CROP	50%	5.4 AF/AC	256.5 AFA	
	MAX. POTENTIAL	47.5	ALFALFA	45%	7.4 AF/AC	351.5 AFA	

E X P L A N A T I O N

DIVERSIONS

D1 - DIVERSION FROM SAN PEDRO RIVER INTO THE POMERENE WATER USERS ASSOCIATION CANAL.
 W1-W3 - WELLS PROVIDE WATER FOR IRRIGATION AND STOCKWATERING USES.

USES AND RESERVOIRS

IR1 - IRRIGATED MULTIPLE-DOUBLE CROPS (ALFALFA AND SMALL GRAINS).

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) 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
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BARNEY, REX O. & GAIL	112-17-BAD-014

WELLS	WELL NAMES	WELL LOCATION			WATER USES SERVED	REMARKS
		SECTION	TWNP	RNGE		
W01	UNNAMED	SESENW11	170S	200E	IROO1	SHARED
W02	UNNAMED	SESENW11	170S	200E	IROO1	SHARED
W03	UNNAMED	SESENW11	170S	200E	IROO1	SHARED

W1-11-1908

WATER USE NUMBERS	WATER USE LOCATION			*** APPARENT FIRST USE ***		APPAR. ANNUAL VOLUME USED	ACRES IRRIGATED
	SECTION	TWNP	RNGE	DATE	BASIS FOR DATE		
IROO1	SE02	170S	200E	1944	FILING 36-27315	256.5 AFA	47.5

APPLICABLE STATEMENTS OF CLAIMANT	APPLIES TO: WELLS	APPLIES TO: WATER USES
-----	-----	-----
39-0004305	W01, W02, W03	IROO1

EXPLANATION

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

** WATER FROM W01 FOUND IN FILE (112-17BAD-28) IS USED IN THIS FILE.

** WATER FROM W02 FOUND IN FILE (112-17BAD-16) IS USED IN THIS FILE.

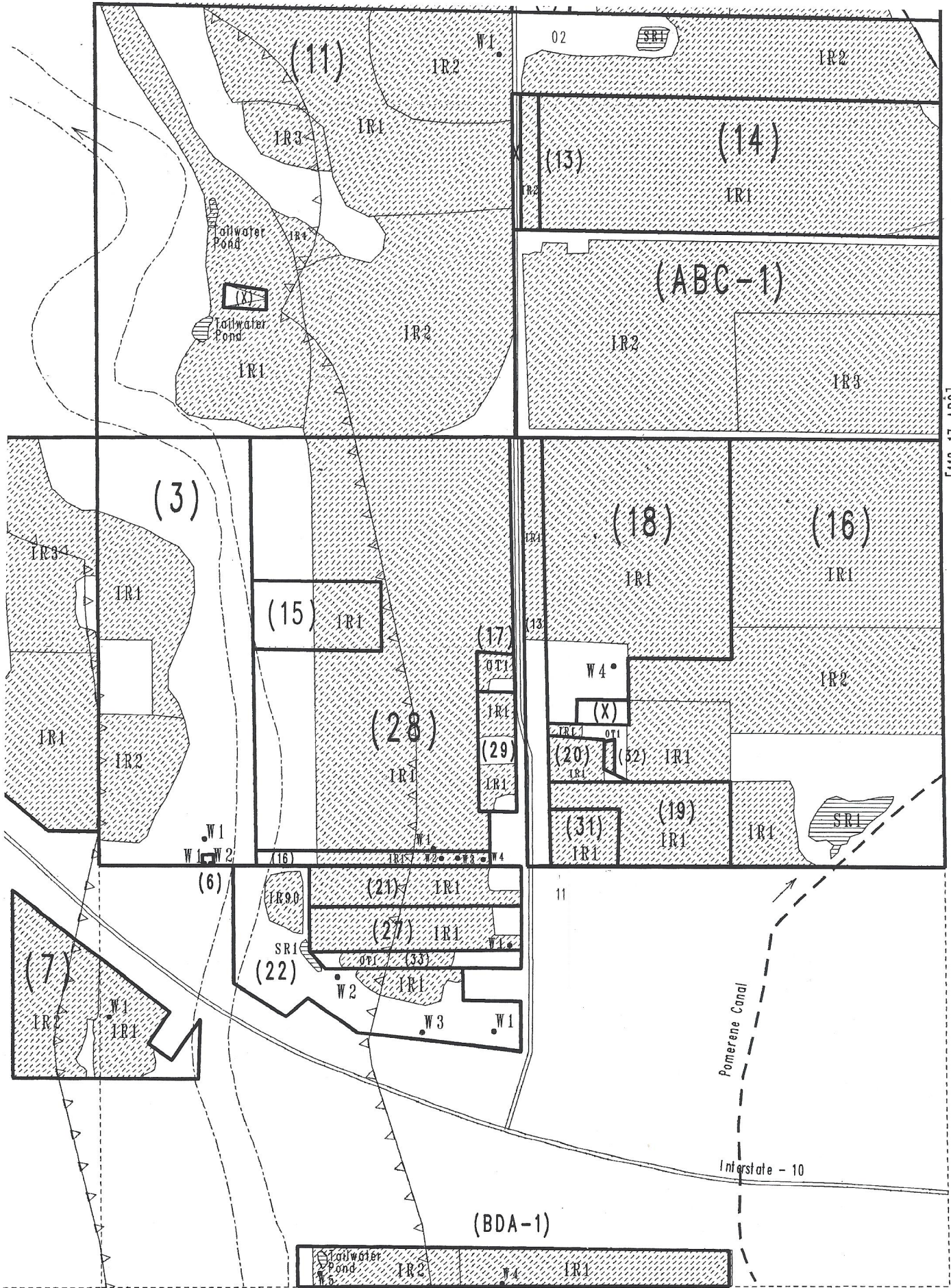
** WATER FROM W03 FOUND IN FILE (112-17BAD-16) IS USED IN THIS FILE.

W1-W3 - WELLS PROVIDE WATER FOR IRRIGATION USES.

IR1 - IRRIGATED MULTIPLE-DOUBLE CROPS (ALFALFA AND SMALL GRAINS).

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ATTACHMENT B



[112-17-ABC]

To Wilcox

[112-17-BDA]

R 20 E

ATTACHMENT C

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- 19 Randy D & Mysti Merrill
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