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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, W-2, -W-3, W-4 (Consolidated)

Contested Case No. W1-11-1892

ORDER TO INITIATE CONTESTED
CASE

CONTESTED CASE NAME: *In re Mark and Marion Kartchner*
HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report
DESCRIPTIVE SUMMARY: Contested case initiated and status conference set for **December 2, 2021 at 3:30 PM**
NUMBER OF PAGES: 17
DATE OF FILING: October 7, 2021

General Explanation

This Order begins the process necessary to adjudicate claims made for rights to appropriable water for use on land previously owned by Mark M. and Marion B. Kartchner. This contested case is one of the many cases in the General Stream Adjudication for the San Pedro River Watershed to determine legal rights to water. Other cases in which claims have

1 been made for legal rights to water in the San Pedro River Watershed have been completed, are
2 in the process of determining water rights, or are awaiting initiation. The purpose of the
3 General Adjudication is to determine the rights of those persons who filed statements of
4 claimant for rights to use appropriable water in Arizona. The General Adjudication will also
5 determine water rights in the Upper Salt, Verde, Upper Gila, Lower Gila, Agua Fria, and Upper
6 Santa Cruz watersheds.

7
8 In this case, Mark M. and Marion B. Kartchner ("Claimants") filed three Statements of
9 Claimant on May 28, 1980 and July 1, 1980 for rights to use water within Sections 21, 28 and
10 33 of Township 16S Range 20E. The Arizona Department of Water Resources ("ADWR")
11 investigated the claims and prepared a report known as Watershed File Report 112-17-BAB-
12 003 ("WFR") published in the Final San Pedro River Watershed Hydrographic Survey Report
13 (1991). A copy of the WFR is attached as Attachment A. A copy of the map of 112-17-BAB-
14 003 prepared by ADWR for the WFR is attached as Attachment B with the land associated
15 with this case labeled as "(3)".
16

17 The WFR found one irrigation use of water on the eastern half of Section 33 T16S
18 R20E supplied by two wells. Arizona Department of Water Resources has concluded that the
19 two wells are located within the subflow zone. After ADWR issued the WFR, objections were
20 filed to the findings made in the WFR. The purpose of this case is to consider the claims made
21 for water rights that are the subject of the WFR and to resolve the objections to the WFR.
22

23 **Claimants & Landowners**

24
25 The WFR identified three Statements of Claimant ("SOC") relevant to the potential
26 water right: 39-6339, 39-6670, and 39-6671. Mark M. and Marion B. Kartchner filed the SOCs
27 claiming water for an irrigation use. The WFR lists Mark M. and Marion B. Kartchner as the
28

1 owners of the property described in Section 33 of Township 16S Range 20E. The public
2 records of the Arizona Department of Water Resources do not contain an assignment of any of
3 the statements of claimant.

4 The Cochise County Assessor lists Allen O. and Amanda R. Brandt, Eileen J. Brandt,
5 and Benson Farm Estates, LLC, an Arizona limited liability company, as the owners of the
6 property described in the WFR. The records of the Cochise County Recorder show Mark M.
7 and Marion B. Kartchner, as trustees of the Mark and Marion Kartchner Revocable Trust,
8 recorded a deed for the land described in the WFR in favor of Cochise Caverns, LCC, an
9 Arizona limited liability company, on October 25, 2007, recorded as document 2007-34415.
10 Cochise Caverns, LLC filed a quit claim deed for the land to Benson Farm Estates, LLC
11 recorded as document 2008-15171. On April 28, 2017, Benson Farm Estates, LLC filed a
12 warranty deed that included a legal description for a portion of the land described in the WFR
13 to Allen O. and Amanda R. Brandt, recorded as document 2017-08458. Benson Farm Estates,
14 LLC filed a second warranty deed in favor of Eileen J. Brandt, recorded as document 2017-
15 08505, that included a legal description of a portion of the property within the boundaries of
16 the WFR. According to the Cochise County Assessor, Allen O. and Amanda R. Brandt are the
17 current owners of tax parcel no. 208-39-101D and Eileen J. Brandt is the current owner of tax
18 parcel no. 208-39-010C. Benson Farm Estates, LLC retains the land that comprises tax parcel
19 no. 208-39-010E. A copy of a map prepared by the Cochise County Assessor showing these
20 tax parcels and owners is attached as Attachment C.
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24
25 **IT IS ORDERED:**

26 1. Contested Case. This contested case shall be known as *In re Mark and Marion*
27 *Kartchner* and it will determine appropriable water rights asserted in the Statements of
28

1 Claimant and objections that were filed to Watershed File Report 112-17-BAB-003 published
2 in the Final San Pedro River Watershed Hydrographic Survey Report (1991). Copies of
3 objections can be found under the case name and number on the following website:
4 [http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.](http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp)
5 [asp](http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp)

6 2. Litigants. The litigants in this contested case are the Claimants, the current
7 landowners, all persons who filed objections to the Watershed File Report who are listed on
8 Attachment D, and parties who are allowed to intervene by order.

9
10 3. Court-Approved Mailing List.

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

15
16 B. A copy of any pleading filed with the Clerk of the Maricopa County
17 Superior Court in this case shall be served upon each person listed on the Court-
18 approved mailing list.

19 C. Claimants wishing to be added or removed from the mailing list shall file
20 a motion with the Special Master. Parties allowed to intervene will be
21 automatically added to the Court-approved mailing list.

22
23 D. The Clerk of the Court will send copies of all minute entries and orders
24 issued in this case to the parties listed on the Court-approved mailing list.
25 Upon request, the Clerk of the Court will provide copies by email. Parties may
26 request emailed copies of minute entries and orders by completing and
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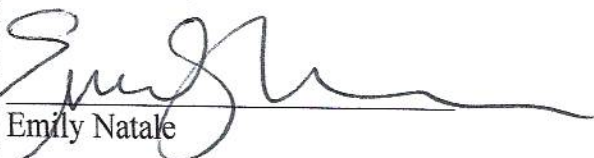
1 submitting a CONSENT FOR ELECTRONIC RECEIPT OF WATER CASE
2 DOCUMENTS, which is attached as Attachment E.

3 Status Conference. An initial status conference shall be held to determine whether the
4 current landowners intend to pursue claims for rights to appropriable water for an irrigation
5 use. The Status Conference shall be held on **December 2, 2021 at 3:30 p.m.** The Status
6 Conference shall be held using the Court Connect program. Instructions for Court Connect are
7 attached as Attachment F. If you receive this Order by email, click on the red box "Join Court
8 Connect Hearing" on the attached instructions to make an appearance. If you do not receive
9 this Order by email, log into the Court Connect program on the internet by typing
10 <https://tinyurl.com/specialwatermaster>. If you do not have access to the internet, you may
11 attend telephonically using the telephone number and access code included in the instructions
12 for Court Connect. The Status Conference may also be attended telephonically using the
13 following instructions:

14
15 Dial: 602-506-9695 (local)
16 1-855-506-9695 (toll free long distance)
17 Dial Collaboration (conference) Code 357264#

18
19 
20 SUSAN WARD HARRIS
Special Master

21 On October 7, 2021, the original of the foregoing was
22 delivered to the Clerk of the Maricopa County Superior
23 Court for filing and distributing a copy to all persons
24 listed on the Court-approved mailing list for this
25 contested case, a copy of which is attached hereto as
Attachment D, and to all persons listed on the Court-
approved mailing list for W-1, W-2, W-3, and W-4
(Consolidated).

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ATTACHMENT A

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LAND OWNER	WATERSHED FILE
-----	REPORT NUMBER
KARTCHNER, MARK M.	112-17-BAB-003
& MARION B.	

APPLICABLE FILINGS AND DECREES

CLEARLY STATED INFORMATION FROM FILINGS AND DECREES *W1-11-1892*

FILING NUMBER	FILING STATUS	USES	QUANTITY IN AFA	USE LOCATION			CLAIM DATE	DIVERSION LOCATION		
				SECTION	TWNP	RNGE		SECTION	TWNP	RNGE
36-0026141		IRRIGATION DOMESTIC STOCK		SW33	160S	200E	1979	SENE33	160S	200E
36-0026147		REC/FISH/WLDF IRRIGATION DOMESTIC STOCK		SW33	160S	200E	1977	SENE33	160S	200E
36-0026151		REC/FISH/WLDF IRRIGATION DOMESTIC STOCK		21	160S	200E	1899	25	170S	200E
39-0006339				28	160S	200E				
39-0006670		IRRIGATION DOMESTIC STOCK	600.00 1.53 2.15	SENE33	160S	200E	1892	SESENE33	160S	200E
39-0006671		REC/FISH/WLDF IRRIGATION DOMESTIC STOCK REC/FISH/WLDF	2.00 1000.00 2.76 1.53 2.00	SENE33	160S	200E	1892	SESENE33	160S	200E
				33	160S	200E				
				21	160S	200E				
				28	160S	200E				
				33	160S	200E				
				28	160S	200E	1912	SE25	170S	200E

DWR ANALYSIS OF FILINGS AND DECREES

FILING NUMBER	USES CLAIMED OR REFERENCED	USES FOUND BY DWR	APPLIES TO DIVERSIONS	APPLIES TO PWR NUMBERS	
36-0026141	IRRIGATION DOMESTIC STOCK	IRRIGATION NONE INCIDENTAL	WO2	IROO1	
36-0026147	RECREATION WILDLIFE IRRIGATION DOMESTIC STOCK RECREATION WILDLIFE	INCIDENTAL INCIDENTAL IRRIGATION NONE INCIDENTAL INCIDENTAL	WO1	IROO1	
36-0026151	IRRIGATION DOMESTIC STOCK	NONE NONE NONE			
39-0006339			WO1, WO2		
39-0006670	IRRIGATION DOMESTIC STOCK WILDLIFE	IRRIGATION NONE INCIDENTAL INCIDENTAL	WO1	IROO1	
39-0006671	IRRIGATION DOMESTIC STOCK WILDLIFE	IRRIGATION NONE INCIDENTAL INCIDENTAL	WO2	IROO1	

DIVERSIONS

DIV #	LOCATION			DIVERSION NAME	WATER SOURCE AND CLASSIFICATION
	SECTION	TWNP	RNGE		
WO1	SESENE33	160S	200E	UNNAMED	GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER
WO2	SESENE33	160S	200E	UNNAMED	GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER

PWR #	LOCATION			SUPPLIED BY		PHOTO DATE	SOURCE CHANGE	FACILITY NAME
	SECTION	TWNP	RNGE	DIVERSIONS	WATER SOURCES			
IROO1	NWSE33 SWNE33	16OS 16OS	200E 200E	WO1,WO2	GROUNDWATER : ZONE 1	1983	NO	

P W R S U M M A R Y

PWR #	APPLICABLE	APPLICABLE	*APPARENT FIRST USE DATE*		WATER SOURCES AND CLASSIFICATIONS
	ADJ FILINGS	PRE FILINGS	DATE BASIS	FOR DATE	
IROO1	39-0006339 39-0006670 39-0006671	36-0026141 36-0026147	1982	1982 FIELD INVEST.	GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER
NONE	NONE	36-0026151			

Q U A N T I T I E S O F U S E

PWR #	QUANTIFICATION	ACRES	CROP TYPE	EFF	WATER DUTY	ESTIMATED VOLUME	REMARKS
	TYPE						
IROO1	MAX. OBSERVED	34.9	PERM. PSTR	68%	3.5 AF/AC	122.2 AFA	DEFICIT IRRIGATION
	REGIONAL	34.9	AVE. CRDP	50%	5.4 AF/AC	188.5 AFA	
	MAX. POTENTIAL	34.9	ALFALFA	68%	4.9 AF/AC	171.0 AFA	

E X P L A N A T I O N

FILINGS AND DECREES

FILINGS 36-26141 & 36-26147 - CLAIM IRRIGATION, DOMESTIC, STOCKWATERING, RECREATION, AND WILDLIFE WATER USES. NO DOMESTIC USES WERE FOUND AT THE CLAIMED LOCATIONS.
 FILINGS 36-26147 & 39-6339 - CLAIM WATER FROM THE POMERENE WATER USERS ASSOCIATION CANAL. THE CLAIMANT DOES NOT HAVE ANY MEANS OF CONVEYANCE FOR THIS WATER AT THE PRESENT TIME.
 FILING 36-26151 - CLAIMS IRRIGATION, DOMESTIC, AND STOCKWATERING USES. NO IRRIGATION, DOMESTIC, OR STOCKWATERING USES WERE FOUND AT THE CLAIMED LOCATION.
 FILING 39-6339 - CLAIMS 12 WELLS, BUT NO WATER USES OR USE AMOUNTS WERE CLAIMED. NO WATER USES WERE MATCHED TO THIS FILING.
 FILINGS 39-6670 & 39-6671 - CLAIM IRRIGATION, DOMESTIC, STOCKWATERING, AND WILDLIFE WATER USES. NO DOMESTIC USES WERE FOUND AT THE CLAIMED LOCATION.

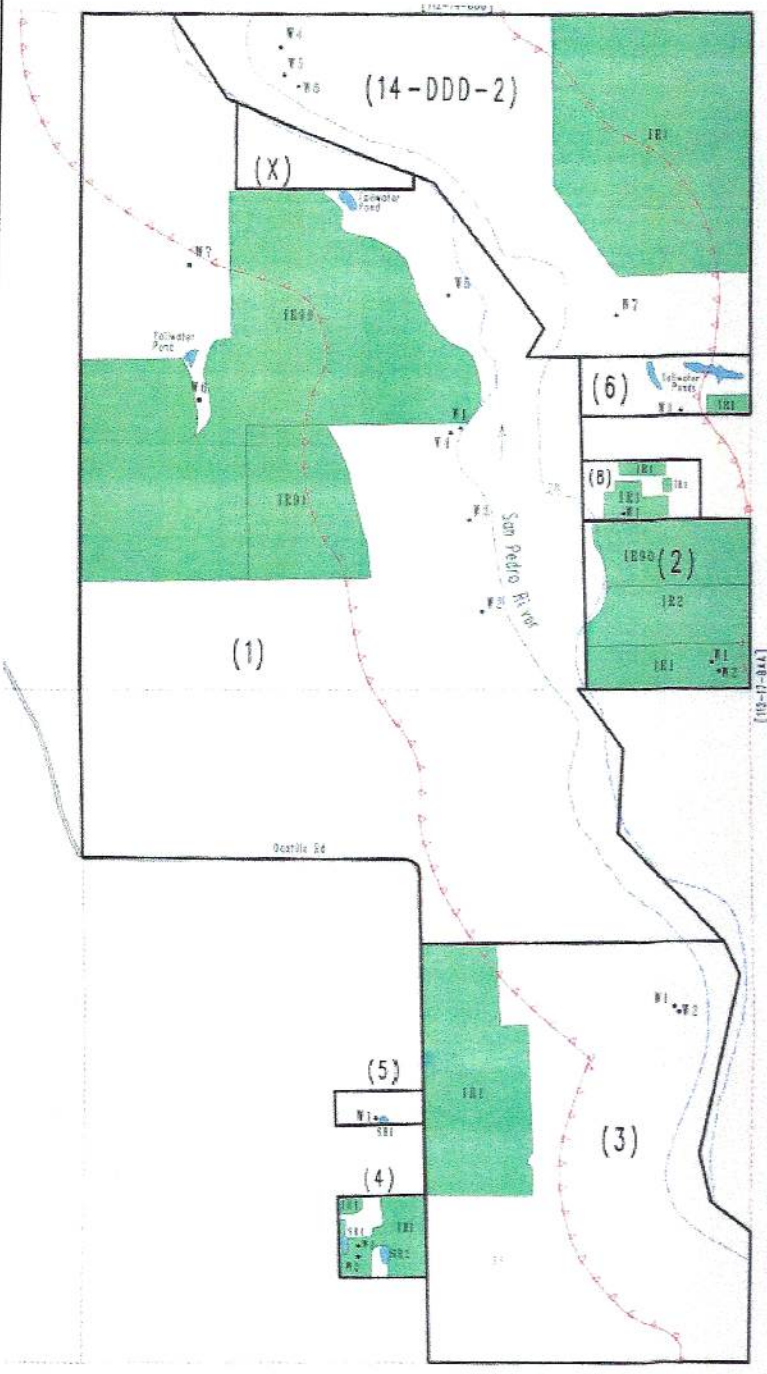
DIVERSIONS

W1 & W2 - WELLS PROVIDE WATER FOR IRRIGATION, STOCKWATERING, RECREATION, AND WILDLIFE USES.

USES AND RESERVOIRS

IR1 - IRRIGATED PASTURE.

ATTACHMENT B



Subregion Map Legend

<ul style="list-style-type: none"> General Boundary Irrigation Boundary Route or Highway Section Boundary Irrigation Reservoir or Stockpond Irrigation (I) 1 Section Number 	<ul style="list-style-type: none"> Canal or Ditch Pipeline River or Wash — Zone I Well (W) Spring (S) Intake Pump (P) Industrial Use
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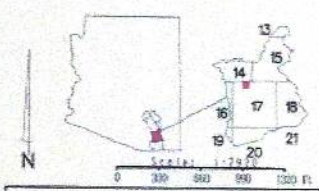
POTENTIAL WATER RIGHT CODES

<ul style="list-style-type: none"> IR : Irrigation IS : Industrial IA : Agricultural Irrigation SI : Other Irrigation Use PO : Power 	<ul style="list-style-type: none"> DC : Reservoir Irrigation SP : Stockpond SR : Small Reservoir SW : Stockwatering WI : Wildlife Use PS : Primary Storage
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(1) - Owner Identification Number

* Land Owner / Lessee / Provider *

AREAS WITHIN UNAPPORTIONED WATER RIGHTS ARE NOT SUBJECT TO PRIORITY RIGHTS. THE STATE OF ARIZONA WATER RIGHTS DIVISION HAS CONDUCTED A REVIEW OF THE WATER RIGHTS IN THIS AREA AND HAS DETERMINED THAT THE WATER RIGHTS ARE SUBJECT TO PRIORITY RIGHTS. THE WATER RIGHTS IN THIS AREA ARE SUBJECT TO THE WATER RIGHTS ACT OF 1919 AND THE WATER RIGHTS ACT OF 1980.



State of Arizona
Department of Water Resources
ADMINISTRATIONS DIVISION

MAP OF WATER USES

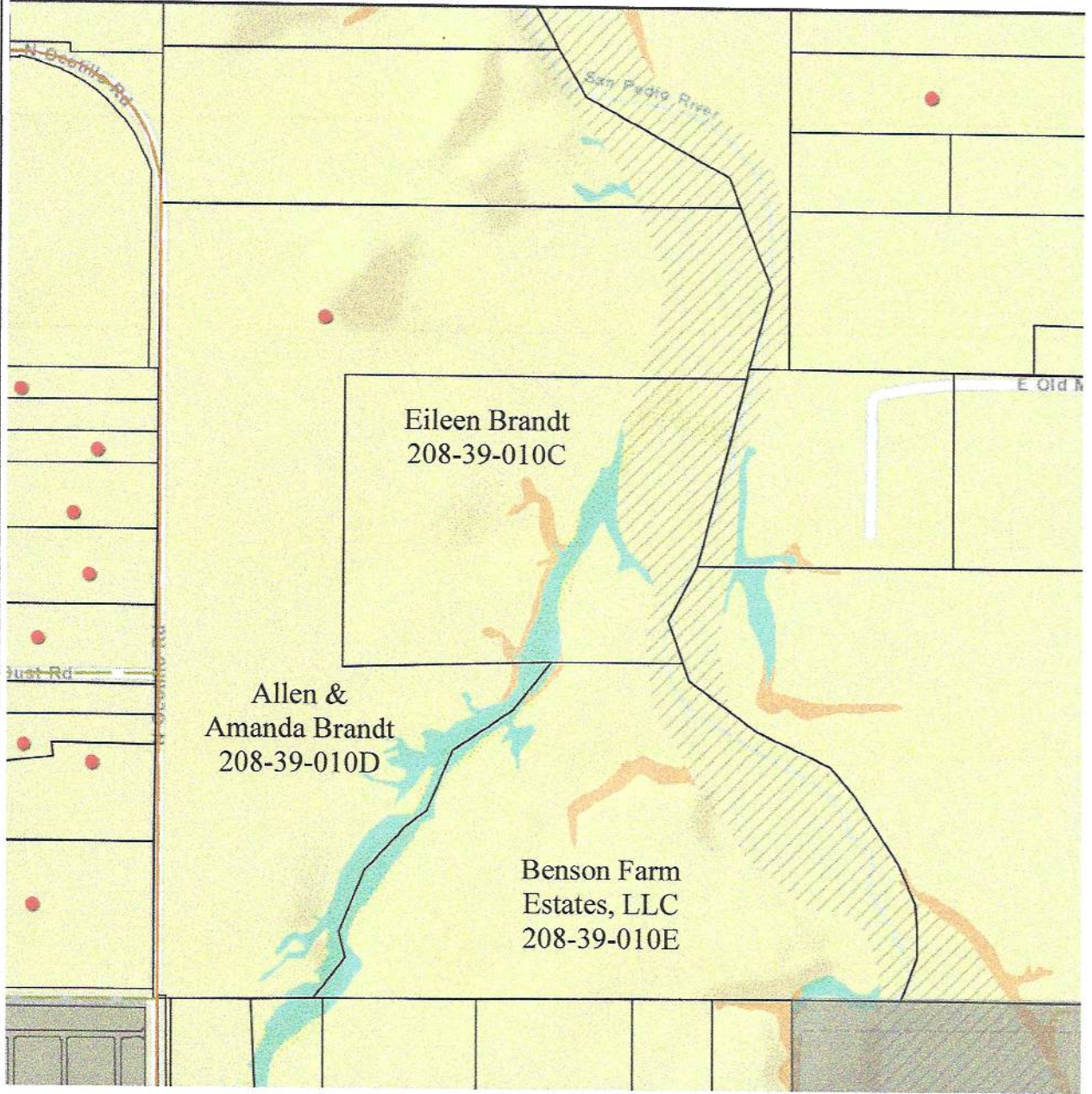
River System:	GILA
Watershed:	SAN PEDRO
Subwatershed:	BENSON
Region:	17-94B
Date:	November 1991

R 20 E

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ATTACHMENT C

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ATTACHMENT D

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3 Allen O. and Amanda R. Brandt
4 1410 N. Ocotillo Rd.
5 Benson, AZ 85602

6 Arizona Department of Water Resources
7 Kimberly Parks
8 Janet L. Miller
9 P. O. Box 36020
10 Phoenix, AZ 85067

11 ASARCO Incorporated
12 Lauren J. Caster
13 Fennemore Craig, P.C.
14 2394 East Camelback Rd., Suite 600
15 Phoenix, AZ 85016-3429

16 Benson Farm Estates, LLC
17 Gadarian & Cacy, PLLC
18 2200 E. River Rd., Suite 123
19 Tucson, AZ 85718

20 BHP Copper, Inc.
21 John D. Burnside
22 Snell & Wilmer, L.L.P.
23 400 E. Van Buren Street, Ste 1900
24 Phoenix AZ 85004

25 Clerk of the Superior Court
26 Maricopa County
27 Attn: Water Case
28 601 West Jackson Street
Phoenix, AZ 85003

Eileen J. Brandt
P.O. Box 330
Sahuarita, AZ 85629

Gila River Indian Community
Linus Everling and Thomas L. Murphy
Office of the General Counsel
P. O. Box 97
Sacaton, AZ 85147

1 Mark and Marion Kartchner
3040 N. Bear Canyon Rd.
2 Tucson, AZ 85749

3 Mark and Marion Kartchner
2200 E River Rd. Suite 123
4 Tucson, AZ 85718

5 San Carlos Apache Tribe
6 Joe P. Sparks and Laurel A. Herrmann
The Sparks Law Firm, P.C.
7 7503 First Street
8 Scottsdale, AZ 85251-4573

9 Salt River Project
John B. Weldon, Jr., Mark A. McGinnis, and Michael Foy
10 Salmon, Lewis & Weldon PLC
2850 E Camelback Rd., Suite 200
11 Phoenix, AZ 85016

12 Special Master Susan Ward Harris
13 Superior Court of Arizona
201 W. Jefferson Street
14 Courtroom 301
15 Phoenix, AZ 85003

16 United States
F. Patrick Barry
17 U.S. Department of Justice
P. O. Box 7611
18 Washington, DC 20044-7611

19 Tonto Apache Tribe
20 Richard Palmer, Jr., Jeremiah Weiner
and Lauren Mulhern
21 Rosette, LLP
565 W. Chandler Blvd. Suite 212
22 Chandler, AZ 85225

23 Yavapai-Apache Nation
24 S. Montgomery, R. Interpreter, J. Tomkus
Montgomery & Interpreter, Plc
25 3301 E. Thunderbird Road
26 Phoenix, AZ 85032

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ATTACHMENT E

**CLERK OF THE COURT
SUPERIOR COURT OF ARIZONA**

Jeff Fine
Clerk

**MARICOPA COUNTY
Customer Service Center
601 West Jackson
Phoenix, AZ 85003**

602 372-4115
Water Case Clerk

CONSENT FOR ELECTRONIC RECEIPT OF WATER CASE DOCUMENTS

In an effort to provide more timely and cost effective distribution of copies of filed Water Case documents, the Clerk of the Superior Court would like implement electronic distribution via email. To do so, we require your consent to receive copies of documents electronically at an email address provided to our office.

This consent is voluntary and can be rescinded if you so choose. If you no longer wish to receive Water Case documents from the Clerk of Superior Court electronically, please send written notification to the Clerk of the Superior Court Water Case Specialist at the email address below requesting that all future records be sent in paper form.

Please note that if you consent to receive documents via email, you must notify the Clerk's Office of any change to your email address to avoid delay in receiving future filings. In the event there is no valid email address on file with the Clerk of the Superior Court Water Case Specialist, documents will be mailed to the address provided.

If you wish to consent to receive future documents via email, please either fill out the information below and mail to our office or provide the below information to Mayra.Antelo@Maricopa.Gov.

Preferred email address:

Alternate email address:

Physical address:

Phone number:

Firm Name:

Name [Printed]:

Signature:

Date:

Thank you,

Mayra Antelo
Clerk of the Superior Court
Water Case Specialist
(602) 372-5375 options 7,1,3,4

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ATTACHMENT F



Court Connect Hearing Notice for In re Mark & Marion Kartchner.

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 Mark & Marion Kartchner, Contested Case No. W1-11-1892

Start Date/Time: December 2, 2021 at 3:30 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](#)

