

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

12/11/2019

CLERK OF THE COURT

SPECIAL WATER MASTER
SUSAN HARRIS

T. DeRaddo

Deputy

In re: Eldon J. and Shirley Barney
Contested Case No. W1-11-1898

FILED: 12/23/2019

In Re: The General Adjudication
of All Rights to Use Water in the
Gila River System and Source
W-1, W-2, W-3 and W-4 (Consolidated)

In re: Status/Scheduling Conference

MINUTE ENTRY

Courtroom: CCB 301

1:00 p.m. This is the time set for a status/scheduling conference before Special Master Susan Ward Harris to determine whether the objections that may have been filed to Arizona Department of Water Resources Report, WFR 112-17-BAD-001, can be resolved by settlement or if a litigation schedule shall be set along with a trial date.

Court reporter, Lauren Kuhnhehn is present. A record of the proceedings is also made digitally.

The following attorneys appear in-person:

- Mark McGinnis and R. Jeffrey Heilman on behalf of Salt River Project.
- Joe Sparks on behalf of the San Carlos Apache Tribe.
- Rhett Billingsley on behalf of ASARCO
- John Burnside on behalf of BHP Copper
- David Brown on behalf of St. David Irrigation District
- Kimberly Parks on behalf of Arizona Department of Water Resources (“ADWR”)
- Sean Hood on behalf of Freeport Minerals Corporation

The following people appear telephonically:

- Jane and Michael Charchenko. Jane Charchenko also speaks on behalf of her sisters who are not present: Daylon and Polly Eddington, not present because they

are on a church mission in Croatia (Polly Eddington is the daughter of Eldon and Shirley Barney); Allen and Suzanne Judd (Suzanne Judd is daughter to Eldon and Shirley Barney); and Rebecca Rowley.

- Jay Eldon Barney.
- Sandra Peterson of the Lane and Sandra B Peterson Trust (Sandra Peterson is daughter to Eldon and Shirley Barney).

LET THE RECORD REFLECT that a representative for Karma Foods LLC is not present nor represented by counsel and Nathan and/or Terry Hatch are neither present nor represented by counsel.

Mrs. Charchenko informs the Court that Eldon and Shirley Barney's children are: Jane Charchenko, Jay Barney, Flint C. Barney, Rebecca Rowley, Suzanne Judd, Sandra Peterson, and Polly Eddington. She also states that there is a 6th sister, who Mrs. Charchenko did not name, who is a realtor and assisted her siblings in transferring land from the parents to the children.

The Court notes that Eldon and Shirley Barney are listed as landowners in ADWR's Report, WFR 112-17-BAD-001, and have filed Statements of Claimant. According to the Cochise County Assessor a $\frac{3}{4}$ acre parcel is still held in the name of Eldon and Shirley Barney. Jay Barney states that he is now the land owner of this parcel of land and intends to file for water rights under St. David Irrigation District.

Mr. Brown addresses the court and states that Jay Barney's land is included in the St. David boundaries, but may not be included in the acreage that was taken in as member lands in the district. Mr. Brown further informs the Court that the $\frac{3}{4}$ acre parcel, if not already included, will be included along with the next traunch of people joining the district.

IT IS ORDERED Mr. Brown will inform the Court regarding when the $\frac{3}{4}$ acre parcel is included as member lands in the St. David Irrigation District so that the St. David Irrigation District will represent the claims for water rights for irrigation use.

Mr. Brown informs the Court that Flint Barney has signed a petition to have his land included in the member lands of the St. David Irrigation District.

IT IS ORDERED Mr. Brown will inform the Court when Flint Barney's petition is approved as a member of the St. David Irrigation District.

Mrs. Charchenko informs the Court that she and her sisters have all filed for water rights. None of the sisters are represented by counsel.

The Court informs Ms. Charchenko that her case is among thousands of cases in the San Pedro Watershed district that are in the process of having water rights determined.

The Court further informs Mrs. Charchenko that a procedure exists whereby she and her sisters could meet and confer with ADWR and the objectors about this case to determine if the objections could be resolved and the parties could agree on water rights. Alternatively, a date for a scheduling conference could be set which would include a date for a hearing at which time Mrs. Charchenko and her sisters would have the opportunity to put on evidence in support of their claims for water rights.

The Court inquires if Ms. Charchenko or her siblings would be willing to meet with ADWR to discuss settlement of the objections.

IT IS ORDERED directing Ms. Parks to set up a meeting by **March 31, 2020** with ADWR, the objectors, and the following landowners or representatives of the landowners: Jane and Michael Charchenko, Daylon and Polly Eddington, Allen and Suzanne Judd, trustees of the Lane and Sandra B Peterson Trust, and Rebecca Rowley.

Ms. Charchenko requests that she be given a list of objections. The Court explains that the objections can be obtained by request from ADWR, but will copy and attach them to this minute entry if not too voluminous.

Joe Sparks informs the Court that his research documents which he provided to ADWR did not include an Assignment of the Statements of Claimant from the original owners/parents to their successors/children.

Discussion is held regarding the personal representative of Shirley Barney's estate. Mr. Jay Barney shall come to the meeting with the Barney daughters, the objectors, and ADWR to assist with any paperwork that ADWR needs.

KARMA FOODS LLC

IT IS ORDERED setting a second scheduling conference with Karma Foods LLC for **January 31, 2020**. The Scheduling Conference is only for the purpose of scheduling proceedings for the adjudication of water rights to 65.848 acres of irrigated land shown on the map filed by ADWR.

1:32 p.m. Matter concludes.

LATER:

Karma Foods LLC

A telephonic scheduling conference shall be held **at 1:30 p.m. on January 31, 2020** with Karma Foods LLC and the objecting parties to address discovery, and set dates for motions, a Readiness Conference, and a hearing on the claimed water rights.

Instructions for telephonic participation:

Dial: 602-506-9695 (local)

1-855-506-9695 (toll free long distance)

Dial Collaboration (conference) Code 357264#

A second failure by a representative of Karma Foods LLC to appear at a Scheduling Conference may result in the dismissal of the Statement of Claimant pursuant to which Karma Foods LLC seeks to claim water rights.

Nathan and Terry Hatch

Notice of this hearing was sent to Nathan and Terry Hatch as the landowners of that parcel identified by the Cochise County Assessor as 208-40-004R. No Statement of Claimant filed by Nathan and Terry Hatch is included in the public records of Arizona Department of Water Resources. Neither Mr. nor Mrs. Hatch appeared at the status conference. Nathan and Terry Hatch are dismissed from this case and their names removed from the Court-approved mailing list.

According to the records of the Cochise County Recorder's Office, a Joint Tenancy Deed was recorded on May 13, 2019 to transfer land from Mr. and Mrs. Hatch to Stuart and Marjorie Baird. The public records of ADWR do not include a Statement of Claimant filed by the successor owners, Stuart and Marjorie Baird. The Cochise County Assessor shows Mr. and Mrs. Baird as the owners of tax parcel 208-40-004R. Stuart and Marjorie Baird will be added to the court-approved mailing list as owners of land included in Arizona Department of Water Resources Report, WFR 112-17-BAD-001.

Arizona Department of Water Resources is instructed to provide Stuart and Marjorie Baird with a notice of the meeting to be held by March 31, 2020. The purpose of the meeting is to determine whether the objections to WFR 112-17-BAD-001 can be settled. The meeting report will specifically advise whether Mr. or Mrs. Baird or a representative of Mr. and Mrs. Baird chose to participate in the settlement meeting.

General Explanation of Court Proceeding.

In Arizona, people, governmental entities, Indian tribes, businesses, and non-profit organizations can acquire rights to water from lakes, ponds, springs, streams, canyons, ravines, other natural surface channels, definite underground channels, and subflow. Water from these sources is known as “appropriable water”. As demand increased over the past century for water in Arizona, with the potential for conflict, it became clear that it was necessary to examine all of the claims to rights to appropriable water to establish valid legal rights to water that could be protected and enforced.

The Arizona legislature put a procedure in place to allow water users to come into court and require the court to determine their legal water rights. The procedure is known as a general adjudication. The purpose of the general adjudication is to examine claims for water rights and define those rights. Many western states use general adjudications to determine water rights. General adjudications in some areas of the United States have been completed and others are still in process.

In 1974, a water user in Arizona started this General Adjudication. The Arizona Supreme Court has stated that in this General Adjudication all claims made to water must be examined and rights established. This General Adjudication includes claims to water rights in the San Pedro river watershed.

In the San Pedro watershed, more than a hundred thousand claims have been made for water for uses such as domestic, irrigation, stock watering, mining, and stockponds. The court will establish the water rights of claimants who have filed a document known as a Statement of Claimant, had a Statement of Claimant filed on his or her behalf or received an assignment of a Statement of Claimant. A Statement of Claimant can include more than one claim for a water right. In this case Eldon and Shirley Barney filed Statements of Claimant. The failure to file a Statement of Claimant can result in the forfeiture of a right to use appropriable water, so it is important that a person seeking a water right file a Statement of Claimant, have a Statement of Claimant filed on his or her behalf, or obtain an assignment of an existing Statement of Claimant.

As part of the process of the General Adjudication, Arizona Department of Water Resources investigated the claims made in the Statements of Claimant filed by Eldon and Shirley Barney and prepared a report that identified potential water rights. A copy of that report, WFR 112-17-BAD-001, is attached to this minute entry. Once the report is prepared, then objections to the report prepared by Arizona Department of Water Resources may be filed. A copy of those objections to the report are attached to this minute entry.

The current phase of the proceeding requires the court to make a determination about the water rights claimed in the Statements of Claimant, the potential water rights shown in the report prepared by Arizona Department of Water Resources, and the validity of the objections to the report. As part of that process, the claimants can choose to meet informally with the water users who filed objections to determine whether those objections can be resolved and the parties can agree on a set of water rights. Absent an agreement by the water users who filed objections to withdraw those objections, a date for a hearing will be set at which time all parties will have the opportunity to present witnesses and evidence to support either their claims for water rights or their objections.

A copy of this order is mailed to all persons listed on the Court approved mailing list.

LAND OWNER	WATERSHED FILE
-----	REPORT NUMBER
BARNEY, ELDON J.	112-17-BAD-001
& SHIRLEY	

APPLICABLE FILINGS AND DECREES

CLEARLY STATED INFORMATION FROM FILINGS AND DECREES

W1-11-1898

FILING NUMBER	FILING STATUS	USES	QUANTITY IN AFA	USE LOCATION SECTION	TWNP	RNGE	CLAIM DATE	DIVERSION SECTION	LOCATION TWNP	RNGE			
39-0005938		IRRIGATION STOCK	3000.00 7.50	02	170S	200E	1910	NENE36	170S	200E			
				03	170S	200E					SESENW02	170S	200E
				34	160S	200E							
39-0012574		IRRIGATION STOCK	1200.00	03	170S	200E	1912	SWNE03	160S	200E			
				34	160S	200E					SENE03	160S	200E
39-0012575		IRRIGATION STOCK	1200.00	03	170S	200E	1912	SWNE03	160S	200E			
				34	160S	200E					SENE03	160S	200E

DWR ANALYSIS OF FILINGS AND DECREES

FILING NUMBER	USES CLAIMED OR REFERENCED	USES FOUND BY DWR	APPLIES TO DIVERSIONS	APPLIES TO PWR NUMBERS
39-0005938	IRRIGATION STOCK	IRRIGATION INCIDENTAL	DO1, W04	IRO01, IRO02, IRO03 IRO04, IRO05
39-0012574	IRRIGATION STOCK	IRRIGATION INCIDENTAL	DO1, W01, W02	IRO01, IRO02, IRO03 IRO04, IRO05
39-0012575	IRRIGATION STOCK	IRRIGATION INCIDENTAL	DO1, W01, W02	IRO01, IRO02, IRO03 IRO04, IRO05

DIVERSIONS

DIV #	SECTION	TWNP	RNGE	DIVERSION NAME	WATER SOURCE AND CLASSIFICATION
DO1	NWSENE36	170S	200E	POMERENE CANAL	SURFACE WATER: SAN PEDRO RIVER SHARED
W01	SENWNE03	170S	200E	UNNAMED	GROUNDWATER : ZONE 2 SHARED
W02	SENE03	170S	200E	UNNAMED	GROUNDWATER : ZONE 2 SHARED
W03	NESENE03	170S	200E	UNNAMED	GROUNDWATER : ZONE 2 SHARED
W04	SWSWNW02	170S	200E	UNNAMED	GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER SHARED
W05	NWSWSE34	160S	200E	UNNAMED	GROUNDWATER : ZONE 2 SHARED

USES

PWR #	SECTION	TWNP	RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO DATE	SOURCE CHANGE	FACILITY NAME
IRO01	03	170S	200E	DO1, W01, W02 W03, W04, W05	SURFACE WATER GROUNDWATER : ZONE 1 GROUNDWATER : ZONE 2	1935	NO	
	34	160S	200E					
IRO02	NESW34	160S	200E	DO1, W05	SURFACE WATER GROUNDWATER : ZONE 2	1955	NO	
	NWSE34	160S	200E					
	SESW34	160S	200E					
	SWSE34	160S	200E					
IRO03	NESW34	160S	200E	DO1, W05	SURFACE WATER GROUNDWATER : ZONE 2	1964	NO	
	NWSW34	160S	200E					
IRO04	NWNE03	170S	200E	DO1, W01, W02 W03, W04, W05	SURFACE WATER GROUNDWATER : ZONE 1 GROUNDWATER : ZONE 2	1972	NO	
	NWSW34	160S	200E					
IRO05	NWSE34	160S	200E	W05	GROUNDWATER : ZONE 2	1976	NO	
	SWSE03	160S	200E					

- ** DIVERSION DO1 OPERATED BY THE POMERENE WATER USERS ASSOC.
 (FILE 112-17-89) SUPPLIES WATER TO PWRs IN THIS FILE.
- ** WATER FROM W01 IS SHARED WITH THESE ADDITIONAL FILES:
 112-17BAA206, 112-17BAA218
- ** WATER FROM W02 IS SHARED WITH THESE ADDITIONAL FILES:
 112-17BAA206, 112-17BAA218, 112-17BAD-10
- ** WATER FROM W03 IS SHARED WITH THESE ADDITIONAL FILES:
 112-17BAA206, 112-17BAA218, 112-17BAD-10
- ** WATER FROM W04 FOUND IN FILE (112-17BAD-10) IS USED IN THIS FILE

PWR SUMMARY

PWR #	APPLICABLE ADJ FILINGS	APPLICABLE PRE FILINGS	*APPARENT FIRST USE DATE*	DATE BASIS FOR DATE	WATER SOURCES AND CLASSIFICATIONS
IROO1	39-0005938 39-0012574 39-0012575	NONE	1912	POMERENE W.U.A. INFO	SURFACE WATER: SAN PEDRO RIVER GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER GROUNDWATER : ZONE 2
IROO2	39-0005938 39-0012574 39-0012575	NONE	1955	1955 AERIAL PHOTO	SURFACE WATER: SAN PEDRO RIVER GROUNDWATER : ZONE 2
IROO3	39-0005938 39-0012574 39-0012575	NONE	1964	1964 AERIAL PHOTO	SURFACE WATER: SAN PEDRO RIVER GROUNDWATER : ZONE 2
IROO4	39-0005938 39-0012574 39-0012575	NONE	1972	1972 AERIAL PHOTO	SURFACE WATER: SAN PEDRO RIVER GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER GROUNDWATER : ZONE 2
IROO5	39-0005938 39-0012574 39-0012575	NONE	1976	1976 AERIAL PHOTO	GROUNDWATER : ZONE 2 GROUNDWATER : ZONE 2

QUANTITIES OF USE

PWR #	QUANTIFICATION TYPE	ACRES	CROP TYPE	EFF	WATER DUTY	ESTIMATED VOLUME	REMARKS
IROO1	MAX. OBSERVED	186.5	MULTI.-DBL.	45%	5.7 AF/AC	1063.1 AFA	
	REGIONAL	186.5	AVE. CROP	50%	5.4 AF/AC	1007.1 AFA	
	MAX. POTENTIAL	186.5	ALFALFA	45%	7.4 AF/AC	1380.1 AFA	
IROO2	MAX. OBSERVED	23.3	MULTI.-DBL.	45%	4.2 AF/AC	97.9 AFA	
	REGIONAL	23.3	AVE. CROP	50%	5.4 AF/AC	125.8 AFA	
	MAX. POTENTIAL	23.3	ALFALFA	45%	7.4 AF/AC	172.4 AFA	
IROO3	MAX. OBSERVED	15.7	MULTI.-DBL.	45%	6.1 AF/AC	95.8 AFA	
	REGIONAL	15.7	AVE. CROP	50%	5.4 AF/AC	84.8 AFA	
	MAX. POTENTIAL	15.7	ALFALFA	45%	7.4 AF/AC	116.2 AFA	
IROO4	MAX. OBSERVED	11.9	MULTI.-DBL.	45%	6.1 AF/AC	72.6 AFA	
	REGIONAL	11.9	AVE. CROP	50%	5.4 AF/AC	64.3 AFA	
	MAX. POTENTIAL	11.9	ALFALFA	45%	7.4 AF/AC	88.1 AFA	
IROO5	MAX. OBSERVED	1.5	PERM. PSTR	45%	7.0 AF/AC	10.5 AFA	
	REGIONAL	1.5	AVE. CROP	50%	5.4 AF/AC	8.1 AFA	
	MAX. POTENTIAL	1.5	ALFALFA	45%	7.4 AF/AC	11.1 AFA	

EXPLANATION

DIVERSIONS

D1 - DIVERSION FROM THE SAN PEDRO RIVER INTO THE POMERENE WATER USERS ASSOCIATION CANAL.
 W1-W5 - WELLS PROVIDE WATER FOR IRRIGATION AND STOCKWATERING USES.

USES AND RESERVOIRS

IR1-IR4 - IRRIGATED MULTIPLE-DOUBLE CROPS (SUMMER AND WINTER PASTURE, AND CORN).
 IR5 - IRRIGATED PASTURE.
 DOMESTIC WATER USE IS SUPPLIED BY THE POMERENE DOMESTIC WATER USERS ASSOCIATION.
 TAILWATER RESERVOIRS ARE USED FOR IRRIGATION AND STOCKWATERING PURPOSES.

SHARED USES AND DIVERSIONS

W1 - WELL IS SHARED WITH W.F.R.'S #112-17-BAA-206 & #112-17-BAA-218.
 W2 & W3 - WELLS ARE SHARED WITH W.F.R.'S #112-17-BAA-206, #112-17-BAA-218 & #112-17-BAD-10.
 W4 - WELL IS SHARED WITH W.F.R. #112-17-BAD-10.

PWR SUMMARY

FILINGS MADE BY THE POMERENE WATER USERS ASSOCIATION ALSO APPLY TO IRRIGATION USES (IR1) ON

FILE 112-17-BAD-001 (CONTINUED)
E X P L A N A T I O N (CONTINUED)

CONTINUATION OF PAGE: 18

THIS PROPERTY. FOR MORE INFORMATION ON THE POMERENE WATER USERS ASSOCIATION, SEE THE MAJOR
USERS REPORTS IN VOLUME 1.

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

No. W1, W2, W3 & W4
Contested Case No. W1-11-001898

MANDATORY FORM FOR OBJECTIONS TO
The Hydrographic Survey Report for the
San Pedro River Watershed

Please file a separate objection for each Watershed File Report, Zone 2 Well Report or Catalogued Well Report. Objections to information contained in Volume 1 of the HSR can be stated on one objection form. Objections must be written. Use of this form, or a computer facsimile, is required. Objections must be received on or before May 18, 1992.

This objection is directed to Watershed
File Report or Zone 2 Well Report No. 112-17-BAD -001
(please insert no.)

or Catalogued Well No. _____
(please insert no.)

92 MAY 14 11:02
FILED
D. W. JENKINS
Clerk

OBJECTOR INFORMATION

Objector's Name: Salt River Project
Objector's Address: Post Office Box 52025
Phoenix, Arizona 85072-2025
Objector's Telephone No: (602) 236-2210

Objector's Watershed File Report or Zone 2 Well Report No. (If the Objector's claimed water rights are within the San Pedro River Watershed): _____

Or Objector's Catalogued Well Number (if the Objector's claimed water rights appear only in Volume 8 of the HSR): _____

Or Objector's Statement of Claimant No. (if the Objector's claimed water rights are located outside the San Pedro Watershed):
39-07 01040, 01041, 01206, 01207, 01998
39-05 50053, 50054, 50055
39-L8 35212, 35213

STATE OF Arizona

COUNTY OF Maricopa

VERIFICATION (must be completed by objector)

I hereby make this Objection. I certify that, if required, copy of the foregoing Objection was served upon the following Claimant(s) by mailing true and correct copies thereof on the 14th day of May, 1992, postage prepaid and addressed as follows:

Name: BARNEY, ELDON J.
Address: P.O. BOX 436
POMERENE, AZ 85627

I declare under penalty of perjury that I am a claimant in this proceeding or the duly-authorized representative of a claimant; that I have read the contents of this Objection (both sides and any attachments) and know the contents thereof; and that the information contained in the Objection is true based on by own personal knowledge, except those portions of the Objection which are indicated as being known to me on information and belief and, as to those portions, I believe them to be true.

David C. Robt

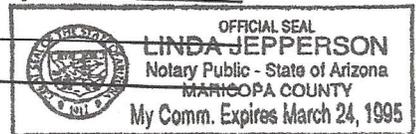
Signature of Objector or Objector's Representative

SUBSCRIBED AND SWORN to before me this 1st day of May, 1992.

Linda Jepperson
Notary Public for the State of Arizona

Residing at Maricopa County

My commission expires _____



(The above section must be completed if you object to another claimant's Watershed File Report, Zone 2 Well Report, or Catalogued Well Report. It does not need to be completed if you file an objection to your own Watershed File Report, Zone 2 Well Report, Catalogued Well Report, or to information contained in Volume 1 of the Hydrographic Survey Report.)

Objections must be filed with the Clerk of the Superior Court in and for Maricopa County, Maricopa County Courthouse Annex, 3345 W. Durango Street, Phoenix Az 85009, on or before May 18, 1992.

STATEMENT OF THE OBJECTION

The following are the main categories of the typical Watershed File Report (Zone 2 Well Reports and some Watershed File Reports lack certain categories). Please check the category(ies) to which you object, and state the reason for the objection on the back of this form.

- 1. I object to the description of LAND OWNERSHIP
- 2. I object to the description of APPLICABLE FILINGS AND DECREES
- 3. I object to the description of DWR's ANALYSIS OF FILINGS AND DECREES
- 4. I object to the description of the DIVERSIONS for the claimed water right(s)
- 5. I object to the description of the USES for the claimed water right(s)
- 6. I object to the description of RESERVOIRS used for the claimed water right(s)
- 7. I object to the description of SHARED USES & DIVERSIONS for the claimed water right(s)
- 8. I object to the PWR (POTENTIAL WATER RIGHT) SUMMARY of the claimed water right(s)
- 9. I object to the description of the QUANTITIES OF USE for the claimed water right(s)
- 10. I object to the EXPLANATION provided for the claimed water right(s)
- 11. Other Objections (please state volume number, page number and line number for each objection)

REASON FOR OBJECTION

The reason for my objection is as follows (please number your objections to correspond to the boxes checked above; please attach supporting information and additional pages as necessary):

CATEGORY
NUMBER

SEE ATTACHMENT 1

In this attachment the uniform code designated by the

Special Master in accordance with Case Management

Order No. 1 is shown in parenthesis following each

objection statement.

ATTACHMENT 1

Portions of the following objection are also relevant to the Pomerene Water Users Association. The corresponding major user number for the Pomerene Water Users Association is 1253.

WFR CATEGORY 8 - PWR SUMMARY

The Salt River Project objects to the apparent date of first use assigned to this Potential Water Right (PWR). The Watershed File Report indicates that previous filings made by the Pomerene Water Users' Association (PWUA) are applicable to this PWR. However, the apparent date of first use assigned to this PWR is later than the date evidenced by PWUA's previous filings and assigned to PWUA's diversion PWR. Since DWR apparently relied upon PWUA's previous filings in assessing the attributes of this PWR, the apparent date of first use assigned to this PWR should be the date evidenced by those filings (0950). This objection applies to: IR001.

WFR CATEGORY 9 - QUANTITIES OF USE

The Salt River Project objects to the quantities of use assigned to this Potential Water Right (PWR). The maximum observed and regional methods used by DWR for determining quantities of use for certain agricultural irrigation PWRs are inconsistent with the Arizona doctrine of prior appropriation; these methods are also technically inaccurate. The maximum potential method used by DWR for determining quantities of use is consistent with Arizona law; however, several technical corrections are necessary. For an additional discussion of the problems associated with DWR's methods of quantification for this type of PWR, see the Salt River Project's Volume 1 objections to these methods, a copy of which is attached to this objection and incorporated herein by reference (1020). This objection applies to: IR001, IR002, IR003, IR004 and IR005.

* * * *

WFR CATEGORY 9 - QUANTITIES OF USE (continued)

The Salt River Project objects to the failure of DWR to calculate a diversion rate for this Potential Water Right (PWR). All PWRs assigned a point or points of diversion should be assigned a separate diversion rate for each point of diversion. Diversion rates should be calculated at the point of diversion and should include conveyance losses (1010). This objection applies to: IR001, IR002, IR003, IR004 and IR005.

EXCERPT FROM
SALT RIVER PROJECT OBJECTIONS TO
VOLUME 1 OF THE SAN PEDRO RIVER HSR

IRRIGATION QUANTITY ESTIMATES

(page numbers refer to Volume 1)

INTRODUCTION

The Salt River Project objects to DWR's estimation methods and results for irrigation water quantities for the following reasons:

First, the Salt River Project objects to DWR's estimation of water duty under both the "maximum observed" and "regional" methods. In the absence of decreed rights, which must be accepted by the court in the absence of abandonment, Arizona law requires that the extent of an appropriative right be measured according to the quantity of water that the appropriator diverted for beneficial use since the time of the appropriation. A.R.S. § 45-141(B) ("Beneficial use shall be the basis, measure and limit to the use of water"). Neither the "maximum observed" or "regional" quantification methods employed by DWR properly estimate maximum actual historical beneficial use as required by law.

The Salt River Project supports DWR's estimation of water duty using the "maximum potential" method since, in the absence of sufficient historical records, this method properly estimates maximum actual historical beneficial use.

Second, DWR's method to compute maximum observed water duty does not accurately estimate maximum actual historical beneficial use since it incorporates inaccurate crop irrigation requirements, deficit irrigation, five years or less of crop history, or overly high efficiency estimates.

Third, although DWR has developed new terminology in reporting regional water duties, DWR still uses the Arizona Groundwater Code method of "areas of similar farming conditions" (ASFC), now termed "regional farming conditions" (RFC). The RFC method assigns a weighted average consumptive use requirement to the water duty equation based upon the types of crops recently grown by appropriators in a designated area. Historical information or records evincing an individual claimant's actual cropping patterns and the quantities of water actually used to cultivate such crops since the time of appropriation are not considered. In fact, the Court noted that "[average efficient use] is not directly related to what is the property's water right[s] . . ." (Entitlement Order at 6). Under the prior appropriation doctrine, an appropriator who has grown alfalfa on his property historically is entitled to a water duty that will support alfalfa, regardless of the crops that he or his neighbors are currently growing. Under DWR's "averaging" approach, an appropriator in this situation would be assigned an apparent entitlement inadequate to meet crop needs.

Additionally, under the RFC concept, the efficiency of various irrigation methods is averaged among appropriators, thus further exacerbating the inadequate water duty for the appropriator who does not have a system with above-average efficiency.

Fourth, there are a number of technical errors in DWR's calculation of crop consumptive use including the use of a five year crop history, adjusted weather data, relative humidity, growing season, effective precipitation, crop coefficients, alfalfa stand establishment, deficit irrigation, and efficiency estimates.

Five Year Crop History

pp. 146-151, C-18, C-19, C-68 through C-78

The Salt River Project objects to DWR's use of its five year investigation period for computing acreages irrigated for maximum observed quantification and for computing crop irrigation water requirements for both maximum observed and regional quantifications. Indeed, it appears that DWR has relied heavily on a single year (1990) of crop survey data. The information developed from a single year, or five year period, cannot be used to properly estimate actual historical beneficial use since low consumptive use crops or no crop may be present during the period. Thus, historical cropping practices or completion of a crop rotation are not reflected.

Adjusted Weather Data

pp. C-6 through C-19

The Salt River Project objects to DWR's adjustment of weather station temperatures from recorded values and relative humidities from estimated values. The temperature and relative humidity adjustment procedure is intended for prediction of crop water requirements for large, new irrigation developments where the current observations are from a nearby non-irrigated area. Because of the "clothesline" configuration of San Pedro irrigated areas in relation to the extremely arid surrounding environment, it is extremely doubtful there is any moderating effect due to surrounding irrigated land or to the San Pedro River.

Relative Humidity

pp. C-9, C-17, C-25, C-29, C-34, C-92

The Salt River Project objects to DWR's failure to specify whether it used minimum relative humidity as specified in Food and Agricultural Organization (FAO) Paper 24. Minimum relative humidity is not reported by Sellers and Hill. Furthermore, their 6 p.m. (1800 hours) data must be adjusted downward to reflect lower humidity in mid-afternoon. The proper publication date for Arizona Climate, 1931-1972, by Sellers and Hill, is 1974.

Growing Season

pp. C-20, C-24

The Salt River Project objects to DWR's use of field observations during one or just a few years to estimate the length of growing season for perennial crops. A few field observations of irrigation dates do not define the water use period because water use occurs both before and after irrigation and because growing seasons vary from year to year. Growing seasons can best be determined for perennial crops by a relationship between plant growth and mean temperature or mean date of low temperatures over an extended period of record.

Effective Precipitation

pp. C-38, C-40 through C-49

The Salt River Project objects to DWR's method of estimating non-growing season effective precipitation. The procedure used neglects runoff, uses soil constant values that are highly variable and not well quantified, and is unclear about assumptions of initial soil moisture conditions for each month. Published methods can be used to estimate non-growing season effective precipitation for the winter months, the relevant period for most crops. Furthermore, the Salt River Project objects to DWR's use of a 50 percent probability of precipitation, which results in an inadequate supply in one-half of the years. A 50 percent probability indicates that average effective precipitation is subtracted from crop consumptive use when DWR calculates the irrigation requirement. This means that in years of below-average precipitation, irrigation users would be unable to replace the lack of precipitation with additional irrigation water. The amount of precipitation that is available 80 percent of the time for field crops and 90 percent of the time for orchards and vegetables is appropriate.

Crop Coefficients

p. C-33

The Salt River Project objects to DWR's use of 0.8 as the kc for Winter Pasture. Winter Pasture is a cool-season grass mixture that has a higher crop coefficient than a warm-season grass. SRP also objects to DWR's use of the mean of kc1 and kc3 as a value for kc2, instead of interpolation. Both FAO-24 and University of California Leaflet 21427 specify interpolation.

Alfalfa Stand Establishment

p. C-37

The Salt River Project objects to DWR's failure to include water for alfalfa stand establishment as an "Other Need."

Deficit Irrigation

pp. C-4, C-5, C-54 through C-68

The Salt River Project objects to DWR's use of deficit irrigation values for the maximum observed quantification for water right entitlements. As noted above, maximum actual historical beneficial use is the proper measure of a water right entitlement, not current practice.

Efficiency Estimates

pp. 138-140, C-51 through C-54

The Salt River Project objects to DWR's omission of the effect of a rotation delivery system on On-Farm Irrigation Efficiency. A rotation delivery system reduces On-Farm Irrigation Efficiency below that which can be achieved if irrigation water is available on demand.

The Salt River Project also objects to DWR's use of average estimated values of irrigation efficiency for regional quantification. The use of average efficiencies understates entitlements for one-half of all irrigated acres on this basis alone.

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

92 MAY 11 9 20 AM '92

No. W111001898

MANDATORY FORM FOR OBJECTIONS TO
The Hydrographic Survey Report for
The San Pedro River Watershed

Please file a separate objection for each Watershed File Report, Zone 2 Well Report or Catalogued Well Report. Objections to information contained in Volume 1 of the HSR can be stated on one objection form. Objections must be written. Use of this form, or a computer facsimile, is required. Objections must be received on or before May 18, 1992.

W111001898

This objection is directed to Watershed _____ or Catalogued Well No. _____
File Report or Zone 2 Well Report No. 11217BAD 001
(please insert no.) (please insert no.)

OBJECTOR INFORMATION

Objector's Name: Gila River Indian Community San Carlos Apache Tribe; Tonto Apache Tribe; Yavapai-Apache Indian Community, Camp Verde Reservation
C/O Cox & Cox C/O Sparks & Siler, P.C.
Objector's Address: Suite 300 Luhrs Tower, P.O. Box 4245 7503 First Street
Phoenix, AZ 85030 Scottsdale, AZ 85251
Objector's Telephone: (602) 254-7207 (602) 949-1988

Objector's Watershed File Report or Zone 2 Well Report No. (if the Objector's claimed water rights are within the San Pedro River Watershed):

Or Objector's Catalogued Well Number (if the Objector's claimed water rights appear only in Volume 8 of the HSR):

Or Objector's Statement of Claimant No. (if the Objector's claimed water rights are located outside the San Pedro River Watershed):

39-11-05478 39-05-41142 39-07-12652 39-07-12676 39-05-50058 39-07-12169
39-U8-60083 39-L8-36340 39-L8-37360 39-U8-63614 39-07-12675 39-05-50059

STATE OF ARIZONA

COUNTY OF MARICOPA

VERIFICATION (must be completed by objector)

I hereby make this Objection. I certify that, if required, a copy of the foregoing Objection was served upon the following Claimant(s) by mailing true and correct copies thereof on the 13 day of May, 1992, postage prepaid and addressed as follows:

Name: BARNEY, ELTON J.

Address: P.O. BOX 436

POMERENE AZ 85627

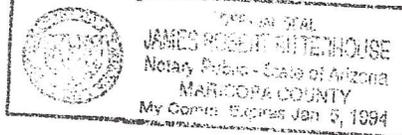
I declare under perjury that I am a claimant in this proceeding or the duly-authorized representative of a claimant; that I have read the contents of this Objection (both sides and any attachments) and know the contents thereof; and that the information contained in the Objection is true based on my own personal knowledge, except those portions of the Objection which are indicated as being known to me on information and belief and, as to those portions, I believe them to be true.

Alfred S. Cox [Signature]

Signature of Objector or Objector's Representative

SUBSCRIBED AND SWORN to before me this 6 day of May 1992.

James R. Ruffalo
Notary Public for the State of Arizona

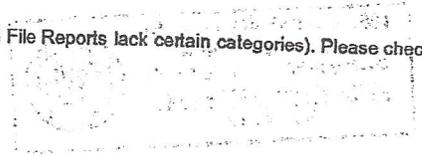


(The above section must be completed if you object to another claimant's Watershed File Report, Zone 2 Well Report, or Catalogued Well Report. It does not need to be completed if you file an objection to your own Watershed File Report, Zone 2 Well Report, Catalogued Well report; or to information contained in Volume 1 of the Hydrographic Survey Report.)

Objections must be filed with the Clerk of the Superior Court in and for Maricopa County, Maricopa County Courthouse Annex, 3345 W. Durango Street, Phoenix, AZ 85009, on or before May 18, 1992.

STATEMENT OF THE OBJECTION

The following are the main categories of the typical Watershed File Report (Zone 2 Well Reports and some Watershed File Reports lack certain categories). Please check the category(ies) to which you object, and state the reason for the objection on the back of this form.



- 1. I object to the description of **Land Ownership**
- X 2. I object to the description of **Applicable Filings and Decrees**
- 3. I object to the description of **DWR's Analysis of Filings and Decrees**
- X 4. I object to the description of **Diversions** for the claimed water right(s)
- 5. I object to the description of **Uses** for the claimed water right(s)
- 6. I object to the description of **Reservoirs** used for the claimed water right(s)
- 7. I object to the description of **Shared Uses & Diversions** for the claimed water right(s)
- 8. I object to the **PWR (Potential Water Right) Summary** of the claimed water right(s)
- X 9. I object to the description of **Quantities of Use** for the claimed water right(s)
- 10. I object to the **Explanation** provided for the unclaimed water right(s)
- 11. Other Objections (please state volume, page and line number for each objection)

REASON FOR OBJECTION

The reason for my objection is as follows (please number your objections to correspond to the boxes checked above; please attached supporting information and additional pages as necessary. The following objection(s) are based upon information and belief:

CATEGORY
NUMBER

- 4 The use of the water claimed depletes water for senior federal and Indian water rights (1150).
- 2 HSR does not show a well registration filing (420).
- 9 HSR does not show a claimed water use rate (1000).

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

MANDATORY FORM FOR OBJECTIONS TO
The Hydrographic Survey Report for
The San Pedro River Watershed

No. W111001898

Please file a separate objection for each Watershed File Report, Zone 2 Well Report or Catalogued Well Report. Objections to information contained in Volume 1 of the HSR can be stated on one objection form. Objections must be written. Use of this form, or a computer facsimile, is required. Objections must be received on or before May 18, 1992.

This objection is directed to Watershed _____ or Catalogued Well No. _____
File Report or Zone 2 Well Report No. 11217BAD 001
(please insert no.) (please insert no.)

OBJECTOR INFORMATION

Objector's Name: Gila River Indian Community San Carlos Apache Tribe; Tonto Apache Tribe; Yavapai-Apache Indian Community, Camp Verde Reservation
C/O Cox & Cox C/O Sparks & Siler, P.C.
Objector's Address: Suite 300 Luhrs Tower, P.O. Box 4245 7503 First Street
Phoenix, AZ 85030 Scottsdale, AZ 85251
Objector's Telephone: (602) 254-7207 (602) 949-1988

Objector's Watershed File Report or Zone 2 Well Report No. (if the Objector's claimed water rights are within the San Pedro River Watershed):

Or Objector's Catalogued Well Number (if the Objector's claimed water rights appear only in Volume 8 of the HSR):

Or Objector's Statement of Claimant No. (if the Objector's claimed water rights are located outside the San Pedro River Watershed):
39-11-05478 39-05-41142 39-07-12652 39-07-12676 39-05-50058 39-07-12169
39-U8-60083 39-L8-36340 39-L8-37360 39-U8-63614 39-07-12675 39-05-50059

STATE OF ARIZONA

VERIFICATION (must be completed by objector)

COUNTY OF MARICOPA

I hereby make this Objection. I certify that, if required, a copy of the foregoing Objection was served upon the following Claimant(s) by mailing true and correct copies thereof on the 13 day of May, 1992, postage prepaid and addressed as follows:

Name: BARNEY, ELDON J.
Address: P.O. BOX 436
POMERENE AZ 85627

I declare under perjury that I am a claimant in this proceeding or the duly-authorized representative of a claimant; that I have read the contents of this Objection (both sides and any attachments) and know the contents thereof; and that the information contained in the Objection is true based on my own personal knowledge, except those portions of the Objection which are indicated as being known to me on information and belief and, as to those portions, I believe them to be true.

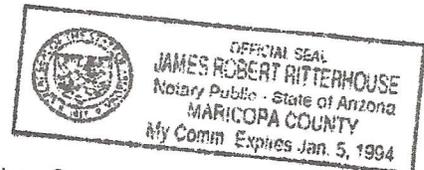
Alfred L. Cox Joe Sparks

Signature of Objector or Objector's Representative

SUBSCRIBED AND SWORN to before me this 06 day of May 1992.

James R. Ritterhouse
Notary Public for the State of Arizona

(The above section must be completed if you object to another claimant's Watershed File Report, Zone 2 Well Report, or Catalogued Well Report. It does not need to be completed if you file an objection to your own Watershed File Report, Zone 2 Well Report, Catalogued Well report; or to information contained in Volume 1 of the Hydrographic Survey Report.)



Objections must be filed with the Clerk of the Superior Court in and for Maricopa County, Maricopa County Courthouse Annex, 3345 W. Durango Street, Phoenix, AZ 85009, on or before May 18, 1992.

**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 File: W111001898

**MANDATORY FORM FOR OBJECTIONS TO
The Hydrographic Survey Report for
The San Pedro River Watershed**

92 MAY 12 AM 10:05
 FILED
 JUDITH ALLEN, CLERK
 BY *[Signature]*

Please file a separate objection for each Watershed File Report, Zone 2 Well Report or Catalogued Well Report. Objections to information contained in Volume 1 of the HSR can be stated on one objection form. Objections must be written. Use of this form, or a computer facsimile, is required. Objections must be received on or before May 18, 1992. Objections must be filed with the Clerk of the Superior Court in and for Maricopa County, Maricopa County Courthouse Annex, 3345 W. Durango Street, Phoenix, AZ 85009.

This objection is directed to Watershed
File Report or Zone 2 Well Report No.

112-17-BAD-001

or Catalogued Well No.

(please insert no.)

(please insert no.)

OBJECTOR INFORMATION

Objector's Name:
United States of America

Co-Objector's Name:
Gila River Indian Community
c/o Cox & Cox

Co-Objector's Name:
San Carlos Apache Tribe; Tonto
Apache Tribe; Yavapai-Apache Indian
Community; Camp Verde Reservation
c/o Sparks & Siler, P.C.

Objector's Address:
601 Pennsylvania Ave.
Washington, D.C. 20004

Co-Objector's Address:
Suite 300 Luhrs Tower
Phoenix, AZ 85003

Co-Objector's Address:
7503 First Street
Scottsdale, AZ 85251

Objector's Telephone No.:
(202) 272-4059 / 272-6978

Co-Objector's Telephone No.:
(602) 254-7207

Co-Objector's Telephone No.:
(602) 949-1998

Objector's Watershed File Report or Zone 2 Well Report No. (if the Objector's claimed water rights are within the San Pedro River Watershed):

111-19-009

Or Objector's Catalogued Well Number (if the Objector's claimed water rights appear only in Volume 8 of the HSR):

Or Objector's Statement of Claimant No. (if the Objector's claimed water rights are located outside the San Pedro River Watershed):

39-11-05478	39-05-41142	39-07-12652	39-07-12676	39-05-50058	39-07-12169
39-U8-60083	39-L8-36340	39-L8-37360	39-U8-63614	39-07-12675	39-05-50059

STATE OF ARIZONA
COUNTY OF MARICOPA

I hereby make this Objection. I certify that, if required, a copy of the foregoing Objection was served upon the following Claimant(s) by mailing true and correct copies thereof on the 18th day of May, 1992, postage prepaid and addressed as follows:

Name: 112-17-BAD-001
BARNEY, ELDON J.
& SHIRLEY
Address: P.O. BOX 436
POMERENE AZ 85627

(The above section must be completed if you object to another claimant's Watershed File Report, Zone 2 Well Report, or Catalogued Well Report. It does not need to be completed if you file an objection to your own Watershed File Report, Zone 2 Well Report, Catalogued Well Report, or to information contained in Volume 1 of the Hydrographic Survey Report.)

VERIFICATION(must be completed by objector)

I declare under penalty of perjury that I am a claimant in this proceeding or the duly-authorized representative of a claimant; that I have read the contents of this Objection (both sides and any attachments) and know the contents thereof; and that the information contained in the Objection is true based on my own personal knowledge, except those portions of the Objection which are indicated as being known to me on information and belief and, as to those portions, I believe them to be true.

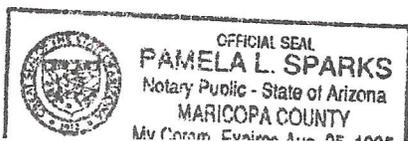
Gary B. Randall
Signature of Objector or Objector's Representative

Alfred J. Cox
Signature of Co-Objector or Co-Objector's Representative

[Signature]
Signature of Co-Objector or Co-Objector's Representative

SUBSCRIBED AND SWORN to before me this 7 day of May, 1992.

Pamela J. Sparks



8. The PWR is solely or partially supplied by water from the Pomerene Water Users Association, which also claims this water. (SM 320)
The claimant and/or ADWR fail(s) to associate this claim with a pre-adjudication water filing as required by Arizona statute. (SM 420)
The claimant's filing and/or pre-filings identify water that is supplied solely or partially by the Pomerene Water Users Association. (SM 481)
The use of water listed under this Watershed File Report is challenged because it interferes with downstream federal reserved rights and is contrary to state and federal law. (SM 560)
The legal description for the point of diversion listed by ADWR is not fully supported by the applicable filings listed. (SM 623) (D01; W04)
The legal description for the place of use of a potential water right listed by ADWR is not fully supported by applicable filings. (SM 720) (IR005001)
One or more of the POU legal descriptions listed in the WFR is too general. (SM 720) (3900059380000; 3900125740000; 3900125750000; IR001)
The Arizona Department of Water Resources has incorrectly assigned an early priority date to this Watershed File Report. The date should be amended to accurately reflect the date that the claimant actually began using water for beneficial purposes. (SM 950) (IR001)
Applicable or potentially applicable filings indicate a volume of actual or claimed use less than the volume estimated by ADWR (both maximum observed and regional use for irrigation PWR's). The claimant is not entitled to more than actually used or claimed. (SM 1000)
The maximum observed volume is less than both the regional and claimed volume of use for this PWR. A claimant is not entitled to more water than has been put to beneficial use. (SM 1000)
9. Applicable or potentially applicable filings indicate a volume of actual or claimed use less than the volume estimated by ADWR (both maximum observed and regional use for irrigation PWR's). The claimant is not entitled to more than actually used or claimed. (SM 1000)
The maximum observed volume is less than both the regional and claimed volume of use for this PWR. A claimant is not entitled to more water than has been put to beneficial use. (SM 1000)
ADWR uses a methodology that overestimates crop water requirements. (SM 1020)
10. The PWR is solely or partially supplied by water from the Pomerene Water Users Association, which also claims this water. (SM 320)

STATEMENT OF THE OBJECTION

The following are the main categories of the typical Watershed File Report (Zone 2 Well Reports and some Watershed File Reports lack certain categories). Please check the category(ies) to which you object, and state the reason for the objection on the back of this form.

- 1. I object to the description of Land Ownership.
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- 3. I object to the description of DWR's Analysis of Filings and Decrees.
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- 8. I object to the PWR (Potential Water Right) Summary of the claimed water right(s).
- 9. I object to the description of Quantities of Use for the claimed water right(s).
- 10. I object to the Explanation provided for the claimed water right(s).
- 11. Other Objections (please state volume, page and line number for each objection).

REASON FOR OBJECTION

The reason for my objection is as follows (please number your objections to correspond to the boxes checked above; please attach supporting information and additional pages as necessary):

- 2. The claimant and/or ADWR fail(s) to associate this claim with a pre-adjudication water filing as required by Arizona statute. (SM 420)
Adjudication filings associated with this WFR contain inaccurate or incomplete information. (SM 478)
The amount claimed, as described by ADWR, exceeds a reasonable amount required for beneficial use. (SM 478)
The claimant's filing and/or pre-filings identify water that is supplied solely or partially by the Pomerene Water Users Association. (SM 481)
The use of water listed under this Watershed File Report is challenged because it interferes with downstream federal reserved rights and is contrary to state and federal law. (SM 560)
One or more of the POU legal descriptions listed in the WFR is too general. (SM 720) (3900059380000; 3900125740000; 3900125750000; IR001)
There is no quantity amount listed for a pre-filing and/or filing under this WFR. (SM 1000) (3900125740000; 3900125750000)
Applicable or potentially applicable filings indicate a volume of actual or claimed use less than the volume estimated by ADWR (both maximum observed and regional use for irrigation PWR's). The claimant is not entitled to more than actually used or claimed. (SM 1000)
- 3. Adjudication filings associated with this WFR contain inaccurate or incomplete information. (SM 478)
- 4. The PWR is solely or partially supplied by water from the Pomerene Water Users Association, which also claims this water. (SM 320)

STATEMENT OF THE OBJECTION

The following are the main categories of the typical Watershed File Report (Zone 2 Well Reports and some Watershed File Reports lack certain categories). Please check the category(ies) to which you object, and state the reason for the objection on the back of this form.

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- X 2. I object to the description of **Applicable Filings and Decreases**
- 3. I object to the description of **DWR's Analysis of Filings and Decreases**
- X 4. I object to the description of **Diversions** for the claimed water right(s)
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- 9. I object to the description of **Quantities of Use** for the claimed water right(s)
- 10. I object to the **Explanation** provided for the unclaimed water right(s)
- 11. Other Objections (please state volume, page and line number for each objection)

REASON FOR OBJECTION

The reason for my objection is as follows (please number your objections to correspond to the boxes checked above; please attached supporting information and additional pages as necessary. The following objection(s) are based upon information and belief:

CATEGORY
NUMBER

- 4 The use of the water claimed depletes water for senior federal and Indian water rights (1150).
- 2 HSR does not show a well registration filing (420).
- 2 HSR does not show a claimed water use rate (1000).
- 4 This well takes water directly from the flow of the river under state standards (500) (532) (1132) (1137).
- 2 Not all wells have applicable statement of claimants (475).

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

No. W1,W2,W3 & W4
W1-11-001898

MANDATORY FORM FOR OBJECTIONS TO
The Hydrographic Survey Report for
The San Pedro River Watershed

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This objection is directed to Watershed
File Report or Zone 2 Well Report No. 112 - 17 - BAD - 001 or Catalogued Well No. _____
(please insert no.) (please insert no.)

OBJECTOR INFORMATION

Objector's Name: Magma Copper Company (1267) ASARCO Incorporated (1263)
Objector's Address: 7400 North Oracle Rd P.O. Box 8
Suite 200 Hayden, Arizona 85235
Tucson, Arizona 85704
Objector's Telephone No.: (602) 575-5600 (602) 356-7811
* The names, addresses and telephone numbers of Objectors' attorneys are on the back of this form.

Objector's Watershed File Report or Zone 2 Well Report No. (if the Objector's claimed water rights are within the San Pedro River Watershed):
Magma Copper Company: 113-08-XXXX-022, et al.
ASARCO Incorporated: 114-01-XXXX-005, et al.

Or Objector's Catalogued Well Number (if the Objector's claimed water rights appear only in Volume 8 of the HSR):
NOT APPLICABLE

Or Objector's Statement of Claimant No. (if the Objector's claimed water rights are located outside the San Pedro River Watershed):
39 - NOT APPLICABLE

STATE OF ARIZONA

COUNTY OF MARICOPA

VERIFICATION (must be completed by objector)

I hereby make this Objection. I certify that, if required, a copy of the forgoing Objection was served upon the following Claimant(s) by mailing true and correct copies thereof on the 11th day of May, 1992, postage prepaid and addressed as follows:

Name BARNEY, ELDON J.
and && SHIRLEY
Address P.O. BOX 436
POMERENE, AZ 85627

I declare under penalty of perjury that I am a claimant in this proceeding or the duly-authorized representative of a claimant; that I have read the contents of this Objection (both sides and any attachments) and know the contents thereof; and that the information contained in the Objection is true based on my own personal knowledge, except those portions of the Objection which are indicated as being known to me on information and belief and, as to those portions, I believe them to be true.

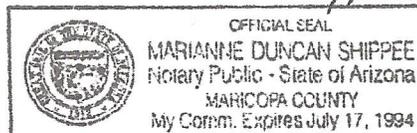
Jeffrey W. Crockett
Signature of Objectors Representative (Magma)

Eric John King
Signature of Objector's Representative (ASARCO)

SUBSCRIBED AND SWORN to before me this 11th day of May 1992.

Marianne Duncan Shippee

(The above section must be completed if you object to another claimant's Watershed File Report, Zone 2 Well Report, or Catalogued Well Report. It does not need to be completed if you file an objection to your own Watershed File Report, Zone 2 Well Report, Catalogued Well Report; or to information contained in Volume 1 of the Hydrographic Survey Report)



Objections must be filed with the Clerk of the Superior Court in and for Maricopa County, Maricopa County Courthouse Annex, 3345 W. Durango Street, Phoenix, AZ 85009, on or before May 18, 1992.

92 MAY 11 PM 2:26
FILED
BY JUDITH ALLEN, CLERK
DEP

STATEMENT OF THE OBJECTI

The following are the main categories of the typical Watershed File Report (Zone 2 Well Reports and some Watershed File Reports lack certain categories). Please check the category(ies) to which you object, and state the reason for the objection on the back of this form.

- 1. I object to the description of **Land Ownership**
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- 7. I object to the description of **Shared Uses & Diversions** for the claimed water right(s)
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- 9. I object to the description of **Quantities of Use** for the claimed water right(s)
- 10. I object to the **Explanation** provided for the claimed water right(s)
- 11. Other Objections (please state volume, page and line number for each objection)

REASON FOR OBJECTION

The reason for my objection is as follows (please number your objections to correspond to the boxes checked above; please attach supporting information and additional pages as necessary):

Category Number: 4, 8 and 11

Magma Copper Company ("Magma") and ASARCO Incorporated ("ASARCO") submit this objection as co-objectors.

Magma and ASARCO object to the inclusion of groundwater in this Adjudication because groundwater is neither appropriable under Arizona law (Uniform Objection Code Nos. 500, 510, 1120 and 1132), nor is it subject to claims based on federal law (Uniform Objection Code Nos. 561, 562, 1120 and 1134). In addition, this objection is intended to preserve these issues until such time as each is resolved by the Arizona Supreme Court. (Uniform Objection Code No. 1130)

While this objection pertains to a specific Watershed File Report ("WFR"), Magma and ASARCO are objecting to each WFR that classifies a well as a "Zone 1 Well" or otherwise employs the "50% - 90 day standard" to create a presumption of a well's diversion of appropriable surface water.

With respect to this particular WFR, Magma and ASARCO presently believe that the subject well(s) is/are taking nonappropriable groundwater not subject to the Gila Adjudication. However, should it be determined that the well(s) is/are taking appropriable surface water, Magma and ASARCO object to such use where such taking is a diversion of surface water without an appropriative right under state law and/or is interfering with the water rights of Magma or ASARCO. (Uniform Objection Code Nos. 600, 610 and 1150)

Magma and ASARCO are also filing this objection to obtain notice and an opportunity to be heard on all issues in the event that claims to the groundwater referenced in claimant's WFR are adjudicated.

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