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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. W1-11-1691

CONTESTED CASE NAMES: *In re Eli and Ila Fenn*
HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report
DESCRIPTIVE SUMMARY: Arizona Department of Water Resources directed to map three wells in the northwest quarter of section 11 T17S R20 with respect to the subflow zone. Status conference set to determine proceedings necessary to address potential water rights for irrigation uses.
NUMBER OF PAGES: 13
DATE OF FILING: October 17, 2018

This contested case involves potential water rights for three irrigation uses in the southwest quarter of section 1 and the southeast quarter of the section 2 T17S R20E identified by the Arizona Department of Water Resources in Watershed File Report No. 112-17-ABC-001

1 (WFR). The WFR listed the sources of water as three wells and a diversion from the San Pedro
2 River into the Pomerene Water Users Association Canal. A copy of the WFR is attached as
3 Attachment A. Rex Barney filed the applicable adjudication filing which is Statement of
4 Claimant 39-4305. The records of the Arizona Department of Water Resources do not show that
5 this Statement of Claimant has been assigned to a successor landowner. A copy of the map
6 prepared by the Arizona Department of Water Resources for the WFR is attached as Attachment
7 B. The purpose of this case is to resolve the five objections to the potential water rights to the
8 extent that the current landowners intend to pursue them.
9

10 11 **Background**

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

19 By order dated July 26, 2017, the court directed the owners of land for which Arizona
20 Department of Water Resources had identified as places of use for water diverted through the
21 Pomerene Canal to file new or amended statements of claimant if they desired to assert a claim
22 for a right to divert water through the Pomerene Canal for irrigation use. A second status
23 conference was set for October 18, 2017. A copy of the order was sent, among others, to the D.
24 Stadtler 2015 Trust.
25

26 At the status conference held on October 18, 2017, the newly elected board of the
27 Pomerene Water Users Association appeared along with its counsel. The court directed the
28

1 Pomerene Water Users Association to file a list by December 29, 2017 that identified those
2 landowners who were members by the Pomerene Water Users Association and whose interests
3 would be represented by the Pomerene Water Users Association in this adjudication of water
4 rights. The court also set a third status conference for September 6, 2018. A copy of the order
5 was sent, among others, to the D. Stadtler 2015 Trust. On December 21, 2017, the Pomerene
6 Water Users Association timely filed a list of 26 landowners.
7

8 On August 31, 2018, Pomerene Water Users Association filed a Notice of Termination.
9 At the third status conference, counsel for the Pomerene Water Users Association provided a list
10 of its members who joined the St. David Irrigation District and those members who declined to
11 join the St. David Irrigation District. By order dated October 5, 2018, the cases previously
12 consolidated into a single case known as *In re Pomerene Water Users Association* were separated
13 into individual cases. As a result, the potential water rights analyzed in the WFR will be
14 considered in this separate case.
15

16

17 **Landowners**

18 The first step to adjudicate the water rights identified by the WFR is to identify the
19 current landowners involved in this case. According to information provided by the Cochise
20 County Assessor's Office, the land included in the WFR consists of tax parcels 12301007 and
21 12301001A owned by Daniel J. Stadtler, Trustee of the D. Stadtler 2015 Trust and 12301001B
22 owned by the Pomerene Domestic Water Improvement District. The public records of Arizona
23 Department of Water Resources do not contain a statement of claimant filed by the D. Stadtler
24 2015 Trust or Daniel J. Stadtler. Pomerene Domestic Water Improvement District has filed
25 Statements of Claimant regarding water diverted in section 35 T16S R 20E. Neither the D.
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1 Stadtler 2015 Trust nor Pomerene Domestic Water Improvement District was included in the lists
2 filed by the Pomerene Water Users Association.

3 The second step is to determine whether the wells listed in the WFR are located in the
4 subflow zone. The third step is to determine whether the landowners intend to pursue claims for
5 potential water rights described in the WFR, and, if so, to schedule appropriate procedures to
6 adjudicate those claims. Accordingly,
7

8 **IT IS ORDERED** that by **November 16, 2018**, the Arizona Department of Water
9 Resources shall file a map that shows Wells 1, 2, and 3 identified in the WFR relative to the
10 boundaries of the subflow zone.

11 **IT IS FURTHER ORDERED** that a telephonic status conference shall be held on
12 **November 29, 2018** at 1:00 p.m. to ascertain whether the landowners intend to pursue any of the
13 potential water rights set forth in the WFR.
14

15 Instructions for telephonic participation:

16 Dial: 602-506-9695 (local)

17 1-855-506-9695 (toll free long distance)

18 Dial Collaboration (conference) Code 357264#
19

20 Failure to participate at the status conference or file a statement of claimant with the Arizona
21 Department of Water Resources may result in no adjudication of the potential water rights
22 associated with the land described in the WFR.
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27 _____
28 SUSAN WARD HARRIS
Special Master

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On October 17, 2018, the original of the foregoing was delivered to the Clerk of the Maricopa County Superior Court for filing and distributing a copy to the persons listed as Attachment C.

Barbara Brown
Barbara Brown

ATTACHMENT A

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LAND OWNER	WATERSHED FILE
-----	REPORT NUMBER
FENN, ELI & ILA V.	112-17-ABC-001

A P P L I C A B L E F I L I N G S A N D D E C R E E S

CLEARLY STATED INFORMATION FROM FILINGS AND DECREES

W1-11-1691

FILING NUMBER	FILING STATUS	USES	QUANTITY IN AFA	USE LOCATION SECTION	TWNP	RNGE	CLAIM DATE	DIVERSION SECTION	LOCATION TWNP	RNGE
36-0027315		IRRIGATION	1935.60				1944	NW11	170S	200E
36-0027317		IRRIGATION	1613.00				1948	NW11	170S	200E
36-0027318		IRRIGATION	3226.00				1915	SE36	170S	200E
36-0027320		IRRIGATION	1774.30				1952	NW11	170S	200E
39-0004305		IRRIGATION	1000.00	02	170S	200E	1910	NENE36	170S	210E
		STOCK	4.00	11	170S	200E		SENE11	170S	200E
				02	170S	210E		SENW11	170S	200E
39-0005211		DOMESTIC					1947	NESWSE02	170S	200E
39-0005212		DOMESTIC					1910	NESWSW01	170S	200E
39-0005213		DOMESTIC					1946	NWSWSW01	170S	200E

D W R A N A L Y S I S O F F I L I N G S A N D D E C R E E S

FILING NUMBER	USES CLAIMED OR REFERENCED	USES FOUND BY DWR	APPLIES TO DIVERSIONS	APPLIES TO PWR NUMBERS
36-0027315	IRRIGATION	IRRIGATION	WO1	IROO1, IROO2, IROO3
36-0027317	IRRIGATION	IRRIGATION	WO2	IROO1, IROO2, IROO3
36-0027318	IRRIGATION	IRRIGATION	DO1	IROO1, IROO2, IROO3
36-0027320	IRRIGATION	IRRIGATION	WO3	IROO1, IROO2, IROO3
39-0004305	IRRIGATION	IRRIGATION	DO1, WO1, WO2	IROO1, IROO2, IROO3
	STOCK	INCIDENTAL	WO3	
39-0005211	DOMESTIC	NONE		
39-0005212	DOMESTIC	NONE		
39-0005213	DOMESTIC	NONE		

D I V E R S I O N S

DIV #	SECTION	TWNP	RNGE	DIVERSION NAME	WATER SOURCE AND CLASSIFICATION
DO1	NWSENE36	170S	200E	POMERENE CANAL	SURFACE WATER: SAN PEDRO RIVER
WO1	SESENW11	170S	200E	UNNAMED	SHARED GROUNDWATER : ZONE 2
WO2	SESENW11	170S	200E	UNNAMED	SHARED GROUNDWATER : ZONE 2
WO3	SESENW11	170S	200E	UNNAMED	SHARED GROUNDWATER : ZONE 2

U S E S

PWR #	SECTION	TWNP	RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO DATE	SOURCE CHANGE	FACILITY NAME
DMOO1	NWSWSE02	170S	200E		GROUNDWATER : CATALOGUED		NO	
IROO1	NWSW01	170S	200E	DO1, WO1, WO2	SURFACE WATER	1935	NO	
	SWSW01	170S	200E	WO3	GROUNDWATER : ZONE 2			
IROO2	SE02	170S	200E	DO1, WO1, WO2	SURFACE WATER	1935	NO	
				WO3	GROUNDWATER : ZONE 2			
IROO3	SESE02	170S	200E	DO1, WO1, WO2	SURFACE WATER	1955	NO	
				WO3	GROUNDWATER : ZONE 2			

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.
- ** WATER FROM WO1 FOUND IN FILE (112-17BAD-28) IS USED IN THIS FILE
- ** WATER FROM WO2 FOUND IN FILE (112-17BAD-16) IS USED IN THIS FILE
- ** WATER FROM WO3 FOUND IN FILE (112-17BAD-16) IS USED IN THIS FILE

PWR #	APPLICABLE ADJ FILINGS	APPLICABLE PRE FILINGS	*APPARENT FIRST USE DATE* DATE BASIS FOR DATE	WATER SOURCES AND CLASSIFICATIONS
DMOO1	NONE	NONE		GROUNDWATER : CATALOGUED
IROO1	39-0004305	36-0027315 36-0027317 36-0027318 36-0027320	1912 POMERENE W.U.A. INFO	SURFACE WATER: SAN PEDRO RIVER GROUNDWATER : ZONE 2
IROO2	39-0004305	36-0027315 36-0027317 36-0027318 36-0027320	1930 CLAIMANT INFORMATION	SURFACE WATER: SAN PEDRO RIVER GROUNDWATER : ZONE 2
IROO3	39-0004305	36-0027315 36-0027317 36-0027318 36-0027320	1950 CLAIMANT INFORMATION	SURFACE WATER: SAN PEDRO RIVER GROUNDWATER : ZONE 2
NONE	39-0005211 39-0005212 39-0005213	NONE		

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 REGIONAL	26.7	ALFALFA	32%	10.4 AF/AC	277.7 AFA	
	MAX. POTENTIAL	26.7	AVE. CROP	50%	5.4 AF/AC	144.2 AFA	
IROO2	MAX. OBSERVED REGIONAL	47.8	ALFALFA	32%	10.4 AF/AC	277.7 AFA	
	MAX. POTENTIAL	47.8	MULTI.-DBL.	32%	9.2 AF/AC	439.8 AFA	
IROO3	MAX. OBSERVED REGIONAL	47.8	AVE. CROP	50%	5.4 AF/AC	258.1 AFA	
	MAX. POTENTIAL	47.8	ALFALFA	32%	10.4 AF/AC	497.1 AFA	
	MAX. OBSERVED	21.6	ALFALFA	32%	10.4 AF/AC	224.6 AFA	
	REGIONAL	21.6	AVE. CROP	50%	5.4 AF/AC	116.6 AFA	
	MAX. POTENTIAL	21.6	ALFALFA	32%	10.4 AF/AC	224.6 AFA	

E X P L A N A T I O N

FILINGS AND DECREES

FILINGS 39-5211, 39-5212 & 39-5213 - CLAIM DOMESTIC USE FROM WELLS WHICH ARE NOW ABANDONED.

DIVERSIONS

D1 - DIVERSION FROM THE SAN PEDRO RIVER INTO THE POMERENE WATER USERS ASSOCIATION CANAL.
W1-W3 - WELLS PROVIDE WATER FOR IRRIGATION AND STOCKWATERING USES.

USES AND RESERVOIRS

DM1 - DOMESTIC USE.
IR1 & IR3 - IRRIGATED ALFALFA.
IR2 - IRRIGATED MULTIPLE-DOUBLE CROPS (ALFALFA AND PASTURE).

SHARED USES AND DIVERSIONS

W1 - WELL IS SHARED WITH W.F.R. #112-17-BAD-28.
W2 & W3 - WELLS ARE SHARED WITH W.F.R. #112-17-BAD-16.

PWR SUMMARY

FILINGS MADE BY THE POMERENE WATER USERS ASSOCIATION ALSO APPLY TO IRRIGATION USES (IR1) 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
FENN, ELI & ILA V.	112-17-ABC-001

WELLS	WELL NAMES	WELL LOCATION			WATER USES SERVED	REMARKS
		SECTION	TWNP	RNGE		
WO1	UNNAMED	SESENW11	17OS	200E	IROO1, IROO2, IROO3	SHARED
WO2	UNNAMED	SESENW11	17OS	200E	IROO1, IROO2, IROO3	SHARED
WO3	UNNAMED	SESENW11	17OS	200E	IROO1, IROO2, IROO3	SHARED

W1-11-1691

WATER USE NUMBERS	WATER USE LOCATION			*** APPARENT FIRST USE ***	APPAR. ANNUAL VOLUME USED	ACRES IRRIGATED
	SECTION	TWNP	RNGE			
IROO1	NWSW01	17OS	200E	1912	POMERENE W.U.A. INFO	144.2 AFA
	SWSW01	17OS	200E			26.7
IROO2	SE02	17OS	200E	1930	CLAIMANT INFORMATION	258.1 AFA
IROO3	SESE02	17OS	200E	1950	CLAIMANT INFORMATION	116.6 AFA
						21.6

APPLICABLE STATEMENTS OF CLAIMANT	APPLIES TO:	APPLIES TO:
-----	WELLS	WATER USES
39-0004305	WO1, WO2, WO3	IROO1, IROO2, IROO3

EXPLANATION

THE APPARENT ANNUAL VOLUME REPORTED FOR IROO1 IS PARTIALLY SUPPLIED BY SURFACE WATER.
 THE APPARENT ANNUAL VOLUME REPORTED FOR IROO2 IS PARTIALLY SUPPLIED BY SURFACE WATER.
 THE APPARENT ANNUAL VOLUME REPORTED FOR IROO3 IS PARTIALLY SUPPLIED BY SURFACE WATER.

** WATER FROM WO1 FOUND IN FILE (112-17BAD-28) IS USED IN THIS FILE.
 ** WATER FROM WO2 FOUND IN FILE (112-17BAD-16) IS USED IN THIS FILE.
 ** WATER FROM WO3 FOUND IN FILE (112-17BAD-16) IS USED IN THIS FILE.

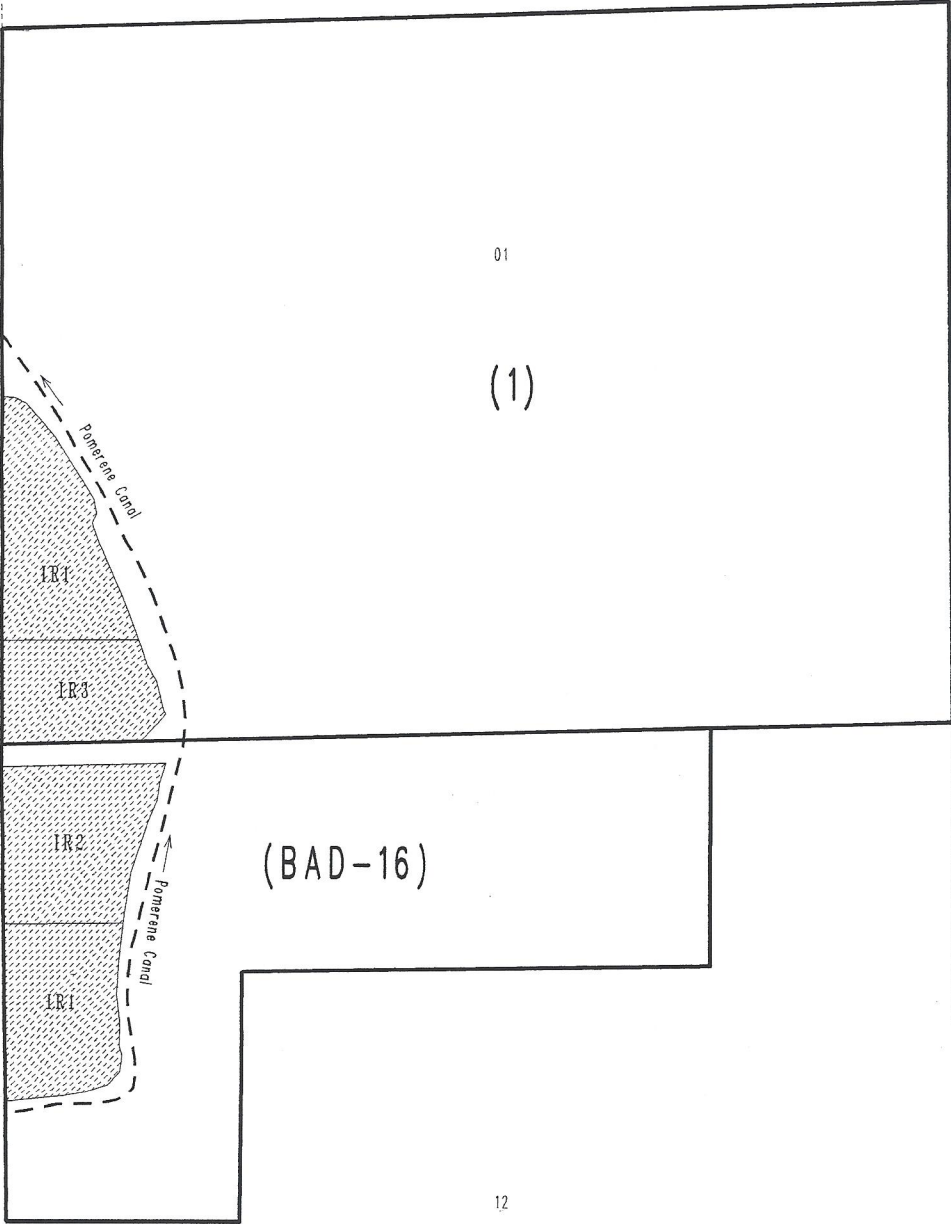
W1-W3 - WELLS PROVIDE WATER FOR IRRIGATION AND STOCKWATERING USES.
 IR1 & IR3 - IRRIGATED ALFALFA.
 IR2 - IRRIGATED MULTIPLE-DOUBLE CROPS (ALFALFA AND PASTURE).

ATTACHMENT B

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ATTACHMENT C

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