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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

W-1 (Salt)  
W-2 (Verde)  
W-3 (Upper Gila)  
W-4 (San Pedro)  
Consolidated

CONTESTED CASE NO. W1-11-2844  
ORDER TO INITIATE CONTESTED CASE  
AND  
ORDER SETTING STATUS CONFERENCE

CONTESTED CASE NAME: *In re ASLD - John and Mary Lou Smith*  
HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report.  
DESCRIPTIVE SUMMARY: Case initiated to adjudicate claims for rights to water for stockponds and stock watering uses investigated in Watershed File Report 114-03-005. Arizona Department of Water Resources (ADWR) shall prepare draft abstracts with maps by **February 28, 2023**. A status conference is set for **March 17, 2023 at 2:30 p.m.**  
NUMBER OF PAGES: 14  
DATE OF FILING: January 27, 2023

1 This Order initiates a contested case to consider the claims for water rights filed by John  
2 Smith and the Arizona State Land Department (“ASLD”) for stockponds and stock and wildlife  
3 watering and to resolve objections to Watershed File Report 114-03-005 (“WFR”) published in  
4 the Final San Pedro River Watershed Hydrographic Survey Report (1991). The WFR identified  
5 potential water rights on land located in T7S R18E. The identified sources of water are surface  
6 water from the West Antelope Wash and Cowhead Wash. A copy of the WFR is attached as  
7 Attachment A. A copy of the map prepared for the WFR is attached as Attachment B on which  
8 the land is labelled as “(5)”.

10 On April 17, 1980, John E. Smith filed Statements of Claimant 39-2952, 39-2953, 39-  
11 2957 for water rights for stockwatering and stockponds. Arizona State Land Department filed  
12 Statements of Claimant 39-6810, 39-6812, and 39-6813 for stockponds and stock and wildlife  
13 watering. The public records maintained by Arizona Department of Water Resources  
14 (“ADWR”) do not contain assignments of any of the listed Statements of Claimant.

16 According to the map available as a public record from Arizona State Land Department,  
17 the land included within the boundaries of the WFR is owned by the State of Arizona and leased  
18 to Arizona Game and Fish Commission. A copy of the map is attached as Attachment C.

### 21 **Adjudication of Claims**

22 Under current law, the adjudication of “small water use claims in any specific  
23 subwatershed shall be deferred until all other claims in that subwatershed are determined by the  
24 superior court in the course of the adjudication,” except when the claimant who asserted the small  
25 water use claim also asserted other claims in the subwatershed. Ariz. Rev. Stat. § 45-257(A)(1).  
26 Among other claims, the term “Small Water Use Claims” only includes claims for stockponds  
27 with a capacity of not more than 15 acre feet. A.R.S. §45-251(9). It does not include stockponds  
28

1 with a greater capacity. In this contested case, a claim has been asserted to a stockpond that has  
2 an estimated volume of 32 acre-feet. Therefore, because at least one claim is not for a Small  
3 Water Use, this contested case will adjudicate all claims investigated in the WFR.  
4

#### 5 **Expedited Procedures**

6  
7 Claims for rights to water for domestic use, stock watering, and certain stockponds in the  
8 San Pedro Watershed, and the objections to the Watershed File Reports that examine those  
9 claims are determined using an expedited process. The process is set forth in the Memorandum  
10 Decision, Findings of Fact, and Conclusions of Law for Group 1 Cases involving Stockwatering,  
11 Stockponds, and Domestic Uses, dated November 14, 1994, amended February 23, 1995,  
12 approved and modified September 27, 2002 ("Decision").  
13

14 The first step in the procedure for stockponds and stockwatering that qualify for the  
15 expedited procedures is the preparation of proposed abstracts for each of the claimed water rights  
16 analyzed by the Watershed File Reports. Drafts of the proposed abstracts will be prepared by  
17 Arizona Department of Water Resources and distributed to all parties listed on the attached  
18 mailing list. Following the Status Conference, the second step requires the court to distribute  
19 proposed abstracts to all of the parties because the Decision directs that "the litigants will be  
20 provided an opportunity to suggest the correction of mistakes in the proposed abstracts."  
21 Decision, p. 47. After suggested corrections have been received from the parties, the suggested  
22 corrections will be reviewed and any necessary corrections will be made to the proposed  
23 abstracts. The third step in the process is the inclusion of the reviewed and corrected abstracts  
24 into a catalog of proposed water rights where they will be subject to very limited set of  
25 objections and ultimately in a final decree.  
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1 **IT IS ORDERED:**

2 1. Contested Case. This contested case shall be known as *In re ASLD- John and Mary*  
3 *Lou Smith* and it will address Statements of Claimant listed in and the objections to Watershed File  
4 Report 114-03-005 published in the Final San Pedro River Watershed Hydrographic Survey Report  
5 (1991). Copies of objections can be found under the case name and number on the following  
6 website:

7 <http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp>

8 2. Litigants. The litigants in this contested case are the Claimants, the successor lessee,  
9 all persons who filed objections to the Watershed File Report who are listed on Attachment E, and  
10 claimants who are allowed to intervene by order.  
11

12 3. Court-Approved Mailing List.

13  
14 A. The initial Court-approved mailing list for this case shall include all persons  
15 listed on Attachment E to this order. The list may be modified only by filing  
16 a motion with the Special Master to amend the Court-approved mailing list.  
17 Litigants are responsible for using the current Court-approved mailing list.

18  
19 B. A copy of any pleading filed with the Clerk of the Maricopa County  
20 Superior Court in this case shall be served upon each person listed on the  
21 Court-approved mailing list.

22  
23 C. Claimants wishing to be added to or removed from the mailing list shall file  
24 a motion with the Special Master. Parties allowed to intervene will be  
25 automatically added to the mailing list.  
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1 The original of the foregoing was delivered to the Clerk of  
2 the Maricopa County Superior Court on January 27, 2023,  
3 for filing and distributing a copy to all persons listed on the  
4 Court approved mailing list for this contested case which is  
5 attached as Attachment E and to all persons listed on the  
6 Court-approved mailing list for W-1, W-2, W-3, and W-4  
7 (Consolidated).

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Emily Natale

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**ATTACHMENT A**

LAND OWNER	WATERSHED FILE	LESSEE/ALLOTTEE	LEASE-PERMIT ID
-----	REPORT NUMBER	-----	-----
SLD	114-03-005	SMITH, JOHN E. & MARY LOU	05-23462

APPLICABLE FILINGS AND DECREES

CLEARLY STATED INFORMATION FROM FILINGS AND DECREES *WI-11-2844*

FILING NUMBER	FILING STATUS	USES	QUANTITY IN AFA	USE LOCATION SECTION	TWNP	RNGE	CLAIM DATE	DIVERSION SECTION	TWNP	RNGE
3R-0002019	CERTIF.	STOCK	.46	19 070S	150E		1960	19 070S	150E	
3R-0002020	CERTIF.	STOCK	.46	NWSE08 070S	150E		1960	NWSE08 070S	150E	
36-0004959		STOCK	3.40	NWSE08 070S	150E		1884	NWSE08 070S	150E	
		REC/FISH/WLDLF								
36-0004960		STOCK	32.00	19 070S	150E		1884	19 070S	150E	
		REC/FISH/WLDLF								
38-0070651		STOCK	5.00	NWSE08 070S	150E		1947	NWSE08 070S	150E	
38-0072440		STOCK	10.00	NWNW19 070S	150E		1947	NWNW19 070S	150E	
38-0094290		STOCK	3.40	NWSE08 070S	150E		1946	NWSE08 070S	150E	
		REC/FISH/WLDLF								
39-0002952		STOCK	1.69				1961	SWNW17 070S	150E	
39-0002953		STOCK	24.00	NWNW19 070S	150E		1947	NWNW19 070S	150E	
39-0002957		STOCK	5.00	NWSE08 070S	150E		1947	NWSE08 070S	150E	
39-0006810	AMENDED	STOCK	3.06	NWSE08 070S	150E		1884	NWSE08 070S	150E	
		REC/FISH/WLDLF	.34							
39-0006812	AMENDED	STOCK	.48	SWNW17 070S	150E		1917	SWNW17 070S	150E	
		REC/FISH/WLDLF	.05							
39-0006813	AMENDED	STOCK	28.80	19 070S	150E		1884	19 070S	150E	
		REC/FISH/WLDLF	.32							

DWR ANALYSIS OF FILINGS AND DECREES

FILING NUMBER	USES CLAIMED OR REFERENCED	USES FOUND BY DWR	APPLIES TO DIVERSIONS	APPLIES TO PWR NUMBERS
3R-0002019	STOCK	STOCK		SW002
3R-0002020	STOCK	STOCK		SW001
36-0004959	STOCK	STOCK		SW001
	WILDLIFE	INCIDENTAL		
36-0004960	STOCK	STOCK		SW002
	WILDLIFE	INCIDENTAL		
38-0070651	STOCK	STOCK		SPO01
38-0072440	STOCK	STOCK		SPO02, SW002
38-0094290	STOCK	STOCK		SPO01
	WILDLIFE	INCIDENTAL		
39-0002952	STOCK	CATALOGUED WELL		
39-0002953	STOCK	STOCK		SPO02
39-0002957	STOCK	STOCK		SPO01
39-0006810	STOCK	STOCK		SPO01
	WILDLIFE	INCIDENTAL		
39-0006812	STOCK	CATALOGUED WELL		
	WILDLIFE	CATALOGUED WELL		
39-0006813	STOCK	STOCK		SPO02, SW002
	WILDLIFE	INCIDENTAL		

USES

PWR #	LOCATION SECTION TWNP RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO SOURCE DATE	CHANGE	FACILITY NAME
SW001	NWSWS08 070S 150E		SURFACE WATER		NO	INSTREAM USE
SW002	NESWNW19 070S 150E		SURFACE WATER		NO	INSTREAM USE

RESERVOIRS

PWR #	LOCATION SECTION TWNP RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO DATE	RESERVOIR NAME	STORAGE PURPOSE
SPO01	NWNWSE08 070S 150E		SURFACE WATER	1947	ANTELOPE TANK	STOCKWATERING WILDLIFE
SPO02	NENWNW19 070S 150E		SURFACE WATER	1947	COWHEAD TANK	STOCKWATERING WILDLIFE



PWR #	APPLICABLE ADJ FILINGS	APPLICABLE PRE FILINGS	*APPARENT FIRST USE DATE* DATE BASIS FOR DATE	WATER SOURCES AND CLASSIFICATIONS
SPOO1	39-0002957 39-0006810	38-0070651 38-0094290	1947 FILING 38-70651	SURFACE WATER: SAN PEDRO RIVER
SPOO2	39-0002953 39-0006813	38-0072440	1946 FILING 38-72440	SURFACE WATER: SAN PEDRO RIVER
SWOO1	NONE	3R-0002020 36-0004959		SURFACE WATER: SAN PEDRO RIVER
SWOO2	39-0006813	3R-0002019 36-0004960 38-0072440	1884 FILING 36-4960	SURFACE WATER: SAN PEDRO RIVER
NDNE	39-0002952 39-0006812	NDNE		

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
SPOO1	MAX. AREA/CAP	.8				3.4 AF	
SPOO2	MAX. AREA/CAP	4.9				32.0 AF	
SWOO1							SEE VOLUME 1 - GENERAL ASSESSMENT
SWOO2							SEE VOLUME 1 - GENERAL ASSESSMENT

E X P L A N A T I O N

FILINGS AND DECREES

FILING 39-6812 - CLAIMS A FEDERAL RESERVED WATER RIGHT PRIORITY DATE OF 1971, BUT THE CLAIMED DATE OF FIRST BENEFICIAL USE IS 1961.

USES AND RESERVOIRS

- SP1 - ANTELOPE TANK STOCKPOND.
- SP2 - COWHEAD TANK STOCKPOND.
- SW1 - INSTREAM STOCKWATERING AND WILDLIFE USES FROM WEST ANTELOPE WASH.
- SW2 - INSTREAM STOCKWATERING AND WILDLIFE USES FROM COWHEAD WASH.

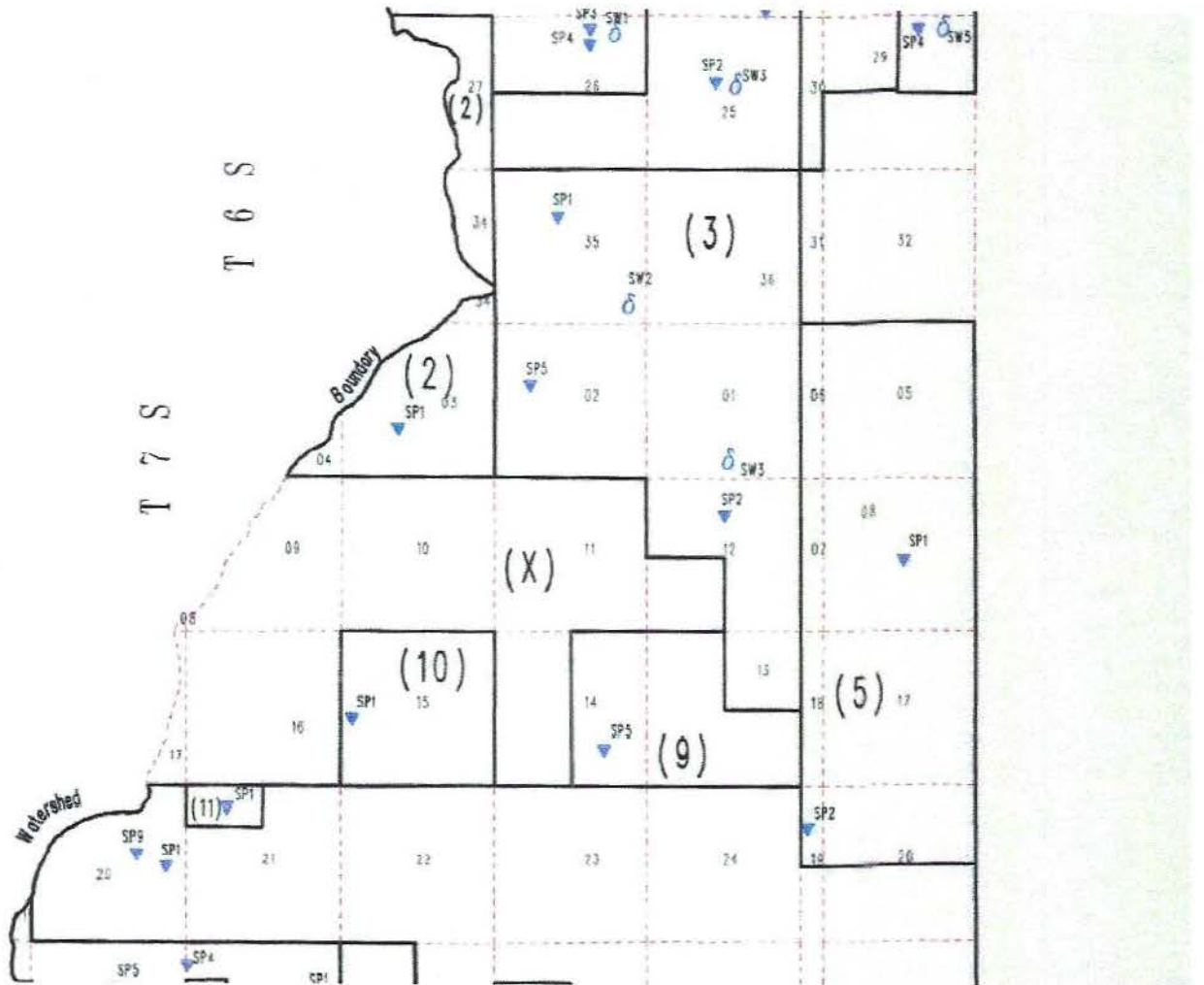
QUANTITIES OF USE

- SP2 - FILING 3R-2019 STATES A CERTIFICATED STOCKPOND CAPACITY OF 24.08 ACRE-FEET.
- SP1 - FILING 3R-2020 STATES A CERTIFICATED STOCKPOND CAPACITY OF 6.24 ACRE-FEET.

DISPOSITION OF LAND OWNER/CLAIMANT COMMENTS

A COMMENT WAS RECEIVED FROM THE LAND OWNER WHICH STATED THAT AN INCORRECT LEGAL WAS GIVEN TO STATEMENT OF CLAIMANT 39-6813.

# ATTACHMENT B



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# ATTACHMENT C

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# ATTACHMENT D

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2  
3 Arizona Game and Fish Commission  
4 5000 West Carefree Highway  
5 Phoenix, AZ 85086

6 Carrie Brennan and Kevin Crestin  
7 Arizona Attorney General  
8 Natural Resources Department  
9 2005 N. Central  
10 Phoenix, AZ 85004

11 Clerk of the Superior Court  
12 Maricopa County  
13 Attn: Water Case  
14 601 West Jackson Street  
15 Phoenix, AZ 85003

16 Joe P. Sparks and Laurel A. Herrmann  
17 The Sparks Law Firm, P.C.  
18 7503 First Street  
19 Scottsdale, AZ 85251-4573

20 John E. Smith  
21 P. O. Box 57  
22 Maricopa, AZ 85239

23 Kimberly R. Parks  
24 Kome Apkolo  
25 Arizona Department of Water Resources  
26 1110 West Washington, Suite 310  
27 Phoenix, AZ 85007

Thomas L. Murphy  
Gila River Indian Community  
Office Of The General Counsel  
P. O. Box 97  
Sacaton, AZ 85147

Jeremiah Weiner, Kent Millward, Anthony  
Proano, and Lauren Mulhern  
Rosette, LLP  
120 S. Ash Avenue, Suite 201  
Tempe, AZ 85281

S. Montgomery, R. Interpreter, J. Tomkus  
Montgomery & Interpreter, PLC  
3301 E. Thunderbird Road  
Phoenix, AZ 85032

Salt River Valley Water Users Association,  
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

Susan Ward Harris  
Special Master  
Central Court Building, Ste 3A  
201 West Jefferson  
Phoenix, AZ 85003-2205

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**ATTACHMENT E**



## Court Connect Hearing Notice for In re ASLD - 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 ASLD - John and Mary Lou Smith, Contested Case No. W1-11-2844

**Start Date/Time:** March 17, 2023 at 2:30 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](#)

