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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. W1-11-3311

ORDER REGARDING DRAFT ABSTRACTS
AND SETTING STATUS CONFERENCE

CONTESTED CASE NAME: *In re Luebbermann*
HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report
DESCRIPTIVE SUMMARY: Draft water abstracts prepared for irrigation water uses reported in Watershed File Report (WFR) 115-04-ADA-002 and claimed stock watering use and a status conference set regarding claims for water use.
NUMBER OF PAGES: 11.
DATE OF FILING: May 24, 2018

This contested case concerns claims for water rights for domestic, stock watering and irrigation water uses in the southwest quarter of Section 26, T6S R17E. The points of diversion consist of a well and an instream pump located in Aravaipa Creek that are located in the southwest quarter of the southwest quarter of Section 26 T6S R17E. Watershed File Report No. 115-04-ADA-002 issued in 1991 identified Tony and Susan Luebbermann (“Luebbermann”) as

1 the landowner and mapped the land as part of the 1991 San Pedro Hydrographic Survey Report.
2 The relevant portion of ADWR's map is duplicated as *figure 1*.

3 In WFR 115-04-ADA-002, ADWR reported the results of its review of the applicable
4 filings and physical inspection. It found water used for irrigation, domestic and stock watering.

5 The report lists a potential water
6 right for domestic use and three
7 potential water rights for
8 irrigation uses: multiple crops
9 (IR1); irrigated pasture (IR2)
10 and irrigated citrus trees (IR3)
11 with maximum potential
12 amounts reported as 39.2, 29.6
13 and 10.4 acre-feet, respectively.

14 The sizes of the three irrigated
15 parcels of land are 5.3, 4.0 and
16 1.4 acres, respectively. The

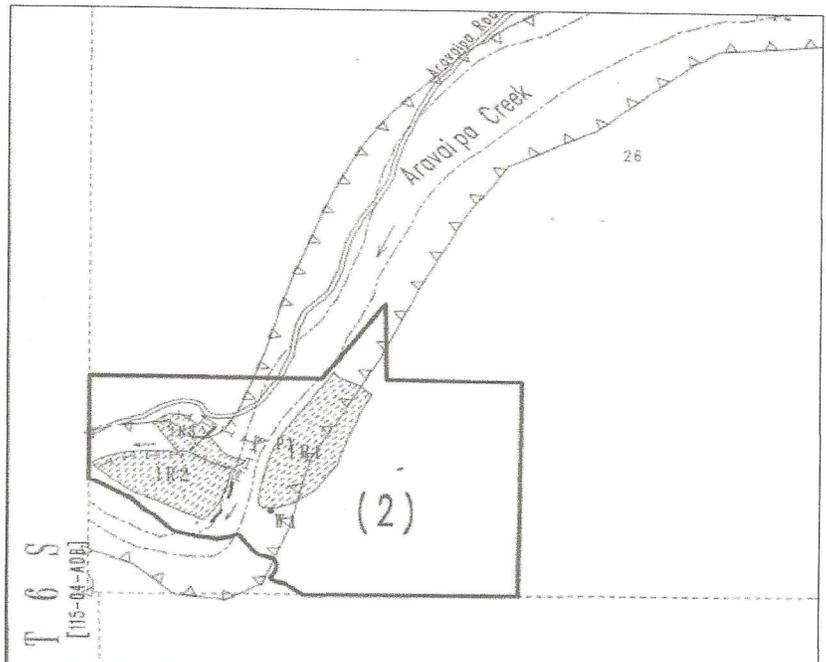


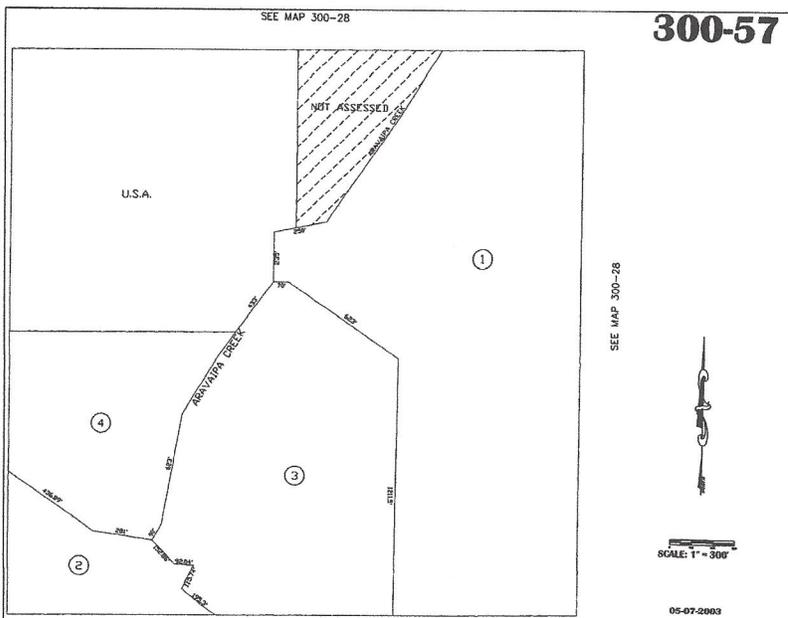
Figure 1. The dark boundary lines enclose the property that ADWR identified as owned by the Luebbermanns. The dashed areas are the three irrigated areas listed in WFR 115-04-ADA-002 located in the southwest quarter of Section 26 T6S R17E. IR1 is located on the east side of Aravaipa Creek and IR2 and IR3 are located on the west side of Aravaipa Creek.

17 applicable pre-filings listed in WFR 115-04-ADA-002 included statements of claim 36-62384
18 and 36-65434. Three statements of claimant (SOC) have been filed with respect to this land: 39-
19 00603, 39-4073, and 39-11675. According to the letter attached to SOC 39-11675, the
20 landowners filed SOC 39-11675 as essentially an amendment of their original filing, SOC 39-
21 00603. Aravaipa Enterprises, Inc., which had acquired land from the landowners who filed
22 SOC 39-11675 as essentially an amendment of their original filing, SOC 39-
23 00603. Aravaipa Enterprises, Inc., which had acquired land from the landowners who filed
24 SOC 39-11675, filed 39-4073 in 1980. Assignments for all three SOC and the
25 two statements of claim have been filed with the ADWR in favor of Luebbermann.

1 On December 18, 2017, Luebbermann signed Requests for Assignment of Statements of
 2 Claim 36-62384 and 36-65434 to Stephen A. Turcotte and Jane Stevens as trustees of the
 3 Turcotte Family Trust (“Turcotte”) and the David Rychener and Joyce Skeldon (“Rychener”).
 4 By letter dated March 15, 2018, Arizona Department of Water Resources (ADWR) stated that
 5 the requests for partial assignments of the two statements of claim to Turcotte and Rychener have
 6 been completed. On December 26, 2017, assignments of Statement of Claimant (SOC) 39-
 7 00603 from Luebbermann to Turcotte and Rychener were filed with ADWR.
 8

9 **Stephen A. Turcotte and Jane Stevens as trustees of the Turcotte Family Trust**

10 According to that Special Warranty Deed dated March 8, 2013, Stephen A. Turcotte and
 11 Jane Stevens as trustees of the Turcotte Family Trust, acquired title to a parcel of land in the S1/2
 12



13 **Figure 2.** Pinal County Assessor’s Map of the southwest quarter of
 14 section 26, T6S R 17E.
 15 **Source.** Pinal County Assessor.

16 SW Sec. 26 T6S, R17E.
 17 According to the Pinal County
 18 Assessor’s records, Turcotte
 19 owns tax parcel 300-57-004,
 20 shown on *figure 2* on the west
 21 side of Aravaipa Creek. On
 22 December 26, 2018, Turcotte
 23 filed three amendments to SOC
 24 39-00603. Attached to the
 25 amended SOC was a
 26 “Homestead Proof – Testimony
 27 of Claimant” that stated that James Brandenburg claimed the south half of the southwest quarter
 28 of section 26 T6S R17E and a “Final Affidavit Required of Homestead Claimants” signed by Mr.
 Brandenburg swearing that he has resided on the land since July 1900.

1 Consistent with PWRs IR002 and IR003 reported in WFR 115-04-ADA-002, Turcotte
2 claims a total of 40 acre-feet annually on a total of 5.4 acres for irrigation use. The sources of
3 water include the portable in-stream pump located in Aravaipa Creek identified as PO1 in in
4 WFR 115-04-ADA-002 and as a source of water PWR IR002 and IR003. The other source of
5 water claimed is a well located in NWSWSW 26 T6S R17E. The other two amendments include
6 one acre-foot claims for domestic use and for stockwatering. Draft abstracts for the irrigations
7 uses and stock watering are attached as Appendix A.
8

9 **David Rychener and Joyce Skeldon**

10 According to the Pinal County Assessor's records, Rychener owns tax parcel 300-57-003,
11 shown on *figure 2* on the east side of Aravaipa Creek. On December 26, 2018, Rychener filed
12 three amendments to SOC 39-00603 and attached the same Brandenburg documents described
13 above. Consistent with PWR IR001 in WFR 115-04-ADA-002, Rychener claims a total of 39.2
14 acre-feet of water annually on a total of 5.3 acres for irrigation use. The other two amendments
15 include a one acre-foot claim for stockwatering and five acre-feet for domestic use. The sources
16 of water include the two sources listed in WFR 115-04-ADA-002: an instream pump located in
17 NESWSW 26 T6S R17E and a well in SESWSW 26 T6S R17E. Rychner also lists an additional
18 well located in NESWSW 26 T6S R17E. Draft abstracts for the irrigations uses and stock
19 watering are attached as Appendix B.
20
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22 **IT IS ORDERED** that ADWR shall review the legal descriptions of the points of
23 diversion and places of use in the attached draft abstracts for water rights for irrigation use and
24 file a report by **June 29, 2018** with the results of its review that also includes areal maps of the
25 parcels of land that are the places of use for PWR IR001, IR002 and IR003 with the boundaries
26 of the irrigated acreage clearly marked.
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2 **IT IS FURTHER ORDERED** that a status conference shall be held on **Wednesday,**
3 **July 18, 2018, at 11:00 a.m.** in the Superior Court of Arizona, 201 West Jefferson Street,
4 Courtroom 301, Central Court Building, Phoenix, AZ 85003-2202 for the purpose of identifying
5 specific objections to the watershed file reports, draft abstracts and to the claims made by
6 Turcotte and Rychener and scheduling proceedings to resolve the objections.
7

8 Instructions for telephonic appearance:
9 Dial: 602-506-9695 (local)
1-855-506-9695 (toll free long distance)
10 Dial Participant Pass Code 357264#
11

12
13 
14 SUSAN WARD HARRIS
15 Special Master
16
17

18 On May 24, 2018 the original of the foregoing was
19 delivered to the Clerk of the Maricopa County Superior
20 Court for filing and distributing a copy to all persons listed
on the Court-approved mailing list for this contested case.

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22 Barbara Brown
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APPENDIX A

**DRAFT Abstract of Water Right
San Pedro Watershed**

1. Proposed Water Right No.:	115-04-ADA-002-IR001
2. Owner of Water Right:	David Rychener and Joyce Skeldon
3. Landowner:	David Rychener and Joyce Skeldon
4. Statement of Claimant No.(s):	39-00603 39-4073 39-11675
5. Statement of Claimant Name(s):	David Rychener and Joyce Skeldon Tony and Susan Luebbermann
6. Lessee or Permittee:	None
7. Basis of Right:	36-62384 36-65434 55-507524
8. Beneficial Use:	Irrigation
9. Priority Date:	July 31, 1900
10. Quantity:	39.2 acre-feet annually
11. Place of Use:*	NWSW 26 T6S R17E SWSW 26 T6S R17E SESW 26 T6S R17E
12. Point of Diversion:	NESWSW 26 T6S R17E SESWSW 26 T6S R17E
13. Source of Water:	Aravaipa Creek

*See attached map.

**DRAFT Abstract of Water Right
San Pedro Watershed**

1. Proposed Water Right No.:	115-04-ADA-002-IR002
2. Owner of Water Right:	Stephen Turcotte and Jane Stevens Turcotte, trustees of the Turcotte Family Trust
3. Landowner:	Stephen Turcotte and Jane Stevens Turcotte, trustees of the Turcotte Family Trust
4. Statement of Claimant No.(s):	39-00603 39-4073 39-11675
5. Statement of Claimant Name(s):	Stephen Turcotte and Jane Stevens Turcotte, trustees of the Turcotte Family Trust Tony and Susan Luebbermann
6. Lessee or Permittee:	None
7. Basis of Right:	36-62384 36-65434
8. Beneficial Use:	Irrigation
9. Priority Date:	July 31, 1900
10. Quantity:	29.6 acre-feet annually
11. Place of Use:*	SWSW 26 T6S R17E
12. Point of Diversion:	NESWSW 26 T6S R17E
13. Source of Water:	Aravaipa Creek

* See attached map.

**DRAFT Abstract of Water Right
San Pedro Watershed**

1. Proposed Water Right No.:	115-04-ADA-002-IR003
2. Owner of Water Right:	Stephen Turcotte and Jane Stevens Turcotte, trustees of the Turcotte Family Trust
3. Landowner:	Stephen Turcotte and Jane Stevens Turcotte, trustees of the Turcotte Family Trust
4. Statement of Claimant No.(s):	39-00603 39-4073 39-11675
5. Statement of Claimant Name(s):	Stephen Turcotte and Jane Stevens Turcotte, trustees of the Turcotte Family Trust Tony and Susan Luebbermann
6. Lessee or Permittee:	None
7. Basis of Right:	36-62384 36-65434
8. Beneficial Use:	Irrigation
9. Priority Date:	July 31, 1900
10. Quantity:	10.4 acre-feet annually
11. Place of Use:*	SWSW 26 T6S R17E
12. Point of Diversion:	NESWSW 26 T6S R17E
13. Source of Water:	Aravaipa Creek

*See attached map.

**DRAFT Abstract of Water Right
San Pedro Watershed**

1. Proposed Water Right No.:	115-04-ADA-002-SW001
2. Owner of Water Right:	Stephen Turcotte and Jane Stevens Turcotte, trustees of the Turcotte Family Trust
3. Landowner:	Stephen Turcotte and Jane Stevens Turcotte, trustees of the Turcotte Family Trust
4. Statement of Claimant No.(s):	39-00603 39-11675
5. Statement of Claimant Name(s):	Stephen Turcotte and Jane Stevens Turcotte, trustees of the Turcotte Family Trust Tony and Susan Luebbermann
6. Lessee or Permittee:	None
7. Basis of Right:	36-62384 36-65434
8. Beneficial Use:	Stock watering
9. Priority Date:	July 31, 1900
10. Quantity:	Reasonable use
11. Place of Use:*	SWSW 26 T6S R17E
12. Point of Diversion:	NESWSW 26 T6S R17E
13. Source of Water:	Aravaipa Creek

**DRAFT Abstract of Water Right
San Pedro Watershed**

1. Proposed Water Right No.:	115-04-ADA-002-SW002
2. Owner of Water Right:	David Rychener and Joyce Skeldon
3. Landowner:	David Rychener and Joyce Skeldon
4. Statement of Claimant No.(s):	39-00603 39-11675
5. Statement of Claimant Name(s):	David Rychener and Joyce Skeldon Tony and Susan Luebbermann
6. Lessee or Permittee:	None
7. Basis of Right:	36-62384 36-65434 55-507524
8. Beneficial Use:	Stock watering
9. Priority Date:	July 31, 1900
10. Quantity:	Reasonable use
11. Place of Use:*	NWSW 26 T6S R17E SWSW 26 T6S R17E SESW 26 T6S R17E
12. Point of Diversion:	NESWSW 26 T6S R17E SESWSW 26 T6S R17E
13. Source of Water:	Aravaipa Creek