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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

IN RE THE GENERAL ADJUDICATION
OF ALL RIGHTS TO USE WATER IN
THE GILA RIVER SYSTEM AND
SOURCE

W-1, W-2, W-3, W-4 (Consolidated)

Contested Case No. W1-11-3320

ORDER TO INITIATE CONTESTED
CASE

CONTESTED CASE NAME: *In re Geldmacher*

HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report

DESCRIPTIVE SUMMARY: Contested case W1-11-3320 initiated and status conference set
for **July 18, 2019 at 1:30 PM**

NUMBER OF PAGES: 19

DATE OF FILING: June 7, 2019

This Order initiates a contested case to consider the claims and resolve objections to
Watershed File Report 115-04-ADC-001 (“WFR”) published in the Final San Pedro River
Watershed Hydrographic Survey Report (1991). The WFR identifies potential water rights for
domestic, irrigation and small reservoir uses for the land described sections 03 and 04 Township
7S Range 17E. A copy of the watershed file report is attached as Attachment A. A copy of the

1 prepared for the WFR is attached as Attachment B, and a copy of the current tax parcel map is
2 attached as Attachment C.

3 **Landowners and Sources of Water**

4 The WFR identified Donald E. and Beverly A. Geldmacher as the owners of the land
5 marked as (1) on the map attached as Attachment B. Included in the public records of the
6 Arizona Department of Water Resources (ADWR) is a copy of Statement of Claimant 39-
7 2116 dated December 5, 1979, claiming a right to water for irrigation, domestic, and stock and
8 wildlife watering. On November 29, 1984, Donald and Beverly Geldmacher filed Statement
9 of Claimant 39-11371 to amend Statement of Claimant 39-2116 following a flood in 1983.
10 Statement of Claimant 39-11371 reduced the claimed amount of irrigation use from 3,650
11 acre feet annually (AFA) to 3,052 AFA and increased stock watering use to 600 AFA.
12

13
14 On April 5, 1988, Donald and Beverly Geldmacher deeded the land described as an
15 irregular parcel of land in the northwest quarter of section 04 T7S R 17E which lies south and
16 east of Aravaipa Road to The Nature Conservancy. The Warranty Deed further stated:

17 Grantors further grant one-half (1/2) of the flow of the
18 appurtenant water rights from Aravaipa Creek, constituting 100 miner's
19 inches, as is evidenced by the recording at Book 3 Miscellaneous, page
20 408 of the records of the Pinal County Recorder; reserving to themselves
21 the remaining one-half (1/2) interest in said water rights, constituting an
22 additional 100 miner's inches. Grantors further grant to Grantee an
23 undivided one-half (1/2) interest to the use of, and an undivided one-half
(1/2) interest in the responsibility for the maintenance and upkeep of, the
intake works and conveyance system located in Lot 4 of Section 3,
Township 7 South, Range 17 East, G.&S.R.B.&M. historically utilized
for beneficially using said water right.

24 On June 1, 1988, Mr. Geldmacher filed an assignment of a portion of SOCs 39-2116
25 and 39-11371 to The Nature Conservancy. On August 7, 1991, The Nature Conservancy filed
26 amendments to 39-2116 and 39-11371 to reflect a change of use of the water in Aravaipa
27 Creek to instream use without diversion or impoundment. On March 6, 1995, ADWR
28

1 approved the assignment of Statement of Claim 36-32525 for 19 acres to The Nature
2 Conservancy.

3 On December 14, 1994 Donald and Beverly Geldmacher signed a "Water Deed" that
4 included language similar to that quoted above that named Linda Swisher, Trustee of The
5 Willis R. Dortch Revocable Trust as the grantee. An accompanying form of assignment of
6 SOC 39-2116 was filed on January 10, 1995 with ADWR that named Linda Swisher of the
7 Willis R. Dortch Revocable Trust as the assignee. On August 28, 2002, Linda Swisher, as
8 trustee, signed a Warranty Deed in favor of Carol Steele for land in Section 04 T7S R17E.
9

10 In 1994, Donald and Beverly Geldmacher filed an Application for Assignment for
11 Statements of Claim 36-0100139, 36-0100141, 36-010042, 36-0100143, and 36-0100144 in
12 favor of Linda Swisher, Trustee of The Willis R. Dortch Revocable Trust. In 1998, Donald
13 and Beverly Geldmacher signed and filed with ADWR a form to convey Statement of Claim
14 36-32525 to The Nature Conservancy.
15

16 According to the Pinal County Assessor's Office, the land included in the WFR has
17 been divided into seven new parcels as shown on Attachment C and listed as follows:

Landowner	Tax Parcel
The Nature Conservancy	300-42-001G
Emily R. Johnston Trust	300-42-010E
Carol Steele and Lazaro Cervantes	300-42-010B
Richard Choate	300-42-010C
George Meyer and Semple Maria, trustees of the George Meyer and Semple Maria Family Trust	300-42-010D
Ranch at Holy Joe Canyon, LLC	300-42-010F
Buck Hill Falls, LLC	300-42-010G

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25 Based on the map prepared for the WFR, all of the irrigated land and small reservoirs
26 are located on land located between the Aravaipa Creek and Aravaipa Road. Parcels located
27 in this area are as follows:
28

Landowner	Tax Parcel
The Nature Conservancy	300-42-001G
Carol Steele and Lazaro Cervantes	300-42-010B
Ranch at Holy Joe Canyon, LLC	300-42-010F
Buck Hill Falls, LLC	300-42-010G

The Nature Conservancy owns 300-42-001G and that land has already been mapped and is the subject of proposed abstract 115-04-011-WL001, a copy of which is attached as Attachment E.

IT IS ORDERED:

1. Contested Case. This contested case shall be known as *In re Geldmacher* and will address objections that were filed to Watershed File Report 115-04-ADC-001 published in the Final San Pedro River Watershed Hydrographic Survey Report (1991). Copies of the objections can be found under the case name and number on the following website:

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

2. Litigants. The litigants in this contested case are the claimants, the current landowners, all persons who filed objections to the listed watershed file reports who are listed on Attachment D, and claimants who are allowed to intervene by order.

3. Court-Approved Mailing List.

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

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

1 C. Claimants wishing to be added or removed from the mailing list shall file
2 a motion with the Special Master. Parties allowed to intervene will be
3 automatically added to the mailing list.

4 4. Courtesy Email List.


5 The Special Master's office will email courtesy copies of orders and minute
6 entries entered in this case to persons listed on Attachment D. Requests for
7 inclusions on the email list should be sent to Barbara Brown at
8 brownb099@superiorcourt.maricopa.gov.

9
10 5. Status Conference. An initial status conference shall be held to address the
11 adjudication of this case, determine the basis of claims for water rights, and
12 ascertain whether the objections to the potential water rights can be settled. **The**
13 **Nature Conservancy** shall be prepared to identify at the status conference which, if
14 any, claims it intends to assert in this contested case and identify the documents on
15 which it bases its claims. If the objections cannot be settled, then a subsequent date
16 will be set for a scheduling conference to identify issues, file disclosure statements,
17 conduct discovery, submit prehearing motions, and hold a trial. The Status
18 Conference shall be held on **July 18, 2019**, at 1:30 PM before:

19
20
21 Special Master Susan Ward Harris
22 Superior Court of Arizona
23 201 West Jefferson Street
24 Courtroom 301
25 Phoenix, AZ 85003-2202

26 Instructions for telephonic appearance:
27 Dial: 602-506-9695 (local)
28 1-855-506-9695 (toll free long distance)
Dial Participant Pass Code 357264#

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SUSAN WARD HARRIS
Special Master

On June 7, 2019, the original of the foregoing was delivered to the Clerk of the Maricopa County Superior Court for filing and distributing a copy to all persons listed on the Court-approved mailing list for this contested case, a copy of which is attached hereto as Attachment D, and to all persons listed on the Court-approved mailing list for W-1, W-2, W-3, and W-4 (Consolidated).

ATTACHMENT A

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LAND OWNER	WATERSHED FILE
-----	REPORT NUMBER
GELDMACHER, DONALD E.	115-O4-ADC-001
& BEVERLY A.	

APPLICABLE FILINGS AND DECREES

CLEARLY STATED INFORMATION FROM FILINGS AND DECREES **WI-11-3320**

FILING NUMBER	FILING STATUS	USES	QUANTITY IN AFA	USE LOCATION SECTION	TWNP	RNGE	CLAIM DATE	DIVERSION LOCATION SECTION	TWNP	RNGE
36-0100139		IRRIGATION	1470.00	W2NW03	070S	170E	1887	NWNW03	070S	170E
36-0100141			82.00	S2NE04	070S	170E	1887	NWNW03	070S	170E
36-0100142			182.00	W2NW03	070S	170E	1887	NWNW03	070S	170E
36-0100143			92.00	S2NE04	070S	170E	1887	NWNW03	070S	170E
36-0100144		IRRIGATION STOCK	20.00	S2NE04	070S	170E	1904	NWSENE04	070S	170E
				29	060S	170E				
				33	060S	170E				
				04	070S	170E				

DWR ANALYSIS OF FILINGS AND DECREES

FILING NUMBER	USES CLAIMED OR REFERENCED	USES FOUND BY DWR	APPLIES TO DIVERSIONS	APPLIES TO PWR NUMBERS
36-0100139	IRRIGATION	IRRIGATION	DO1	IROO1, IROO2, IROO3 IROO4
36-0100141	OTHER	NONE	DO1	
36-0100142	OTHER	NONE	DO1	
36-0100143	OTHER	OTHER	DO1	IROO1, IROO2, IROO3 IROO4, SROO1, SROO2 SROO3
36-0100144	IRRIGATION DOMESTIC STOCK	IRRIGATION DOMESTIC INCIDENTAL	WO1	IROO1, IROO2, IROO3 IROO4, DMOO1, SROO1 SROO2, SROO3

DIVERSIONS

DIV #	LOCATION SECTION	TWNP	RNGE	DIVERSION NAME	WATER SOURCE AND CLASSIFICATION
DO1	NENWNW03	070S	170E	UNNAMED	SURFACE WATER: ARAVAIPA CREEK
WO1	NWSENE04	070S	170E	UNNAMED	GROUNDWATER : ZONE 1 OF THE ARAVAIPA CREEK

USES

PWR #	LOCATION SECTION	TWNP	RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO DATE	SOURCE CHANGE	FACILITY NAME
DMOO1	SENE04	070S	170E	WO1	GROUNDWATER : ZONE 1		NO	
DVOO1	NENWNW03	070S	170E	DO1	SURFACE WATER	1935	NO	
IROO1	NWNW03	070S	170E	DO1	SURFACE WATER	1935	NO	
	SENE04	070S	170E					
	SWNE04	070S	170E					
	SWNW03	070S	170E					
IROO2	NENE04	070S	170E	DO1	SURFACE WATER	1983	NO	
	SENE04	070S	170E					
	SWNE04	070S	170E					
IROO3	NWNW03	070S	170E	DO1	SURFACE WATER	1984	NO	
IROO4	NWNE04	070S	170E	DO1	SURFACE WATER	1987	NO	
	SWNE04	070S	170E					

PWR #	LOCATION			SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO DATE	RESERVOIR NAME	STORAGE PURPOSE
	SECTION	TWNP	RNGE					
SROO1	NESENEO4	07OS	17OE	DO1	SURFACE WATER	1983	UNNAMED	IRRIGATION
SROO2	NESWNEO4	07OS	17OE	DO1	SURFACE WATER	1984	UNNAMED	STOCKWATERING
SROO3	SESWNEO4	07OS	17OE	DO1	SURFACE WATER	1983	UNNAMED	STOCKWATERING IRRIGATION

PWR SUMMARY

PWR #	APPLICABLE ADJ FILINGS	APPLICABLE PRE FILINGS	*APPARENT FIRST USE DATE*		WATER SOURCES AND CLASSIFICATIONS
			DATE BASIS FOR	DATE	
DMOO1	NONE	36-0100144			GROUNDWATER : ZONE 1 OF THE ARAVAIPA CREEK
DVOO1	NONE	36-0100139 36-0100141 36-0100142 36-0100143	1887 FILING	36-100139	SURFACE WATER: ARAVAIPA CREEK
IROO1	NONE	36-0100139 36-0100141 36-0100142 36-0100143 36-0100144	1887 FILING	36-100139	SURFACE WATER: ARAVAIPA CREEK
IROO2	NONE	36-0100139 36-0100141 36-0100142 36-0100143 36-0100144	1983 1983 AERIAL PHOTO		SURFACE WATER: ARAVAIPA CREEK
IROO3	NONE	36-0100139 36-0100141 36-0100142 36-0100143 36-0100144	1984 1984 AERIAL PHOTO		SURFACE WATER: ARAVAIPA CREEK
IROO4	NONE	36-0100139 36-0100141 36-0100142 36-0100143 36-0100144	1987 1987 AERIAL PHOTO		SURFACE WATER: ARAVAIPA CREEK
SROO1	NONE	36-0100139 36-0100141 36-0100142 36-0100143 36-0100144	1983 1983 AERIAL PHOTO		SURFACE WATER: ARAVAIPA CREEK
SROO2	NONE	36-0100139 36-0100141 36-0100142 36-0100143 36-0100144	1984 1984 AERIAL PHOTO		SURFACE WATER: ARAVAIPA CREEK
SROO3	NONE	36-0100139 36-0100141 36-0100142 36-0100143 36-0100144	1983 1983 AERIAL PHOTO		SURFACE WATER: ARAVAIPA CREEK

QUANTITIES OF USE

PWR #	QUANTIFICATION		CROP TYPE	EFF	WATER DUTY	ESTIMATED VOLUME	REMARKS
	TYPE	ACRES					
DMOO1							SEE VOLUME 1 - GENERAL ASSESSMENT
IROO1	MAX. OBSERVED	11.1	PERM. PSTR	40%	7.9 AF/AC	87.7 AFA	
	REGIONAL	11.1	AVE. CROP	50%	5.4 AF/AC	59.9 AFA	
IROO2	MAX. POTENTIAL	11.1	ALFALFA	40%	8.3 AF/AC	92.1 AFA	
	REGIONAL	3.2	PECANS	67%	3.6 AF/AC	11.5 AFA	
IROO3	MAX. OBSERVED	3.2	AVE. CROP	50%	5.4 AF/AC	17.3 AFA	
	REGIONAL	3.2	ALFALFA	67%	5.0 AF/AC	16.0 AFA	
IROO4	MAX. OBSERVED	1.3	PERM. PSTR	38%	8.3 AF/AC	10.8 AFA	
	REGIONAL	1.3	AVE. CROP	50%	5.4 AF/AC	7.0 AFA	
IROO4	MAX. POTENTIAL	1.3	ALFALFA	38%	8.8 AF/AC	11.4 AFA	
	MAX. OBSERVED	.3	PECANS	67%	3.6 AF/AC	1.1 AFA	
	REGIONAL	.3	AVE. CROP	50%	5.4 AF/AC	1.6 AFA	
	MAX. POTENTIAL	.3	ALFALFA	67%	5.0 AF/AC	1.5 AFA	

PWR #	QUANTIFICATION TYPE	ACRES	CROP TYPE	EFF	WATER DUTY	ESTIMATED VOLUME	REMARKS
SROO1	MAX. AREA/CAP	LT 2.0				LTE 15.0 AF	
SROO2	MAX. AREA/CAP	LT 2.0				LTE 15.0 AF	
SROO3	MAX. AREA/CAP	LT 2.0				LTE 15.0 AF	

DIVERSION PWR NOS.	DIVERSION CAPACITY	MAXIMUM DEMAND RATE	DECREED RATE	CERTIFICATED RATE	ESTIMATED VOLUME DIVERTED
DV001	7.9 CFS	.2 CFS			1971.3 AFA

E X P L A N A T I O N

DIVERSIONS

D1/DV1 - DIVERSION FROM ARAVAIPA CREEK INTO AN EARTHEN DITCH SYSTEM.
 W1 - WELL PROVIDES WATER FOR IRRIGATION, DOMESTIC, AND STOCK USES.

USES AND RESERVOIRS

DM1 - DOMESTIC USE.
 DV1 - DIVERSION FROM ARAVAIPA CREEK INTO AN EARTHEN DITCH SYSTEM.
 IR1-IR4 - IRRIGATED PASTURE AND PECAN ORCHARDS.
 SR1-SR3 - SMALL RESERVOIRS ARE USED FOR IRRIGATION AND STOCKWATERING PURPOSES.

DISPOSITION OF LAND OWNER/CLAIMANT COMMENTS

AN EXTENSIVE COMMENT WAS RECEIVED PERTAINING TO THE CONCLUSIONS PRESENTED IN THE 1987 PRELIMINARY HYDROGRAPHIC SURVEY REPORT WHICH DETAILED DIVERSION AND USE LOCATIONS. THE LAND OWNER DIVERTS WATER FROM ARAVAIPA CREEK THROUGH HIS FIELDS IN AN EFFORT TO RECLAIM CROPLANDS, THROUGH SEDIMENTATION, WHICH WERE DAMAGED OR DESTROYED IN THE 1983 ARAVAIPA CREEK FLOOD. D.W.R. ESTIMATES THE AMOUNT DIVERTED ANNUALLY TO BE APPROXIMATELY 1,947 ACRE-FEET. TAILWATER IS IMMEDIATELY RETURNED TO ARAVAIPA CREEK AT THE LOWER END OF THIS PROPERTY.

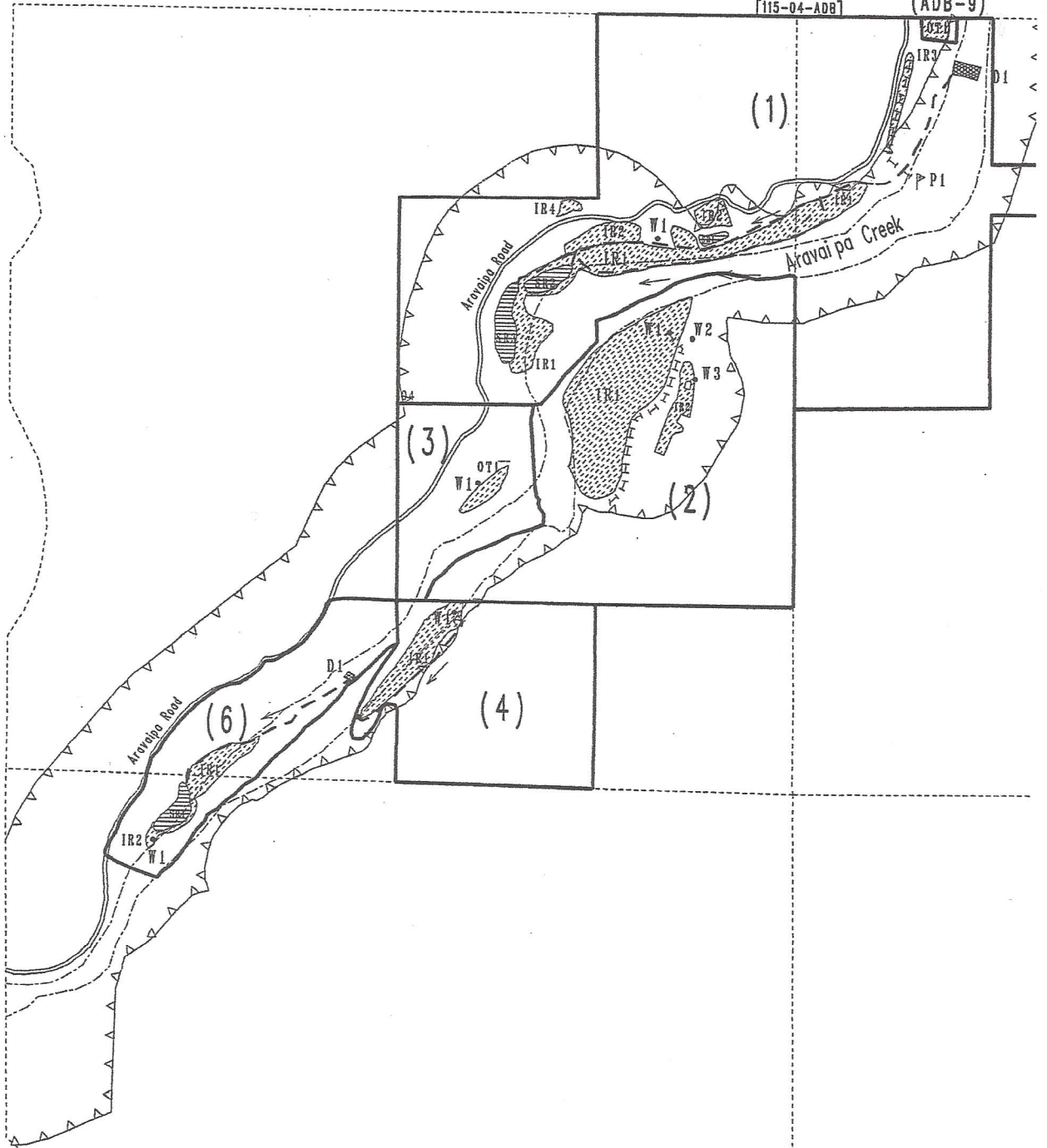
ATTACHMENT B

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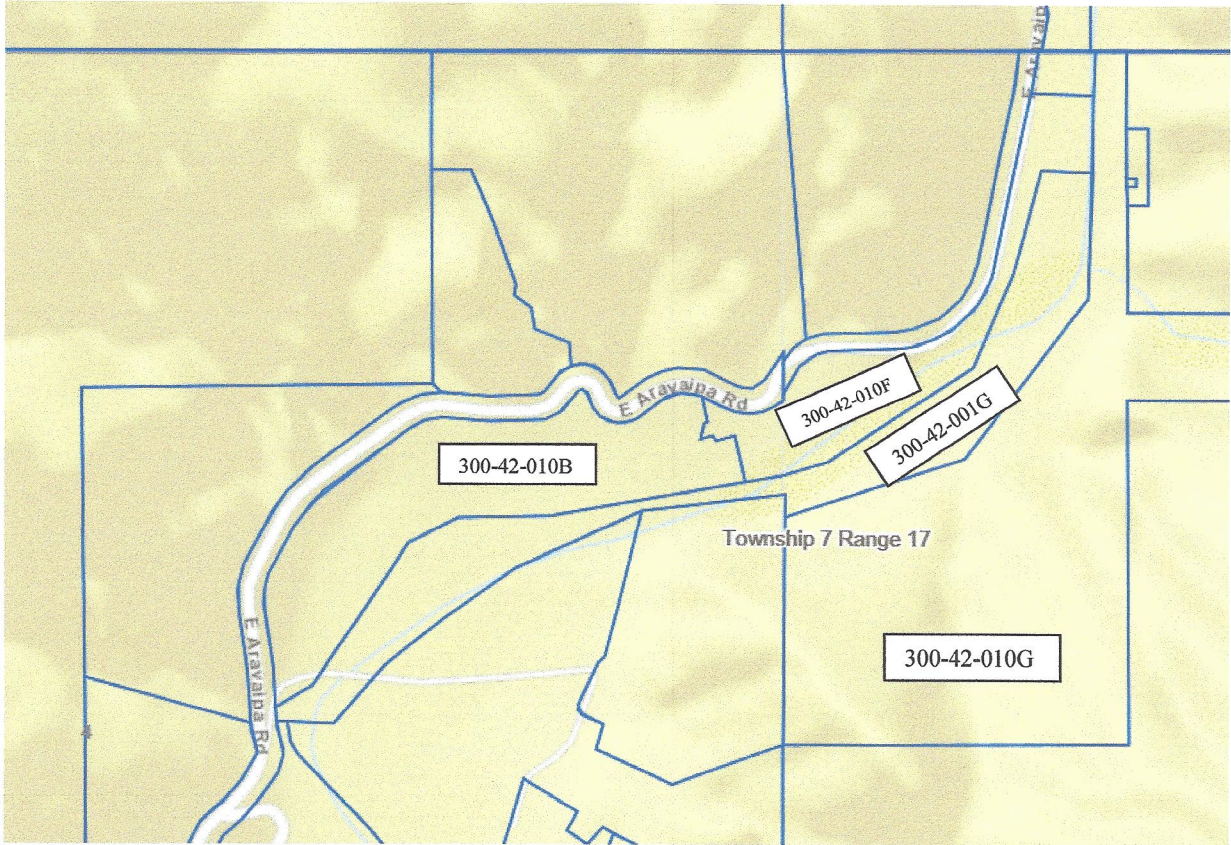
[115-04-ADB]

(ADB-9)



ATTACHMENT C

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ATTACHMENT D

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Arizona Department of Water Resources

4

Kimberly Parks

Janet L. Miller

5

P. O. Box 36020

6

Phoenix, AZ 85067

7

ASARCO Incorporated

Lauren J. Caster

8

Fennemore Craig, P.C.

2394 East Camelback Road

9

Suite 600

10

Phoenix, AZ 85016-3429

11

BHP Copper, Inc

L. William Staudenmaier/John D. Burnside

12

Snell & Wilmer, L.L.P.

400 E. Van Buren Street, Ste. 1900

13

Phoenix, AZ 85004

14

Buck Hill Falls, LLC

15

C/O Keith W. Johnson

4044 El Camino del Cerro

16

Tucson, AZ 85745

17

Carol Steele

18

89475 E. Aravaipa Rd.

Winkelman, AZ 85192

19

Carol Steele

20

89475 E. Aravaipa Rd.

Dudleyville, AZ 85192

21

22

Clerk of the Superior Court

Maricopa County

23

Attn: Water Case

601 West Jackson Street

24

Phoenix, AZ 85003

25

Donald E. and Beverly A. Geldmacher

26

ACSR Box 4262

Winkelman, AZ 85292

27

28

1 George A. Meyer
Trustee of the George Meyer and Maria Semple Family Trust
2 2720 3rd Ave. #1101
Seattle, WA 98121

3
4 Gila River Indian Community
Linus Everling and Thomas L. Murphy
5 Office of the General Counsel
P. O. Box 97
6 Sacaton, AZ 85147

7 Joe P. Sparks and Laurel A. Herrmann
The Sparks Law Firm, P.C.
8 7503 First Street
9 Scottsdale, Az 85251-4573

10 Lazaro Cervantes
89475 E. Aravaipa Rd.
11 Winkelman, AZ 85192

12 Lazaro Cervantes
13 89475 E. Aravaipa Rd.
Dudleyville, AZ 85192

14
15 Maria Semple
Trustee of the George Meyer and Maria Semple Family Trust
16 2720 3rd Ave. #1101
Seattle, WA 98121

17
18 Ranch at Holy Joe Canyon, LLC
C/O Keith W. Johnson
19 4044 El Camino del Cerro
Tucson, AZ 85745

20
21 S. Montgomery, R. Interpreter, J. Tomkus
Montgomery & Interpreter, Plc
22 3301 E. Thunderbird Road
Phoenix, AZ 85032

23
24 Salt River Valley Water Users Association and the Salt River Project Agricultural
Improvement and Power District
25 John B. Weldon, Jr. and Mark A. McGinnis
Salmon, Lewis & Weldon PLC
26 2850 E Camelback Rd, Ste 200
Phoenix, AZ 85016

27
28

1 Special Master Susan Ward Harris
2 Superior Court of Arizona
3 201 W. Jefferson Street
4 Courtroom 301
5 Phoenix, AZ 85003

6 The Nature Conservancy
7 Carla Consoli and Stanley Lutz
8 Lewis Roca Rothgerber Christie, LLP
9 201 East Washington Street
10 Suite 201
11 Phoenix, AZ 85004

12 U. S. Department of Justice
13 Patrick Barry and Yosef Negose
14 U.S. Department of Justice
15 Environment and Natural Resources
16 P. O. Box 7611
17 Washington, D.C. 20044-7611

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ATTACHMENT E

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**Abstract of Water Right
San Pedro Watershed**

1. Proposed Water Right No:	115-04-011-WL001
2. Owner of Water Right:	The Nature Conservancy
3. Landowner:	The Nature Conservancy
4. Statement of Claimant No.:	39-14133
5. Statement of Claimant Name:	The Nature Conservancy
6. Lessee or Permittee:	None
7. Basis of Right:	Application and Permit No. 33-95771 Certificate No. 95771
8. Beneficial Use:	Instream use for wildlife and recreation. There shall be no interference with the natural flow of Aravaipa (
9. Priority Date:	October 31, 1990
10. Quantity:	10,272.8 acre feet annually
11. Place of Use:	NWNW 3 T7S R17E - SWNE 4 T7S R17E
12. Point of Diversion:	Water will not be diverted from the natural channel.
13. Source of Water:	Aravaipa Creek
14. Name of Facility:	Aravaipa Creek

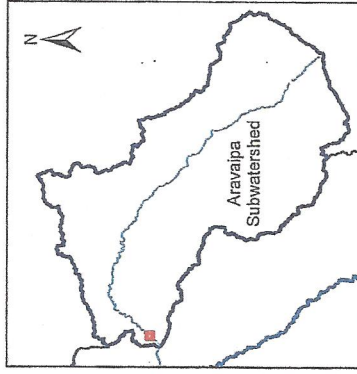
*In re Arizona Chapter of the
Nature Conservancy-
Instream Flow*

Contested Case No. W1-11-3301
Proposed Water Right No.
115-04-011-WL001

T7S R17E Sections 3 & 4



ADWR May 2018



Legend

Current Instream Flow Extent	+	Instream Flow Starting Location
Streams	▭	Township
Pinal County Parcels	▭	Section
Nature Conservancy Owned	▭	QQQ

0 150 300 600 Feet



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNR Aero, IGN, and the GIS User Community