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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

CASE NO. CV 6417-33-5597

**ORDER INITIATING WATER RIGHTS
CASE AND SETTING A DATE FOR AN
INITIAL CONFERENCE**

CONTESTED CASE NAME: *In re Lester J. and Marie Petersen*

HSR INVOLVED: Silver Creek Hydrographic Survey

DESCRIPTIVE SUMMARY: The Clerk of Apache County is directed to initiate CV 6417-33-5597. Status conference set for **January 11, 2024, at 9:30 am.**

NUMBER OF PAGES: 14

General Explanation

This order initiates a proceeding to determine rights to use water on land identified by the Navajo County Assessor as owned by Marie Petersen as trustee. The failure of a property owner to appear in the proceeding could result in the loss of water rights. Ariz. Rev. Stat. § 45-254(F). The first step in this case is an initial conference with the Court, scheduled for **January 11, 2024, at 9:30 am**, to determine if parties associated with the land are interested in pursuing potential water rights. **Interested Parties MUST attend**

1 **the scheduled initial conference if they plan to pursue potential water rights.** Failure
2 to appear at the initial conference could result in the dismissal of the case and the loss of
3 water rights associated with the property.

4 In this case, Lester and E. Marie Petersen filed Statements of Claimant (“SOCs”)
5 39-81848 and 39-81849 on May 7, 1982, to assert claims to use water on land that appears
6 to include tax parcels 208-12-038, 208-12-037, and 208-12-042A. Marie Petersen appears
7 to own those parcels as a trustee.

8 The first step in this case will be an initial conference. At the conference, the Water
9 Master, who will be presiding over this case, will explain the case process as well as
10 answer any potential questions. At the conference, Marie Petersen must be prepared to
11 state whether she intends to pursue water rights for the land held in trust.

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13 **Additional background information on the process for determining water rights**
14 **in Arizona can be found on Attachment A**

15
16 **Details of this Contested Case**

17 On May 7, 1982, Lester J. and E. Marie Petersen filed two Statements of Claimant
18 (“SOCs”) with the following claims for impoundments:

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SOC Number	Quantity of Impoundment	Water Source	Water Use	Use Location
39-81848	1 acre-foot	Surface	Stockpond and Irrigation	Lot 4, Block 10 of Clay Springs Township
39-81849	1 acre-foot	Surface	Stockpond and Irrigation	Lot 1, Block 10 of Clay Springs Township.

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26 The Arizona Department of Water Resources (“ADWR”) investigated the claims made by
27 Lester and Marie Petersen (“Claimants”) and prepared Watershed File Report No. 033-
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1 50-ACC-003 (“WFR”) published in the Final Silver Creek Watershed Hydrographic
2 Survey Report (1991) (“Silver Creek HSR”). The WFR recorded that surface water from
3 two small reservoirs was being used for an irrigation purpose within the area noted in the
4 SOCs. A copy of the WFR is attached as Attachment B. A map that includes the area of
5 land that was investigated for the WFR, labeled as “(3)”, is attached as Attachment C.

6 After ADWR issued the WFR, objections were filed to the findings made in the
7 WFR by the Salt River Project, the United States, the Hopi Tribe, the Navajo Nation, and
8 the San Juan Southern Paiute Tribe. The purpose of this case is to consider the claims
9 made for water rights that are the subject of the WFR and to resolve the objections to the
10 WFR.

11 12 **Claimant and Landowner**

13 The WFR lists Lester J. and Marie Petersen as the owners of the land investigated
14 by ADWR. According to maps obtained from the Navajo County Assessor (“Assessor”),
15 the land investigated appears to comprise tax parcels 208-12-038, 208-12-037, and 208-
16 12-042A. Further, the Navajo County Assessor indicates that those parcels are owned by
17 Marie Petersen as a trustee.

18 The public records of the Arizona Department of Water Resources do not contain
19 any assignments of the SOCs listed in the WFR, and more recent SOCs or amendments
20 do not appear to have been filed with respect to the land at issue. A copy of the map
21 prepared by the Assessor showing the relevant tax parcels is attached as Attachment D.

22 In order obtain a water right, the property owners must present to the Court
23 evidence, which may include the WFR, showing the existence of water rights.
24 Alternatively, the property owners may settle with the objectors. If either the property
25 owners prove to the Court the existence of water rights on their properties or enter into
26 valid settlements, the court will recognize enforceable water rights in a “Final Decree.”
27 Ariz. Rev. Stat. § 45-257(B).

1 This is an order from the court and all parties must comply with the following
2 instructions. The failure to obey this, or any, court order may result in the dismissal of
3 this case and the loss of any potential water rights associated with the property mentioned
4 in this order. If you have questions regarding this Order or any of the attachments, please
5 contact the General Stream Adjudication, Office of the Special Water Master, at (602)
6 372-4115. Please note that staff can only answer administrative questions and cannot
7 provide legal advice.

8
9 **IT IS ORDERED:**

- 10 1. Case Initiation. This contested case shall be known as *In re Lester J. and Marie*
11 *Petersen, and* it will adjudicate claims to appropriable water asserted in
12 Statements of Claimant Nos. 39-81848 and 39-81849 and resolve objections that
13 were filed to Watershed File Report No. 33-50-ACC-003.
- 14 2. Initial Conference. An initial conference shall be held at **January 11, 2024 at**
15 **9:30 am** to determine whether current landowners intend to pursue claims for
16 rights to appropriable water. The conference will be held using the Court Connect
17 program. Instructions for Court Connect are attached as Attachment E. If you
18 receive this Order by email, click on the red box “Join Court Connect Hearing”
19 on the attached instructions to make an appearance. If you do not receive this
20 Order by email, log into the Court Connect program on the internet by typing
21 <https://tinyurl.com/specialwatermaster>. If you do not have access to the internet,
22 you may attend telephonically using the telephone number and access code
23 included in the instructions for Court Connect.
- 24 3. Parties. The litigants in this contested case are the Claimant, the current
25 landowner, and all persons who filed objections to the Watershed File Report who
26 are listed on Attachment F, and claimants who are allowed to intervene by order.
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1 The objectors in this case are: the Salt River Project, the United States, the Hopi
2 Tribe, the Navajo Nation, and the San Juan Southern Paiute Tribe.

3 4. Objections: Copies of objections filed to WFR No. 33-50-ACC-003 can be found
4 under the case number CV 6417-033-5597 on the following website:
5 <http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudica>
6 [tion/whatsNew.asp](http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp).

7 5. Court-Approved Mailing List.

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

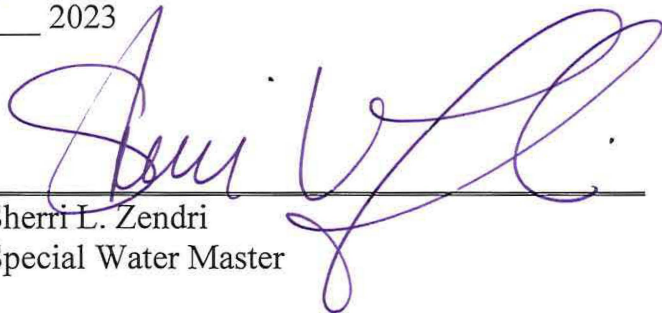
12 B. A copy of any pleading filed with the Clerk of the Apache County Superior
13 Court in this case shall be served upon each person listed on the Court-
14 approved mailing list.

15 C. Claimants wishing to be added or removed from the mailing list shall file a
16 motion with the Special Master. Parties allowed to intervene will be
17 automatically added to the Court-approved mailing list.

18 D. The Clerk of the Court will send copies of all minute entries and orders
19 issued in this case to the parties listed on the Court-approved mailing list.

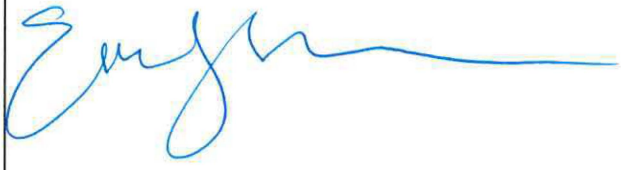
20 E. Claimants who would like to receive courtesy copies of minute entries and
21 orders may request inclusion on an email list by sending a request to
22 emily.natale@jbazmc.maricopa.gov.

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24 Signed this 7 day of December 2023

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28 Sherri L. Zendri
Special Water Master

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On December 7, 2023 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.

A handwritten signature in blue ink, appearing to be "Zanger", written over lines 5 and 6 of the document.

1 ATTACHMENT A

2 **General Background on the Water Rights Determination Process in Arizona**

3 A general stream adjudication is a judicial proceeding to determine the quantity and
4 priority of all water rights in a river system. Arizona is undertaking general stream adjudications
5 of both the Gila River and the Little Colorado River systems. A river system includes surface
6 water flowing “in streams or other natural channels”, groundwater sufficiently connected to that
7 surface water, and water subject to claims by the federal government. Ariz. Rev. Stat. § 45-
8 251(7). Recognizing and respecting water rights and the priority of such rights is important in
9 Arizona where times of drought or water scarcity can occur.

10 All cases begin with the filing of a “Statement of Claimant” (“SOC”) in which a property
11 owner makes a claim for a right to use surface water on their property. Ariz. Rev. Stat. § 45-
12 254(A). This person is the “claimant”. The SOCs contain, among other characteristics, a
13 description of the source and quantity of the water used, the location of use, the location from
14 which the water was diverted, and the date when the water was first put to use. *Id.* § 45-254(C).

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

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

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ATTACHMENT B
Watershed File Report

LAND OWNER _____ WATERSHED FILE NO. _____
 PETERSEN, LESTER J. 033-50-ACC-003
 & MARIE

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 LOCATION SECTION TWNP RNGE
39-0081848		STOCKPOND	1.00			11 11ON 19OE
39-0081849		STOCKPOND	1.00			11 11ON 19OE

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
39-0081848	IRRIGATION STOCKWATERING	IRRIGATION INCIDENTAL	PO1	SROO1, OTOO1
39-0081849	IRRIGATION STOCKWATERING	IRRIGATION INCIDENTAL	PO2	SROO2, OTOO1

D I V E R S I O N S

DIV #	LOCATION SECTION TWNP RNGE	DRAINAGE AREA/ WATER SOURCE NAME	DIVERSION NAME	REMARKS
PO1	NWSWSE11 11ON 19OE	COTTONWOOD WASH	UNNAMED	
PO2	NWSWSE11 11ON 19OE	COTTONWOOD WASH	UNNAMED	

U S E S

PWR #	LOCATION SECTION TWNP RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCE	PHOTO DATE	SOURCE CHANGE	FACILITY NAME
OTOO1	NWSWSE11 11ON 19OE	PO1, PO2	SURFACE	1953	NO	

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	NWSWSE11 11ON 19OE		SURFACE	1953	LESTER	IRRIGATION STOCKWATERING
SROO2	NWSWSE11 11ON 19OE		SURFACE	1953	PETERSEN	IRRIGATION STOCKWATERING

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
OTOO1	39-0081848	NONE	1951	39-81849	COTTONWOOD WASH
SROO1	39-0081848	NONE	1953	1953 AERIAL PHOTO	COTTONWOOD WASH
SROO2	39-0081849	NONE	1953	1953 AERIAL PHOTO	COTTONWOOD WASH

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
OTOO1	AVG. EFFICIENT	1.9	5.5 AF/AC	10.4 AFA	
SROO1	MAX. AREA/CAP	< 2.0		< OR = 15.0 AF	
SROO2	MAX. AREA/CAP	< 2.0		< OR = 15.0 AF	

DIVERSIONS

P1 & P2 - PORTABLE PUMPS DIVERT WATER FOR IRRIGATION USE FROM SMALL RESERVOIRS SR1 & SR2.

USES AND RESERVOIRS

OT1 - IRRIGATION OF GARDEN TOTALING LESS THAN TWO ACRES ASSOCIATED WITH A DOMESTIC USE.

SR1 & SR2 - SMALL RESERVOIRS LOCATED ON AN UNNAMED TRIBUTARY TO TOWN DRAW, WITHIN THE COTTONWOOD WASH DRAINAGE AREA.

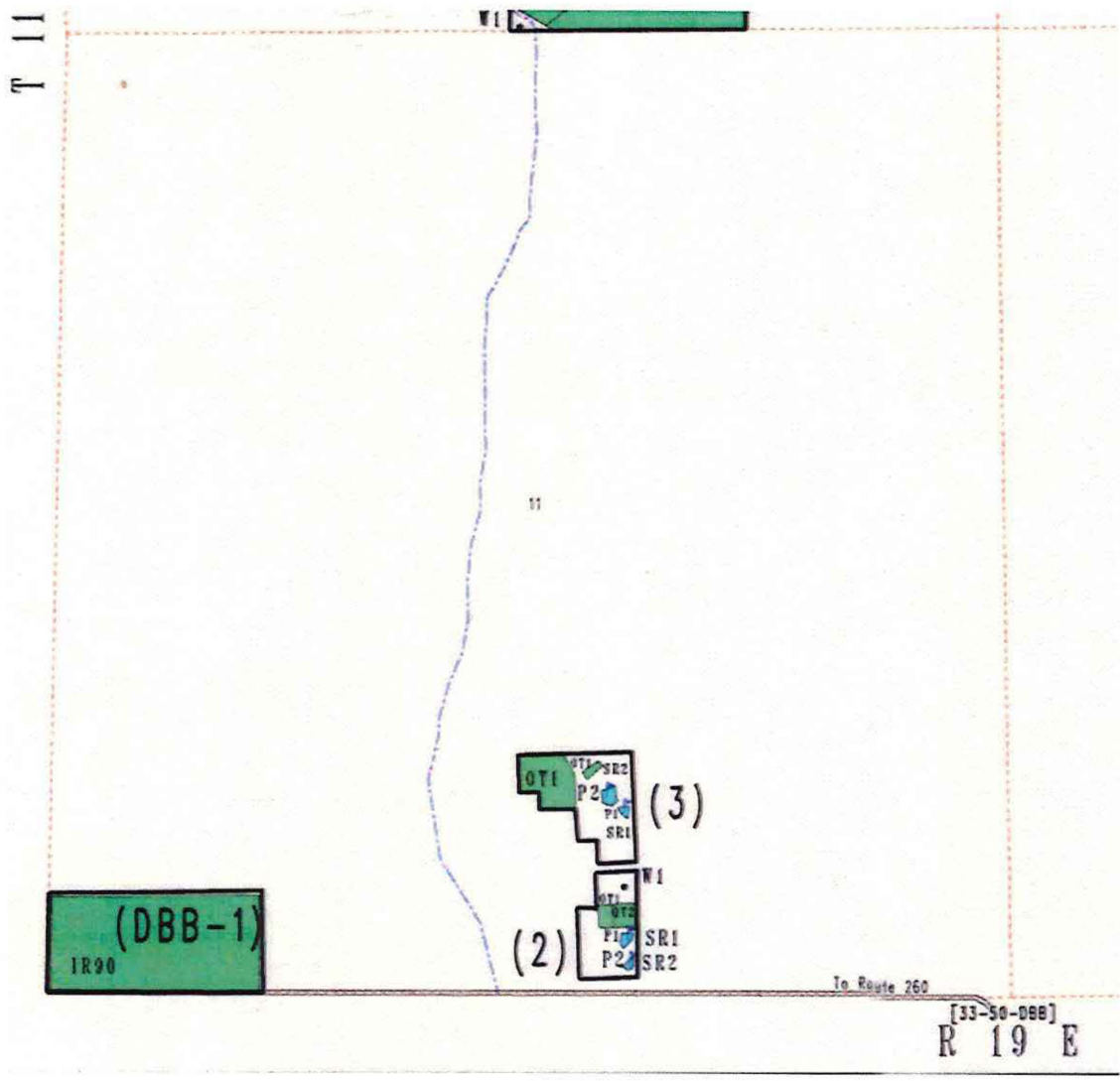
PWR SUMMARY

IRRIGATION (OT1) PRIORITY DATE IS ASSOCIATED WITH CONSTRUCTION DATE OF "PETERSEN" SMALL RESERVOIR (SR2) AS INDICATED IN FILING 39-81849.

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ATTACHMENT C

Map Accompanying the Watershed File Report



Attachment D

Map Obtained from the Navajo County Assessor



Parcel No. 208-12-037
5005 Morning Glory Street
Show Low, AZ 85901

Parcel No. 208-12-038
Marie Petersen
5013 Morning Glory Street
Show Low, AZ 85901

Parcel No. 208-12-042A
Marie Petersen
5014 Lupine Street
Show Low, AZ 85901

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ATTACHMENT E



Court Connect Hearing Notice for In re Lester J. and Marie Petersen

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 Lester J. and Marie Petersen, Contested Case No. CV6417-33-5597

Start Date/Time: January 11, 2024 at 9:30 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>

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ATTACHMENT F

Initial Court-Approved Mailing List

Arizona Department of Water Resources	Phoenix, AZ 85004-4633
Kimberly R. Parks and Karen J. Nielsen	
1110 West Washington, Suite 310	Hopi Tribe
Phoenix, AZ 85007	General Counsel of the Hopi Tribe
	P. O. Box 123
Clerk of the Superior Court	Kykotsmovi, AZ 86039
Apache County	
P. O. Box 365	C. Campbell, P. Londen, P. Bowden
St Johns, AZ 85936	OSBORN MALEDON, P.S.
	2929 North Central Avenue, Ste 2100
Special Master Sherri L. Zendri	Phoenix, AZ 85012
Superior Court of Arizona	
201 W. Jefferson Street	Navajo Nation
Courtroom 301	Evan Hiller, Candace French Jeffrey
Phoenix, AZ 85003	Leonard, Judith Dworkin and Kathryn Hoover
	SACKS TIERNEY P.A.
Marie Petersen, Trustee	4250 N. Drinkwater Blvd., 4th Floor
P.O. Box 305	Scottsdale, AZ 85251
Clay Springs AZ 85923-0305	
Salt River Project	Navajo Nation Department of Justice
J.B. Weldon, M.A. McGinnis, M.K. Foy	Ethel Branch & G. Michelle Brown-Yazzie
Salmon, Lewis, and Weldon	PO Drawer 2010
2850 E. Camelback Rd. Suite 200	Window Rock, AZ 86515
Phoenix, AZ 85016.	
U.S. Department of Justice	
Vanessa Boyd Willard	
999 18 th Street, Suite 370	
Denver, CO 80202	
US Dept of Justice – ENRD	
Mark J. Widerschein	
Maggie Woodward	
Natural Resources Section	
PO Box 7611 Washington, DC 20044	
San Juan Southern Paiute Tribe	
J. Kolsrud, I. Fimbres-Ruiz, K. Shaffer	
May, Potenza, Baran & Gillespie, PC	
1850 N. Central Avenue, Ste 1600	