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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. W1-11-3311

CONTESTED CASE NAME: *In re Luebbermann*
HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report.
DESCRIPTIVE SUMMARY: Revised abstracts distributed along with maps prepared by ADWR
NUMBER OF PAGES: 19
DATE OF FILING: October 23, 2018

This case concerns potential water rights to land located in the southwestern quarter of section 26 T6S R17E that is analyzed in Watershed File Report no. 115-04-ADA-002. Watershed File Report no. 115-04-ADA-002 identifies four potential water rights using two sources of water. Although the Watershed File Report no. 115-04-ADA-002 states that water pumped from a well listed as one of the points of diversion provided water for stock watering, a separate potential water right for stock watering was not included in the report.

1 Claimants amended Statement of Claimant 39-603 which ADWR listed as one of the
2 applicable adjudication filings. Stephen A. Turcotte and Janes Stevens Turcotte, trustees of
3 the Turcotte Family Trust, claimed irrigation, domestic and stock watering uses from two
4 wells and two instream pumps. David Rychener and Joyce Skeldon, claimed irrigation,
5 domestic and stock watering uses from two wells and one instream pumps. Attached to the
6 amended Statement of Claimant are copies of three documents:

- 7 (1) Patent issued to James Brandenburg dated May 11, 1909, for 120 acres
8 consisting of the southwest, southeast and northeast quarters of section 26 T6S
9 R17E;
- 10 (2) Homestead Proof dated October 26, 1908, in which Mr. Brandenburg stated that
11 he had established residence eight years earlier and cultivated about 18 acres of
12 the 120 acres for eight seasons; and,
- 13 (3) Final Affidavit Required of Homestead Claimants dated October 26, 1908,
14 avowing July 1900 as the date on which cultivation of the land began.

15 Copies of the documents are attached as Attachment A.

16 On September 10, 2018, the Arizona Department of Water Resources filed maps of
17 the land for which claims for water rights were made that include the boundaries of irrigated
18 fields that included information provided by the Claimants. Copies of the maps are attached
19 as Attachment B. As set forth in the minute entry filed August 6, 2018, the following
20 proposed abstracts have been revised based on the additional information provided:

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Proposed Water Right No.	Owner of Water Right
115-04-ADA-002-IR001	David Rychener and Joyce Skeldon
115-04-ADA-002-IR002	Stephen Turcotte and Jane Stevens Turcotte, trustees of the Turcotte Family Trust
115-04-ADA-002-IR003	Stephen Turcotte and Jane Stevens Turcotte, trustees of the Turcotte Family Trust
115-04-ADA-002-DM001A	Stephen Turcotte and Jane Stevens Turcotte, trustees of the Turcotte Family Trust

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115-04-ADA-002-DM001A	Stephen Turcotte and Jane Stevens Turcotte, trustees of the Turcotte Family Trust
115-04-ADA-002-DM001B	David Rychener and Joyce Skeldon
115-04-ADA-002-SW001	Stephen Turcotte and Jane Stevens Turcotte, trustees of the Turcotte Family Trust
115-04-ADA-002-SW002	David Rychener and Joyce Skeldon

IT IS ORDERED that by November 9, 2018, the Claimants shall submit any proposed revisions to the draft abstracts and they will provide the maximum flow rates and the proposed quantities for stock watering and domestic use.

IT IS FURTHER ORDERED that by November 9, 2018, Arizona Department of Water Resources shall provide any changes in quantities of water for irrigation use referenced in its Arizona Department of Water Resources Notice of Filing Maps, filed September 10, 2018, p. 2.

IT IS FURTHER ORDERED that by November 26, 2018, the objectors will file any objections to the terms of the draft abstracts, attached as Attachment C, proposed to settle the objections to this case or to the information provided by the Claimants.

IT IS FURTHER ORDERED that if the United States and the San Carlos Apache Tribe and Tonto Apache Tribe object to the settlement of this case on the terms set forth in the proposed abstracts on the grounds of "chain of title," they will brief that issue as it applies to this case by November 26, 2018.


 SUSAN WARD HARRIS
 Special Master

1 On October 23, 2018 the original of the foregoing
2 was delivered to the Clerk of the Maricopa County
3 Superior Court 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

The United States of America,

To all to whom these presents shall come, Greeting:

Phoenix 0901.
Homestead Certificate No. }
Application }

WHEREAS, There has been deposited in the GENERAL LAND OFFICE of the United States a Certificate of the Register of the Land Office at Phoenix, Arizona, whereby it appears that, pursuant to the Act of Congress approved 20th May, 1862, "To secure Homesteads to Actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of

JAMES A. BRANDENBURG

has been established and duly consummated, in conformity to law, for the south half of the southwest quarter and the northeast quarter of the southwest quarter of Section twenty-six in Township six south of Range seventeen east of the Gila and Salt River Meridian, Arizona, containing one hundred twenty acres,

according to the Official Plat of the Survey of the said Land, returned to the GENERAL LAND OFFICE by the Surveyor General:

NOW KNOW YE, That there is, therefore, granted by the UNITED STATES unto the said James A. Brandenburg the tract of Land above described; TO HAVE AND TO HOLD the said tract of Land, with the appurtenances thereof, unto the said James A. Brandenburg

and to his heirs and assigns forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts, and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law. And there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I, William H. Taft, President of the United States of America, have caused these letters to be made Patent, and the seal of the General Land Office to be hereunto affixed.

(SEAL)

GIVEN under my hand, at the City of Washington, the eleventh day of MAY, in the year of our Lord one thousand nine hundred and nine, and of the Independence of the United States the one hundred and thirty-third.

By the President:

Wm H. Taft

By

M. W. Quay

Secretary.

John D. Cornell
Acting Recorder of the General Land Office.

RECEIVED

DEC 26 2017

ADJUSTED

HOMESTEAD PROOF—TESTIMONY OF CLAIMANT.

James A. Brandenburg, being called as a witness in his own behalf in support of homestead entry No. 743, Ser. 0901, S²SW¹, NE¹SW¹ sec. 26, T. 6S. R. 17E. testifies as follows:

Ques. 1.—What is your name as you wish it to appear in your patent; age, and post-office address?
 Ans. James A. Brandenburg, 35 years, Mammoth, Ariz.

Ques. 2.—Are you a native-born citizen of the United States, and if so, in what State or Territory were you born?
 Ans. Yes, born in Ark.

Ques. 3.—Are you the identical person who made homestead entry No. 743, at the Phoenix, Ariz. land office on the 10TH. day of April, 1907.
 Ans. I am, the S²SW¹, NE¹SW¹ sec, 26, T. 6S. R. 17E.

Ques. 4.—When was your house built on the land and when did you establish actual residence therein? (Describe said house and other improvements which you have placed on the land, giving total value thereof.)
 Ans. House built about eight years ago, and established actual residence at the same time. A frame house, 14 X 24, with shed room 8 ft wide, a rock building, 15 X 30, used for store room, a well, about 1/2 mile of fencing, an orchard of about six acres, total value about \$2000.00

Ques. 5.—Of whom does your family consist; and have you and your family resided continuously on the land since first establishing residence thereon? (If unmarried, state the fact.)
 Ans. Myself, wife and three children, we have resided thereon continuously since first establishing residence thereon.

Ques. 6.—For what period or periods have you been absent from the homestead since making settlement, and for what purpose; and if temporarily absent, did your family reside upon and cultivate the land during such absence?
 Ans. Have resided thereon over five years, short absences have all been made up, never but a short period at any time.

DEC 9 3 2017

Ques. 7.—How much of the land have you cultivated each season, and for how many seasons have you raised crops thereon? If used for grazing only, describe fencing, state number and kind of stock grazed, and by whom owned.
 Ans. I have cultivated about 18 acres, for eight seasons.

Ques. 8.—Is your present claim within the limits of an incorporated town or selected site of a city or town, or used in any way for trade and business?
 Ans. No.

Ques. 9.—What is the character of the land? Is it timber, mountainous, prairie, grazing, or ordinary agricultural land? State its kind and quality, and for what purpose it is most valuable.
 Ans. Agricultural land, mostly valuable for that purpose.

Ques. 10.—Are there any indications of coal, salines, or minerals of any kind on the land? (If so, describe what they are, and state whether the land is more valuable for agricultural than for mineral purposes.)
 Ans. None.

Ques. 11.—Have you ever made any other homestead entry? (If so, describe the same.)
 Ans. None.

Ques. 12.—Have you sold, conveyed, or mortgaged any portion of the land; and if so, to whom and for what purpose?
 Ans. No.

Ques. 13.—Have you any personal property of any kind elsewhere than on this claim? (If so, describe the same, and state where the same is kept.)
 Ans. No.

Ques. 14.—Describe by legal subdivisions, or by number, kind of entry, and office where made, any other entry or filing (not mineral), made by you since August 30, 1890.
 Ans. None.

[Sign plainly with full Christian name.]

James A. Brandenburg

*In case the party is of foreign birth a certified transcript from the court records of his declaration of intention to become a citizen, or of his naturalization, or a copy thereof, certified by the officer taking this proof, must be filed with the case. Evidence of naturalization is only required in final (five-year) homestead cases.

EXHIBIT 1

I HEREBY CERTIFY that the foregoing testimony was read to the claimant before being subscribed, and was sworn to before me this 26th day of Oct. 1908, 1908, at my office at Phoenix, in Maricopa County, Ariz.

[SEE NOTE BELOW.]

Gymnasium W. Wakefield
Register.

NOTE.—The officer before whom the testimony is taken should call the attention of the witness to the following section of the Revised Statutes, and state to him that it is the purpose of the Government, if it be ascertained that he testified falsely, to prosecute him to the full extent of the law.

Title LXX.—CRIMES.—Ch. 4.

Sec. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by a fine of not more than two thousand dollars, and by imprisonment at hard labor, not more than five years, and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See § 1150.)

4-3489.

HOMESTEAD PROOF.

LAND OFFICE AT

Original Application No. _____

Final Certificate No. _____

Approved: *Gymnasium W. Wakefield* Register.

Receiver: _____

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FINAL AFFIDAVIT REQUIRED OF HOMESTEAD CLAIMANTS.

SECTION _____ OF THE REVISED STATUTES OF THE UNITED STATES.

I, James A. Brandenburg, having made a homestead entry of the S2SW1/4 NE1/4SW1/4 Section No. 26, in Township No. 6S. of Range No. 17E. subject to entry at Phoenix, Ariz. under section No. 2289 of the Revised Statutes of the United States, do now apply to perfect my claim thereto by virtue of section No. 2289 of the Revised Statutes of the United States; and for that purpose do solemnly swear that I am a citizen of the United States; that I have made actual settlement upon and have cultivated and resided upon said land since the July, 1900 day of July, 1900, 1900 to the present time; that no part of said land has been alienated, except as provided in section 2288 of the Revised Statutes, but that I am the sole *bona fide* owner as an actual settler; that I will bear true allegiance to the Government of the United States; and, further, that I have not heretofore perfected or abandoned an entry made under the homestead laws of the United States, except

[Sign plainly with full Christian name.]

James A. Brandenburg

I, L.W. Wakefield, of Phoenix, Ariz. do hereby certify that the above affidavit was subscribed and sworn to before me this 26th. day of Oct., 1908. 1908 at my office at Phoenix, Ariz. in Maricopa, County, _____

Gymnasium W. Wakefield
Register.

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ATTACHMENT B

Rychener		
PT	Lat.	Lon
1	32 52.726	-110
2	32 52.670	-110
3	32 52.640	-110
4	32 52.583	-110
5	32 52.571	-110
6	32 52.614	-110
7	32 52.652	-110
8	32 52.656	-110
9	32 52.682	-110
10	32 52.680	-110
11	32 52.714	-110

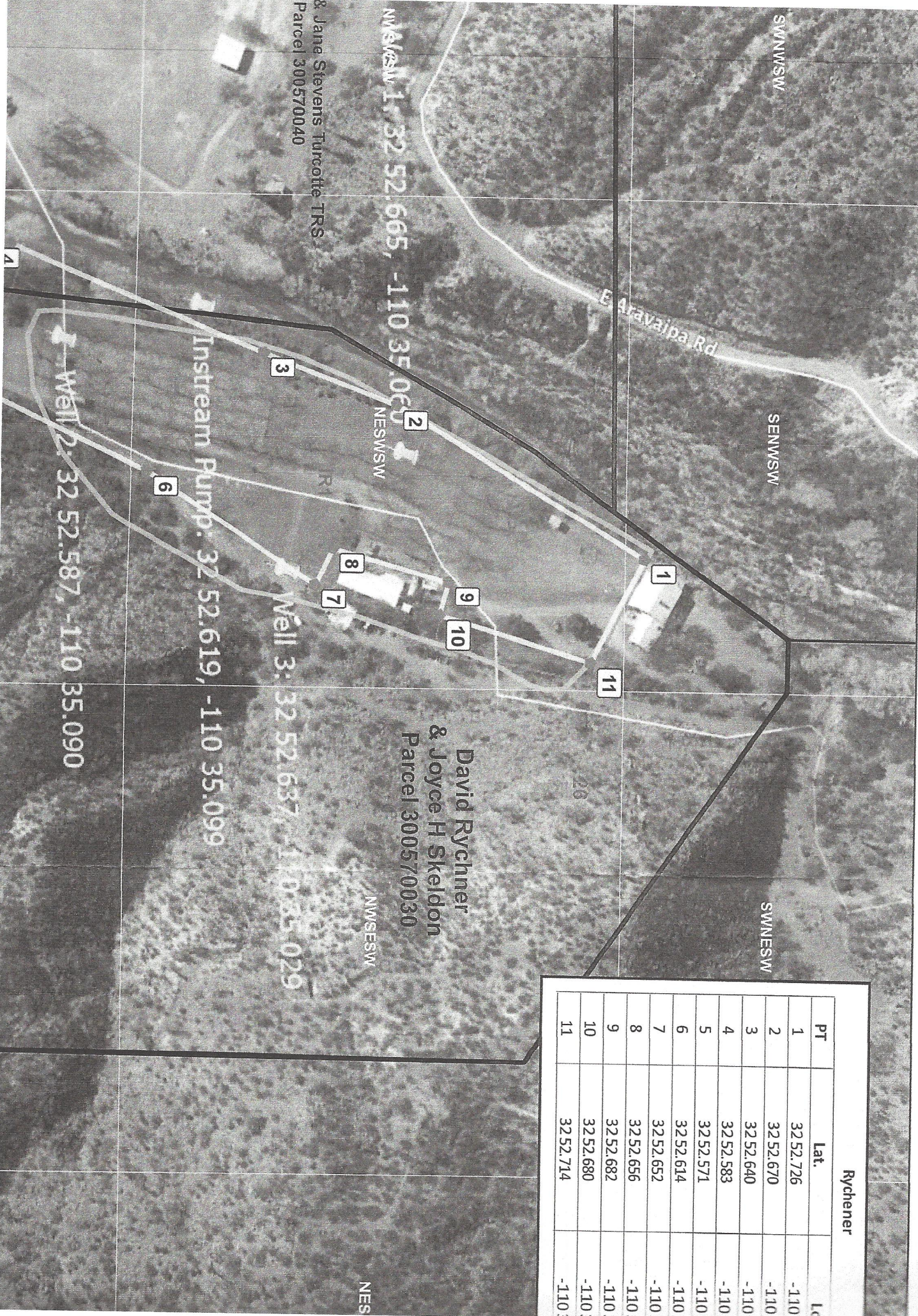
David Rychner
& Joyce H Skeldon
Parcel 300570030

& Jane Stevens Turcotte TRS
Parcel 300570040

Instream Pump: 32 52.619, -110 35.099

Well 3: 32 52.637, -110 35.029

Well 2: 32 52.587, -110 35.090



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100
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Feet

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Well 1: 32 52 640, -110 35 234

26

Well 2: 32 52 638, -110 35 112

Instream Pump 2: 32 52 640

Instream Pump 1: 32 52 6027

Stephen A & Jane Stevens Turcotte TRS
Parcel 300570040

SWSWSW

NWSWSW

E Alwaispa Rd

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ATTACHMENT C

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

1. Proposed Water Right No.:	115-04-ADA-002-IR001
2. Owner of Water Right:	David Rychener and Joyce Skeldon
3. Landowner:	David Rychener and Joyce Skeldon
4. Statement of Claimant No.(s):	39-00603
5. Statement of Claimant Name(s):	David Rychener and Joyce Skeldon
6. Lessee or Permittee:	None
7. Basis of Right:	36-62384 36-65434 55-507524 55-593070
8. Beneficial Use:	Irrigation
9. Priority Date:	July 31, 1900
10. Quantity:	39.2 acre-feet annually
11. Rate of Maximum Flow from pumps:	See attached
12. Place of Use:	W2SW 26 T6S R17E SESW26 T6S R17E See attached map
13. Point of Diversion:	E2SWSW 26 T6S R17E Wells and pumps located as follows: 32° 52.665, -110° 35.060 32° 52.587, -110° 35.090 32° 52.637, -110° 35.029 32° 52.619, -110° 35.099
14. Source of Water:	Aravaipa Creek and wells

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

1. Proposed Water Right No.:	115-04-ADA-002-IR002
2. Owner of Water Right:	Stephen Turcotte and Jane Stevens Turcotte, trustees of the Turcotte Family Trust
3. Landowner:	Stephen Turcotte and Jane Stevens Turcotte, trustees of the Turcotte Family Trust
4. Statement of Claimant No.(s):	39-00603
5. Statement of Claimant Name(s):	Stephen Turcotte and Jane Stevens Turcotte, trustees of the Turcotte Family Trust
6. Lessee or Permittee:	None
7. Basis of Right:	36-62384 36-65434 55-603731
8. Beneficial Use:	Irrigation
9. Priority Date:	July 31, 1900
10. Quantity:	29.6 acre-feet annually
11. Rate of Maximum Flow from pumps:	See attached
12. Place of Use:	NWSWSW 26 T6S R17E – see attached map SWSWSW26 T6S R17E
13. Point of Diversion:	NESWSW 26 T6S R17E Wells and pumps located as follows: 32° 52.640, -110° 35.234 32° 52.638, -110° 35.112 32° 52.627, -110° 35.109 32° 52.640, -110° 35.106
14. Source of Water:	Aravaipa Creek, wells and instream pumps

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

1. Proposed Water Right No.:	115-04-ADA-002-IR003
2. Owner of Water Right:	Stephen Turcotte and Jane Stevens Turcotte, trustees of the Turcotte Family Trust
3. Landowner:	Stephen Turcotte and Jane Stevens Turcotte, trustees of the Turcotte Family Trust
4. Statement of Claimant No.(s):	39-00603
5. Statement of Claimant Name(s):	Stephen Turcotte and Jane Stevens Turcotte, trustees of the Turcotte Family Trust
6. Lessee or Permittee:	None
7. Basis of Right:	36-62384 36-65434 55-603731
8. Beneficial Use:	Irrigation
9. Priority Date:	December 31, 1980
10. Quantity:	10.4 acre-feet annually
11. Rate of Maximum Flow from pumps:	See attached
12. Place of Use	N2SWSW 26 T6S R17E – see attached map
13. Points of Diversion:	NESWSW 26 T6S R17E Wells and pumps located as follows: 32° 52.640, -110° 35.234 32° 52.638, -110° 35.112 32° 52.627, -110° 35.109 32° 52.640, -110° 35.106
14. Source of Water:	Aravaipa Creek and wells

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

1. Proposed Water Right No.:	115-04-ADA-002-DM001A
2. Owner of Water Right:	Stephen Turcotte and Jane Stevens Turcotte, trustees of the Turcotte Family Trust
3. Landowner:	Stephen Turcotte and Jane Stevens Turcotte, trustees of the Turcotte Family Trust
4. Statement of Claimant No.(s):	39-00603
5. Statement of Claimant Name(s):	Stephen Turcotte and Jane Stevens Turcotte, trustees of the Turcotte Family Trust
6. Lessee or Permitee:	None
7. Basis of Right:	36-62384 36-65434 55-603731
8. Beneficial Use:	Domestic use
9. Priority Date:	July 31, 1900
10. Quantity:	
11. Rate of Maximum Flow from pumps:	See attached
12. Place of Use:	NWSWSW 26 T6S R17E SWSWSW 26 T6S R17E
13. Point of Diversion:	NESWSW 26 T6S R17E Wells and pumps located as follows: 32° 52.640, -110° 35.234 32° 52.638, -110° 35.112 32° 52.627, -110° 35.109 32° 52.640, -110° 35.106
14. Source of Water:	Aravaipa Creek and wells

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

15. Proposed Water Right No.:	115-04-ADA-002-DM001B
16. Owner of Water Right:	David Rychener and Joyce Skeldon
17. Landowner:	David Rychener and Joyce Skeldon
18. Statement of Claimant No.(s):	39-00603
19. Statement of Claimant Name(s):	David Rychener and Joyce Skeldon
20. Lessee or Permittee:	None
21. Basis of Right:	36-62384 36-65434 55-507524 55-593070
22. Beneficial Use:	Domestic use
23. Priority Date:	July 31, 1900
24. Quantity:	
25. Rate of Maximum Flow from pumps:	See attached
26. Place of Use:	NWSW 26 T6S R17E SWSW 26 T6S R17E SESW 26 T6S R17E
27. Point of Diversion:	E2SWSW 26 T6S R17E Wells and pumps located as follows: 32° 52.665, -110° 35.060 32° 52.587, -110° 35.090 32° 52.637, -110° 35.029 32° 52.619, -110° 35.099
28. Source of Water:	Aravaipa Creek and wells

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

1. Proposed Water Right No.:	115-04-ADA-002-SW001
2. Owner of Water Right:	Stephen Turcotte and Jane Stevens Turcotte, trustees of the Turcotte Family Trust
3. Landowner:	Stephen Turcotte and Jane Stevens Turcotte, trustees of the Turcotte Family Trust
4. Statement of Claimant No.(s):	39-00603
5. Statement of Claimant Name(s):	Stephen Turcotte and Jane Stevens Turcotte, trustees of the Turcotte Family Trust
6. Lessee or Permittee:	None
7. Basis of Right:	36-62384 36-65434 55-603731
8. Beneficial Use:	Stock watering
9. Priority Date:	July 31, 1900
10. Quantity:	
11. Rate of Maximum Flow from pumps:	See Attached
12. Place of Use:	NWSW SW 26 T6S R17E SWSW SW26 T6S R17E
13. Point of Diversion:	NESWSW 26 T6S R17E Wells and pumps located as follows: 32° 52.640, -110° 35.234 32° 52.638, -110° 35.112 32° 52.627, -110° 35.109 32° 52.640, -110° 35.106
14. Source of Water:	Aravaipa Creek and wells

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

1. Proposed Water Right No.:	115-04-ADA-002-SW002
2. Owner of Water Right:	David Rychener and Joyce Skeldon
3. Landowner:	David Rychener and Joyce Skeldon
4. Statement of Claimant No.(s):	39-00603
5. Statement of Claimant Name(s):	David Rychener and Joyce Skeldon
6. Lessee or Permittee:	None
7. Basis of Right:	36-62384 36-65434 55-507524 55-593070
8. Beneficial Use:	Stock watering
9. Priority Date:	July 31, 1900
10. Quantity:	
11. Rate of Maximum Flow from pumps:	See attached
12. Place of Use:	N2SW 26 T6S R17E SESW 26 T6S R17E
13. Point of Diversion:	E2SWSW 26 T6S R17E Wells and pumps located as follows: 32° 52.665, -110° 35.060 32° 52.587, -110° 35.090 32° 52.637, -110° 35.029 32° 52.619, -110° 35.099
14. Source of Water:	Aravaipa Creek and wells