

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

April 6, 2023

CLERK OF THE COURT  
A.Parmar  
Deputy

SPECIAL WATER MASTER  
SHERRI ZENDRI

FILED: April 12, 2023

In Re The General Adjudication of  
All Rights to Use Water in the Gila  
River System and Source  
W-1, W-2, W-3, W-4 (Consolidated)

In re: ASLD – John and Mary Lou Smith  
Contested Case No. W1-11-2844

**MINUTE ENTRY**

Courtroom 301 – Central Court Building

2:15 p.m. This is the time set for a Status Conference to discuss ownership of the claimed water rights and any agreements regarding same before Special Water Master Sherri Zendri.

The following parties/attorneys appear virtually through Court Connect:

- Kevin Crestin on behalf of the Arizona State Land Department (“ASLD”)
- Carrie Brennan on behalf of the Arizona Game and Fish Department
- Bradley Pew observing on behalf of American Smelting and Refining Company (“ASARCO”)
- Katrina Wilkinson on behalf of Salt River Project (“SRP”)
- Sue Montgomery on behalf of the Yavapai Apache Nation (and observing on behalf of Pascua Yaqui Tribe)
- Joe Sparks and Laurel Herrmann on behalf of the San Carlos Apache Tribe

- Maggie Woodward, Mark Widerschein, and Laura Boyer observing on behalf of the United States Department of Justice
- Kimberly Parks on behalf of Arizona Department of Water Resources (“ADWR”)
- Anthony Proano on behalf of the Tonto Apache Tribe

A record of the proceedings is made digitally in lieu of a court reporter.

Mr. Crestin addresses the Court. He states he has met with the Arizona Game and Fish Department and both agree that the Arizona State Land Department will be the owner of all the claimed water rights in this case.

Ms. Brennan affirms.

The Court inquires how ASLD would like to proceed.

Mr. Crestin states that ASLD intends to pursue all claimed water rights in the Watershed File Report 114-03-005. He states that there are comments for the *de minimis* claims on ADWR’s report. He requests a deadline for comments in two weeks.

Mr. Sparks requests a deadline sometime in August.

The Court is not inclined to extend the deadline that far. The Court will take a look at the schedule for cases and set the deadline for comments as a later in today’s Minute Entry, the deadline will not be set later than August 1, 2023.

Mr. Crestin addresses the Court regarding the claim that is not *de minimis* for Stock Pond 2. He requests time to look at the certification for that Stock Pond and to work with the objectors on agreements. He requests a Status Conference around the time that the ADWR report is due.

The Court will set a Status Conference at a later date, most likely around late July, early August.

2:27 p.m. Matter concludes.

A copy of this order is mailed to all persons listed on the Court-approved mailing list.

**LATER:**

Given that this case involves a single landowner with two discrete water rights and minimal objections, it is hoped that an agreement can be achieved by all the parties. To that end, after review of the Court’s calendar and in consideration of all parties to this case, who are also parties to a series of other cases that must also continue to move forward, the

Court feels 90 days is ample time for the parties to meet and confer and potentially resolve any objections.

**IT IS ORDERED** setting a telephonic Status Conference on **August 4, 2023 at 11:00 a.m.**

1. All parties shall be prepared to offer any comments to the proposed abstracts. A copy of the Arizona Department of Water Resources Report and proposed abstracts are attached as Attachment A.
2. Each objecting party shall be prepared to state its position with respect to its existing objections to the report, whether the de minimis procedures may be used to establish a water right for stock and wildlife watering from stock pond SP001 for less than four (4) acre feet of water per year, and whether it is prepared to enter into a stipulated abstract for rights to water for stock watering from SW002. If the parties have not reached an agreement, then each party shall be prepared to recommend a trial schedule to decide the outstanding objections.

The Status Conference will be held using the Court Connect program. Instructions for Court Connect are attached below. If you receive this Order by email, click on the red box “Join Court Connect Hearing” on the attached instructions to make an appearance. If you do not receive this Order by email, log into the Court Connect program on the internet by typing **<https://tinyurl.com/specialwatermaster>**. If you do not have access to the internet, you may attend telephonically using the telephone number and access code included in the instructions for Court Connect. Alternatively, you may attend telephonically using the following instructions:

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



## Court Connect Hearing Notice for In re John and Mary Lou Smith

*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 John and Mary Lou Smith, Contested Case No. W1-11-2844**

**Start Date/Time: August 4, 2023 at 11:00 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>

To ensure an optimal experience, please review the brief Court Connect training prior to the hearing: [Here](#)



# ATTACHMENT A

## Report on Draft Abstracts

### W1-11-2844 In re ASLD - John and Mary Lou Smith

#### 114-03-005-SP001

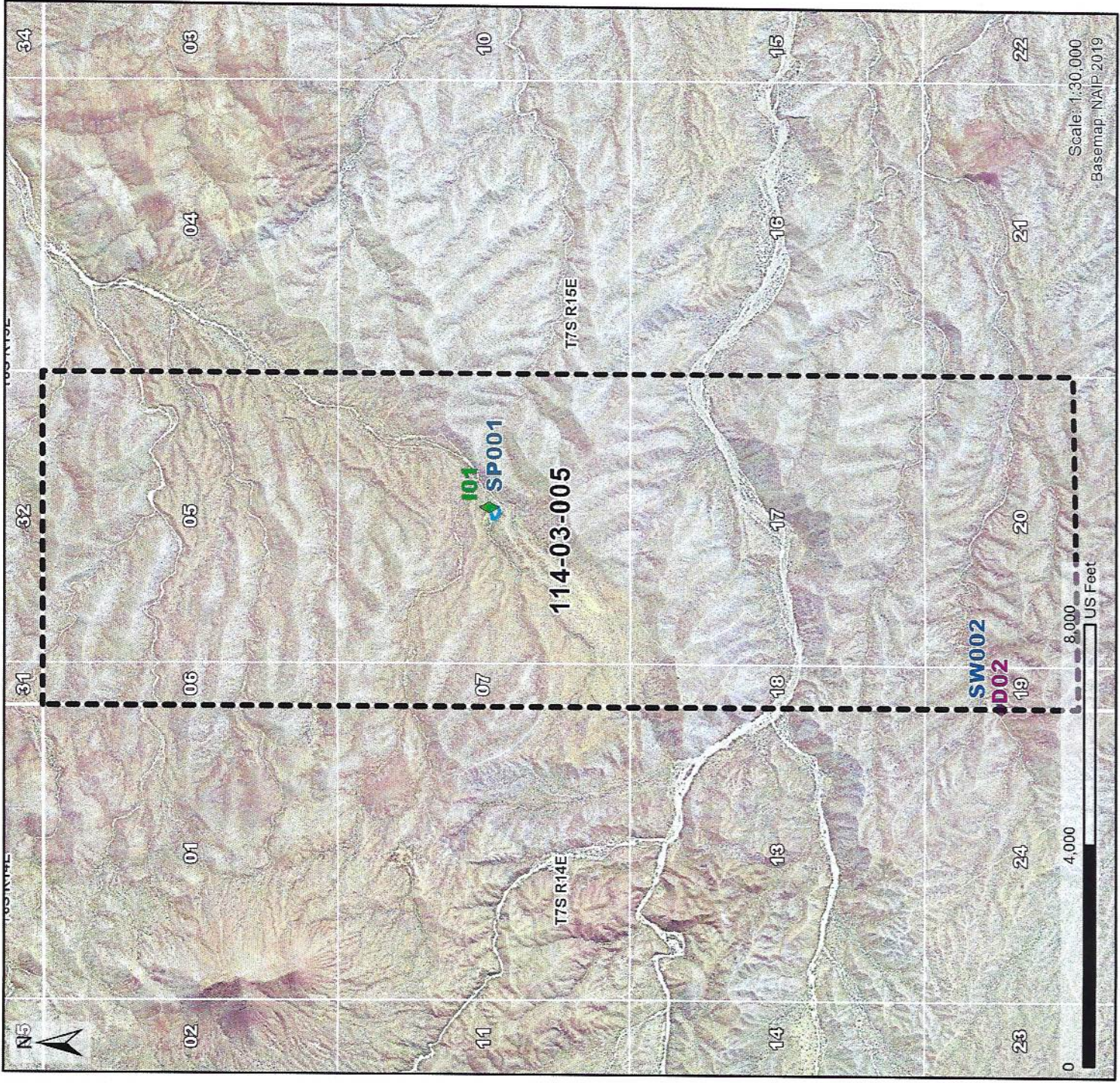
At this time, ADWR would not recommend a water right for this use because it does not appear that a certificate was ever issued for this stockpond. The quantity and priority date listed in the draft abstract are based on what is claimed in 38-70651.

#### 114-03-005-SW002

SW002 ("Cowhead Wash") is contained within a fractional section: NESWNW19 T7S R15E. A fractional section is defined by the Bureau of Land Management as: "Fractional by area sections have areas other than 640 acres and are found mainly on the north and west boundaries of townships where lots are created against those boundaries. Because these sections have all four quarter corners, they are subdivided by the standard intersection method." In the case of Cowhead Wash, section 19 is 95 acres in size, rather than the standard 640 acres. It is elongated from north to south but is subdivided by the standard method. Additionally, the source of water listed in the draft abstract has been updated from that listed in the HSR to give a more specific description. For the priority date, ADWR has used the date of first use from the HSR as required by previous court order.<sup>1</sup>

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<sup>1</sup> Memorandum Decision, Findings of Fact, and Conclusions of Law for Group 1 Cases Involving Stockwatering, Stockponds, and Domestic Uses filed November 14, 1994, in Contested Case No. W1-11-19, *In re Sands Group of Cases (W1-11-19) and Other Related Cases (Consolidated)*, at 42.



**Water Use Type**

- Stockpond
- Surface Water

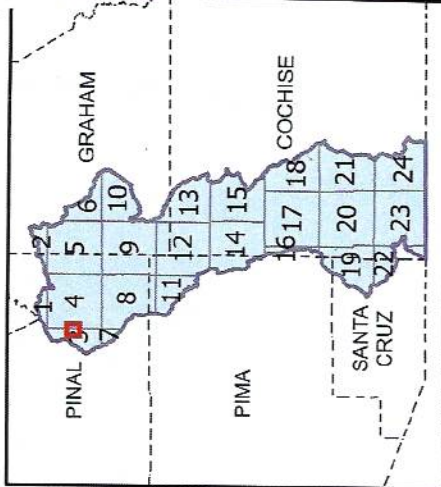
**WFR Boundary**

**Township/Range**

**Section**


**Points of Diversion**

- Diversion
- Impoundment



Watershed File Report  
**114-03-005**  
 Landowner  
**ARIZONA STATE LAND DEPARTMENT**  
 HSR Region 03

San Pedro River



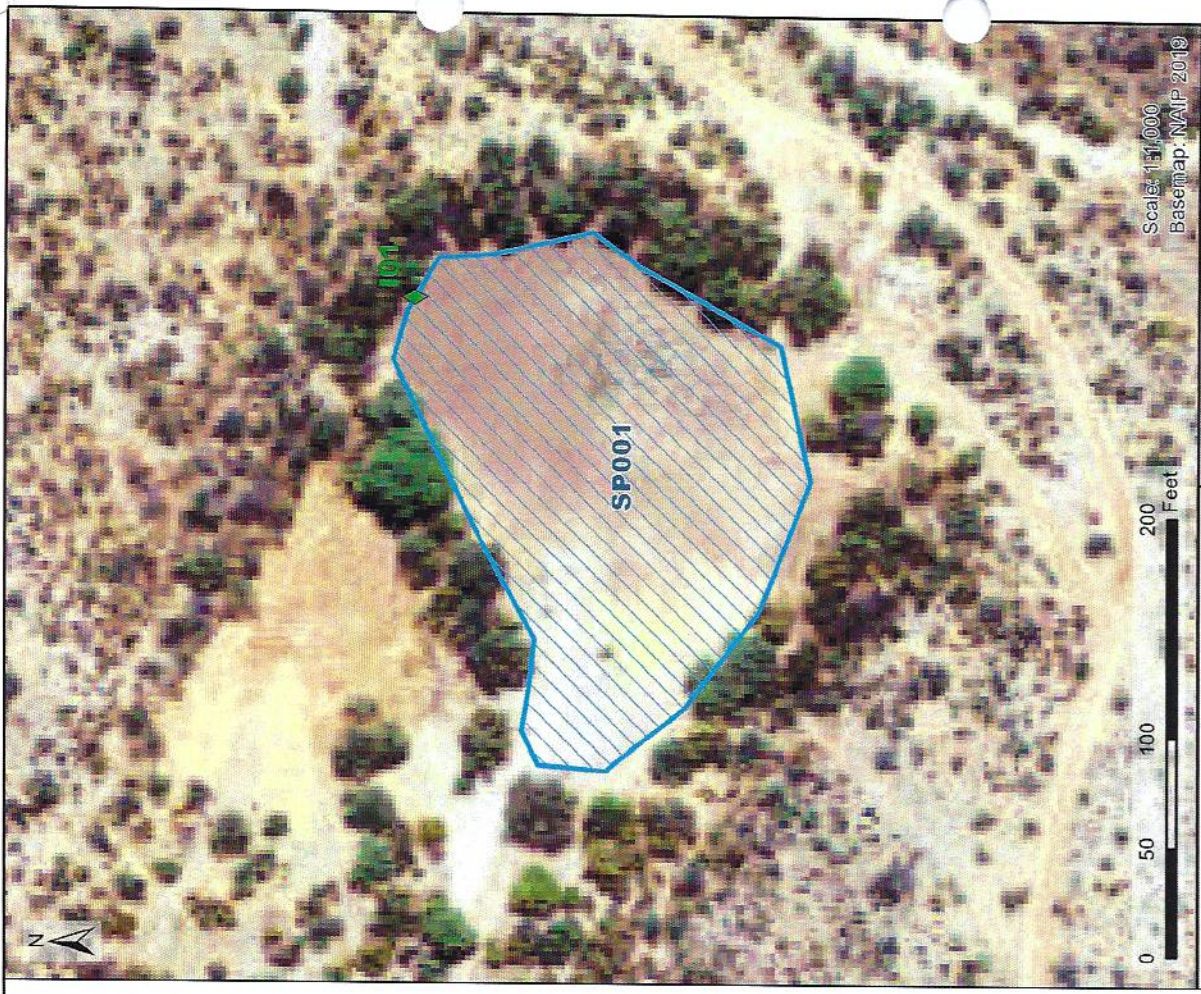
ADWR February 2023

**PROPOSED ABSTRACT OF POTENTIAL WATER RIGHT**

San Pedro River Watershed

<b>1. Proposed Water Right</b>	114-03-005-SP001
<b>2. Owner of Right</b>	
<b>3. Landowner</b>	Arizona State Land Department
<b>4. Statement of Claimant(s)</b>	39-2957, 39-6810
<b>5. Lessee or Permittee</b>	Smith, John E. & Mary Lou
<b>6. Basis of Right</b>	38-70651, 38-94290
<b>7. Beneficial Use</b>	Stock and wildlife watering from a stockpond
<b>8. Priority Date</b>	12/31/1946
<b>9. Quantity</b>	Not to exceed (≤) 4 acre-feet annually with continuous fill
<b>10. Place of Use</b>	NWNWSE08 07S 15E
<b>11. Point of Diversion</b>	101 (NWNWSE08 070S 150E)
<b>12. Source of Water</b>	Antelope Wash
<b>13. Facility Name</b>	Antelope Tank

Additional Information:



- Beneficial Use**
- Stockpond
  - Point of Diversion
  - Impoundment

San Pedro River



ADWR February 2023





**PROPOSED ABSTRACT OF POTENTIAL WATER RIGHT**

San Pedro River Watershed

<b>1. Proposed Water Right</b>	114-03-005-SW002
<b>2. Owner of Right</b>	
<b>3. Landowner</b>	Arizona State Land Department
<b>4. Statement of Claimant(s)</b>	39-6813
<b>5. Lessee or Permittee</b>	Smith, John E. & Mary Lou
<b>6. Basis of Right</b>	3R-2020, 36-4960, 38-72440
<b>7. Beneficial Use</b>	Stock and wildlife watering
<b>8. Priority Date</b>	12/31/1884
<b>9. Quantity</b>	Reasonable use
<b>10. Place of Use</b>	NESWNW19 070S 150E
<b>11. Point of Diversion</b>	D02 (NESWNW19 070S 150E)
<b>12. Source of Water</b>	Cowhead Wash

Additional Information:



**Beneficial Use**  
 Stockwatering  
**Point of Diversion**  
 Diversion

**114-03-005-SW002**

San Pedro River



ADWR February 2023