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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

W-1, W-2, W-3, W-4 (Consolidated)

**Contested Case No. W1-11-2726**

**ORDER TO ADWR TO SCHEDULE A  
MEETING OF THE PARTIES**

**CONTESTED CASE NAME:** *In re David and Fay Gard*

**HSR INVOLVED:** San Pedro River Watershed Hydrographic Survey Report

**DESCRIPTIVE SUMMARY:** Arizona Department of Water Resources shall schedule a meeting among the Claimants and the Objectors no later than **August 20, 2021**.

**NUMBER OF PAGES:** 18

**DATE OF FILING:** May 20, 2021

On May 6, 2021, Donna A. Quisenberry filed a letter attached as Attachment A. The letter, which will be treated as a Status Report, details the information that Ms. Quisenberry has obtained to date, her efforts to obtain additional information, and the frustration with not being able to access all information deemed necessary.

Ms. Quisenberry represented she mailed a copy of the letter to the Arizona Department of Water Resources, but does not indicate whether the letter was also filed with the Clerk of the

1 Superior Court or copies mailed to all parties in this case. All pleadings, which includes  
2 correspondence that is treated as a pleading, filed with the Court must be filed with the Clerk  
3 of the Superior Court and all persons listed on the court-approved mailing list. The original  
4 court-approved mailing list was attached to the Order that initiated this case. A copy of the  
5 court-approved mailing list is attached as Attachment B to this Order. Copies of the current  
6 court-approved mailing list can be accessed from the webpage maintained by the Maricopa  
7 County Superior Court for the General Adjudication using the following web address:  
8 <http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/docs/2726>  
9 [ml.pdf](http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/docs/2726)

10 Future pleadings that are submitted that do not contain a statement that copies have been mailed  
11 to all persons on the court-approved mailing list will be stricken from the court records and  
12 returned to the sender.

13  
14 **IT IS ORDERED**, pursuant to §8.02 Rules for Proceedings Before the Special Master,  
15 that the Arizona Department of Water Resources will organize a meeting among Donna and Joel  
16 Quisenberry and representatives of the Objectors to discuss the objections filed to Watershed File  
17 Report 113-12-DD-001 and determine whether a resolution can be reached by agreement among  
18 the parties.

19 Copies of objections can be obtained by request from the Arizona Department of Water  
20 Resources. Copies of objections can also be accessed from the webpage maintained by the  
21 Maricopa County Superior Court for the General Adjudication using the following web address:  
22 <http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/docs/Objections2726.pdf>  
23 [ions2726.pdf](http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/docs/Objections2726.pdf)

24  
25 The meeting shall be scheduled before **August 20, 2021**. Arizona Department of Water  
26 Resources shall file a Meeting Report within five days of the meeting. Upon receipt of the  
27 Meeting Report, a Status Conference shall be scheduled.  
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**IT IS FURTHER ORDERED** vacating the Status Conference scheduled for July 23,  
2021 at 1:30 p.m.

  
SUSAN WARD HARRIS  
Special Master

On May 20, 2021, the original of the foregoing was delivered to the Clerk of the Maricopa County Superior Court for filing and distributing a copy to all persons listed on the Court-approved mailing list for this contested case, which is attached as Attachment B.

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**ATTACHMENT A**

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May 6, 2021

OFFICE OF THE SPECIAL MASTER  
Arizona General Stream Adjudication

Superior Court of Arizona – Maricopa County  
Attn: Susan Ward Harris, Special Water Master  
201 W. Jefferson St.  
Phoenix, AZ 85003

MAY 10 2021

Re: W-1, W-2, W-3, W-4 (Consolidated)  
Contested Case No. W1-11-2726

Dear Ms. Harris,

In response to the Minute Entry filed: 01/27/2021, please find the requested map with GPS coordinates on page 3 of the enclosure.

In trying to "obtain a patent and homestead documents for the property to support claims for a water right that was first put to beneficial use prior to 1919", I have learned much about Cochise County and Arizona State record keeping.

Cochise County's Recorder's Office tracks property deeds by name and date. The Assessor's Office uses parcel numbers. In the document filed on 07/13/2020 by M. Antelo, Deputy, at 11:21 am, it states "The WFR identified two Statements of Claimant (SOC) relevant to the potential water rights: 39-3890 and 39-14406. Marie Kelly filed SOC 39-3890. David and Fay Gard subsequently filed a form of assignment of SOC 39-3890 to which they attached a statement that they had purchased the property from the personal representative of the Estate of Marie Kelly. The representative of the estate of Marie Kelly did not sign the form of assignment." I was able to obtain a copy of the Quit-Claim Deed signed by Peter R. and Marie C. Kelly dated May 31, 1976. The Quit-Claim Deed gave the property to Armand J. and Eleanor M. Mattausch for "Two Hundred Dollars, lawful money". The number on that document is: DKT 1090 PAGE 397. The documentation at the Assessor's Office shows that number was scratched out on the document that the Gard's filed and it was replaced with: DKT 654 PAGE 329. I was told that their records "don't go back that far". I tried looking online at the National Archives as suggested by the Court. I have no idea on how to go about finding homestead documents.

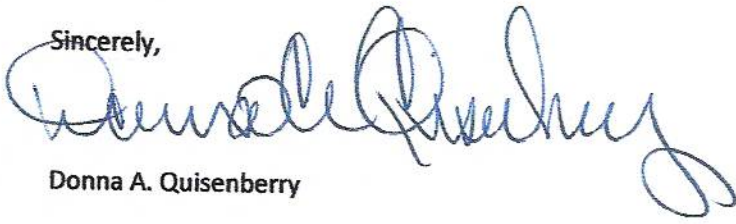
I am also very confused as to what parties actually objected to the report filed by ADWR in order to work with them as the Court advised.

The Kelly's and the Gard's had a pecan orchard on this property. It is no longer here. Pages 4 and 5 of the enclosure are aerial photos from Google Earth showing the pasture. Pages 8 and 9 are copies of the Watershed File Report provided by the Court in the 07/13/2020 document. It shows the claim date for SOC 39-3890 as 1910. That is our domestic and irrigation well, one hole in the ground. It also shows SOC 39-14406, claim date 1989, as "UNUSED WELL". To my knowledge, it has not been used since then. It recently was advertised and sold with the property that Hammett-Tharp purchased.

The webpage provided by the Court is no longer valid. I am not real sure what the Adjudication or the Contested Case is actually about. We would just like to make sure that we can use our domestic well, provide some water to our pasture, and water livestock.

Please provide the needed documents to the mailing list distributed by the court. I will mail a copy with enclosure to Arizona Department of Water Resources.

Sincerely,

A handwritten signature in blue ink, appearing to read "Donna A. Quisenberry". The signature is fluid and cursive, with a large initial "D" and "Q".

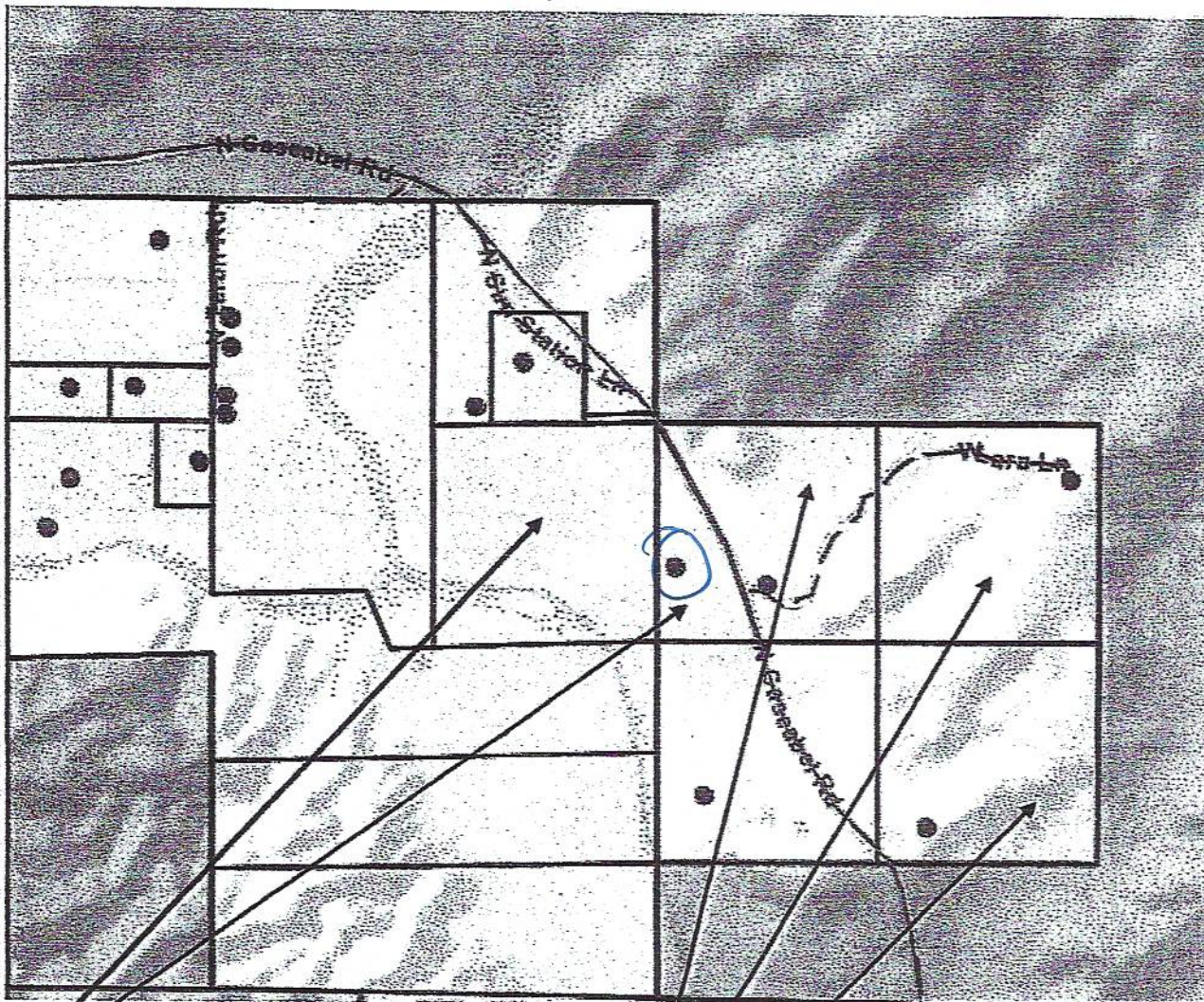
Donna A. Quisenberry

Enclosure 1

CC: Arizona Department of Water Resources  
Attn: Adjudication Section  
1110 W Washington St, Suite 310  
Phoenix, AZ 85007

# ATTACHMENT C

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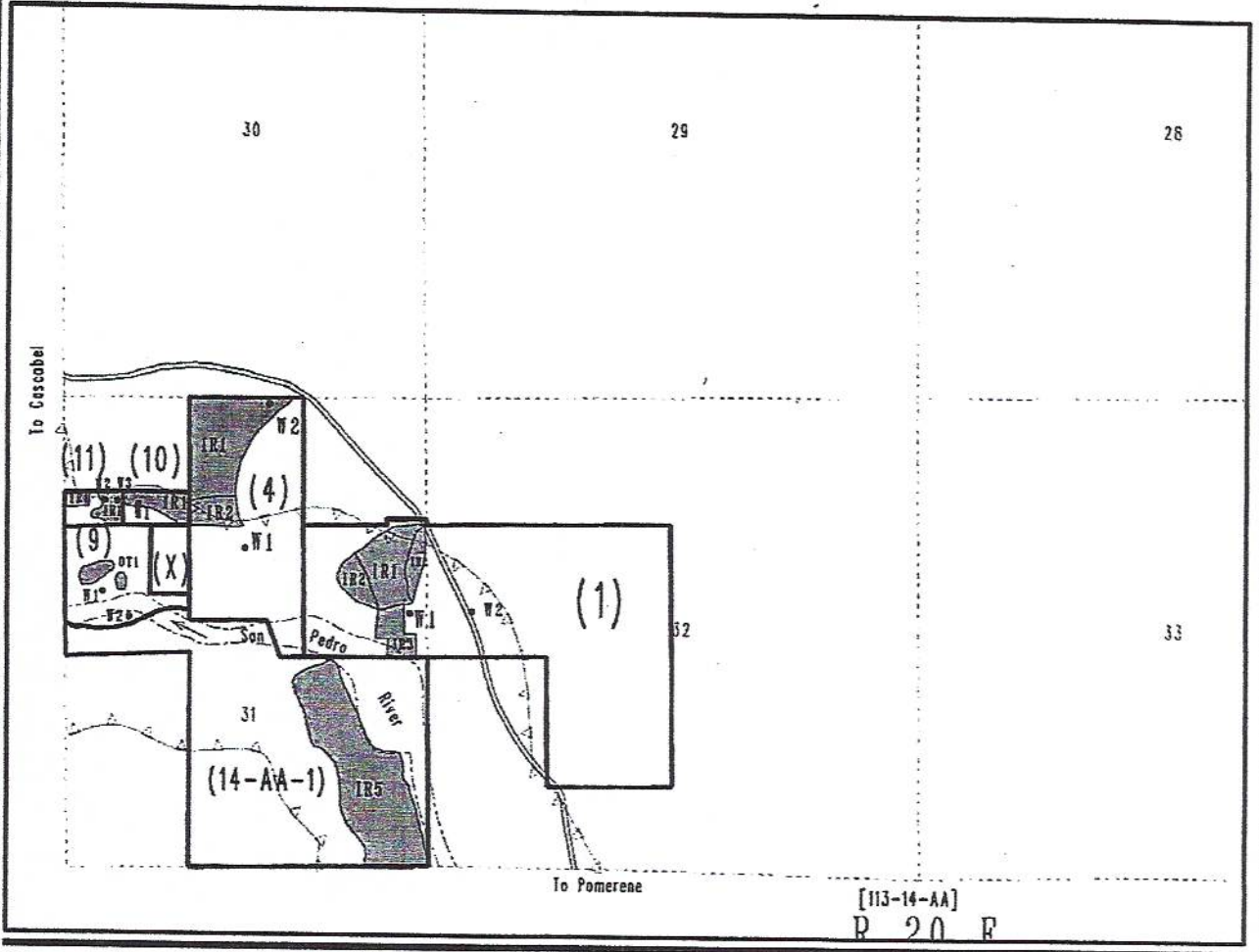


- Quisenberry Joel & Donna - Tax Parcel 20953001
- Quisenberry Joel & Donna - Tax Parcel 20954002b
- Hammett Robert & Tharp Phyllis - Tax Parcel 20954002
- Hammett Robert & Tharp Phyllis - Tax Parcel 20954004.
- Jaskulski Louisa M - Tax Parcel 20954001



# ATTACHMENT B

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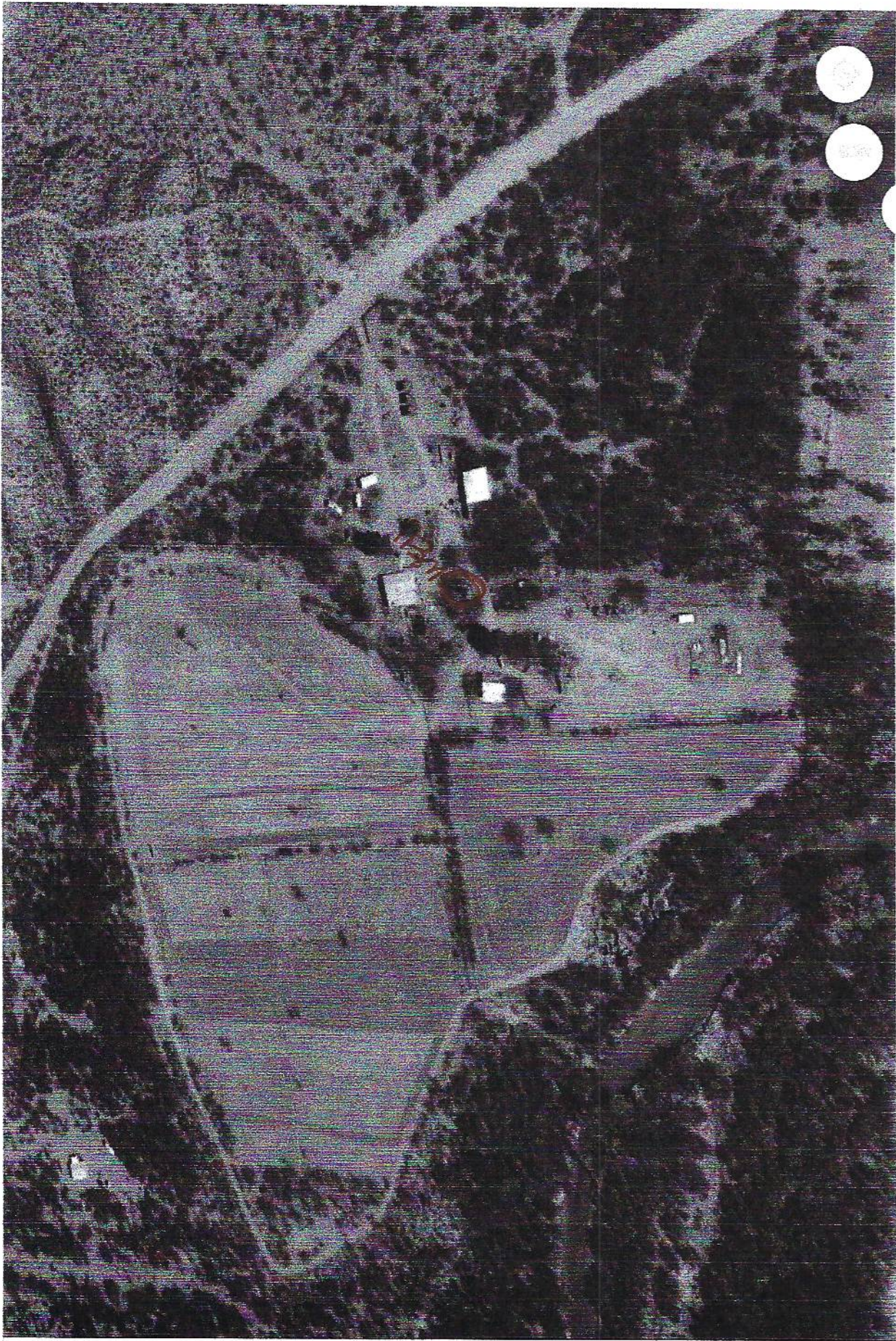




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Camera: 1.364 m 32°15'36"N 110°20'06"W 978 m



Camera: 1,364 m 32°15'44"N 110°20'05"W 984 m

100%

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Exhibit A

**PARCEL I:**

That portion of Parcel 4 as shown on a record of Land Survey recorded in Book 2 of Maps of Survey, page 26, records of Cochise County, Arizona, said Parcel 4 being in the Northwest quarter of Section 32, Township 13 South, Range 20 East, of the Gila and Salt River Base and Meridian, Cochise County, Arizona, and said portion being more particularly described as follows:

**BEGINNING** at the West quarter corner of said Section 32, identical with the Southwest corner of said Parcel 4;

thence North 00° 02' 00" East coincident with the West line of said Section 32 and the West line of said Parcel 4, a distance of 288.75 feet;

thence North 54° 21' 51" East, a distance of 500.49 feet to a point in the approximate centerline of Cascabel Road;

thence South 19° 38' 12" East along the approximate centerline of said Cascabel Road, a distance of 618.42 feet to a point on the South line of said Parcel 4 and the South line of the Northwest quarter of said Section 32;

thence North 89° 48' 15" West coincident with the South line of said Parcel 4 and the South line of the Northwest quarter of said Section 32, a distance of 614.75 feet to the West quarter corner of said Section 32 and the POINT OF BEGINNING.

**PARCEL II:**

That portion of Parcel 4 as shown on a record of Land Survey recorded in Book 2 of Maps of Survey, page 26, records of Cochise County, Arizona, said Parcel 4 being in the Northwest quarter of Section 32, Township 13 South, Range 20 East, of the Gila and Salt River Base and Meridian, Cochise County, Arizona, and said portion being more particularly described as follows:

**BEGINNING** at the West quarter corner of said Section 32, identical with the Southwest corner of said Parcel 4;

thence North 00° 02' 00" East coincident with the West line of said Section 32 and the West line of said Parcel 4, a distance of 288.75 feet to the POINT OF BEGINNING;

thence continuing North 00° 02' 00" East coincident with the West line of said Section 32 and the West line of said Parcel 4, a distance of 1,027.99 feet to the Northwest corner of said Parcel 4;

thence South 28° 52' 46" East, a distance of 840.98 feet;

thence South 54° 21' 51" West, a distance of 500.49 feet to a point on the West line of said Parcel 4 and the POINT OF BEGINNING.

**PARCEL III:**

That part of the South half of the Northeast quarter of Section 31, Township 13 South, Range 20 East, of the Gila and Salt River Base and Meridian, Cochise County, Arizona, described as follows:

**BEGINNING** at the Northwest corner of said South half;

thence South along the West line of said Northeast quarter a distance of 970.00 feet;

thence East 924.00 feet;

thence South 20° 30' East to a point on the South line of said Northeast quarter that bears West 1,584.00 feet from the East quarter corner of said section;

thence East along the South line of said Northeast quarter 1,584.00 feet;  
thence North along the East line of said Section, 1,320.00 feet to a point on the North line of said South half;  
thence West along the North line of said South half 2,640.00 feet to the TRUE POINT OF BEGINNING;

EXCEPT any portion lying West of the following:

BEGINNING at the Northeast corner of the West half of the Northeast quarter of Section 31, Township 13 South, Range 20 East, of the Gila and Salt River Base and Meridian, Cochise County, Arizona;  
thence Southwesterly to a point which is 600.00 feet East of the Southwest corner of the Northwest quarter of the Northwest quarter of the Northeast quarter;  
thence Southeasterly through a point 720.00 feet East of the Southwest corner of the Southwest quarter of the Northwest quarter of the Northeast quarter to a point which is 875.00 feet East and 1,910.00 feet South of the Northwest corner of the Northeast quarter;  
thence Southeasterly through a point 924.00 feet East and 2,290.00 feet South of the Northwest corner of the Northeast quarter to a point on the South line of the Northeast quarter which is 1,056.00 feet East of the Southwest corner of the Northeast quarter;  
thence 264.00 feet East to the Southeast corner of the Southwest quarter of the Northeast quarter;  
thence North 2,640.00 feet along the East line of the West half of the Northeast quarter to the POINT OF BEGINNING.

PARCEL IV:

That portion of the South half of the Northeast quarter of the Northeast quarter of Section 31, Township 13 South, Range 20 East, of the Gila and Salt River Base and Meridian, Cochise County, Arizona:

BEGINNING at the Southeast corner of said South half of the Northeast quarter of the Northeast quarter;  
thence North 00° 02' 00" East along the Easterly line of the Northeast quarter a distance of 50.00 feet;  
thence South 89° 08' 03" West parallel with the Southerly line of said South half of the Northeast quarter of the Northeast quarter, a distance of 425.00 feet;  
thence South 00° 02' 00" West parallel with the Easterly line of said Northeast quarter a distance of 50.00 feet to a point on the Southerly line of said South half of the Northeast quarter of the Northeast quarter;  
thence North 89° 08' 03" East along the said line a distance of 425.00 feet to the POINT OF BEGINNING.

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LAND OWNER  
 GARD, DAVID & FAY N.A.  
 SILVER TIP RANCH

WATERSHED FILE  
 REPORT NUMBER  
 113-12-DD-001

APPLICABLE FILINGS AND DECREES

CLEARLY STATED INFORMATION FROM FILINGS AND DECREES

2726  
 WI-11-~~2726~~

FILING NUMBER	FILING STATUS	USES	QUANTITY IN AFA	USE LOCATION SECTION	TWNP	RNGE	CLAIM DATE	DIVERSION LOCATION SECTION	TWNP	RNGE
36-0029052		IRRIGATION DOMESTIC STOCK	24.43	NE31	130S	200E	1910	NE31	130S	200E
39-0003890	QUE.RECD	IRRIGATION DOMESTIC STOCK	24.35 .07	31	130S	200E	1910	31	130S	200E
39-0014406		REC/FISH/WLDF IRRIGATION STOCK REC/FISH/WLDF	.01 150.00 10.00	32	130S	200E	1989	NENWSW32	130S	200E

DWR ANALYSIS OF FILINGS AND DECREES

FILING NUMBER	USES CLAIMED OR REFERENCED	USES FOUND BY DWR	APPLIES TO DIVERSIONS	APPLIES TO PWR NUMBERS
36-0029052	IRRIGATION DOMESTIC STOCK	IRRIGATION DOMESTIC INCIDENTAL	WO1	DMOO1, IROO1, IROO2
39-0003890	IRRIGATION DOMESTIC STOCK	IRRIGATION DOMESTIC INCIDENTAL	WO1	DMOO1, IROO1, IROO2
39-0014406	WILDLIFE IRRIGATION STOCK RECREATION	INCIDENTAL NONE NONE NONE	WO2	

DIVERSIONS

DIV #	SECTION	TWNP	RNGE	DIVERSION NAME	WATER SOURCE AND CLASSIFICATION
WO1	SESENE31	130S	200E	UNNAMED	GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER
WO2	NENWSW32	130S	200E	UNNAMED	GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER UNUSED

USES

PWR #	SECTION	TWNP	RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO SOURCE DATE	SOURCE CHANGE	FACILITY NAME
DMOO1	SWSWNW32	130S	200E	WO1	GROUNDWATER : ZONE 1		NO	
IROO1	SENE31	130S	200E	WO1	GROUNDWATER : ZONE 1	1935	NO	
IROO2	SENE31	130S	200E	WO1	GROUNDWATER : ZONE 1	1972	NO	
IROO3	SENE31	130S	200E	WO1	GROUNDWATER : ZONE 1	1990	NO	

PWR SUMMARY

PWR #	APPLICABLE ADJ FILINGS	APPLICABLE PRE FILINGS	*APPARENT FIRST USE DATE*	DATE BASIS FOR DATE	WATER SOURCES AND CLASSIFICATIONS
DMOO1	39-0003890	36-0029052			GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER
IROO1	39-0003890	36-0029052	1910	36-29052 & 39-3890	GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER
IROO2	39-0003890	36-0029052	1972	1972 AERIAL PHOTO	GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER
IROO3	39-0003890	36-0029052	1990	1990 AERIAL PHOTO	GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER
NONE	39-0014406	NONE			

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PWR #	QUANTIFICATION TYPE	ACRES	CROP TYPE	EFF	WATER DUTY	ESTIMATED VOLUME	REMARKS
DM001							
IROO1	MAX. OBSERVED REGIONAL	8.0	PECANS W/GC	58%	6.0 AF/AC	48.0 AFA	SEE VOLUME 1 - GENERAL ASSESSMENT
	MAX. POTENTIAL	8.0	AVE. CROP	50%	5.4 AF/AC	43.2 AFA	
IROO2	MAX. OBSERVED REGIONAL	8.0	ALFALFA	58%	5.7 AF/AC	45.6 AFA	
	MAX. OBSERVED REGIONAL	5.1	PECANS W/GC	58%	6.0 AF/AC	30.6 AFA	
	MAX. POTENTIAL	5.1	AVE. CROP	50%	5.4 AF/AC	27.5 AFA	
IROO3	MAX. OBSERVED REGIONAL	5.1	ALFALFA	58%	5.7 AF/AC	29.1 AFA	
	MAX. OBSERVED REGIONAL	3.5	PERM. PSTR	58%	5.4 AF/AC	18.9 AFA	
	MAX. POTENTIAL	3.5	AVE. CROP	50%	5.4 AF/AC	18.9 AFA	
	MAX. POTENTIAL	3.5	ALFALFA	58%	5.7 AF/AC	20.0 AFA	

E X P L A N A T I O N

FILINGS AND DECREES

FILING 39-3890 - A UNIFORM QUESTIONNAIRE WAS RECEIVED WHICH PROVIDED ADDITIONAL INFORMATION ABOUT WATER USES AND DIVERSION LOCATIONS ON THIS PROPERTY.  
 FILING 39-14406 - CLAIMS IRRIGATION, STOCKWATERING, AND RECREATION USES. NO USES WERE FOUND AT THE CLAIMED LOCATION.

DIVERSIONS

W1 - WELL PROVIDES WATER FOR IRRIGATION, DOMESTIC, STOCKWATERING, AND WILDLIFE USES.  
 W2 - UNUSED WELL.

USES AND RESERVOIRS

DM1 - DOMESTIC USE.  
 IR1 & IR2 - IRRIGATED PECAN TREES.  
 IR3 - IRRIGATED PASTURE.

DISPOSITION OF LAND OWNER/CLAIMANT COMMENTS

A COMMENT WAS RECEIVED WHICH PROVIDES ADDITIONAL INFORMATION ON THE LAND OWNERSHIP, WELL LOCATIONS, AND IRRIGATION.

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**ATTACHMENT B**



Court Approved Mailing List  
In re David and Fay Gard, Contested Case No. W1-11-2726  
W1-11-2726 (13 Names)  
Prepared by the Special Master  
4/22/2021

---

Clerk of the Superior Court  
Maricopa County  
Attn: Water Case  
601 West Jackson Street  
Phoenix, AZ 85003

F. Patrick Barry and Emmi  
Blades  
U.S. Department of Justice

P. O. Box 7611  
Washington, DC 20044-7611

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Joel and Donna Quisenberry  
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Benson, AZ 85602

John D. Burnside  
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Josh Edelstein Phoenix Field  
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Office of the Solicitor  
U.S. Department of the Interior  
Sandra Day O'Connor U.S.  
Courthouse  
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St., SPC 44  
Phoenix, AZ 85003

Kimberly R. Parks  
Arizona Department of Water  
Resources  
P. O. Box 36020  
Phoenix, AZ 85067

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Linus Everling and Thomas L.  
Murphy  
Gila River Indian Community  
Office of the General Counsel  
P. O. Box 97  
Sacaton, AZ 85147

Richard Palmer, Jr and  
Jeremiah Weiner  
Lauren Mulhern  
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Chandler, AZ 85225

S. Montgomery, R. Interpreter,  
J. Tomkus,  
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Special Master  
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