

**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. **W1-11-2398**

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

CONTESTED CASE NAME: *In re Creola M. and Allen Dungan*

HSR INVOLVED: San Pedro Hydrographic Survey.

DESCRIPTIVE SUMMARY: The Clerk of Maricopa County Superior Court is directed to initiate W1-11-2398. Parties who wish to pursue this case are ordered to attend an initial conference hearing scheduled for **Thursday, January 9, 2025, at 11:00 am**

NUMBER OF PAGES: 14

**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,<sup>1</sup> belong to the general public. An enforceable right to this “appropriable” water may be acquired after review and approval by Arizona’s General Stream Adjudication Court. This Court has been instructed to evaluate claims on water in much of the state of Arizona and determine the date of first

<sup>1</sup> 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 use, amount, and type of potential water use. This process, the “general stream  
2 adjudication,” is currently evaluating **PINAL COUNTY PARCEL 306-33-004A, and**  
3 **306-33-004B** for potential water rights to be included in the catalog of water rights for the  
4 Gila River system.

5 This court order opens a case to determine rights to use water on the parcels listed  
6 above, which the Pinal County Assessor has identified as owned by **CHARLES E. AND**  
7 **MARY SCHNURPEL**. Current landowners who intend to pursue any potential water  
8 rights associated with this case must attend the initial status conference scheduled for  
9 **Thursday, January 9, 2025, at 11:00 am**. Interested Parties **MUST** attend the scheduled  
10 initial conference if they plan to pursue potential water rights. Failure to appear at the  
11 initial conference could result in the dismissal of the case and the loss of water rights  
12 associated with the properties. The conference will be held virtually using the Court  
13 Connect program. Instructions for Court Connect are attached as Attachment A.

#### 14 15 **CURRENT LANDOWNERS**

16 **CHARLES E. AND MARY SCHNURPEL** currently own **PINAL COUNTY**  
17 **PARCEL Nos. 306-33-004A and 306-33-004B**. These parcels were previously owned by  
18 Creola M. and Allen Dungan.

19 Arizona Department of Water Resources (“ADWR”) records indicate that Creola  
20 M. Dungan filed Statement of Claimant No. 39-1490 in May 1979, claiming water for  
21 irrigation and stock watering uses beginning in summer 1954. The filing of a Statement of  
22 Claimant declares an individual’s intent to claim a water right and begins the process of  
23 pursuing that water right with the Court.

24 ADWR investigated these claims and issued Watershed File Report (“WFR”) No.  
25 113-04-DCD-011. After the Watershed File Report was issued, the public was allowed an  
26 opportunity to object to the findings in the report if they believed there were errors or  
27 insufficient documentation. This case will determine the water rights existing on the  
28 properties investigated in WFR No. 113-04-DCD-011 and resolve the objections to the

1 Watershed File Report.

2 The Court recognizes there has been a long delay between the filing of the initial  
3 documents and the initiation of this case. Because of this delay, the property has changed  
4 ownership and may have been subdivided. Nonetheless, current landowners may still  
5 obtain water rights. Below is a summary of the water uses found on the properties at the  
6 time of the WFR:

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Watershed File Report #113-04-DCD-011		
Pinal Co. Tax Parcel	306-33-004A	306-33-004B
Existing Claims	Irrigation, stock watering (39-1490)	Irrigation, stock watering (39-1490)
Water use found during ADWR investigation	Irrigation (48.5 – 51 AFA)	None
Basis of Right	None reported	None reported

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14 ADWR public records do not contain any assignments of the Statement of Claimant  
15 identified in the Watershed File Report nor do the current landowners appear to have filed  
16 any additional Statements of Claimant since the issuance of the HSR. Arizona law requires  
17 that for parties to obtain a legal water right, they must provide proof of their right by  
18 presenting to the Court an updated and accurate Statement of Claimant claiming a water  
19 right paired with the appropriate basis of right, e.g. a statement of claim, decree, stockpond  
20 registration, or water rights certificate. According to the Watershed File Report, the  
21 following information will be needed to acquire a water right on one or more of these  
22 properties:

- 23 A. The earliest available evidence of water use on the property.
- 24 B. A Statement of Claimant in the name of the current landowner and accurately  
25 describing the claimed use. The current landowner may fulfill this requirement  
26 by either filing a new statement of claimant or obtaining an assignment or  
27 amendment of a preexisting statement of claimant.
- 28 C. A basis of right in the name of the current landowner (unless the basis is a prior

judicial decree) and accurately describing the claimed use. 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 may recognize an enforceable water right in a “Final Decree.” Ariz. Rev. Stat. § 45-257(B). Alternatively, landowners may enter into Court approved settlements 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 have filed objections in this contested case:

Objector(s)	Summary of objections
SRP Objections	<ul style="list-style-type: none"><li>• The “maximum observed” and “regional” methods for estimating quantity of use for irrigation should be rejected.</li><li>• The “maximum potential” method should be corrected.</li><li>• The WFR does not show a water use rate.</li></ul>
Magma Copper Co. (currently BHP Copper Inc.) and ASARCO Inc.	<ul style="list-style-type: none"><li>• Groundwater should not be included in the Adjudication.</li><li>• To the extent that groundwater is subject to the Adjudication, objectors object to use of appropriable groundwater without an appropriative right or in conflict with the objectors’ own rights.</li></ul>
Gila River Indian Community, San Carlos Apache Tribe, Yavapai-Apache Nation (“the Tribes”)	<ul style="list-style-type: none"><li>• The water used is subject to federal and Indian claims.</li><li>• The WFR does not show a well registration filing.</li><li>• The WFR does not show a water use rate.</li></ul>

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 **Thursday, January 9, 2025, at 11:00 am** status conference

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

Attachment C: Copy of WFR No. 113-04-DCD-011

Attachment D: ADWR map showing land investigated in WFR No. 113-04-DCD-011

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

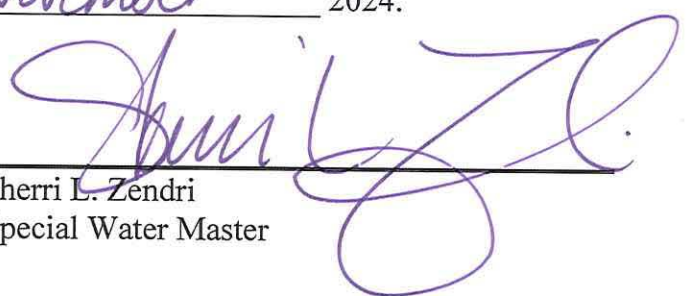
Attachment F: Initial Court Approved Mailing List

**IT IS ORDERED** initiating contested case W1-11-2398, In re Creola M. and Allen Dungan, and scheduling an initial conference hearing for **Thursday, January 9, 2025, at 11:00 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](mailto: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.

2  
3 Signed this 25<sup>th</sup> day of November 2024.

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6   
7 Sherri L. Zendri  
8 Special Water Master  
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11 On November 25, 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 Creola M. and Allen Dungan**

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 Creola M. and Allen Dungan**

**Contested Case No. W1-11-2398**

**Start Date/Time: Thursday, January 9, 2025, at 11:00 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
DUNGAN, CREOLA M.	113-04-DCD-011
& ALLEN MARY E.	

## A P P L I C A B L E F I L I N G S A N D D E C R E E S

## CLEARLY STATED INFORMATION FROM FILINGS AND DECREES

FILING NUMBER	FILING STATUS	USES	QUANTITY IN AFA	USE LOCATION SECTION	TWNP	RNGE	CLAIM DATE	DIVERSION LOCATION SECTION	TWNP	RNGE
39-0001490	QUE.RECD	IRRIGATION STOCK	. 11	NWNWSE18	080S	170E	1954	NWNWSE18	080S	170E

## D W R A N A L Y S I S O F F I L I N G S A N D D E C R E E S

FILING NUMBER	USES CLAIMED OR REFERENCED	USES FOUND BY DWR	APPLIES TO DIVERSIONS	APPLIES TO PWR NUMBERS
39-0001490	IRRIGATION STOCK	IRRIGATION INCIDENTAL	WO1	IROO1, IROO2

## D I V E R S I O N S

DIV #	LOCATION SECTION	TWNP	RNGE	DIVERSION NAME	WATER SOURCE AND CLASSIFICATION
WO1	NWNWSE18	080S	170E	UNNAMED	GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER

## U S E S

PWR #	LOCATION SECTION	TWNP	RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO DATE	SOURCE CHANGE	FACILITY NAME
IROO1	NWSE18	080S	170E	WO1	GROUNDWATER : ZONE 1	1955	NO	
IROO2	NWSE18	080S	170E	WO1	GROUNDWATER : ZONE 1	1969	NO	

## P W R S U M M A R Y

PWR #	APPLICABLE ADJ FILINGS	APPLICABLE PRE FILINGS	*APPARENT FIRST USE DATE	DATE BASIS FOR DATE	WATER SOURCES AND CLASSIFICATIONS
IROO1	39-0001490	NONE	1954	FILING 39-1490	GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER
IROO2	39-0001490	NONE	1969	1969 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 TYPE	ACRES	CROP TYPE	EFF	WATER DUTY	ESTIMATED VOLUME	REMARKS
IROO1	MAX. OBSERVED	1.0	PERM. PSTR	32%	9.9 AF/AC	9.9 AFA	
	REGIONAL	1.0	AVE. CROP	50%	5.4 AF/AC	5.4 AFA	
	MAX. POTENTIAL	1.0	ALFALFA	32%	10.4 AF/AC	10.4 AFA	
IROO2	MAX. OBSERVED	3.9	PERM. PSTR	32%	9.9 AF/AC	38.6 AFA	
	REGIONAL	3.9	AVE. CROP	50%	5.4 AF/AC	21.1 AFA	
	MAX. POTENTIAL	3.9	ALFALFA	32%	10.4 AF/AC	40.6 AFA	

## E X P L A N A T I O N

## FILINGS AND DECREES

FILING 39-1490 - A UNIFORM QUESTIONNAIRE WAS RECEIVED WHICH REFLECTS INFORMATION PREVIOUSLY PROVIDED IN THE ORIGINAL STATEMENT OF CLAIMANT.

## DIVERSIONS

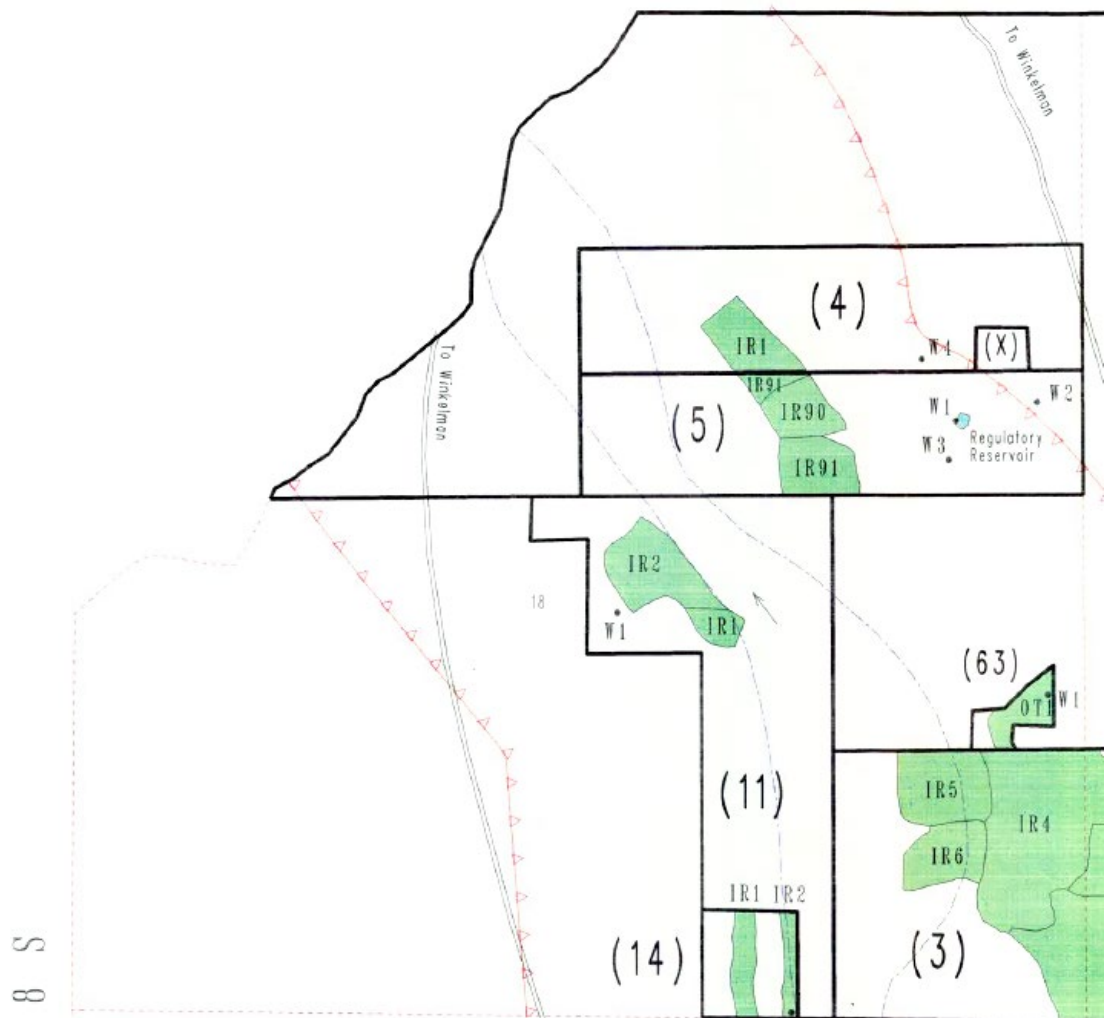
W1 - WELL PROVIDES WATER FOR IRRIGATION AND STOCKWATERING USES.

## USES AND RESERVOIRS

IR1 & IR2 - IRRIGATED PASTURE.

## ATTACHMENT D

### ADWR Map



**ATTACHMENT E**

**Assessor Map**



**Parcel No. 306-33-004B**  
**Parcel No. 306-33-004A**  
Charles E. and Mary Schnurpel

## **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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Courtroom 301  
Phoenix, AZ 85003

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San Carlos Apache Tribe  
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San Carlos, AZ 85550

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Montgomery & Interpreter PLC  
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Phoenix, AZ 85032

Gila River Indian Community  
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Office of the General Counsel  
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Sacaton, AZ 85147

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Arkansas Pass, TX 78335

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Mammoth, AZ 85618