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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. W1-11-2678

ORDER TO INITIATE CONTESTED  
CASE; ORDER TO CONSOLIDATE;  
ORDER TO ADWR TO REVIEW  
ABSTRACTS FOR *DE MINIMIS* WATER  
USES

CONTESTED CASE NAME: *In re Donald Kellogg*

HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report.

DESCRIPTIVE SUMMARY: The Special Master initiates contested case W1-11-2678 to address objections to watershed file reports 113-12-023. The case is consolidated with Contested Case No. **W1-11-2694**.

NUMBER OF PAGES: 12.

DATE OF FILING: December 18, 2018

This Order initiates a contested case to resolve objections to Watershed File Report 113-12-023 published in the Final San Pedro River Watershed Hydrographic Survey Report (1991) (“WFR”). A copy of the WFR is attached as Attachment A.

1 In the WFR, the Arizona Department of Water Resources identified two potential water  
2 rights for a stockpond and for stock watering claimed in Statements of Claimant 39-2777 and  
3 39-2769, respectively. Statement of Claimant 39-2777 was filed by the Floyd and Lavita  
4 Bingham Family Trust. Statement of Claimant 39-2769 has been assigned to Pima County.

5 Draft abstracts have been prepared for the *de minimis* water rights and they are attached  
6 as Attachment B.

7 **IT IS ORDERED:**

8  
9 1. Contested Case, Consolidation, Designation and Docket Number. This  
10 contested case initiates case no. W1-11-2678. The contested case is consolidated under *In re*  
11 *Pima County Irrigation*, Contested Case No. W1-11-2694.

12 2. Litigants. The litigants in this contested case are the claimants, namely, Floyd  
13 and Lavita Bingham Family Trust and Pima County, all persons who filed objections to the  
14 listed watershed file reports who are listed on Attachment C, and claimants who are allowed to  
15 intervene by order.

16 3. Court-Approved Mailing List.

17 A. The initial Court-approved mailing list for this case shall be the Court-  
18 approved mailing list for *In re Pima County Irrigation*, Contested Case No. W1-  
19 11-2694, which shall be amended to include the Floyd and Lavita Bingham  
20 Family Trust. The list may be modified by a litigant only by filing a motion  
21 with the Special Master to amend the Court-approved mailing list. Litigants are  
22 responsible for using the current Court-approved mailing list.

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24 B. A copy of any pleading filed with the Clerk of the Maricopa County  
25 Superior Court in this case shall be served upon each person listed on the Court-  
26 approved mailing list.  
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1 C. Claimants wishing to be added or removed from the mailing list shall file  
2 a motion with the Special Master. Parties allowed to intervene will be  
3 automatically added to the mailing list.

4 4. Courtesy Email List.

5 The Special Master's office will email courtesy copies of orders and minute  
6 entries entered in this case to litigants to this case. Requests for inclusions on  
7 the email list should be sent to Barbara Brown at  
8 [brownb099@superiorcourt.maricopa.gov](mailto:brownb099@superiorcourt.maricopa.gov).

9  
10 **IT IS FURTHER ORDERED** that ADWR shall review the legal descriptions of the  
11 points of diversion and places of use in the attached abstracts and determine whether the  
12 claimed water sources and facilities for such diversions and uses exist on the land referenced in  
13 the proposed legal descriptions. A report shall be filed by ADWR by January 28, 2019.  
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18 SUSAN WARD HARRIS  
19 Special Master  
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22 On December 18, 2018, the original of the foregoing  
23 was delivered to the Clerk of the Maricopa County  
24 Superior Court for filing and distributing a copy to all  
25 persons listed on the Court-approved mailing list for this  
26 contested case.  
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# ATTACHMENT A

LAND OWNER	WATERSHED FILE
-----	REPORT NUMBER
KELLOGG, DONALD K.P.	113-12-023

APPLICABLE FILINGS AND DECREES

CLEARLY STATED INFORMATION FROM FILINGS AND DECREES WI-11-2678

FILING NUMBER	FILING STATUS	USES	QUANTITY IN AFA	USE LOCATION SECTION	TWNP	RNGE	CLAIM DATE	DIVERSION LOCATION SECTION	TWNP	RNGE
10-1002446.2100							1912			
33-0093074	PROTEST	STOCK DOMESTIC	.37	NESE06	120S	180E	1987	NESE06	120S	180E
33-0093075	PROTEST	STOCK	.41	NENE06	120S	180E	1987	NENE06	120S	180E
36-0018387		STOCK	.90	SESE06	120S	180E	1906	SESE06	120S	180E
38-0090512		STOCK		NENE06	120S	180E	1950	NENE06	120S	180E
39-0002769	AMENDED	STOCK REC/FISH/WLDF	.91	NESE06	120S	180E	1906	NESE06	120S	180E
39-0002777		STOCK	2.00	NENE31	110S	180E	1950	NENE31	110S	180E

DWR ANALYSIS OF FILINGS AND DECREES

FILING NUMBER	USES CLAIMED OR REFERENCED	USES FOUND BY DWR	APPLIES TO DIVERSIONS	APPLIES TO PWR NUMBERS
10-1002446.2100	MINING	NONE		
33-0093074				
33-0093075				
36-0018387	STOCK	SPRING	SW001	
38-0090512	STOCK	STOCK	SPO01	
39-0002769	STOCK	SPRING	SW001	
	WILDLIFE	SPRING		
39-0002777	STOCK	STOCK	SPO01	

USES

PWR #	LOCATION SECTION	TWNP	RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO DATE	SOURCE CHANGE	FACILITY NAME
SW001	SWNWNE06	120S	180E		SURFACE WATER		NO	CARPENTER SPRING

RESERVOIRS

PWR #	LOCATION SECTION	TWNP	RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO DATE	RESERVOIR NAME	STORAGE PURPOSE
SPO01	NENENE06	120S	180E		SURFACE WATER	1955	COCKLEBUR TANK	STOCKWATERING

PWR SUMMARY

PWR #	APPLICABLE ADJ FILINGS	APPLICABLE PRE FILINGS	*APPARENT FIRST USE DATE*	DATE BASIS FOR DATE	WATER SOURCES AND CLASSIFICATIONS
SPO01	39-0002777	38-0090512	1950 FILING	38-90512	SURFACE WATER: SAN PEDRO RIVER
SW001	39-0002769	36-0018387	1906 FILING	36-18387	SURFACE WATER: SAN PEDRO RIVER
NONE	NONE	10-1002446.2100			
		33-0093074			
		33-0093075			

QUANTITIES OF USE

PWR #	QUANTIFICATION TYPE	ACRES	CROP TYPE	EFF	WATER DUTY	ESTIMATED VOLUME	REMARKS
SPO01	MAX. AREA/CAP	1.1				5.3 AF	
SW001							SEE VOLUME 1 - GENERAL ASSESSMENT

USES AND RESERVOIRS

SP1 - COCKLEBUR TANK STOCKPOND.

SW1 - STOCKWATERING USE FROM CARPENTER SPRING.

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**ATTACHMENT B**

**Abstract of Water Right  
San Pedro Watershed**

<b>1. Proposed Water Right No.:</b>	113-12-023-SP001
<b>2. Owner of Water Right:</b>	
<b>3. Landowner:</b>	
<b>4. Statement of Claimant No.(s):</b>	39-0002777
<b>5. Statement of Claimant Name(s):</b>	Floyd & Lavita Bingham Family Trust
<b>6. Lessee or Permittee:</b>	None
<b>7. Basis of Right:</b>	38-90512
<b>8. Beneficial Use:</b>	Stock Pond
<b>9. Priority Date:</b>	December 31, 1950
<b>10. Quantity:</b>	4 ac-ft. with continuous fill
<b>11. Place of Use:</b>	NENENE 6 T12S R18E
<b>12. Point of Diversion:</b>	NENENE 6 T12S R18E
<b>13. Source of Water:</b>	San Pedro River
<b>14. Name of Facility:</b>	Cocklebur Tank



**Abstract of Water Right  
San Pedro Watershed**

<b>1. Proposed Water Right No.:</b>	113-12-023-SW001
<b>2. Owner of Water Right:</b>	Pima County
<b>3. Landowner:</b>	Pima County
<b>4. Statement of Claimant No.(s):</b>	39-0002769
<b>5. Statement of Claimant Name(s):</b>	Pima County
<b>6. Lessee or Permittee:</b>	None
<b>7. Basis of Right:</b>	36-0018387
<b>8. Beneficial Use:</b>	Stock watering and wildlife
<b>9. Priority Date:</b>	December 31, 1906
<b>10. Quantity:</b>	Reasonable Use
<b>11. Place of Use:</b>	SWNWNE 6 T12S R18E
<b>12. Point of Diversion:</b>	SWNWNE 6 T12S R18E
<b>13. Source of Water:</b>	San Pedro River
<b>14. Name of Facility:</b>	Carpenter Spring

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**ATTACHMENT C**

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

MANDATORY FORM FOR OBJECTIONS TO  
The Hydrographic Survey Report for  
The San Pedro River Watershed

No. W111002678

Please file a separate objection for each Watershed File Report, Zone 2 Well Report or Catalogued Well Report. Objections to information contained in Volume 1 of the HSR can be stated on one objection form. Objections must be written. Use of this form, or a computer facsimile, is required. Objections must be received on or before May 18, 1992.

This objection is directed to Watershed \_\_\_\_\_ or Catalogued Well No. \_\_\_\_\_  
File Report or Zone 2 Well Report No. 11312 023  
(please insert no.) (please insert no.)

OBJECTOR INFORMATION

Objector's Name: Gila River Indian Community San Carlos Apache Tribe; Tonto Apache Tribe; Yavapai-Apache Indian Community, Camp Verde Reservation  
C/O Cox & Cox C/O Sparks & Siler, P.C.  
Objector's Address: Suite 300 Luhrs Tower, P.O. Box 4245 7503 First Street  
Phoenix, AZ 85030 Scottsdale, AZ 85251  
Objector's Telephone: (602) 254-7207 (602) 949-1988

Objector's Watershed File Report or Zone 2 Well Report No. (if the Objector's claimed water rights are within the San Pedro River Watershed):  
\_\_\_\_\_

Or Objector's Catalogued Well Number (if the Objector's claimed water rights appear only in Volume 8 of the HSR):  
\_\_\_\_\_

Or Objector's Statement of Claimant No. (if the Objector's claimed water rights are located outside the San Pedro River Watershed):  
39-11-05478 39-05-41142 39-07-12652 39-07-12676 39-05-50058 39-07-12169  
39-U8-60083 39-L8-36340 39-L8-37360 39-U8-63614 39-07-12675 39-05-50059

STATE OF ARIZONA

COUNTY OF MARICOPA

VERIFICATION (must be completed by objector)

I hereby make this Objection. I certify that, if required, a copy of the foregoing Objection was served upon the following Claimant(s) by mailing true and correct copies thereof on the 18 day of May, 1992, postage prepaid and addressed as follows:

Name: KELLOGG, DONALD K.P.  
Address: 11655 E. GOLFLINK  
TUCSON AZ 85730

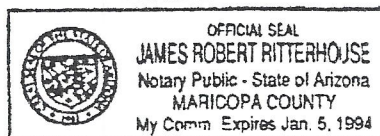
I declare under perjury that I am a claimant in this proceeding or the duly-authorized representative of a claimant; that I have read the contents of this Objection (both sides and any attachments) and know the contents thereof; and that the information contained in the Objection is true based on my own personal knowledge, except those portions of the Objection which are indicated as being known to me on information and belief and, as to those portions, I believe them to be true.

Alfred S. Cox James R. Ritterhouse  
Signature of Objector or Objector's Representative

SUBSCRIBED AND SWORN to before me this 11 day of May 1992.

James R. Ritterhouse  
Notary Public for the State of Arizona

(The above section must be completed if you object to another claimant's Watershed File Report, Zone 2 Well Report, or Catalogued Well Report. It does not need to be completed if you file an objection to your own Watershed File Report, Zone 2 Well Report, Catalogued Well report; or to information contained in Volume 1 of the Hydrographic Survey Report.)



## STATEMENT OF THE OBJECTION

The following are the main categories of the typical Watershed File Report (Zone 2 Well Reports and some Watershed File Reports lack certain categories). Please check the category(ies) to which you object, and state the reason for the objection on the back of this form.

- 1. I object to the description of Land Ownership
- X 2. I object to the description of Applicable Filings and Decrees
- 3. I object to the description of DWR's Analysis of Filings and Decrees
- X 4. I object to the description of Diversions for the claimed water right(s)
- 5. I object to the description of Uses for the claimed water right(s)
- 6. I object to the description of Reservoirs used for the claimed water right(s)
- 7. I object to the description of Shared Uses & Diversions for the claimed water right(s)
- 8. I object to the PWR (Potential Water Right) Summary of the claimed water right(s)
- X 9. I object to the description of Quantities of Use for the claimed water right(s)
- 10. I object to the Explanation provided for the unclaimed water right(s)
- 11. Other Objections (please state volume, page and line number for each objection)

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### REASON FOR OBJECTION

The reason for my objection is as follows (please number your objections to correspond to the boxes checked above; please attached supporting information and additional pages as necessary. The following objection(s) are based upon information and belief:

CATEGORY  
NUMBER

- 4) The use of the water claimed depletes water for senior federal and Indian water rights (1150).
- 9) HSR does not show a claimed water use rate (1000).
- 2) HSR does not show Water Rights Registration for each Zone 1 Potential Water Right (420).
- 2) HSR does not show registration of stockpond filing for each stockpond (420).
- 2) HSR does not show a Quantity of water in AFA for pre-filing(s) (430).
- 2) HSR does not show a location of POU for pre-filing(s) (430).
- 4) Impoundment of water interferes with senior federal and Indian water rights (1150).
- 2) HSR shows that quantities of water in AFA from filing(s) and/or pre-filing(s) are inconsistent (478)(430).
- 2) HSR shows that locations of POU's from filing(s) and/or pre-filing(s) are inconsistent (478)(430).
- 2) HSR does not show a location of POD for pre-filing(s) (430).
- 2) HSR shows that locations of PODs from filing(s) and/or pre-filing(s) are inconsistent (478)(430).