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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF APACHE

IN RE THE GENERAL
ADJUDICATION OF ALL RIGHTS
TO USE WATER IN THE LITTLE
COLORADO RIVER SYSTEM AND
SOURCE

CV6417
Case: **CV6417-33-5071**

**ORDER INITIATING CONTESTED
CASE AND SETTING INITIAL
CONFERENCE**

CONTESTED CASE NAME: *In re Glen and Janet Flake*
HSR INVOLVED: Silver Creek Hydrographic Survey.
DESCRIPTIVE SUMMARY: The Clerk of Apache County Superior Court is directed to initiate CV 6417-33-5071. Initial conference set for **March 27, 2024, at 11:00 a.m.**
NUMBER OF PAGES: 12

General Explanation

This order opens a case to determine rights to use water on land that the Navajo County Assessor has identified as owned by Rimrock Gravel LLC. The first step in this case is an initial conference with the Court, scheduled for **March 27, 2024, at 11:00 a.m.** to determine if landowners are interested in pursuing potential water rights. Interested Parties **MUST** attend the scheduled initial conference if they plan to pursue water rights. Failure to appear at the initial

1 conference could result in the dismissal of the case and the loss of water rights.

2 In this case, Glen and Sanford Flake filed Statement of Claimant (“SOC”) 39-81260 on
3 February 24, 1982, to assert claims to use water on property that appears to comprise Navajo
4 County tax parcels 202-09-005C and 202-09-004D. Both parcels are currently owned by
5 Rimrock Gravel LLC.

6 The first step in this case will be an initial conference, where landowners will state
7 whether they intend to pursue water rights.

8
9 **Additional background information on the process for determining water rights in**
10 **Arizona can be found on Attachment A.**

11
12 **Details of the Case**

13 On February 24, 1982, Glen and Sanford Flake (“Claimants”) filed Statement of Claimant
14 39-81260 claiming a right for irrigation purposes in the northwest quarter of the northwest
15 quarter of the southwest quarter of Section 14 Township 13 North, Range 21 East.

16 The Arizona Department of Water Resources (“ADWR”) investigated the claims made
17 by the Claimants and prepared Watershed File Report No. 33-42-052 (“WFR”), published in the
18 Final Silver Creek Watershed Hydrographic Survey Report (1991) (“Silver Creek HSR”). The
19 WFR recorded that water was supplying a small reservoir on the property but found no irrigation
20 use. A copy of the WFR is attached as Attachment B.

21 After ADWR issued the WFR, objections were filed to the findings made in the WFR by
22 the Salt River Project and the Arizona State Land Department. The purpose of this case is to
23 consider the claims made for water rights in SOC 39-81260, determine potential water rights
24 investigated by ADWR, and to resolve the objections to WFR 33-42-052.

1 **Claimant and Landowners**

2 The WFR lists Glen, Janet, Sanford, and Louise Flake as the owner of parcels 202-09-
3 005C and 202-09-004D in 1991.

4 Attachment C contains a description of the relevant documents obtained from the Navajo
5 County Recorder showing transfer of the parcels to Rimrock Gravel LLC. A copy of the map on
6 file with the Assessor showing the relevant tax parcels and current ownership is attached as
7 Attachment D.

8 The public records of the Arizona Department of Water Resources do not contain any
9 assignments of the SOC listed in the WFR, and the current landowners do not appear to have
10 filed any additional SOCs.

11 Property owners must file Statements of Claimant and present to the Court evidence that
12 water rights exist on their property. This evidence may include the WFR. If either the property
13 owners prove to the Court the existence of water rights on their properties or enter into a valid
14 settlement approved by the Court, the Court will recognize enforceable water rights in a “Final
15 Decree.” Ariz. Rev. Stat. § 45-257(B).

16 This is an order from the Court, and all parties must comply with the following
17 instructions. The failure to obey this, or any, court order may result in the dismissal of this case
18 and the loss of any potential water rights associated with the properties mentioned in this order.
19 If you have questions regarding this order or any of the attachments, please contact the General
20 Stream Adjudication, Office of the Special Water Master, at (602) 372-4115. Please note that
21 staff can only answer administrative questions and cannot provide legal advice.

22

23 **IT IS ORDERED:**

24 1. Case Initiation. This contested case shall be known as *In re Glen and Janet*
25 *Flake*, and it will resolve claims to appropriable water asserted in Statement of
26 Claimant 39-81260 and objections that were filed to Watershed File Report No. 33-
27 42-052.

28

1 2. Initial Conference. An initial conference shall be held on **March 27, 2024, at**
2 **11:00 a.m.** to determine whether current landowners intend to pursue claims for
3 water rights. The conference will be held using the Court Connect program.
4 Instructions for Court Connect are attached as Attachment F. If you receive this order
5 by email, click on the red box “Join Court Connect Hearing” on the attached
6 instructions to make an appearance. If you do not receive this order by email, log
7 into the Court Connect program on the internet by typing
8 <https://tinyurl.com/specialwatermaster>. If you do not have access to the internet, you
9 may attend telephonically using the telephone number and access code included in
10 the instructions for Court Connect.

11 3. Parties. The litigants in this contested case are the original Claimants, the current
12 landowners, and all parties who filed objections to the Watershed File Report. The
13 objectors in this case are the Salt River Project and the Arizona State Land
14 Department.

15 4. Objections. Copies of objections filed to WFR No. 033-42-052 can be found under
16 the case number CV 6417-33-5071 on the following website:
17 [http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/](http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp)
18 [whatsNew.asp](http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp).

19 5. Court-Approved Mailing List.

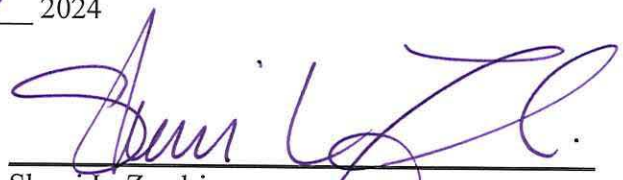
20 A. The initial Court-approved mailing list for this case shall include all
21 persons listed on Attachment E to this order. The list may be modified
22 only by filing a motion with the Special Master to amend the Court-
23 approved mailing list. Litigants are responsible for using the current
24 Court-approved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

25 B. A copy of any pleading filed with the Clerk of the Apache County
26 Superior Court in this case shall be served upon each person listed on the
27 Court-approved mailing list.

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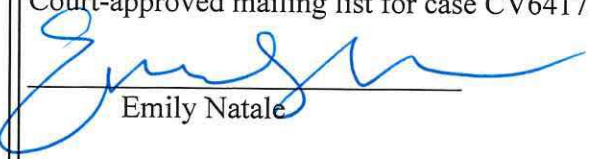
- C. Claimants wishing to be added or removed from the mailing list shall file a motion with the Special Master. Parties allowed to intervene will be automatically added to the Court-approved mailing list.
- D. The Clerk of the Court will send copies of all minute entries and orders issued in this case to the parties listed on the Court-approved mailing list.
- E. Claimants who would like to receive courtesy copies of minute entries and orders may request inclusion on an email list by sending a request to emily.natale@jbazmc.maricopa.gov.

Signed this 20th day of February 2024



Sherri L. Zendri
Special Water Master

On February 20, 2024, the original of the foregoing was delivered to the Clerk of the Apache County Superior Court for filing and distributing a copy to all persons listed on the Court-approved mailing list for this contested case, a copy of which is attached hereto as Attachment E, and all persons on the Court-approved mailing list for case CV6417.



Emily Natale

ATTACHMENT A

General Background on the Water Rights Determination Process in Arizona

A general stream adjudication is a judicial proceeding to determine the quantity and priority of all water rights in a river system. Arizona is undertaking general stream adjudications of both the Gila River and the Little Colorado River systems. A river system includes surface water flowing “in streams or other natural channels”, groundwater sufficiently connected to that surface water, and water subject to claims by the federal government. Ariz. Rev. Stat. § 45-251(7). Recognizing and respecting water rights and the priority of such rights is important in Arizona where times of drought or water scarcity can occur.

All cases begin with the filing of a “Statement of Claimant,” (“SOC”) in which a property owner makes a claim for a right to use surface water on their property. Ariz. Rev. Stat. § 45-254(A). This person is the “claimant.” The SOCs contain, among other characteristics, a description of the source and quantity of the water used, the location of use, the location from which the water was diverted, and the date when the water was first put to use. *Id.* § 45-254(C).

After the property owner files the SOCs, the Arizona Department of Water Resources (“ADWR”) prepares a “Watershed File Report,” (“WFR”) in which ADWR investigates the claims in the SOCs and recommends water rights associated with the property. *Id.* § 45-256(B). ADWR compiles all WFRs for a watershed into a comprehensive Hydrographic Survey Report (“HSR”) and publishes the report for public review and comment. In response, other claimants in the Adjudication may file “objections” disputing the information or recommendations in the WFR. The individuals who file objections are called “objectors.”

This “contested case”, one of thousands in the Little Colorado River System, will evaluate claims asserted in specific Statements of Claimant while considering objections to the WFR that reported ADWR’s initial inspection of those claims.

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ATTACHMENT B
Watershed File Report

LAND OWNER ----- WATERSHED FILE NO. -----
 FLAKE, GLEN & JANET 033-42-052
 FLAKE, SANFORD & LOUISE

A P P L I C A B L E F I L I N G S A N D D E C R E E S

CLEARLY STATED INFORMATION FROM FILINGS AND DECREES

FILING NUMBER	FILING STATUS	USES	QUANTITY IN AFA	USE LOCATION SECTION	TWNP	RNGE	CLAIM DATE	DIVERSION SECTION	LOCATION TWNP	RNGE
10-0009115				SW14	130N	210E	< 1896	22	130N	210E
10-0091104		IRRIGATION		E215	130N	210E	< 1900	22	130N	210E
39-0081260		OTHER IRRIGATION	400.00	SE15	130N	210E	< 1936	NWNWSW14	130N	210E

D W R A N A L Y S I S O F F I L I N G S A N D D E C R E E S

FILING NUMBER	USES CLAIMED OR REFERENCED	USES FOUND BY DWR	APPLIES TO DIVERSIONS	APPLIES TO PWR NUMBERS
10-0009115				SROO1
10-0091104	IRRIGATION	NONE		SROO1
39-0081260	OTHER IRRIGATION	OTHER NONE		

R E S E R V O I R S

PWR #	LOCATION SECTION	TWNP	RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCE	PHOTO DATE	RESERVOIR NAME	STORAGE PURPOSE
SROO1	SW14	130N	210E		SURFACE	1935	UNNAMED	FLOOD CONTROL EROSION CONTROL

P W R S U M M A R Y

PWR #	APPLICABLE ADJ FILINGS	APPLICABLE PRE FILINGS	** APPARENT FIRST USE DATE	DATA SOURCE	DRAINAGE AREA/WATER SOURCE NAME
SROO1	NONE	10-0009115 10-0091104	1896	10-09-1-115	COTTONWOOD WASH
NONE	39-0081260	NONE			

Q U A N T I T I E S O F U S E

PWR #	QUANTIFICATION TYPE	APPLICABLE ACREAGE/SURFACE AREA (ACRES)	WATER DUTY	ESTIMATED VOLUME	REMARKS
SROO1	MAX. AREA/CAP	2.6		2.1 AF	

E X P L A N A T I O N

FILINGS AND DECREES
 FILING 10-09-1-15 IS A RESERVOIR LOCATION NOTICE FILED BY THE TWIN LAKE RESERVOIR COMPANY ON FEBRUARY 19, 1896 IN NAVAJO COUNTY.
 FILING 10-09-1-104 IS A WATER APPROPRIATION NOTICE FILED BY J.M. FLAKE ON MAY 5, 1900.
 BOTH NOTICES CLAIM THE USE OF WATERS FROM COTTONWOOD WASH AND ITS TRIBUTARIES.
 FILING 39-81260 CLAIMS AN IRRIGATION USE FROM A WELL. A FIELD INVESTIGATION FOUND NO IRRIGATION AT THE CLAIMED LOCATION.

USES AND RESERVOIRS
 SR1 - SMALL RESERVOIR LOCATED ON AN UNNAMED TRIBUTARY TO COTTONWOOD WASH.

DISPOSITION OF LAND OWNER/CLAIMANT COMMENTS
 COMMENT INDICATED STOCKWATERING AND IRRIGATION USES FROM A WELL IN THE NW1/4, SECTION 15, T.13N., R.21E. A FIELD INVESTIGATION FOUND NO IRRIGATION AT THIS LOCATION.

ATTACHMENT C

Summary of County Recorder Documents

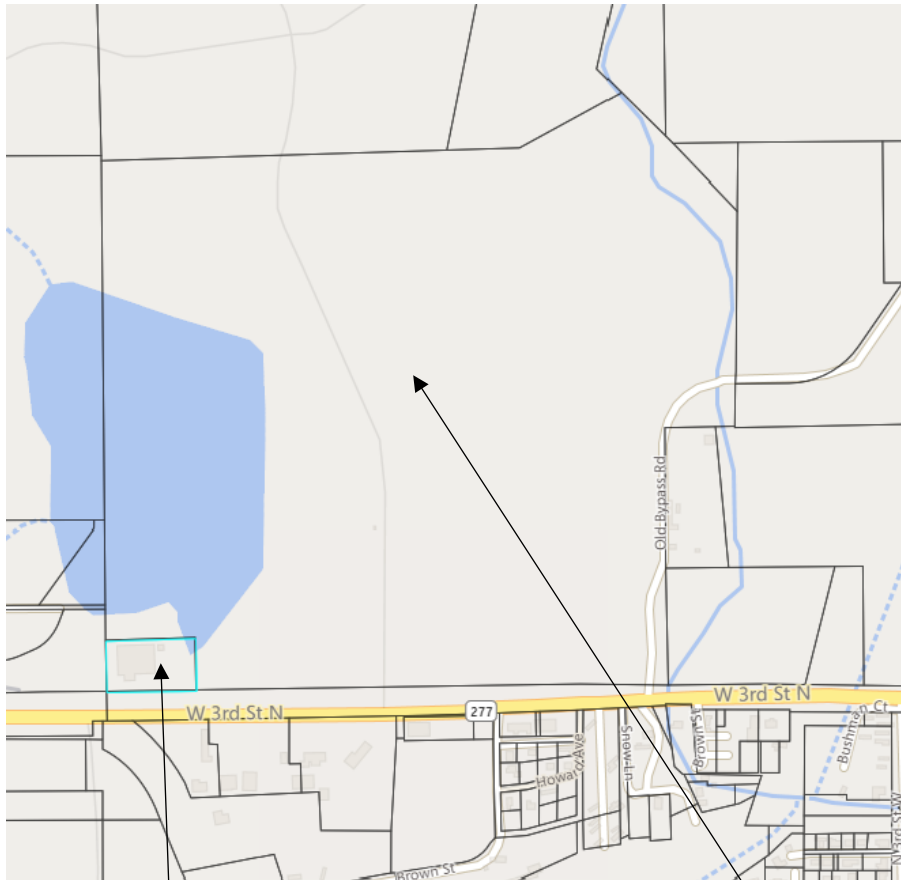
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20209005C		
Document No.	Transferor	Transferee
2001-01107	Glen and Janet Flake	Rimrock Gravel
2000-21265	National Auto Association	Rimrock Gravel
20209004D		
Document No.	Transferor	Transferee
2002-08564	Glen and Janet Flake	Rimrock Gravel

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ATTACHMENT D

Assessor Map



202-09-004D
Snowflake, AZ 85937

202-09-005C
Snowflake, AZ 85937

ATTACHMENT E

Initial Court-Approved Mailing List

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Arizona Department of Water Resources
Kimberly R. Parks and Karen J. Nielsen
1110 West Washington, Suite 310
Phoenix, AZ 85007

Glen L. Flake and Sanford D. Flake
PO Box 149
Snowflake, Arizona 85937

Arizona State Land Department
Carrie Brennan and Kevin Crestin
Arizona Attorney General
Natural Resources Section
2005 North Central
Phoenix, AZ 85004

Salt River Project
J.B. Weldon, M.A. McGinnis, M.K. Foy
Salmon, Lewis, and Weldon
2850 E. Camelback Rd. Suite 200
Phoenix, AZ 85016

Clerk of the Superior Court
Apache County
P. O. Box 365
St Johns, AZ 85936

M. Kirk Brimhall
c/o Rimrock Gravel LLC
850 N Main
Snowflake, AZ 85937

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ATTACHMENT F



Court Connect Hearing Notice for *In re Glen and Janet Flake*

This hearing will be conducted through the new Court Connect program offered by the Superior Court of Arizona in Maricopa County. This new and innovative program allows Court participants to appear online, rather than in a physical courtroom. Hearings are preferably conducted by videoconference but can also be conducted by phone. Lawyers (and self-representing litigants) are responsible for distributing this notice to anyone who will be appearing on their behalf.

All participants must use the JOIN COURT CONNECT HEARING button or the dial in information below to participate.

Participants: Please follow the steps below to participate in the remote proceeding.

1. Click the JOIN COURT CONNECT HEARING button below.
2. Enter your full name and role in name field.
3. Wait for the facilitator to admit you to the proceeding.

Remember to keep this email handy so you can use it to participate in the following proceeding.

Case Name: In re Glen and Janet Flake

Contested Case No. CV6417-33-5071

Start Date/Time: March 27, 2024, at 11:00 a.m.

JOIN COURT CONNECT HEARING

Dial-in Information: +1 917-781-4590

Private Dial-in Information: for privacy purposes, you can block your phone number by dialing *67 +1 917-781-4590

Dial-in Access Code: 688 970 203#

Tiny URL: <https://tinyurl.com/specialwatermaster>

To ensure an optimal experience, please review the brief Court Connect training prior to the hearing: [Here](#)