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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. W1-11-2665  
(Consolidated)

ORDER REGARDING *DE MINIMIS*  
CLAIMS AND STATUS REPORT

CONTESTED CASE NAME: *In re Redfield Canyon State Claims.*

HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report.

DESCRIPTIVE SUMMARY: The United States shall file by **December 15, 2017**, a report concerning *de minimis* claims and the status of its claim for instream flow in the administrative proceedings.

NUMBER OF PAGES: 7.

DATE OF FILING: June 8, 2017.

This contested case in the Redington subwatershed has been initiated to adjudicate the United States claims based on state law for water rights in the Redfield Canyon area. The filed

1 statements of claimant in the five watershed file reports<sup>1</sup> considered in this contested case include  
2 claims for thousands of acre feet of water for instream use. Pursuant to S.B. 1412, 53<sup>rd</sup> Leg., 1<sup>st</sup>  
3 Reg. Sess. (Az. 2017), A.R.S. § 45-257 has been amended to direct that a “claimant’s small water  
4 use claim shall be determined in conjunction with the determination of that claimant’s other  
5 claims.” A small water use includes stockponds that have a capacity of not more than 15 acre feet  
6 that is used solely for watering livestock or wildlife and stock watering used by livestock or  
7 wildlife. A.R.S. §45-251(9).

9 In 1994, the Special Master issued a Memorandum Decision, Findings of Fact, and  
10 Conclusions of Law for Group 1 Cases involving Stockwatering, Stockponds, and Domestic Uses,  
11 dated November 14, 1994, amended February 23, 1995, approved and modified September 27,  
12 2002 (“Decision”). The Decision determined that stockwatering and certain stockponds and  
13 domestic uses in the San Pedro River watershed constitute *de minimis* uses and established the  
14 procedures for adjudicating *de minimis* water rights for claims in the San Pedro watershed. For  
15 purposes of the Decision, a stockpond is defined as a pond or artificial facility having a capacity  
16 of not more than 15 acre feet and used solely for stock or wildlife. Decision, p. 6. Stock watering  
17 means instream watering of stock at unimproved or improved locations on a stream, creek, spring  
18 or similar source. *Id. at 5*. Claims for wildlife watering should be handled in the same manner as  
19 claims for stock watering. *Id. at 48*.

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23 **IT IS ORDERED** that any party objecting to the method of quantifying the use for wildlife  
24 watering shall file a motion by **July 21, 2017**.

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27 <sup>1</sup> The five watershed file reports are: 113-09-16, 113-12-5, 113-12-8, 113-12-9, and 113-  
28 12-10 published in the Final San Pedro River Watershed Hydrographic Survey Report (1991).

1 The expedited adjudication process set forth in the Decision requires the preparation of  
2 proposed water right abstracts that include the following information: the proposed water right  
3 number, the owner of the water right, the landowner, the statement of claimant number, the name  
4 of the claimant, the lessee or permittee, the basis of the right, the beneficial use, the priority date,  
5 the quantity of water, the place of use, point of diversion, source of water and name of facility,  
6 where available. No water right abstracts will be prepared for claims for which there is no  
7 associated basis of right. *Id. at 45.* Accordingly, abstracts will not be prepared for the following  
8 proposed water rights absent a showing of a preadjudication filing or other legal basis for the  
9 claimed right:  
10

11	<b>Proposed Water Right</b>		
12	<b>Number</b>	<b>Statement of Claimant No.</b>	<b>Claimant</b>
13	113-09-016-SW003	39-08165	Forest Service
14	113-09-016-SW005	39-08431	Forest Service
15	113-12-009-WL001	39-13619	BLM
16	113-12-010-SW009	39-13617	BLM

17 **IT IS FURTHER ORDERED**, if the United States desires further consideration of the  
18 four statements of claimant listed above, it shall file by **December 15, 2017**, a report which  
19 identifies the legal basis for the claims.  
20

21 According to the watershed file reports, the United States owns the land where the  
22 proposed water rights will be exercised. The Arizona State Land Department has filed claims for  
23 water rights with respect to that land. Claims have also been filed by The Nature Conservancy.  
24 A determination of the legal ownership of the land identified in the claims made by claimants  
25 other than the United States to water should be made with respect to the following claims:  
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<b>Proposed Water Right</b>	<b>Statement of Claimant No.</b>	<b>Claimant</b>	<b>Place of Use/Point of Diversion</b>
113-09-016-SW001	39-5569	Nature Conservancy	NESWSE 15 T10S R 20E
113-09-016-SW001	39-8164	Forest Service	NESWSE 15 T10S R 20E
113-09-016-SW002	39-5556	Nature Conservancy	NESWSW16 T10S R 20E
113-09-016-SW002	39-8166	Forest Service	NESWSW16 T10S R 20E
113-09-016-SW004	39-5553	Nature Conservancy	NESENE 18 T10S R 20E
113-09-016-SW004	39-8085	Forest Service	NESENE 18 T10S R 20E
113-09-016-SW007	39-5557	Nature Conservancy	SWNWSE 21 T10S R 20E
113-09-016-SW007	39-8167	Forest Service	SWNWSE 21 T10S R 20E
113-09-016-SW008	39-5559	Nature Conservancy	SWNWNW 27 T10S R 20E
113-09-016-SW008	39-8168	Forest Service	SWNWNW 27 T10S R 20E
113-09-016-SW015	39-5566	Nature Conservancy	SWNESE 4 T11S R20E
113-09-016-SW015	39-8046	Forest Service	SWNESE 4 T11S R20E
113-12-009-SW002	39-5552	BLM	SESW 33 T12S R20E
113-12-009-SW002	39-7295	State Land Department	SESW 33 T12S R20E
113-12-009-SW003	39-5551	BLM	NWNESE 34 T12S R20E
113-12-009-SW003	39-7296	State Land Department	NWNESE 34 T12S R20E
113-12-009-SW004	39-13618	BLM	NESENEW 34 T11S R20E
113-12-009-SW004	39-7271	State Land Department	NESENEW 34 T11S R20E

**IT IS FURTHER ORDERED**, the United States shall file by **December 15, 2017**, a report that identifies the ownership of the land described above and current lessees, if any.


The watershed file reports identify the beneficial use for each claim for a water right. The Decision quantifies the amount of water to be awarded for stockponds and stock and wildlife watering. A uniform volume of “not to exceed four acre feet with continuous fill” will be

1 adjudicated for all stockponds in the San Pedro River watershed having a capacity of four acre  
2 feet or less. *Id. at 32.* The watershed file reports that included stockponds reported the quantity  
3 claimed for each stockpond to be less than four acre feet annually. Each stock watering use will  
4 be adjudicated as “reasonable use”. *Id. at 31.* The same approach will be used for wildlife  
5 watering. *Id. at 48.*

7 The priority dates for the *de minimis* uses will be based on the apparent dates of first use  
8 listed on the potential water right section of the watershed file report. *Id. at 42.* If the  
9 information is available, the priority date will include day and month as well as year. If day and  
10 month information is not available, then the priority date will be December 31<sup>st</sup> of the year. *Id.*

11 The water right characteristics, other than the land and water right owner, which will be the  
12 United States, for proposed water rights have been set forth in Attachment A.

14 **IT IS FURTHER ORDERED**, the United States shall file by **December 15, 2017**, a  
15 report that identifies any proposed changes to the water right characteristics shown on Attachment  
16 A. The report shall also identify any additional statements of claimant filed by the United States  
17 not identified in this Order that assert claims based on state law for water in the Redfield Canyon  
18 Wilderness area. Finally, the report shall include the status of the United States’ application for  
19 instream flow rights in Redfield Canyon.

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22   
23 Susan Ward Harris  
24 Special Master

25 On June 8, 2017, the original of the foregoing was  
26 delivered to the Clerk of the Maricopa County  
27 Superior Court for filing and distributing a copy to all  
28 persons listed on the Court approved mailing list for  
Contested Case No. W1-11-2665.

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# ATTACHMENT A

Proposed Water Right	Statement of Claimant No.	Claimant	Basis of Right	Beneficial Use	Priority Date	Quantity	Place of Use/Point of Diversion	Name of Facility
113-09-016-SW005	39-8032	Forest Service	4A-2333	stock and wildlife watering	7/15/1940	reasonable use	NENESW 20 T10S R 20E	Cedar Spring
113-12-005-SW001	39-8078	Forest Service	36-12299	stock and wildlife watering	12/31/1880	reasonable use	NENENW 15 T11S R20E	Jackson Canyon Spring
113-12-005-SW002	39-8081	Forest Service	36-12433	stock and wildlife watering	12/31/1880	reasonable use	SWNENE 16 T11S R20E	Walnut Spring
113-12-005-SW003	39-8176	Forest Service	36-12349	stock and wildlife watering	12/31/1880	reasonable use	SWNWNE 22 T11S R20E	Willow Spring
113-12-005-SP001	39-8414	Forest Service	38-17073	stockpond	12/31/1972	≤4 acre feet annually	NENW 17 T11S R20E	Bear Canyon Dam
113-12-008-SW001	39-5589	BLM	36-34388	stock and wildlife watering	12/31/1915	reasonable use	NESE 22 T11S R20E	Old Ranch Spring
113-12-008-SW035	39-5588	BLM	36-34387	stock and wildlife watering	12/31/1915	reasonable use	SWNE 34 T11S R20E	Lost Trail Spring
113-12-008-SW035	39-14441	BLM						
113-12-010-SP004	39-13615	BLM	33-87686	stockpond	9/10/1982	≤4 acre feet annually	NESE 30 T11S 20E	Wildlife Tank #1
113-12-010-SP005	39-13616	BLM	33-87685	stockpond	9/10/1982	≤4 acre feet annually	SESW 29 T11S R20E	Wildlife Tank #2