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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. W1-11-1869

ORDER TO SET STATUS CONFERENCE

CONTESTED CASE NAME: *In re David O. and Viola G. Vigil*
HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report.
DESCRIPTIVE SUMMARY: Status Conference set for **January 20, 2022 at 1:50 p.m.** to determine whether the landowners intend to assert rights to appropriative water with a priority date prior to 1991.
NUMBER OF PAGES: 19
DATE OF FILING: November 29, 2021

This case involves water rights for irrigation use in the northeast quarter of the southwest quarter of Section 34 Township 16S Range 20E. The purpose of this case is to resolve the objections to Watershed File Report and Zone 2 Well Report 112-17-BAA-025 published in the Final San Pedro River Watershed Hydrographic Survey Report (1991). A copy of the Watershed

1 File Report and Zone 2 Well Report 112-17-BAA-025 (“Reports”) are attached as Attachment
2 A. A copy of the map prepared by Arizona Department of Water Resources that identifies the
3 land investigated for the Reports is attached as Attachment B and the land involved is labelled
4 on the map as “(25)”. The Reports indicate that the land had been irrigated in the past but had
5 not been irrigated during the five years preceding the time of the investigation. The Reports note
6 the existence of an unused well and a diversion from the San Pedro River into the Pomerene
7 Water Users Association Canal. The WFR does not list any Statements of Claimant or any other
8 filings with Arizona Department of Water Resources to obtain rights to appropriable water. The
9 purpose of this case is to resolve the objections to the potential water rights to the extent that the
10 current landowners intend to pursue them.

11

12 **Background**

13 Until October 5, 2018, this case was consolidated with and a part of the group of cases
14 known as *In re Pomerene Water Users Association*, contested case no. W1-11-1676. In that
15 case, the court scheduled a status conference for June 28, 2017 in part to identify the proper
16 parties. At the status conference, counsel for the Pomerene Water Users Association was given
17 until October 2, 2017 to provide documentation concerning the continuing authority of
18 Pomerene Water Users Association to act. No landowners appeared at the status conference.
19

20 By order dated July 26, 2017, the court directed the owners of land for which Arizona
21 Department of Water Resources had identified as places of use for water diverted through the
22 Pomerene Canal to file new or amended statements of claimant if they desired to assert a claim
23 for a right to divert water through the Pomerene Canal for irrigation use. A second status
24 conference was set for October 18, 2017. A copy of the order was sent to Jack and Lillian
25 Coons, John V. and Marilyn N. Gourley, and Brian Baker.
26

1 At the status conference held on October 18, 2017, the newly elected board of the
2 Pomerene Water Users Association appeared along with its counsel. The court directed the
3 Pomerene Water Users Association to file a list by December 29, 2017 that identified those
4 landowners who were members of the Pomerene Water Users Association and whose interests
5 would be represented by the Pomerene Water Users Association in this adjudication of water
6 rights. The court also set a third status conference for September 6, 2018. On December 21,
7 2017, the Pomerene Water Users Association timely filed a list of 26 landowners. Jack and
8 Lillian Coons, John V. and Marilyn N. Gourley, and Brian Baker were not included in the list
9 of the represented landowners.
10

11 On August 31, 2018, Pomerene Water Users Association filed a Notice of
12 Termination. At the third status conference, counsel for the Pomerene Water Users Association
13 provided a list of its members who joined the St. David Irrigation District. Jack and Lillian
14 Coons, John V. and Marilyn N. Gourley, and Brian Baker were not included on the list and they
15 did not appear at the status conference.
16

17 By order dated October 5, 2018, the cases previously consolidated into a single case
18 known as *In re Pomerene Water Users Association* were separated into individual cases. As a
19 result, the potential water rights analyzed in the Reports will be considered in this separate case.
20

21 **Landowners**

22 The first step to adjudicate any water rights identified by the Reports is to identify the
23 current landowners involved in this case. Based on the Reports, the land involved may include
24 the following tax parcels: 20842004G, 20842004D, 20842004F, 20842004H, 20842004J,
25 20842004Q, 20842004P, and 20842004M. According to the Cochise County Assessor's Office
26 the current owners of these tax parcels are as follows:
27
28

Tax Parcel No.	Landowner
20842004G	Jack & Lillian Coons
20842004D	Annette C. Tomek
20842004F	Faith Wang Feng
20842004H	John V. & Marilyn N. Gourley Living Trust
20842004J	Brian R. Baker
20842004Q	Patricia A. & Homer W. Fletcher Jr.
20842004P	Chris A. & Heather C. Floyd
20842004M	Dorothy A. Whitman Muryl & Danielle Paxton

Attached as Attachment C is a map of the parcels from the Cochise County Assessor's Office.

On April 25, 1994, the Pomerene Water Users Association filed Statement of Claimant 39-14898 for irrigation use with a priority date of September 10, 1879 that included land in Section 34 Township 16S Range 20E. The Reports in this contested case include land in Section 34 Township 16S Range 20E. No landowner named above has filed a Statement of Claimant for a right to appropriable water. Accordingly,

IT IS ORDERED:

1. Contested Case. This contested case will adjudicate any claims for water rights investigated by and objections to Watershed File Report and Zone 2 Well Report 112-17-BAA-025 published in the Final San Pedro River Watershed Hydrographic Survey Report (1991). No claims for water use that began after 1991 shall be adjudicated in this case. Copies of the

1 objections can be found under the case name and number on the following website:

2 [http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.](http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp)

3 [asp](#)

4
5 2. Court-Approved Mailing List.

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

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

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

17 D. The Clerk of the Court will send copies of all minute entries and orders
18 issued in this case to the parties listed on the Court-approved mailing list.
19 Upon request, the Clerk of the Court will provide copies by email. Parties
20 may request emailed copies of minute entries and orders by completing
21 and submitting a CONSENT FOR ELECTRONIC RECEIPT OF WATER
22 CASE DOCUMENTS, which is attached as Attachment E.
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1 3. Status Conference.

2 A. An initial status conference shall be held to determine whether the
3 landowners listed above intend to pursue claims for rights to appropriable
4 water. If no landowners appear to pursue rights to water that they are
5 currently putting to beneficial use, this case will be dismissed.

6 B. Any landowners who appear at the Status Conference shall be prepared
7 to provide information about efforts undertaken to file a Statement of
8 Claimant.


9 C. If the current landowners intend to pursue rights to appropriable water
10 for use on the land, the parties will be expected to advise whether they
11 are interested in pursuing discussions to resolve the objections to the
12 Reports and the amount of time that the parties believe will be necessary
13 to complete those discussions.

14 D. If the objections cannot be settled, then a subsequent date will be set for
15 a scheduling conference to identify issues, file disclosure statements,
16 conduct discovery, submit prehearing motions, and hold a trial. No party
17 shall conduct any discovery or file any motions prior to the Status
18 Conference.
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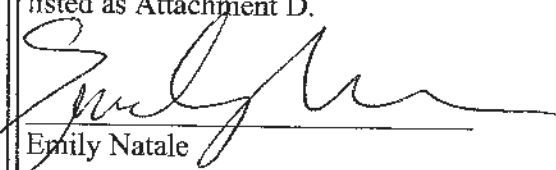
22
23 The Status Conference shall be held on **January 20, 2022 at 1:50 p.m.** The Status
24 Conference shall be held using the Court Connect program. Instructions for Court Connect are
25 attached as Attachment F. If you receive this Order by email, click on the red box “Join Court
26 Connect Hearing” on the attached instructions to make an appearance. If you do not receive this
27 Order by email, log into the Court Connect program on the internet by typing
28

1 <https://tinyurl.com/specialwatermaster>. If you do not have access to the internet, you may attend
2 telephonically using the telephone number and access code included in the instructions for Court
3 Connect. If you are unable to access Court Connect, you may also attend telephonically using
4 the following instructions:

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6 Instructions for telephonic appearance:
7 Dial: 602-506-9695 (local)
8 1-855-506-9695 (toll free long distance)
9 Dial Participant Pass Code 357264#

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13 SUSAN WARD HARRIS
14 Special Master

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16 On November 29, 2021, the original of the foregoing was
17 delivered to the Clerk of the Maricopa County Superior
18 Court for filing and distributing a copy to the persons
19 listed as Attachment D.

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ATTACHMENT A

LAND OWNER	WATERSHED FILE
-----	REPORT NUMBER
VIGIL, DAVID O.	112-17-BAA-025
& VIOLA G.	

D I V E R S I O N S

DIV #	LOCATION			DIVERSION NAME	WATER SOURCE AND CLASSIFICATION
	SECTION	TWNP	RNGE		
DO1	NWSENE36	170S	200E	POMERENE CANAL	SURFACE WATER: SAN PEDRO RIVER
WO1	NWNESW34	160S	200E	UNNAMED	SHARED GROUNDWATER : ZONE 2 UNUSED

WI-11-1869

U S E S

PWR #	LOCATION			SUPPLIED BY		PHOTO DATE	SOURCE CHANGE	FACILITY NAME
	SECTION	TWNP	RNGE	DIVERSIONS	WATER SOURCES			
IR090	NESW34	160S	200E	DO1	SURFACE WATER	1935	NO	

S H A R E D U S E S A N D D I V E R S I O N S

** DIVERSION DO1 OPERATED BY THE POMERENE WATER USERS ASSOC.
(FILE 112-17-89) SUPPLIES WATER TO PWRS IN THIS FILE.

P W R S U M M A R Y

PWR #	APPLICABLE	APPLICABLE	*APPARENT FIRST USE DATE*		WATER SOURCES AND CLASSIFICATIONS
	ADJ FILINGS	PRE FILINGS	DATE BASIS	FOR DATE	
IR090	NONE	NONE	1912	POMERENE W.U.A. INFO	SURFACE WATER: SAN PEDRO RIVER

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

PWR #	QUANTIFICATION	ACRES	CROP TYPE	EFF	WATER DUTY	ESTIMATED VOLUME	REMARKS
	TYPE						
IR090	REGIONAL	11.2	NO CROP				DISCONTINUED IRRG.

E X P L A N A T I O N

D I V E R S I O N S

D1 - DIVERSION FROM THE SAN PEDRO RIVER INTO THE POMERENE WATER USERS ASSOCIATION CANAL.
W1 - UNUSED WELL.

U S E S A N D R E S E R V O I R S

IR90 - DISCONTINUED IRRIGATION: D.W.R. HAS DETERMINED THAT NO IRRIGATION HAS OCCURRED ON THIS PROPERTY IN THE LAST FIVE YEARS, BUT THERE HAS BEEN IRRIGATION WITHIN THE PAST TEN YEARS BASED UPON A REVIEW OF HISTORICAL AERIAL PHOTOGRAPHY AND FIELD INVESTIGATIONS.

P W R S U M M A R Y

FILINGS MADE BY THE POMERENE WATER USERS ASSOCIATION APPLY TO IRRIGATION USES (IR90) ON THIS PROPERTY. FOR MORE INFORMATION ON THE POMERENE WATER USERS ASSOCIATION, SEE THE MAJOR USERS REPORTS IN VOLUME 1.

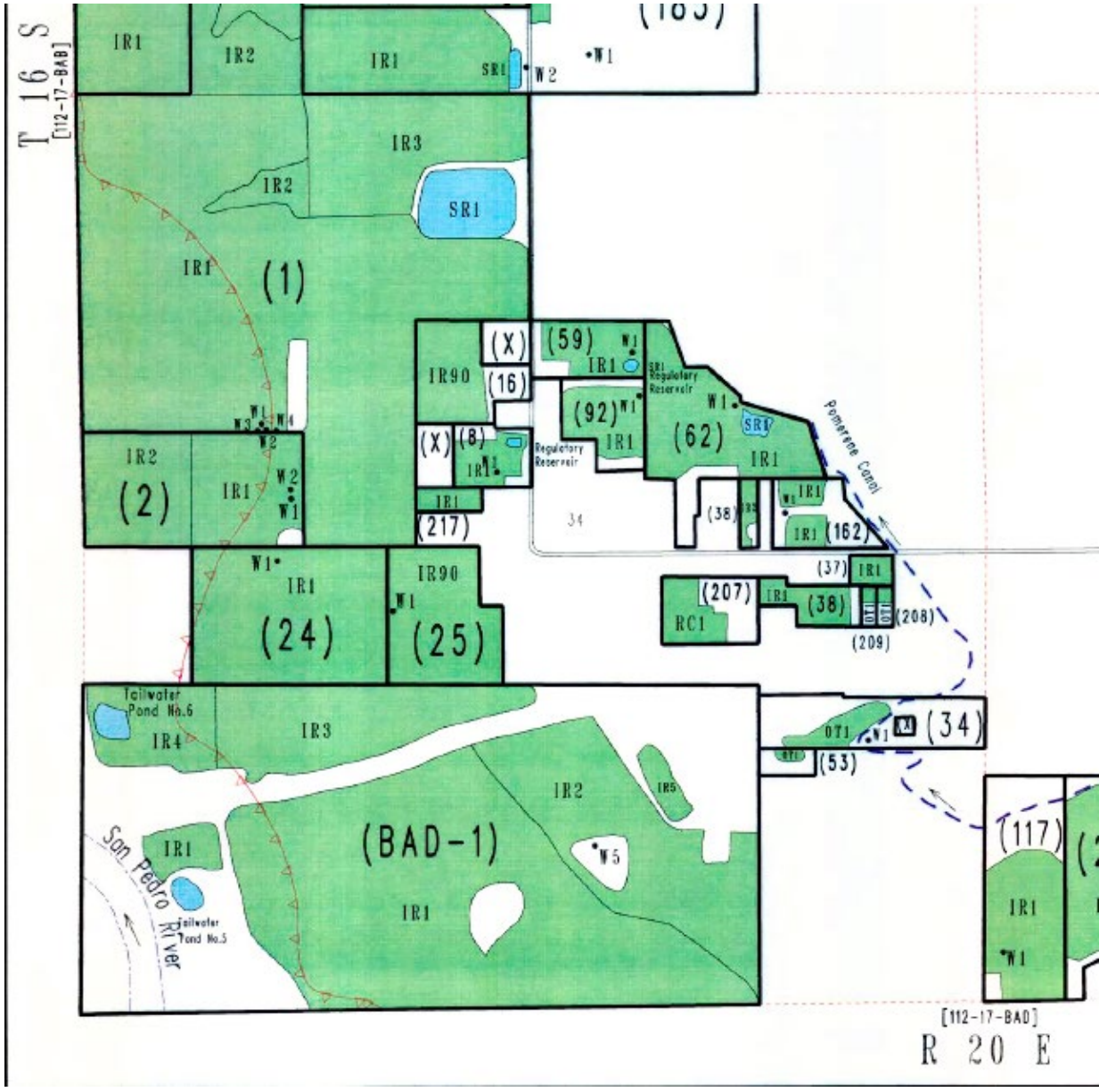
LAND OWNER	ZONE 2 WELL
-----	REPORT NUMBER
VIGIL, DAVID O.	112-17-BAA-025
& VIOLA G.	

WELLS	WELL NAMES	WELL LOCATION		WATER USES SERVED	REMARKS
		SECTION	TWNP RNGE		
W01	UNNAMED	NW NESW34	160S 200E		UNUSED <i>W1-11-1869</i>

EXPLANATION

W1 - UNUSED WELL.

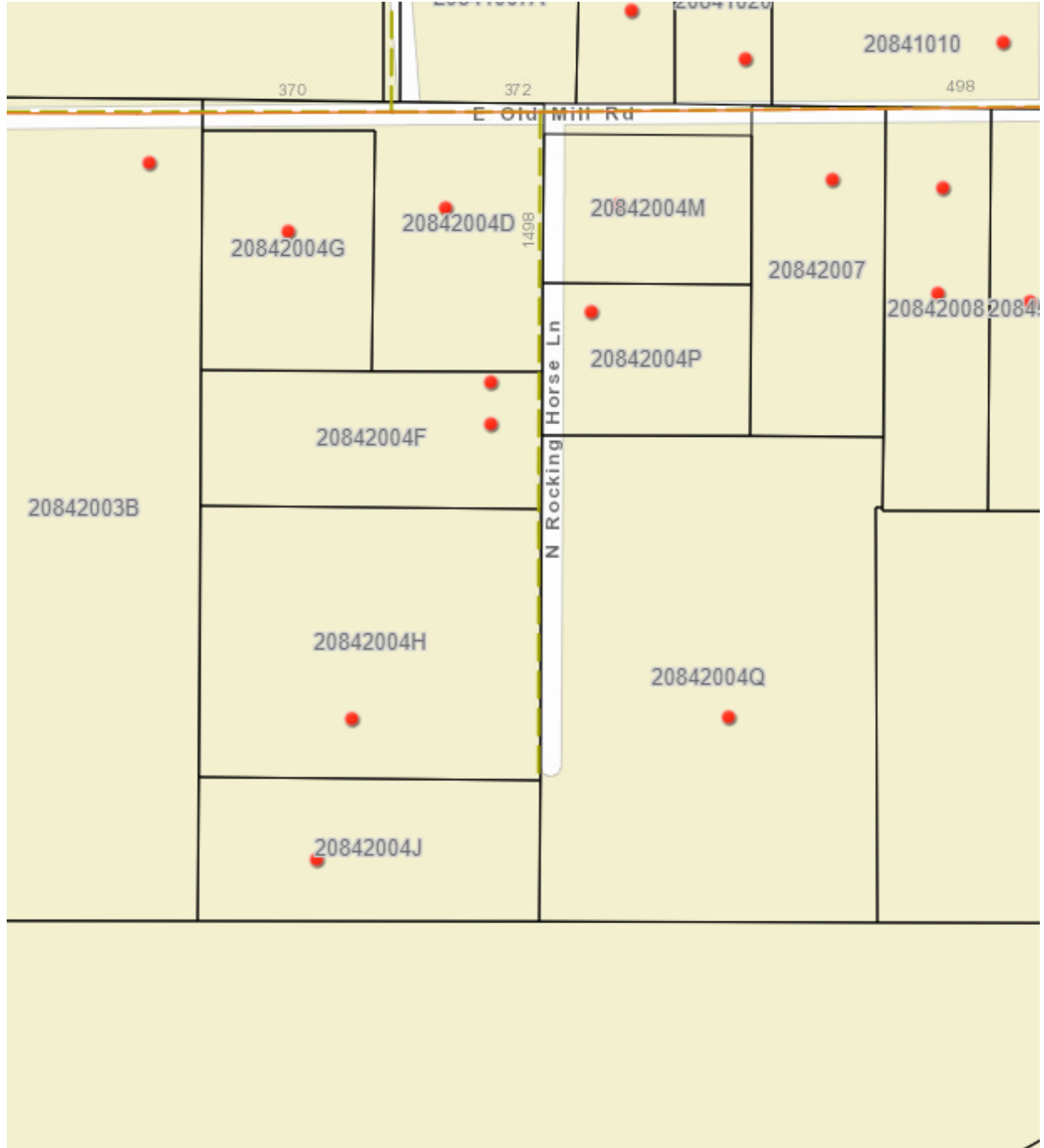
ATTACHMENT B



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ATTACHMENT C

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ATTACHMENT D

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Annette C. Tomek
371 E. Old Mill Rd.
Benson, AZ 85602

Arizona Department of Water Resources
Kimberly Parks
Janet L. Miller
P. O. Box 36020
Phoenix, AZ 85067

ASARCO Incorporated
Lauren J. Caster, Bradley Pew
Fennemore Craig, P.C.
2394 East Camelback Road
Suite 600
Phoenix, AZ 85016-3429

BHP Copper, Inc.
John D. Burnside
Snell & Wilmer, L.L.P.
400 E. Van Buren Street, Ste 1900
Phoenix AZ 85004

Brian R. Baker
2303 E. Grant Rd.
Tucson, AZ 85719

Chris and Heather Floyd
P.O. Box 344
Dragoon, AZ 85609

City of Phoenix
Charles L. Cahoy
200 W. Washington 13th Flr.
Phoenix, AZ 85003

Clerk of the Superior Court
Maricopa County
Attn: Water Case
601 West Jackson Street
Phoenix, AZ 85003

Danielle Paxton
393 E. Old Mill Rd.
Benson, AZ 85602

Dorothy A. Whitman
393 E. Old Mill Rd.
Benson, AZ 85602

Faith Wang Feng
821 W. Azure Ln.
Litchfield Park, AZ 85340

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

Homer and Patricia Fletcher Jr.
P.O. Box 80
Benson, AZ 85602

Jack and Lillian Coons
P.O. Box 162
Pomerene, AZ 85627

John V. Gourley and Marilyn N. Gourley
Living Trust
John and Marilyn Gourley
1400 N. Rocking Horse Ln.
Benson, AZ 85602

Muryl Paxton
393 E. Old Mill Rd.
Benson, AZ 85602

\

1 Salt River Project
2 John B. Weldon, Jr., Mark A. McGinnis,
3 and Michael Foy
4 Salmon, Lewis & Weldon PLC
5 2850 E Camelback Rd.
6 Suite 200
7 Phoenix, AZ 85016
8
9 San Carlos Apache Tribe
10 Joe P. Sparks and Laurel A. Herrmann
11 The Sparks Law Firm, P.C.
12 7503 First Street
13 Scottsdale, AZ 85251-4573
14
15 Special Master Susan Ward Harris
16 Superior Court of Arizona
17 201 W. Jefferson Street
18 Courtroom 301
19 Phoenix, AZ 85003
20
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United States
F. Patrick Barry
U.S. Department of Justice
P. O. Box 7611
Washington, DC 20044-7611

Tonto Apache Tribe
Richard Palmer, Jr., Jeremiah Weiner
and Lauren Mulhern
Rosette, LLP
565 W. Chandler Blvd. Suite 212
Chandler, AZ 85225

Yavapai-Apache Nation
S. Montgomery, R. Interpreter, J. Tomkus
Montgomery & Interpreter, Plc
3301 E. Thunderbird Road
Phoenix, AZ 85032

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ATTACHMENT E

**CLERK OF THE COURT
SUPERIOR COURT OF ARIZONA**

Jeff Fine
Clerk

**MARICOPA COUNTY
Customer Service Center
601 West Jackson
Phoenix, AZ 85003**

602 372-4115
Water Case Clerk

CONSENT FOR ELECTRONIC RECEIPT OF WATER CASE DOCUMENTS

In an effort to provide more timely and cost effective distribution of copies of filed Water Case documents, the Clerk of the Superior Court would like implement electronic distribution via email. To do so, we require your consent to receive copies of documents electronically at an email address provided to our office.

This consent is voluntary and can be rescinded if you so choose. If you no longer wish to receive Water Case documents from the Clerk of Superior Court electronically, please send written notification to the Clerk of the Superior Court Water Case Specialist at the email address below requesting that all future records be sent in paper form.

Please note that if you consent to receive documents via email, you must notify the Clerk's Office of any change to your email address to avoid delay in receiving future filings. In the event there is no valid email address on file with the Clerk of the Superior Court Water Case Specialist, documents will be mailed to the address provided.

If you wish to consent to receive future documents via email, please either fill out the information below and mail to our office or provide the below information to Mayra.Antelo@Maricopa.Gov.

Preferred email address:

Alternate email address:

Physical address:

Phone number:

Firm Name:

Name [Printed]:

Signature:

Date:

Thank you,

Mayra Antelo
Clerk of the Superior Court
Water Case Specialist
(602) 372-5375 options 7,1,3,4

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ATTACHMENT F



Court Connect Hearing Notice for In re David O. and Viola G. Vigil

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 David O. and Viola G. Vigil Contested Case No. W1-11-1869

Start Date/Time: January 20, 2022 at 1:50 p.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](#)

