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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 (Salt)
W-2 (Verde)
W-3 (Upper Gila)
W-4 (San Pedro)
(Consolidated)

Contested Case No. W1-11-3367

**ORDER REGARDING
POTENTIAL WATER RIGHT**

CONTESTED CASE NAME: *In re Magoffin II*
HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report.
DESCRIPTIVE SUMMARY: One abstract issued for a proposed water right for a stockpond and a deadline set to file stipulated abstract or status report.
NUMBER OF PAGES: 16
DATE OF FILING: June 25, 2021

This case involves water use on land located in the northeast and southeast quarters of Section 27 T07S R20E in Graham County. See map prepared by Arizona Department of Water Resources (“ADWR”) dated May 2020 attached as Attachment A. Anna M. and Matthew O. Magoffin as trustees of the Magoffin Family Trust (collectively “Claimant”) seek a water right for a stockpond on the land in lieu of the claim for an irrigation right. See Minute Entry filed

1 May 5, 2021. The parties agreed that such a water right could be issued to the Claimant using the
2 *de minimis* procedures. *Id.*

3 Claimant filed Statement of Claimant 39-18168 for a water use with a point of diversion
4 and place of use in the southeastern quarter of the northwestern quarter of the northeastern quarter
5 of Section 27 Township 7S Range 20E. As the legal basis for the claim, the Claimant filed a
6 patent from the United States based on Homestead Certificate no. 128 and Application 383
7 (“Homestead Certificate”) dated April 3, 1896. The Claimant also referenced Statement of Claim
8 36-105971 for stock and wildlife watering in the northwestern quarter of the northeastern quarter
9 of Section 27 Township 7S Range 20E.

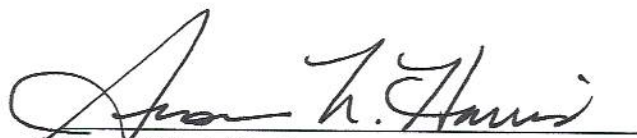
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11 A map prepared by ADWR dated May 2021 (“2021 Map”) demonstrates that the claimed
12 stockpond is located in the southwestern quarter of the northwestern quarter of the northeastern
13 quarter of Section 27 Township 7S Range 20E and the well that provides the water for the
14 stockpond is located in the southeastern quarter of the northeastern quarter of the northwestern
15 quarter of Section 27 Township 7S Range 20E. A copy of the 2021 Map is attached as Attachment
16 B. A draft abstract based on this information is attached as Attachment C.

17 Neither Statement of Claim 38-96721 filed by Claimant nor Certificate of Stockpond
18 Water Right No. 38-96721 issued by Arizona Department of Water Resources for Haby Pond has
19 the correct locations for the stockpond and point of diversion. The Arizona Department of Water
20 Resources filed an inspection report for 38-96721 that lists the location of the stockpond (Haby
21 Pond) and the point of diversion as the northwest quarter of the northeast quarter of Section 27
22 Township 7S Range 20E. However, the records in ADWR’s Well Registry indicate that the well
23 supplying water for this stockpond is located cadastral D07020027BAD which means the
24 southeastern quarter of the northeastern quarter of the northwestern quarter Section 27 Township
25 7S Range 20E. This legal description is consistent with the photograph of the well ADWR put
26 in its field inspection report for 38-96721 (Attachment D), consistent with the 2021 Map, and
27 consistent with the Statement of Claim 36-105971 filed by the Claimant, but inconsistent the
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Certificate of Stockpond Water Right No. 38-96721. The Statement of Claim 36-105971 is attached as Attachment E.

IT IS ORDERED that the parties shall either file a stipulated agreement to a proposed abstract or file a status report detailing any issues encountered in the resolution of any objections to the draft abstract by September 30, 2021.


Susan Ward Harris
Special Master

The original of the foregoing was delivered to the Clerk of the Maricopa County Superior Court on June 25, 2021, for filing and distributing a copy to all persons listed on the Court approved mailing list for this Contested Case.

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ATTACHMENT A

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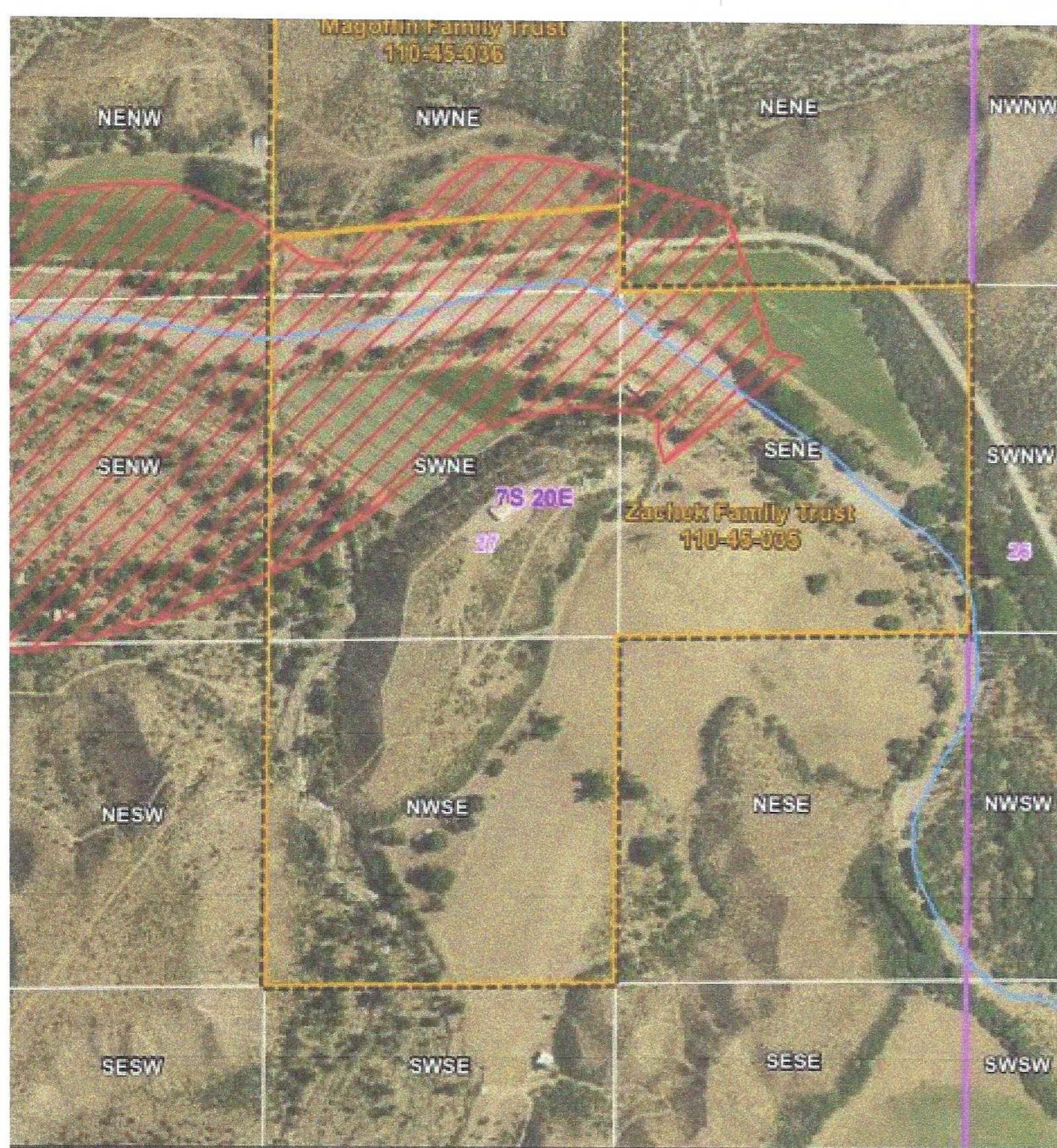
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In re Magoffin II
 Contested Case W1-11-3367
 Watershed File Report
 115-05-048
 Section 27 T07S R20E
 WFR Boundary and

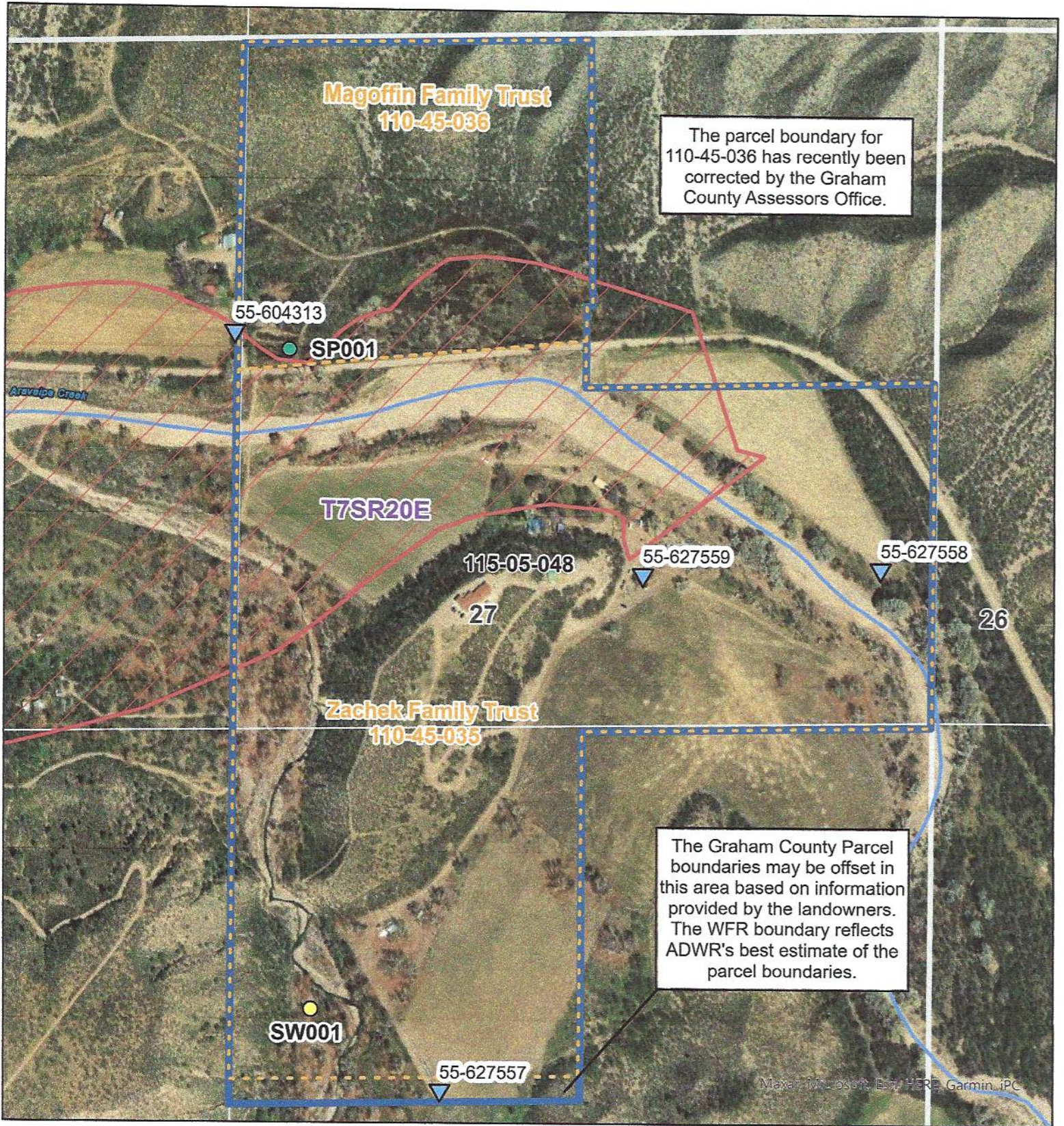


Legend


-  Aravaipa Creek
-  WFR Boundary
-  Graham County Parcels
-  Subflow Zone

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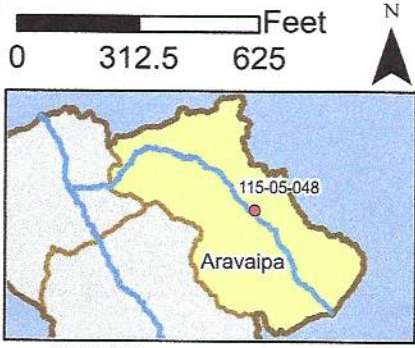
ATTACHMENT B












In re Magoffin II
 Contested Case W1-11-3367
 Watershed File Report
 115-05-048
 Section 27 T07S R20E



ADWR May 2021



Legend

-  Aravaipa Creek
-  Subflow Zone
-  Township
-  Section
-  Graham County Parcel
-  WFR Boundary
-  Well
-  SP - Stockpond
-  SW - Spring

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ATTACHMENT C

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**Proposed Abstract of Water Right
San Pedro Watershed**

Attribute	Proposed Abstract of Water Right
1. Proposed Water Right No.:	115-05-048-SP001
2. Owner of Water Right:	Matthew O. and Anna M. Magoffin as trustees of the Magoffin Family Trust
3. Landowner:	Matthew O. and Anna M. Magoffin as trustees of the Magoffin Family Trust
4. Statement of Claimant No.(s):	39-18168
5. Statement of Claimant Name(s):	Matthew O. and Anna M. Magoffin as trustees of the Magoffin Family Trust
6. Lessee or Permittee:	N/A
7. Basis of Right:	36-105971
8. Beneficial Use:	Stock watering from a Stock Pond
9. Priority Date:	4/23/1896
10. Quantity:	Not to exceed (\leq) 4 acre feet annually with continuous fill
11. Place of Use:	SWNWNE Section 27 T7S R20E Gila and Salt River Base and Meridian, Graham County, AZ
12. Point of Diversion:	SENENW Section 27 T7S R20E Gila and Salt River Base and Meridian, Graham County, AZ
13. Source of Water:	Surface Water: Aravaipa Creek Subflow
14. Facility:	Haby Pond

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ATTACHMENT D

**ARIZONA DEPARTMENT OF WATER RESOURCES
 WATER PLANNING AND PERMITTING DIVISION – SURFACE WATER PERMITTING UNIT
 FIELD INSPECTION REPORT
 CLAIM OF WATER RIGHT FOR A STOCKPOND AND APPLICATION FOR CERTIFICATION NO. 38-96721**

1. STOCKPOND CLAIM INFORMATION	
a. PROPERTY OWNER: Magoffin Family Trust	b. ADDRESS: 34625 W. Klondyke Rd
c. STOCKPOND CLAIM NO: 38-96721	d. PRIORITY DATE: October 22, 2019
e. STOCKPOND NAME: Haby Pond	f. CONSTRUCTION DATE: February 8, 1941
g. STOCKPOND CAPACITY (AC-FT): 2	h. SOURCE OF SUPPLY: Aravaipa Creek
i. COUNTY: Graham	j. PARCEL NO.: 110-45-036
k. POINT OF DIVERSION (IF DIFFERENT THAN PLACES OF USE): N/A	l. PLACE OF USE: NW¼NE¼ Sec. 27, T. 7S, R. 20E
m. BENEFICIAL USES: Stockwatering and Wildlife	n. ASSOCIATED WATER RIGHTS OR CLAIMS: N/A

2. GENERAL INSPECTION INFORMATION	
a. DATE NOTICE OF INSPECTION MAILED: December 2, 2019	b. INSPECTION DATE: December 12, 2019
c. INSPECTED BY: Faith Shelton and David Keadle	d. INSPECTION TIME: 10:19 am
e. ID SHOWN (Y/N): Y	f. 1009 FORM (Y/N): Y
g. SIGNED BY: Anna Magoffin	
h. OTHER INDIVIDUALS PRESENT AT THE INSPECTION: Cera Lange, Anna Magoffin, Matthew Magoffin	

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3. STOCKPOND INSPECTION INFORMATION	
a. HYDRAULIC CONTROL POINT (SPILLWAY, OUTLET PIPE, OTHER): Inlet pipe	b. LOCATION OF HYDRAULIC CONTROL POINT: W
c. IS THERE WATER IN THE STOCKPOND (Y/N)? N DEPTH OF THE WATER (FT): N/A DISTANCE FROM THE SURFACE OF THE WATER TO HYDRAULIC CONTROL POINT (FT): N/A	d. HYDRAULIC HEIGHT(FT): 9
e. SURFACE AREA OF STOCKPOND AT ELEVATION OF HYDRAULIC HEIGHT (AC): 0.52	
f. CALCULATED MAXIMUM STORAGE CAPACITY (AC-FT): 1.9 CALCULATON USED TO DETERMINE MAXIMUM STORAGE CAPACITY: (0.4 x HH x Surface Area Acres) = 1.9	
g. DAM HEIGHT MEASURED FROM UPSTREAM TOE (FT), IF POSSIBLE: 9	h. DAM HEIGHT MEASURED FROM DOWNSTREAM TOE (FT): 9
i. DAM CREST LENGTH (FT): 540	j. DAM CREST WIDTH (FT): 12
k. UPSTREAM SLOPE: 2:1	l. DOWNSTREAM SLOPE: 2:1
m. SPILLWAY WIDTH (FT): N/A	
n. DEPTH OF SPILLWAY MEASURED FROM DAM CREST (FT): N/A	o. LOCATION OF SPILLWAY IN RELATION TO THE DAM: N/A
p. INLET PIPE DIAMETER (IN): 7	q. SHAPE OF THE STOCKPOND: Rectangle
r. DESCRIBE ANY DIVERSION WORKS (DITCH, DAM, PUMPS, PIPES, CANALS, ETC): Pipe	
s. OVERALL CONDITION OF DIVERSION WORKS (GOOD, FAIR, POOR): Pipe - Fair ARE THE DIVERSION WORKS FUNCTIONAL (Y/N): Y	
t. IS THE POINT OF DIVERSION THE SAME AS THE PLACE OF USE (Y/N)? N IF NOT, DESCRIBE: Field inspection	

u. GPS LEGAL DESCRIPTION FOR THE PLACE OF USE: Long: 110°17'21.42" W Lat: 32°48'3.48" N	
v. GPS LEGAL DESCRIPTION FOR THE POINT OF DIVERSION IF DIFFERENT FROM THE PLACE OF USE:	
w. OVERALL CONDITION OF DAM (GOOD, FAIR, POOR): Fair	
x. TOTAL NO. OF PHOTOS: 8 (SEE ATTACHED PHOTOS)	STOCKPOND - 1, 2, 3
	INLET - 2, 3, 5
	OUTLET -N/A
	SPILLWAY - N/A
	DIVERSION WORKS - 1-7
	OTHER -(Well)- 6

4. COMPLIANCE CHECKLIST	
IS THE SOURCE(S) OF WATER THE SAME AS LISTED ON THE CLAIM (Y/N)? Y	DESCRIBE: Water from a well located within the San Pedro subflow delineation zone.
DOES THE GPS LOCATION FALL WITHIN THE LEGAL DESCRIPTION(S) LISTED ON THE CLAIM (Y/N)? Y	IF NOT, DESCRIBE: N/A
IS THE MEASURED MAXIMUM STORAGE CAPACITY EQUAL TO THE STORAGE CAPACITY LISTED ON THE CLAIM (Y/N)? N	IF NOT, DESCRIBE: Field measurement is 1.9 acre-feet.
IS THE STOCKPOND BEING USED ONLY FOR THE CLAIMED BENEFICIAL USES (Y/N)? Y	IF NOT, DESCRIBE: N/A

ADDITIONAL COMMENTS:

The surrounding dam for Haby Pond does not allow for direct surface water inflows. The field inspection determined that the current water source is water from a well registered with the Arizona Department of Water Resources as Well Registration No. 55-604313.

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INSPECTION REPORT DUE: January 12, 2020	INSPECTION REPORT MAILED: May 13, 2019	APPROVED BY: Elizabeth Logan
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ARIZONA DEPARTMENT OF WATER RESOURCES
 SURFACE WATER PERMITTING UNIT-WATER PLANNING AND PERMITTING DIVISION
 CLAIM OF WATER RIGHT FOR A STOCKPOND AND APPLICATION FOR CERTIFICATION NO. 38-96721
FIELD INSPECTION PHOTO REPORT
 INSPECTION DATE: December 12, 2019

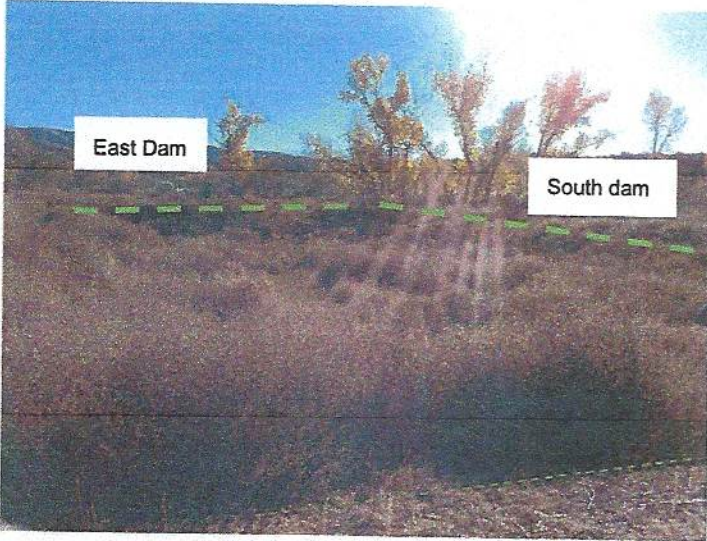


PHOTO NUMBER: 1
PHOTO DIRECTION: SE
DESCRIPTION: Overview photo of Haby Pond (Rectangular shape structure). Hash lines indicate general perimeter of earthen dam.

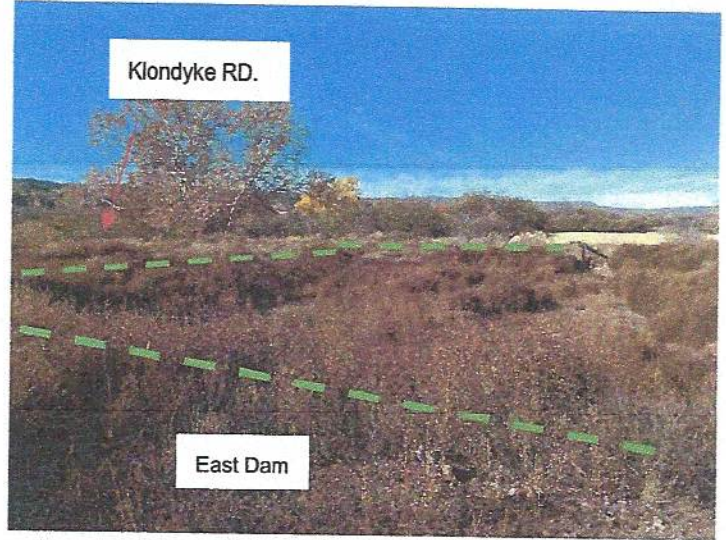


PHOTO NUMBER: 2
PHOTO DIRECTION: SW
DESCRIPTION: Haby Pond facing Klondyke Road in background. Hash lines indicate general perimeter of earthen dam, which appears level on all sides with no emergency spillway.

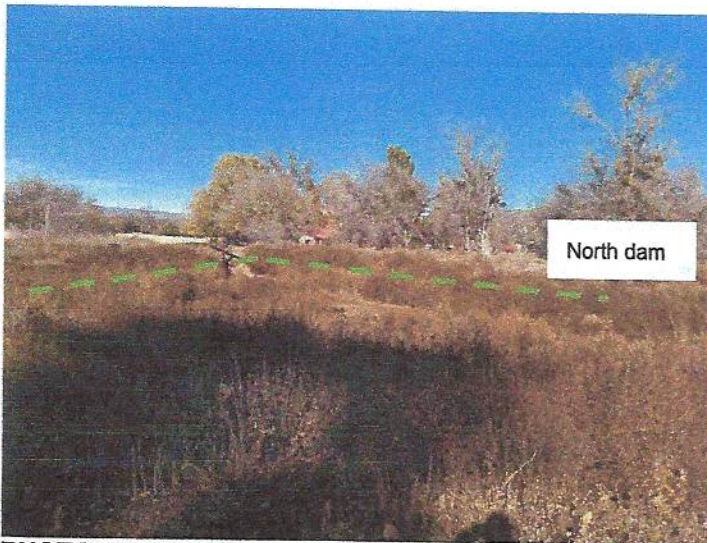


PHOTO NUMBER: 3
PHOTO DIRECTION: NW
DESCRIPTION: Haby Pond facing ranch home. Hash lines indicate general perimeter of earthen dam.

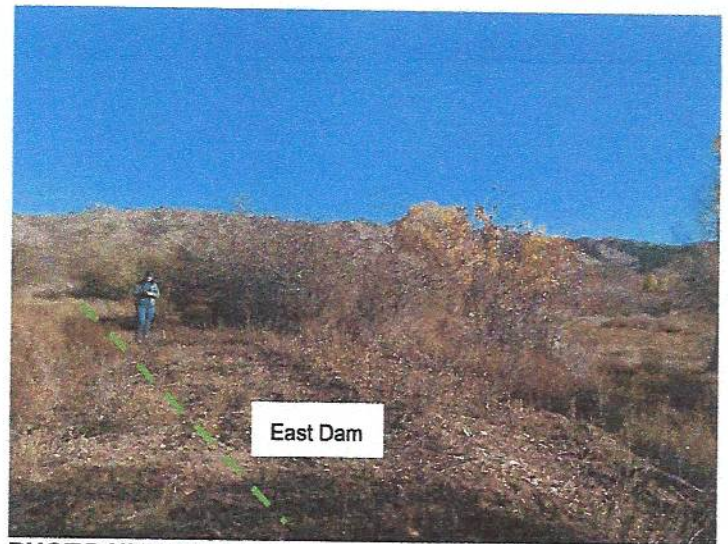


PHOTO NUMBER: 4
PHOTO DIRECTION: NE
DESCRIPTION: East end of Haby Pond crest (Hash line indicates general perimeter of earthen dam).

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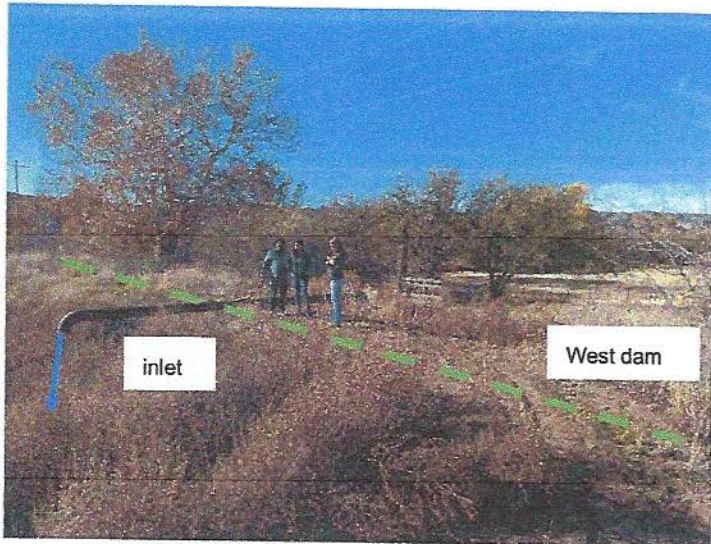


PHOTO NUMBER: 5
PHOTO DIRECTION: SW
DESCRIPTION: West end of Haby Pond dam. The inlet pipe is connected to a well registered with the Arizona Department of Water Resources as Well Registration No. 55-604313. Haby Pond does not have outlet drain.



PHOTO NUMBER: 6
PHOTO DIRECTION: E
DESCRIPTION: The source of water for Haby Pond is water from a well registered with the Arizona Department of Water Resources as Well Registration No. 55-604313.

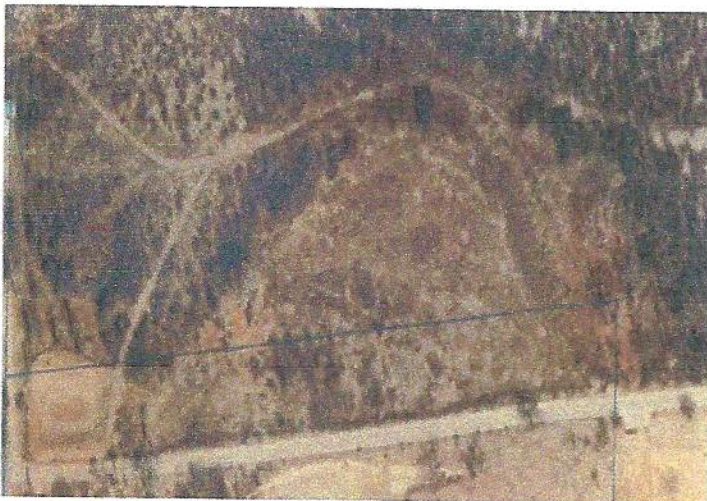


PHOTO NUMBER: 7
PHOTO DIRECTION: Aerial imagery
DESCRIPTION: Imagery of Haby Pond, located on the left hand side.

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ATTACHMENT E

ARIZONA DEPARTMENT OF WATER RESOURCES
MAIL TO: 1110 W. Washington St., Ste 310
Phoenix, Arizona 85007
Telephone (602) 771-8621
Fax (602) 771-8689

(For office use only)
 Registry No. 30-105971
 Date Filed: 5/29/2020

STATEMENT OF CLAIM OF RIGHT TO USE PUBLIC WATERS OF THE STATE OF ARIZONA

1. Claimant Magoffin Family Trust Telephone 928-828-2471
 Address 34625 W Klondyke Rd City Willcox State AZ Zip 85643

2. Type of water source and name Aravaipa Creek
 a tributary to San Pedro within the San Pedro River watershed
 (for office use only)

Type of Water Use(s) (e.g., irrigation, domestic, stock)	Annual Use (list use amount for each type)	Acres Irrigated (irrigation use only)	Specific Months of Use (if not for entire year)
<u>stock water</u>	<u>1 AFA</u>		RECEIVED MAY 29 2020
<u>wildlife</u>	<u>1 AFA</u>		

4. Date the water was first used beneficially (month/day/year): 4-23-1896

5. Location of point of water diversion: County Graham
 Parcel I.D. No. 110-45-021C and/or Lot No. _____ and NE 1/4 NW 1/4, Section 27, Township 7 N/S, Range 20 E/W

6. Location of place(s) of water use: County Graham
 Parcel I.D. No. 110-45-036 and/or Lot No. _____ and NW 1/4 NE 1/4, Section 27, Township 7 N/S, Range 20 E/W
 Parcel I.D. No. _____ and/or Lot No. _____ and _____ 1/4 _____ 1/4, Section _____, Township _____ N/S, Range _____ E/W

7. Legal basis for the claim (attach any documents being filed in support of claim):
Homestead Certificate No. 120 1896

The information contained herein is true and correct to the best of my (our) knowledge.

STATE OF ARIZONA }
 County of Cochise }

 Signature(s)

SUBSCRIBED AND SWORN to before me this 21 day of May, 2020.

My commission expires 11/17/2023

 Notary Public

