

ARIZONA GENERAL STREAM ADJUDICATION
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. **W1-11-1902**

**ORDER INITIATING CONTESTED
CASE AND SCHEDULING INITIAL
CONFERENCE HEARING**

CONTESTED CASE NAME: *In re Lester and W. Ruth Hagan et al.*

HSR INVOLVED: San Pedro Hydrographic Survey.

DESCRIPTIVE SUMMARY: The Clerk of Maricopa County Superior Court is directed to initiate W1-11-1902. Parties who wish to pursue this case are ordered to attend an initial conference hearing scheduled for **Tuesday, January 7, 2025, at 10:30 am.**

NUMBER OF PAGES: 13

This order opens a case to determine legal rights to use water.

This case is NOT being initiated because of any improper water use.

Failure to participate may result in dismissal of potential water rights.

The state of Arizona is currently undergoing a General Stream Adjudication to determine water use and create an accurate, enforceable record of those rights. In Arizona, surface water, and water pumped from some wells,¹ belongs to the general public. An

¹ Arizona law includes wells that may be pumping surface water in the General Stream Adjudication and subject to all requirements for surface well use.

1 enforceable right to use this “appropriable” water may be acquired after review and
2 approval by Arizona’s General Stream Adjudication Court. This Court has been
3 instructed to evaluate claims to water in much of the state of Arizona and to determine the
4 date of first use, amount, and type of potential water use. This process, the “general stream
5 adjudication,” is currently evaluating **COCHISE COUNTY PARCEL Nos. 123-24-**
6 **010A, 123-24-010B, 123-27-027A, and 123-27-027B** for potential water rights to be
7 included in the catalog of water rights for the Gila River system.

8 This court order opens a case to determine rights to use water on the parcels listed
9 above, that the Cochise County Assessor has identified as owned by **MICHAEL R.**
10 **GRAY.** Current landowners who intend to pursue any potential water rights associated
11 with this case must attend the initial status conference scheduled for **Tuesday, January**
12 **7, 2025, at 10:30 am.** Interested Parties **MUST** attend the scheduled initial conference if
13 they plan to pursue potential water rights. Failure to appear at the initial conference could
14 result in the dismissal of the case and the loss of water rights associated with the properties.
15 The conference will be held virtually using the Court Connect program. Instructions for
16 Court Connect are attached as Attachment A.

17
18 **CURRENT LANDOWNERS**

19 **MICHAEL R. GRAY** is the current owner of **COCHISE COUNTY PARCEL**
20 **Nos. 123-24-010A, 123-24-010B, 123-27-027A, and 123-27-027B,** all which were
21 previously owned by Lester and W. Ruth Hagan, among others.

22 ADWR investigated potential water uses on these parcels and issued Watershed
23 File Report No. 112-17-BAD-007. After the Watershed File Report was issued, the public
24 was allowed an opportunity to object to the findings in the report if they believed there
25 were errors or insufficient documentation. This case will determine the existence of water
26 rights associated with the parcels listed above and resolve objections to the Watershed File
27 Report.

28 The Court recognizes that there has been a long delay between ADWR’s

investigation of the properties and the initiation of this case. Because of this delay, the properties have changed ownership. Nonetheless, current landowners may still obtain certain water rights. Below is a summary of the water use found on the property at the time of the Report:

Cochise Co. Tax Parcel	123-24-010A	123-24-010B	123-27-027A	123-27-027B
Water use found during ADWR investigation	Irrigation of multiple crops including pasture and pecans (“IR002”)	Irrigation of pasture (“IR001”) and IR002	IR001	IR001
Statement of Claimant and Basis of Right	None documented	None documented	None documented	None documented

Arizona law requires that for parties to obtain a legal water right, they must provide proof of their right by presenting to the Court an updated and accurate Statement of Claimant claiming a water right paired with the appropriate basis of right, e.g. a statement of claim, judicial decree, stockpond registration, or water rights certificate. According to the Watershed File Report, the following information will be needed to acquire a water right on each property:

- A. The earliest available evidence of water use on the property.
- B. A Statement of Claimant in the name of the current landowner and accurately describing the water use being claimed.
- C. A basis of right in the name of the current landowner (unless the basis is a judicial decree) and accurately describing the water use being claimed. The current landowner may fulfill this requirement by either filing a new basis of right or obtaining an assignment or amendment of a preexisting basis of right.

If the property owner is able to provide this proof to the Court to show the existence of a water right on their property, the court can recognize an enforceable water right in a “Final Decree.” Ariz. Rev. Stat. § 45-257(B). Alternatively, landowners may enter into Court approved settlement with the objecting parties.

OBJECTING PARTIES

Objectors to a potential water right must present the Court with a specific statement objecting to a specific potential water right attribute. Ariz. Rev. Stat. § 45-256(B). Where an objection does not meet this requirement, the objecting party shall provide a detailed explanation of their objection during the initial conference hearing.

The following parties have filed objections in this contested case:

Objector(s)	Summary of objections
City of Phoenix	<ul style="list-style-type: none">• The WFR does not identify a Statement of Claimant.
Michael R. Gray	<ul style="list-style-type: none">• Applicable filings exist, even though they were not documented in the WFR.• The relevant well does not extract appropriable water.
Magma Copper Company (currently BHP Copper Inc.) and ASARCO Inc.	<ul style="list-style-type: none">• Groundwater is not subject to the adjudication.• To the extent that groundwater use is subject to the Adjudication, ASARCO and Magma objected to use of water without an appropriative right or use in conflict with their rights.
Salt River Project	<ul style="list-style-type: none">• The “maximum observed” and “regional” methods of quantification are inconsistent with the doctrine of prior appropriation. The results of the “maximum potential” method must be corrected.• Absence of water use rate.
Gila River Indian Community, San Carlos Apache Tribe, Tonto Apache Tribe, Yavapai-Apache Nation (collectively “the Tribes”)	<ul style="list-style-type: none">• The water used is subject to federal and Indian claims.• Absence of well registration.• Absence of water use rate.
United States, joined by the Tribes	<ul style="list-style-type: none">• Absence of statement of claimant.• The water used is subject to federal and Indian claims.• The “regional” acreage exceeds the “maximum observed” acreage. The maximum observed acreage should be used to calculate the regional volume of use.• ADWR’s methodology overestimates crop water requirements.

Copies of objections in this case can be found under the respective case name and number on the following website:

<http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp>

ATTACHMENTS TO THIS ORDER:

Attachment A: Instructions on how to appear virtually or telephonically at the **Tuesday, January 7, 2025, at 10:30 am** status conference

Attachment B: Additional information and resources on the process for determining water rights in Arizona

Attachment C: Copy of WFR #112-17-BAD-007

Attachment D: ADWR map showing land investigated in WFR # 112-17-BAD-007

Attachment E: Map showing the relevant tax parcels and current ownership

Attachment F: Initial Court Approved Mailing List

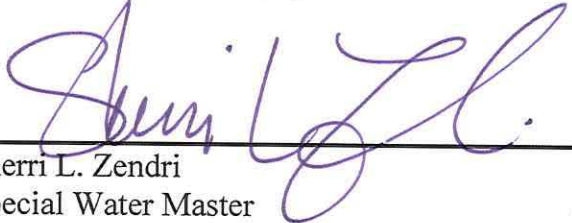
IT IS ORDERED initiating contested case W1-11-1902, *In re Lester and W. Ruth Hagan et al.*, and scheduling an initial conference hearing for **Tuesday, January 7, 2025, at 10:30 am**. The initial Court-approved mailing list for this case shall include all parties listed on Attachment F to this order. Any document filed in this case must be served on all parties listed on the Court-Approved Mailing List. The list may be modified only by Court order. Anyone who would like to receive courtesy copies of minute entries and orders may request inclusion on an email list by sending a request to:

emily.natale@jbazmc.maricopa.gov.

If parties have questions regarding this Order or any of the attachments, please contact the General Stream Adjudication, Office of the Special Water Master, at (602) 372-4115. Please note that staff can only answer administrative questions and cannot

1 provide legal advice.

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3 Signed this 21st day of November 2024.

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7 Sherri L. Zendri
8 Special Water Master
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11 On November 21, 2024, the original of
12 the foregoing was delivered to the Clerk of the
13 Maricopa County Superior Court for filing and
14 distributing a copy to all persons listed on the
15 Court-approved mailing list for this contested
16 case, a copy of which is attached, and to all persons
17 listed on the Court-approved mailing list for W1,
18 W2, W3, and W4.

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Emily Natale

ATTACHMENT A



Court Connect Hearing Notice for In re Lester and W. Ruth Hagan et al.

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 Lester and W. Ruth Hagan et al.

Contested Case No. W1-11-1902

Start Date/Time: Tuesday, January 7, 2025, at 10:30 am

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](#)

ATTACHMENT B

General Background on the Water Rights Determination Process in Arizona

A general stream adjudication is a judicial proceeding to determine the quantity and priority of all water rights in a river system. Arizona is undertaking general stream adjudications of both the Gila River and the Little Colorado River systems. A river system includes surface water flowing “in streams or other natural channels,” groundwater sufficiently connected to that surface water, and water (both surface and groundwater) subject to claims by the federal government. Ariz. Rev. Stat. § 45-251(7). Recognizing and respecting water rights and the priority of such rights is important in Arizona where times of drought or water scarcity can occur.

All cases begin with the filing of a “Statement of Claimant,” (“SOC”) in which a property owner makes a claim for a right to use surface water on their property. Ariz. Rev. Stat. § 45-254(A). This person is the “claimant.” The SOC contains, among other characteristics, a description of the source and quantity of the water used, the location of use, the location from which the water was diverted, and the date when the water was first put to use. *Id.* § 45-254(C).

After the property owner files the SOC, the Arizona Department of Water Resources (“ADWR”) prepares a “Watershed File Report,” (“WFR”) in which ADWR investigates the claims in the SOC and recommends water rights associated with the property. *Id.* § 45-256(B). ADWR compiles all WFRs for a watershed into a comprehensive Hydrographic Survey Report (“HSR”) and publishes the report for public review and comment. In response, other claimants in the Adjudication may file “objections” disputing the information or recommendations in the WFR. The individuals who file objections are called “objectors.”

This “contested case”, one of thousands in the Gila River System, will evaluate claims asserted in specific Statements of Claimant while considering objections to the WFR that reported ADWR’s initial inspection of those claims.

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ATTACHMENT C
Watershed File Report

LAND OWNER	WATERSHED FILE
-----	REPORT NUMBER
HAGAN, LESTER & W. RUTH	112-17-BAD-007
ET AL.	

D I V E R S I O N S

DIV #	LOCATION			DIVERSION NAME	WATER SOURCE AND CLASSIFICATION
	SECTION	TWNP	RNGE		
WO1	SWNWSW11	17OS	20OE	UNNAMED	GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER

U S E S

PWR #	LOCATION			SUPPLIED BY	WATER SOURCES	PHOTO SOURCE		FACILITY NAME
	SECTION	TWNP	RNGE			DATE	CHANGE	
IROO1	NESE10	17OS	20OE	WO1	GROUNDWATER : ZONE 1	1955	NO	
	NWSW11	17OS	20OE					
IROO2	NESE10	17OS	20OE	WO1	GROUNDWATER : ZONE 1	1972	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	NONE	NONE	1955	1955 AERIAL PHOTO	GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER
IROO2	NONE	NONE	1972	1972 AERIAL PHOTO	GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER

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	5.4	PERM. PSTR	45%	7.0 AF/AC	37.8 AFA	
	REGIONAL	5.4	AVE. CROP	50%	5.4 AF/AC	29.2 AFA	
	MAX. POTENTIAL	5.4	ALFALFA	45%	7.4 AF/AC	40.0 AFA	
IROO2	MAX. OBSERVED	9.2	MULTI.CROPS	45%	7.1 AF/AC	65.3 AFA	
	REGIONAL	11.0	AVE. CROP	50%	5.4 AF/AC	59.4 AFA	
	MAX. POTENTIAL	11.0	ALFALFA	45%	7.4 AF/AC	81.4 AFA	

E X P L A N A T I O N

DIVERSIONS

W1 - WELL PROVIDES WATER FOR IRRIGATION USES.

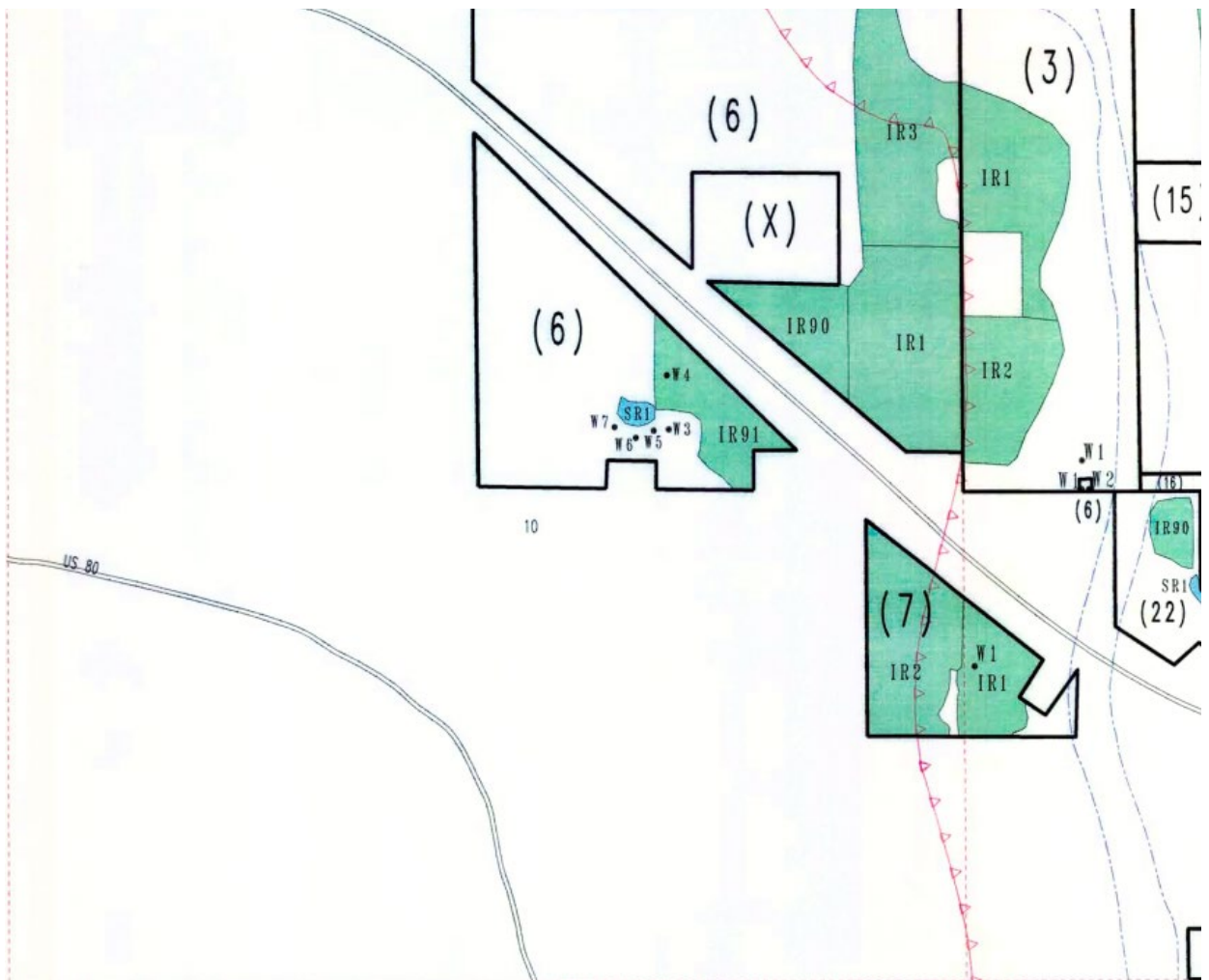
USES AND RESERVOIRS

IR1 - IRRIGATED PASTURE.

IR2 - IRRIGATED MULTIPLE CROPS (PASTURE AND PECANS).

DOMESTIC WATER USE IS SUPPLIED BY THE CITY OF BENSON.

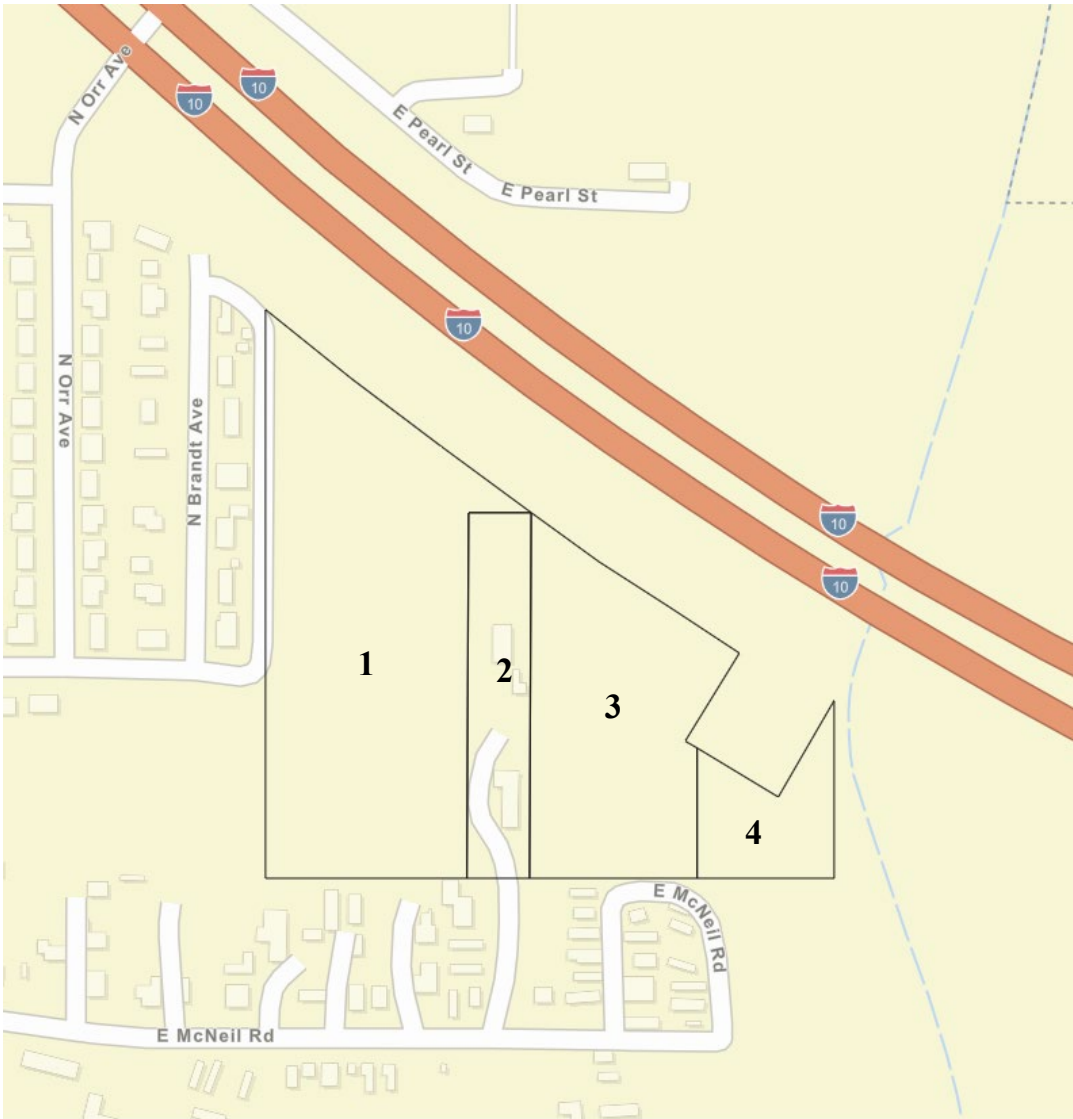
ATTACHMENT D
ADWR Parcel Map



The area investigated is denoted by “(7).”

ATTACHMENT E

Assessor Map



1	123-24-010A
2	123-24-010B
3	123-27-027A
4	123-27-027B

ATTACHMENT F

Initial Court-Approved Mailing List

Arizona Department of Water Resources
Kimberly R. Parks and Karen J. Nielsen
1110 West Washington, Suite 310
Phoenix, AZ 85007

Clerk of the Superior Court
Maricopa County
Attn: Water Case
601 West Jackson St.
Phoenix, AZ 85003

Special Master Sherri Zendri
Superior Court of Arizona
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Phoenix, AZ 85003

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