

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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. W1-11-3397

ORDER SETTING DATE FOR
SUGGESTED CORRECTIONS
AND STIPULATIONS TO
ABSTRACTS FOR WATER
RIGHTS

CONTESTED CASE NAME: *In re Whiting Ranches*
HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report.
DESCRIPTIVE SUMMARY: A proposed abstract and forms of abstracts for potential water rights
are issued. Suggested corrections and stipulations are due **June 1, 2020**.
NUMBER OF PAGES: 10
DATE OF FILING: March 30, 2020

1 This case involves claims for water rights for domestic, stock watering, and irrigation
2 uses analyzed by Watershed File Reports no. 115-05-036 and Zone 2 Well Report 115-05-DA-
3 003 and included in the final hydrographic survey report for the San Pedro Watershed (“San
4 Pedro HSR”) filed on November 20, 1991. Arizona Department of Water Resources
5 (“ADWR”) has reviewed and provided comments on proposed abstracts for one stock watering
6 use and six uses classified in the San Pedro HSR as small reservoirs. On January 10, 2020,
7 Michael and Susan Cavender filed a response to the ADWR comments.
8

9 In 1994, the Special Master issued a Memorandum Decision, Findings of Fact, and
10 Conclusions of Law for Group 1 Cases involving Stockwatering, Stockponds, and Domestic
11 Uses, dated November 14, 1994, amended February 23, 1995, approved and modified
12 September 27, 2002 (“Decision”). The Decision concluded that simplified summary procedures
13 should be used to adjudicate stock watering and stockpond claims in the San Pedro watershed.
14 *Decision* at 37. In those cases where completed Watershed File Reports are available, the
15 Decision provides the procedures to determine the water right characteristics listed in the
16 abstracts and allows objectors to “submit suggested corrections of mistakes in the proposed
17 abstracts.” *Id.* at 47. A completed Watershed File Report exists for the claim for stock
18 watering from Klondyke Cemetery Spring.
19
20

21 The claims for stock ponds are the subject of a Zone 2 Well Report. As noted in the
22 objections, the Zone 2 Well Reports do not necessarily include or analyze relevant information
23 about the applicable filings and decrees and priority dates. Where the claimed uses are the
24 subject of incomplete watershed file reports or statements of claimant, “the Special Master may
25 require the claimants and objectors to submit sufficient affidavits, testimony, or other evidence
26 upon which to determine the missing characteristics.” *Id.* at 42. In its analysis of the proposed
27 abstracts, ADWR provided additional information about applicable filings and related priority
28

1 dates for four of the proposed abstracts. Counsel for Michael J. and Susan S. Cavender filed
2 responses to the information provided by ADWR. As to some of the water characteristics, the
3 Cavenders agree with ADWR but as to other important characteristics, the Cavenders disagree.
4 The Cavenders and ADWR do agree that the water use in abstract 115-05-DA-003-SR006 does
5 not correspond to any actual water use. The landowners stated that the SR006 use does not
6 exist on their property. Accordingly, a proposed abstract for 115-05-DA-003-SR006 will not be
7 distributed to the parties and no water right will be included in the Catalog of Proposed Water
8 Rights for 115-05-DA-003-SR006.
9

10 **IT IS ORDERED** that any suggested corrections to the proposed abstract for 115-05-
11 036-SW001 shall be filed on or before **June 1, 2020**.
12

13 **IT IS FURTHER ORDERED** that landowners shall file stipulated abstracts or a status
14 report detailing the water right characteristic(s) that remain in dispute by **June 1, 2020** for the
15 proposed abstracts for water rights that are the subject of the Zone 2 Well Report. In the
16 absence of a stipulation to the proposed water rights, a determination will be made about the
17 additional evidence that will be required from the parties to make decisions necessary to
18 complete the abstracts.
19
20
21

22 
23 Susan Ward Harris
24 Special Master

25 The original of the foregoing was delivered to the Clerk
26 of the Maricopa County Superior Court on March 30,
27 2020 for filing and distributing a copy to all persons
28 listed on the Court approved mailing list for this
Contested Case.

APPENDIX A

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Abstract of Water Right
San Pedro Watershed

1. Proposed Water Right No:	115-05-036-SW001
2. Owner of Water Right:	Michael J. and Susan S. Cavender
3. Landowner:	Michael J. and Susan S. Cavender
4. Statement of Claimant No.(s):	39-2155, as amended
5. Statement of Claimant Name(s):	Michael J. and Susan S. Cavender
6. Lessee or Permittee:	N/A
7. Basis of Right:	36-72568
8. Beneficial Use	Stock watering
9. Priority Date	November 5, 1915
10. Quantity:	Reasonable Use
11. Place of Use:	NWNE 17 T7S R20E NWNE 17 T7S R20E
12. Point of Diversion:	NWNE 17 T7S R20E
13. Source of Water:	Klondyke Cemetery Spring, a tributary to Aravaipa Creek
14. Name of Facility	Klondyke Cemetery Spring

Abstract of Water Right
San Pedro Watershed

1. Proposed Water Right No:	115-05-DA-003-SR001
2. Owner of Water Right:	Michael J. and Susan B. Cavender
3. Landowner:	Michael J. and Susan B. Cavender
4. Statement of Claimant No.(s):	39-18077
5. Statement of Claimant Name(s):	Michael J. and Susan B. Cavender
6. Lessee or Permittee:	N/A
7. Basis of Right:	36-
8. Beneficial Use	Stock watering from a stockpond
9. Priority Date	
10. Quantity:	Not to exceed (\leq) 4 acre feet annually with continuous refill
11. Place of Use:	21 T7S R20E
12. Point of Diversion:	21 T7S R20E
13. Source of Water:	Aravaipa Creek
14. Name of Facility:	Adobe Pond

Abstract of Water Right
San Pedro Watershed

1. Proposed Water Right No:	115-05-DA-003-SR002
2. Owner of Water Right:	Matthew O. and Anna M. Magoffin
3. Landowner:	Matthew O. and Anna M. Magoffin
4. Statement of Claimant No.(s):	39-6478
5. Statement of Claimant Name(s):	Trustees of the Magoffin Family Trust
6. Lessee or Permittee:	N/A
7. Basis of Right:	38-96717
8. Beneficial Use	Stock watering from a stockpond
9. Priority Date	December 31, 1972
10. Quantity:	Not to exceed (\leq) 4 acre feet annually with continuous refill
11. Place of Use:	SENE SW 17 T7S R20E
12. Point of Diversion:	Well Registration No. 55-604314 SENE SW 17 T7S R20E
13. Source of Water:	Subflow from Aravaipa Creek
14. Name of Facility:	Unnamed

Abstract of Water Right
San Pedro Watershed

1. Proposed Water Right No:	115-05-DA-003-SR003
2. Owner of Water Right:	Michael J. and Susan B. Cavender
3. Landowner:	Michael J. and Susan B. Cavender
4. Statement of Claimant No.(s):	39-
5. Statement of Claimant Name(s):	Michael J. and Susan B. Cavender
6. Lessee or Permittee:	N/A
7. Basis of Right:	36-
8. Beneficial Use	Stock watering from a stockpond
9. Priority Date	
10. Quantity:	Not to exceed (\leq) 4 acre feet annually with continuous refill
11. Place of Use:	NENWSE 21 T7S R20E
12. Point of Diversion:	
13. Source of Water:	Aravaipa Creek
14. Name of Facility:	Klondyke Road Tank

Abstract of Water Right
San Pedro Watershed

1. Proposed Water Right No:	115-05-DA-003-SR004
2. Owner of Water Right:	Michael J. and Susan B. Cavender
3. Landowner:	Michael J. and Susan B. Cavender
4. Statement of Claimant No.(s):	39-
5. Statement of Claimant Name(s):	Michael J. and Susan B. Cavender
6. Lessee or Permittee:	N/A
7. Basis of Right:	36-
8. Beneficial Use	Stock watering from a stockpond
9. Priority Date	June 12, 1908
10. Quantity:	Not to exceed (\leq) 4 acre feet annually with continuous refill
11. Place of Use:	NENWSE 17 T7S R20E
12. Point of Diversion:	
13. Source of Water:	Aravaipa Creek
14. Name of Facility:	Klondyke Cemetery Draw Tank

Abstract of Water Right
San Pedro Watershed

1. Proposed Water Right No:	115-05-DA-003-SR005
2. Owner of Water Right:	Michael J. and Susan B. Cavender
3. Landowner:	Michael J. and Susan B. Cavender
4. Statement of Claimant No.(s):	39-2148
5. Statement of Claimant Name(s):	Michael J. and Susan B. Cavender
6. Lessee or Permittee:	N/A
7. Basis of Right:	38-
8. Beneficial Use	Stock watering from a stockpond
9. Priority Date	
10. Quantity:	Not to exceed (\leq) 4 acre feet annually with continuous refill
11. Place of Use:	NESWNE 17 T7S R20E
12. Point of Diversion:	
13. Source of Water:	Aravaipa Creek
14. Name of Facility:	Horse Pasture Tank