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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

CIVIL NO. W1-11-3311

ORDER INITIATING CONTESTED CASE

CONTESTED CASE NAME: *In re Luebbermann.*
HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report.
DESCRIPTIVE SUMMARY: The Special Master initiates a contested case to address objections to watershed file report 115-04-ADA-002 and sets a Scheduling Conference.
NUMBER OF PAGES: 10.
DATE OF FILING: July 3, 2017.

This Order initiates a contested case to resolve objections to watershed file report 115-04-ADA-002 that sets forth water rights proposed by Arizona Department of Water Resources to Aravaipa Creek for domestic and irrigation use. This contested case involves four statements of claimant: 39-603, 39-4073, 39-11675, and 39-11676. Each statement of claim was assigned to Henri A. and Susan E. Luebbermann in 1988. In connection with that assignment process, the records of the Arizona Department of Water Resources include

1 Notices of Valuation the Pinal County Assessor issued for three tax parcels: 300-57-002 2;
2 300-57-004; and 300-57-003 1. Mr. and Mrs. Luebbermann subsequently transferred the
3 property in 2002 and 2006. The public records maintained by the Arizona Department of
4 Water Resources do not contain an assignment of claims for water rights from Henri A. and
5 Susan E. Luebbermann.

6 According to the Pinal County Assessor's records, the current owners of the property
7 with the above referenced tax property numbers are:

8 Tracy Gaudet Tax Parcel: 300-57-00202
9 5610 E Sagewood Drive
10 Idaho Fall, ID 83406

11 Stephen Turcotte and Jane Stevens, Trustees Tax Parcel: 300-57-004
12 Turcotte Family Trust
13 10945 North Gila Road
14 Tucson, AZ 85742

15 David Rychener and Joyce H. Skeldon Tax Parcel: 300-57-00301
16 12636 North Deer Print Place
17 Tucson, AZ 85755

18 This case is designed to determine water rights; it is not a case to determine property
19 ownership or property rights. Accordingly the information provided above shall not be
20 considered a finding of property ownership or property rights.

21 In 1991, the Arizona Department of Water Resources issued Watershed File Report
22 115-04-ADA-002 as part of the San Pedro Hydrographic Survey Report. It identified the
23 point of diversion of surface water from Aravaipa Creek as NESWSW Sec. 26 T6S R17E.
24 It proposed four water rights under the heading "PWR Summary": one water right for
25 domestic use on the SW Sec. 26 T6S R17E and three water rights for irrigation use on the
26 NWSW & SWSW Sec. 26 T6S R17E. A copy of the watershed file report is attached as
27 Appendix A. Objection were filed by the claimant and those entities listed on Appendix B.

28 **IT IS ORDERED:**

1. Contested Case Designation and Docket Number. This contested case shall
be known as *In re Luebbermann* and it will address the claims for water rights analyzed in

1 and the objections that were filed to the watershed file report 115-04-ADA-002 published in
2 the Final San Pedro River Watershed Hydrographic Survey Report (1991).

3 2. Litigants. The litigants in this contested case are the claimants of record, i.e.,
4 Henri A. and Susan E. Luebbermann, and all persons who filed objections to watershed file
5 report 115-04-ADA-002 listed on Appendix B, and claimants who are allowed to intervene
6 by order.

7 3. Court-Approved Mailing List.

8 A. The initial Court-approved mailing list for this case shall include all
9 persons listed on Appendix B of this order as well as Janet Miller for the Arizona
10 Department of Water Resources. A courtesy copy of this Order shall be sent to
11 Tracy Gaudet, Stephen Turcotte and Jane Stevens, Trustees of the Turcotte Family
12 Trust, and David Rychener and Joyce H. Skeldon at their respective addresses shown
13 on the Pinal County Tax Assessor's Office. The initial Court-approved mailing list
14 does not include the above referenced individuals. The mailing list may be modified
15 only by filing a motion with the Special Master to amend the Court-approved
16 mailing list. Litigants are responsible for using the current Court-approved mailing
17 list, which can be found at:
18 <https://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/maillingLists.asp>.
19

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21 B. A copy of any pleading filed with the Clerk of the Maricopa County
22 Superior Court in this case shall be served upon each person listed on the Court-
23 approved mailing list.

24 C. Claimants wishing to be added or removed from the mailing list shall file
25 a motion with the Special Master. Parties allowed to intervene will be automatically
26 added to the mailing list.
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1 5. Scheduling Conference. Pursuant to §8.03[1], Rules for Proceedings before
2 the Special Master, a scheduling conference shall be held to address the adjudication of this
3 case, a schedule to identify issues, file disclosure statements, conduct discovery, submit
4 prehearing motions, and set a trial date, if needed. No party shall conduct any discovery or
5 file any motions prior to the Scheduling Conference. The Scheduling Conference shall be
6 held on Wednesday, August 23, 2017 at 1:30 p.m. before:

7
8 Special Master Susan Ward Harris
9 Superior Court of Arizona
10 201 West Jefferson Street
11 Courtroom 301
12 Phoenix, AZ 85003-2202

11 Instructions for telephonic appearance:

12 Dial: 602-506-9695 (local)

13 1-855-506-9695 (toll free long distance)

14 Dial Participant Pass Code 357264#
15

16
17 
18 SUSAN WARD HARRIS
19 Special Master
20

21 On July 3, 2017 the original of the foregoing was
22 delivered to the Clerk of the Maricopa County
23 Superior Court for filing and distributing a copy to all
24 persons listed on the Court-approved mailing list for
25 this contested case, a copy of which is attached hereto
26 as Appendix B.
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ATTACHMENT A

LAND OWNER	WATERSHED FILE
-----	REPORT NUMBER
LUEBBERMANN, HENRI A.	-----
& SUSAN E.	115-04-ADA-002

APPLICABLE FILINGS AND DECREES

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
10-1104290.1100										
10-1105634.1200		IRRIGATION	9000.00	SW26	060S	170E	1892			
				SE23	060S	170E	1899			
				SWSW26	060S	170E		NWSESE23	060S	170E
10-1112496.1100		IRRIGATION		NWSW26	060S	170E		SESESE23	060S	170E
36-0062384.0001		IRRIGATION	108.00	SWNESE23	060S	170E	1910	SENW26	060S	170E
		DOMESTIC STOCK		NWSESE23	060S	170E		NWSW24	060S	170E
		MINING		SWSW26	060S	170E	1908	SWSW26	060S	170E
36-0065434.0001		IRRIGATION	220.00	SW26	060S	170E	1909	SW26	060S	170E
		DOMESTIC STOCK								
39-0000603		IRRIGATION	104.00	SWSW26	060S	170E	1908	SWSW26	060S	170E
		DOMESTIC STOCK	2.00							
		STOCK	2.00							
39-0004073		IRRIGATION	210.00	SW26	060S	170E	1909	SW26	060S	170E
		DOMESTIC	1.10							
39-0011675		IRRIGATION	38.00	NWSWSW26	060S	170E	1908	S2SW26	060S	170E
		DOMESTIC STOCK								
39-0011676		IRRIGATION	1.00	NWSWSW26	060S	170E	1978	NWSWSW26	060S	170E
		DOMESTIC STOCK	2.00							
			.50							

DWR ANALYSIS OF FILINGS AND DECREES

FILING NUMBER	USES CLAIMED OR REFERENCED	USES FOUND BY DWR	APPLIES TO DIVERSIONS	APPLIES TO PWR NUMBERS
10-1104290.1100		IRRIGATION		
10-1105634.1200		NONE		IROO1, IROO2
10-1112496.1100	IRRIGATION	IRRIGATION		
36-0062384.0001	IRRIGATION	NONE		
	DOMESTIC STOCK	IRRIGATION	PO1	DMOO1, IROO1, IROO2
	MINING	DOMESTIC		IROO3
	INCIDENTAL	INCIDENTAL		
36-0065434.0001	IRRIGATION	NONE		
	DOMESTIC STOCK	IRRIGATION	PO1	DMOO1, IROO1, IROO2
	INCIDENTAL	DOMESTIC		IROO3
39-0000603	IRRIGATION	INCIDENTAL		
	DOMESTIC STOCK	IRRIGATION	PO1, W01	DMOO1, IROO1, IROO2
	INCIDENTAL	DOMESTIC		IROO3
39-0004073	IRRIGATION	INCIDENTAL		
	DOMESTIC	IRRIGATION	PO1	DMOO1, IROO1, IROO2
39-0011675	IRRIGATION	DOMESTIC		IROO3
	DOMESTIC STOCK	IRRIGATION	PO1	DMOO1, IROO1, IROO2
	INCIDENTAL	DOMESTIC		IROO3
39-0011676	IRRIGATION	INCIDENTAL		
	DOMESTIC STOCK	INCIDENTAL		DMOO1
		DOMESTIC		
		INCIDENTAL		

DIVERSIONS

DIV #	SECTION	TWNP	RNGE	DIVERSION NAME	WATER SOURCE AND CLASSIFICATION
PO1	NESWSW26	060S	170E	UNNAMED	
W01	SESWSW26	060S	170E	UNNAMED	SURFACE WATER: ARAVAIPA CREEK
W02	NESWSW26	060S	170E	UNNAMED	GROUNDWATER : ZONE 1 OF THE ARAVAIPA CREEK
					GROUNDWATER : ZONE 1 OF THE ARAVAIPA CREEK
					UNUSED

PWR #	LOCATION			SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO DATE	SOURCE CHANGE	FACILITY NAME
	SECTION	TWNP	RNGE					
DMOO1	SWSW26	060S	170E	WO1	GROUNDWATER : ZONE 1		NO	
IROO1	SENWSW26	060S	170E	WO1,PO1	SURFACE WATER GROUNDWATER : ZONE 1	1935	YES	
	SESW26	060S	170E					
	SWSW26	060S	170E					
IROO2	SWSW26	060S	170E	PO1	SURFACE WATER	1935	YES	
IROO3	SWSW26	060S	170E	PO1	SURFACE WATER	1980	NO	

P W R S U M M A R Y

PWR #	APPLICABLE ADJ FILINGS	APPLICABLE PRE FILINGS	*APPARENT FIRST USE DATE* DATE BASIS FOR DATE	WATER SOURCES AND CLASSIFICATIONS	
DMOO1	39-0000603	36-0062384.0001		GROUNDWATER : ZONE 1 OF THE ARAVAIPA CREEK	
	39-0000603	36-0065434.0001			
	39-0004073				
	39-0011675				
	39-0011676				
IROO1	39-0000603	10-1105634.1200	1899 FILING 10-1105634-12	SURFACE WATER: ARAVAIPA CREEK GROUNDWATER : ZONE 1 OF THE ARAVAIPA CREEK	
	39-0004073	36-0062384.0001			
	39-0011675	36-0065434.0001			
		36-0065434.0001			
IROO2	39-0000603	10-1105634.1200	1899 FILING 10-1105634-12	SURFACE WATER: ARAVAIPA CREEK	
	39-0004073	36-0062384.0001			
	39-0011675	36-0065434.0001			
		36-0065434.0001			
IROO3	39-0000603	36-0062384.0001	1980 1980 AERIAL PHOTO	SURFACE WATER: ARAVAIPA CREEK	
	39-0004073	36-0065434.0001			
	39-0011675				
NONE	NONE	10-1104290.1100			
		10-1112496.1100			

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

PWR #	QUANTIFICATION TYPE	ACRES	CROP TYPE	EFF	WATER DUTY	ESTIMATED VOLUME	REMARKS
DMOO1							SEE VOLUME 1 - GENERAL ASSESSMENT
IROO1	MAX. OBSERVED	5.3	MULTI.CROPS	45%	5.7 AF/AC	30.2 AFA	
	REGIONAL	5.3	AVE. CROP	50%	5.4 AF/AC	28.6 AFA	
IROO2	MAX. POTENTIAL	5.3	ALFALFA	45%	7.4 AF/AC	39.2 AFA	
	MAX. OBSERVED	4.0	SUMMER PSTR	45%	4.3 AF/AC	17.2 AFA	
IROO3	REGIONAL	4.0	AVE. CROP	50%	5.4 AF/AC	21.6 AFA	
	MAX. POTENTIAL	4.0	ALFALFA	45%	7.4 AF/AC	29.6 AFA	
IROO3	MAX. OBSERVED	1.4	FRUIT W/GC	45%	7.8 AF/AC	10.9 AFA	
	REGIONAL	1.4	AVE. CROP	50%	5.4 AF/AC	7.6 AFA	
	MAX. POTENTIAL	1.4	ALFALFA	45%	7.4 AF/AC	10.4 AFA	

E X P L A N A T I O N

FILINGS AND DECREES

FILING 10-1104290-11 - NO WATER USES OR SPECIFIC POINTS OF DIVERSION ARE CLAIMED. NO WATER USES COULD BE MATCHED TO THIS FILING.

FILING 10-1112496-11 - CLAIMS IRRIGATION WATER USES FROM ARAVAIPA CREEK. NO IRRIGATION WAS FOUND AT THE CLAIMED LOCATIONS.

FILING 36-62384 - CLAIMS IRRIGATION, DOMESTIC, STOCKWATERING, AND MINING WATER USES. NO MINING USE WAS FOUND AT THE CLAIMED LOCATION.

DIVERSIONS

- P1 - PORTABLE INSTREAM PUMP DIVERTS WATER FROM ARAVAIPA CREEK INTO A PIPELINE SYSTEM.
- W1 - WELL PROVIDES WATER FOR IRRIGATION, DOMESTIC, AND STOCKWATERING USES.
- W2 - UNUSED HAND DUG WELL.

USES AND RESERVOIRS

- DM1 - DOMESTIC USE.
- IR1 - IRRIGATED MULTIPLE CROPS (PECANS AND FRUIT TREES).
- IR2 - IRRIGATED PASTURE.
- IR3 - IRRIGATED CITRUS TREES.

DISPOSITION OF LAND OWNER/CLAIMANT COMMENTS

A COMMENT ON THE 1987 PRELIMINARY HYDROGRAPHIC SURVEY REPORT WAS RECEIVED WHICH CLARIFIED OWNERSHIP OF THE PROPERTY.

A COMMENT WAS RECEIVED WHICH INDICATED THAT THERE ARE A TOTAL OF THREE WELLS ON THE PROPERTY.

ATTACHMENT B

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Henri Anthony and Susan Luebbermann
6154 North Zorraela Segundo
Tucson, AZ 85718-3047

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

Salt River Valley Water Users' Association and the Salt River Project Agricultural
Improvement and Power District
John B. Weldon, Jr. and Mark A. McGinnis
Salmon, Lewis & Weldon PLC
2850 E Camelback Rd, Ste 200
Phoenix, AZ 85016

San Carlos Apache Tribe
Tonto Apache Tribe
Joe P. Sparks, Julia M. R. Kolsrud and
Laurel A. Hermann
The Sparks Law Firm, P.C.
7503 First Street
Scottsdale, AZ 85251-4573

United States
R. Lee Leininger
U.S. Department of Justice
Natural Resources Section
999 18th Street, So Terrace, Suite 370
Denver, CO 80202

David Negri
U. S. Department of Justice
800 Park Boulevard, #600
Boise , ID 83712

1 Yavapai-Apache Nation
2 Camp Verde Reservation
3 Susan B. Montgomery/Robyn L. Interpreter
4 Montgomery & Interpreter, PLC
5 3301 E. Thunderbird Road
6 Phoenix, AZ 85032

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