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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. W1-11-2690

ORDER TO DETERMINE POINT OF
DIVERSION AND PLACE OF USE

CONTESTED CASE NAME: *In re Pima County Flood Control District*

HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report

DESCRIPTIVE SUMMARY: ADWR to resolve location of Edgar Spring.

NUMBER OF PAGES: 3

DATE OF FILING: August 20, 2019

Pima County Flood Control District (“District”) filed a motion to amend the revised abstract for proposed stock watering right 113-12-021-SW002 (Abstract). On August 9, 2019, the San Carlos Tribe and Tonto Apache Tribe (the Tribes) filed an objection to the District’s motion and proposed amendment on limited grounds.

1 Arizona Department of Water Resources (ADWR) identified 113-12-021-SW002 as a
2 potential water right for stock watering use in Watershed File Report 113-12-021 (WFR). It
3 listed Application No. 4A-4914 (Application) as the basis of the right and Statement of
4 Claimant 39-2768 as the applicable adjudication filing. The WFR identified the source of use
5 water as Edgar Spring and located the place of use and point of diversion as the SE1/4 NE1/4 of
6 section 30 T11S R18E. Using the information in the WFR, the Court prepared a proposed
7 abstract that ADWR reviewed as to the place of use and point of diversion. Arizona
8 Department of Water Resources determined that the correct location of the place of use and
9 point of diversion was in an adjoining quarter quarter section: SW1/4 NE1/4 section 30 T11S
10 R18E. The Abstract was revised based on the ADWR report and issued to the parties for
11 suggested corrections.
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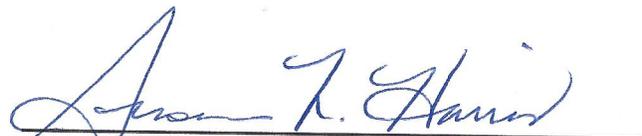
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14 In its January 18, 2019 filing, the Arizona State Land Department noted that the Abstract
15 was not consistent with the Application. Consequently, the Court ordered the District to amend
16 the Application so that the place of use and point of diversion could be consistent with the
17 Abstract. The District timely filed an amendment to the Application with ADWR. On June
18 18, 2019, ADWR declined to process the amendment on the grounds that the amendment sought
19 an additional place of use and listed the actions the District must take before the amendment
20 would be approved.
21

22 The District has now taken the position that the correct basis for 113-12-021-SW002 is a
23 Certificate for a Water Rights based on Permit 93391 that grants a right to use water from Edgar
24 Spring for stock watering with both a point of diversion and place of use in the SE1/4 NE1/4 of
25 section 30 T11S R18E. The Certificate, like the Watershed File Report, locates Edgar Spring
26 in the SE1/4 NE1/4 of section 30, and not in the SW1/4 NE1/4 of section 30 as reported in
27 ADWR's November 19, 2018 Report. The Tribes object to the District's motion only insofar
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1 as the change in the reported basis of the claim would not directly address the inconsistency
2 among the existing documents as to the location of Edgar Spring. It is clear from the
3 Application, Statement of Claimant 39-2768, the correspondence in the public files maintained
4 by ADWR for the Application, the WFR, and Permit 93391 that Edgar Spring provides the
5 source of water for the stock watering use. Thus, the only question put at issue by the Tribes'
6 objection to the District's motion is the correct location of Edgar Spring. Accordingly,
7

8 **IT IS ORDERED** that ADWR shall determine whether the location of Edgar Spring was
9 incorrected identified in the Watershed File Report, the Application, and Certificate of Water
10 Right No. 9339 and shall verify the location of the place of use and point of diversion for 113-12-
11 021-SW002. Arizona Department of Water Resources shall file the results of its investigation by
12 **October 2, 2019.**
13

14 **IT IS FURTHER ORDERED** granting the District's motion to vacate the Court's Order
15 dated March 1, 2019, which required the District to amend Application No. 4A-4914.
16

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19 _____
20 Susan Ward Harris
Special Master

21 The original of the foregoing was delivered to the Clerk
22 of the Maricopa County Superior Court on August 20,
23 2019, for filing and distributing a copy to all persons
24 listed on the Court approved mailing list for this
25 Contested Case.
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