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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. W1-11-2691 and W1-11-2690

ORDER TO INITIATE CONTESTED
CASE AND
ORDER TO CONSOLIDATE

CONTESTED CASE NAME: *In re Jack Kelly and Lois Bingham*
HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report.
DESCRIPTIVE SUMMARY: Contested case W1-11-2691 initiated to resolve objections to watershed file report 113-12-BA-013. The case is consolidated with Contested Case No. **W1-11-2690**. Report from ADWR regarding potential water rights due April 29, 2019 and documents due from Pima County Flood Control District by May 13, 2019.
NUMBER OF PAGES: 13
DATE OF FILING: March 4, 2019

This case is initiated to resolve objections to potential water rights for domestic and irrigation water uses analyzed by watershed file report no. 113-12-BA-013 (WFR) published in the Final San Pedro River Watershed Hydrographic Survey Report (1991). A copy of the

1 watershed file report is attached as Attachment A. The WFR lists potential water rights for
2 domestic use on section 15 T11S R18E and for domestic and irrigation uses on section 26 T11S
3 R18E. It identifies Statements of Claimant 39-2765 and 39-2772 as the relevant filings. The
4 trustees of the Floyd and Lavita Bingham Family Trust filed Statement of Claimant 39-2765
5 for a stock watering use in the NWSE section 15 T11S R18E. The WFR identified a domestic
6 use in the NESW section 15 T11S R18E. According to the Pima County Assessor's Office
7 and maps prepared by and publically available from the Arizona State Land Department, the
8 southwest quarter of section 15 T11S R18E is land owned by the State of Arizona. A copy of
9 the Pima County Assessor's map is attached as Attachment B.

10 Jack and Lois Kelly filed Statement of Claimant 39-2772. By an assignment filed
11 August 6, 1991, Jack Kelly and Lois Kelly assigned Statement of Claimant 39-2772 to the
12 Pima County Flood Control District. According to the records of the Pima County Assessor's
13 Office, tax parcel no. 205 22 002A, is titled in the name of "Kelly Jack & Lois Life Estates
14 then to Pima County Flood Control District". The Assessor's Office lists the controlling
15 document as a warranty deed recorded on December 18, 2012 at 2012 35 530430. Tax parcel
16 no. 205 22 002A is shown on Attachment C is located in section 26 T11S R18E.

17 Copies of objections to the WFR will be posted under the What's New tab under the
18 case name and number on the following website:
19 <http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication>.
20

21
22 **IT IS ORDERED:**

23 1. Contested Case, Consolidation, Designation and Docket Number. This
24 contested case initiates case no. W1-11-2691. The contested case is consolidated with *In re*
25 *Pima County Flood Control District*, Contested Case No. **W1-11-2690**.

26 2. Litigants. The litigants in this contested case are the claimants, all persons who
27 filed objections to the listed watershed file reports, who are listed on Attachment D, the
28

1 Arizona State Land Department, as the landowner of the land for which there is a potential
2 water right, and claimants who are allowed to intervene by order.

3
4 3. Court-Approved Mailing List.

5 A. The initial Court-approved mailing list for this case shall include all
6 persons listed on Attachment E to this order. The list may be modified only by
7 filing a motion with the Special Master to amend the Court-approved mailing
8 list. Litigants are responsible for using the current Court-approved mailing list.

9
10 B. A copy of any pleading filed with the Clerk of the Maricopa County
11 Superior Court in this case shall be served upon each person listed on the Court-
12 approved mailing list.

13 C. Claimants wishing to be added or removed from the mailing list shall file
14 a motion with the Special Master. Parties allowed to intervene will be
15 automatically added to the mailing list.

16
17 4. Courtesy Email List. The Special Master's office will email courtesy copies of
18 orders and minute entries entered in this case to persons listed on Attachment E. Requests for
19 inclusions on the email list should be sent to Barbara Brown at

20 brownb099@superiorcourt.maricopa.gov.

21
22 5. Confirmation of Legal Descriptions in WFR. Arizona Department of Water
23 Resources shall review Statement of Claimant 39-2765 and file a report and map that identifies
24 the place of use for potential water right 113-12-BA-013-DM001 by April 29, 2019.

25 6. Confirmation of Ownership to Property. Pima County Flood Control District
26 shall file a certified copy of those deeds, including the warranty deed recorded on December
27
28

1 18, 2012, pursuant to which Pima County Flood Control District claims an interest in the
2 property for which a potential water use is identified in the WFR by May 13, 2019.

3 7. Statement of Claimant 39-2772. If Pima County Flood Control District
4 intends to amend Statement of Claimant 39-2772, it shall file an amended Statement of
5 Claimant by May 13, 2019. In addition, Pima County Flood Control District shall file by May
6 13, 2019:

7
8 a. Those documents which constitute the bases of the water rights identified in
9 the WFR for which it intends to assert a claim;

10 b. A proposed abstract for any domestic use claimed; and

11 c. A statement of the maximum diversion rate for any irrigation use.
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15 
16 SUSAN WARD HARRIS
17 Special Master
18

19 On March 4, 2019, the original of the foregoing was
20 delivered to the Clerk of the Maricopa County Superior
21 Court for filing and distributing a copy to all persons
22 listed on the Court-approved mailing list for this
23 contested case, a copy of which is attached hereto as
24 Attachment E, and to all persons listed on the Court-
25 approved mailing list for W-1, W-2, W-3, and W-4
26 (Consolidated).
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ATTACHMENT A

| | |
|----------------|----------------|
| LAND OWNER | WATERSHED FILE |
| ----- | REPORT NUMBER |
| KELLY, JACK | 113-12-BA-013 |
| & LOIS BINGHAM | |

APPLICABLE FILINGS AND DECREES

CLEARLY STATED INFORMATION FROM FILINGS AND DECREES

WI-11-2691

| FILING NUMBER | FILING STATUS | USES | QUANTITY IN AFA | USE LOCATION SECTION | TWNP | RNGE | CLAIM DATE | DIVERSION LOCATION SECTION | TWNP | RNGE |
|---------------|---------------|------------|-----------------|----------------------|------|-----------|------------|----------------------------|------|------|
| 39-0002765 | | STOCK | .92 | NWSE15 | 11OS | 18OE | 1944 | SENWSE15 | 11OS | 18OE |
| 39-0002772 | QUE.RECD | IRRIGATION | .92 | SWSW23 | 11OS | 18OE | < 1919 | NWNW26 | 11OS | 18OE |
| | | STOCK | .21 | | 23 | 11OS 18OE | | | | |
| | | | | | 26 | 11OS 18OE | | | | |

DWR ANALYSIS OF FILINGS AND DECREES

| FILING NUMBER | USES CLAIMED OR REFERENCED | USES FOUND BY DWR | APPLIES TO DIVERSIONS | APPLIES TO PWR NUMBERS |
|---------------|----------------------------|-------------------|-----------------------|------------------------|
| 39-0002765 | STOCK | STOCKWELL | WO1 | |
| 39-0002772 | IRRIGATION | IRRIGATION | WO3 | IROO1, IROO2 |
| | STOCK | INCIDENTAL | | |

DIVERSIONS

| DIV # | LOCATION SECTION | TWNP | RNGE | DIVERSION NAME | WATER SOURCE AND CLASSIFICATION |
|-------|------------------|------|------|----------------|---|
| WO1 | SWNESE15 | 11OS | 18OE | UNNAMED | GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER |
| WO3 | NENWNW26 | 11OS | 18OE | MARKHAM WELL | GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER |

USES

| PWR # | LOCATION SECTION | TWNP | RNGE | SUPPLIED BY DIVERSIONS | WATER SOURCES | PHOTO DATE | SOURCE CHANGE | FACILITY NAME |
|-------|------------------|------|------|------------------------|----------------------|------------|---------------|---------------|
| DMOO1 | SWNESW15 | 11OS | 18OE | WO1 | GROUNDWATER : ZONE 1 | | NO | |
| DMOO2 | NENWNW26 | 11OS | 18OE | WO3 | GROUNDWATER : ZONE 1 | | NO | |
| IROO1 | NWNW26 | 11OS | 18OE | WO3 | GROUNDWATER : ZONE 1 | 1935 | NO | |
| IROO2 | NWNW26 | 11OS | 18OE | WO3 | GROUNDWATER : ZONE 1 | 1971 | NO | |

PWR SUMMARY

| PWR # | APPLICABLE ADJ FILINGS | APPLICABLE PRE FILINGS | *APPARENT FIRST USE DATE* | DATE BASIS FOR DATE | WATER SOURCES AND CLASSIFICATIONS |
|-------|------------------------|------------------------|---------------------------|---------------------|---|
| DMOO1 | 39-0002765 | NONE | | | GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER |
| DMOO2 | 39-0002772 | NONE | | | GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER |
| IROO1 | 39-0002772 | NONE | 1879 | G.L.O. PLAT MAPS | GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER |
| IROO2 | 39-0002772 | NONE | 1971 | 1971 AERIAL PHOTO | GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER |

QUANTITIES OF USE

| PWR # | QUANTIFICATION TYPE | ACRES | CROP TYPE | EFF | WATER DUTY | ESTIMATED VOLUME | REMARKS |
|-------|------------------------|-------|------------|-----|------------|------------------|-----------------------------------|
| DMOO1 | | | | | | | |
| DMOO2 | | | | | | | SEE VOLUME 1 - GENERAL ASSESSMENT |
| IROO1 | MAX. OBSERVED REGIONAL | 6.2 | PERM. PSTR | 45% | 7.0 AF/AC | 43.4 AFA | SEE VOLUME 1 - GENERAL ASSESSMENT |
| | MAX. POTENTIAL | 6.2 | AVE. CROP | 50% | 5.4 AF/AC | 33.5 AFA | |
| IROO2 | MAX. OBSERVED REGIONAL | 3.7 | ALFALFA | 45% | 7.4 AF/AC | 45.9 AFA | |
| | | 3.7 | PERM. PSTR | 45% | 7.0 AF/AC | 25.9 AFA | |
| | | 3.7 | AVE. CROP | 50% | 5.4 AF/AC | 20.0 AFA | |

| PWR # | QUANTIFICATION TYPE | ACRES | CROP TYPE | EFF | WATER DUTY | ESTIMATED VOLUME | REMARKS |
|-------|------------------------|-------|-----------|-----|------------|---------------------|---------|
| IROO2 | MAX. POTENTIAL | 3.7 | ALFALFA | 45% | 7.4 AF/AC | 27.4 AFA | |

E X P L A N A T I O N

FILINGS AND DECREES

FILING 39-2772 - TWO UNIFORM QUESTIONNAIRES WERE RECEIVED, ONE OF WHICH REFLECTS INFORMATION PREVIOUSLY PROVIDED IN THE ORIGINAL STATEMENT OF CLAIMANT, THE OTHER CLAIMED WELL W3. THE QUESTIONNAIRE WHICH CLAIMS WELL W3 IS LOCATED WITHIN THIS W.F.R. THE OTHER QUESTIONNAIRE IS LOCATED WITHIN W.F.R. #113-12-BA-12.

DIVERSIONS

W1 - WELL PROVIDES WATER FOR DOMESTIC USES.
 W3 - WELL PROVIDES WATER FOR IRRIGATION AND DOMESTIC USES.

USES AND RESERVOIRS

DM1 & DM2 - DOMESTIC USES.
 IR1 & IR2 - IRRIGATED PASTURE.

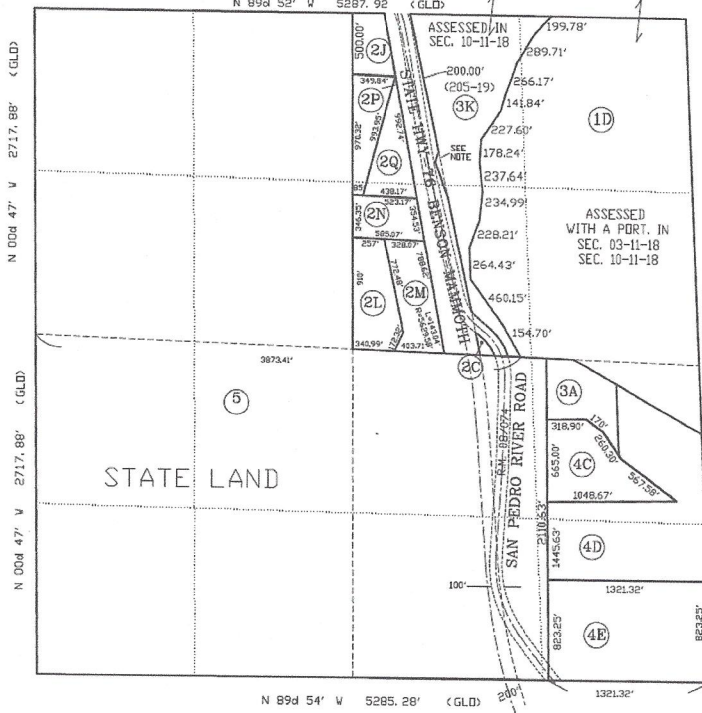
DISPOSITION OF LAND OWNER/CLAIMANT COMMENTS

A COMMENT WAS RECEIVED FROM THE LAND OWNER WHICH VERIFIED LAND OWNERSHIP.

ATTACHMENT B

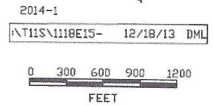
ASSESSOR'S RECORD MAP

205-20 SECTION 15, TOWNSHIP 11 SOUTH, RANGE 18, EAST
-19



NOTE:
THIS PORTION OF HIGHWAY
WAS NOT PURCHASED BY
THE STATE

Dina
county
assessor



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ATTACHMENT D

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ASARCO Incorporated

BHP Copper Inc., formerly known as Magma Copper Company

Gila River Indian Community

Pima County Flood Control District

Salt River Project

San Carlos Apache Tribe

Tonto Apache Tribe

United States

Yavapai-Apache Indian Community

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ATTACHMENT E

Court Approved Mailing List
In re Pima County Flood Control District, Case No. W1-11-2690
W1-11-2690 (19 Names)
Prepared by the Special Master
3/4/2019

Brad Holm and Monique Coady
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Jack and Lois Kelly
13333 N SAN PEDRO RIVER
RD
Benson, AZ 85602-8403

Clerk of the Superior Court
Maricopa County
Attn: Water Case
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The Sparks Law Firm, P.C.
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Arizona Attorney General
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Phoenix, AZ 85004

Kevin P. Crestin
Arizona Attorney General
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M. K. Foy
Salt River Project
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Phoenix, AZ 85016

L. William Staudenmaier/John
D. Burnside
Snell & Wilmer, L.L.P.
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Murphy
Gila River Indian Community
Office of the General Counsel
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Pima County Flood Control
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Montgomery & Interpreter, PLC
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