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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

CONTESTED CASE NO. W1-11-3313

ORDER INITIATING CONTESTED  
CASE

CONTESTED CASE NAME: *In re Barassi*  
HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report  
DESCRIPTIVE SUMMARY: The Special Master initiates a contested case to address objections to Watershed File Report 115-04-ADB-002 and orders that Arizona Department of Water Resources prepare a report and map to assist the parties.  
NUMBER OF PAGES: 45  
DATE OF FILING: September 25, 2018

This Order initiates a contested case to resolve objections to Watershed File Report 115-04-ADB-002 (WFR) that sets forth water rights proposed by Arizona Department of Water Resources in SWNE of Sec. 34 T6S R17E. A copy of the WFR is attached as Appendix A. The WFR proposed three water rights: one water right for domestic use from a Zone 1 well, one water right for irrigation use, and one water right for irrigation associated

1 with a domestic use. The WFR analyzed the claims made by Louis W. and Henrietta E.  
2 Barassi who filed Statements of Claimant 39-6579, 39-6580, 39-6581, 39-11897 and 39-  
3 14031 for domestic, irrigation and stock watering uses. In support of their claims, Mr. and  
4 Mrs. Barassi relied upon Statement of Claim 36-68562 and claimed a priority date of pre-  
5 1900 based on use by and a patent issued to Manuel Zapata dated May 16, 1912 for 160  
6 acres in Section 34, T6S R17E.

7  
8 **I. Background**

9  
10 **A. Historical Use**

11 According to the Homestead Entry Final Proof and Final Affidavit Required of  
12 Homestead Claimants submitted by Manuel Zapata dated December 14, 1911, Mr. Zapata  
13 claimed a 160 acre homestead for the north half of the northeast quarter, the southwest  
14 quarter of the northeast quarter, and the southeast quarter of the northeast quarter of Section  
15 34 T6S R17E. Copies of the documents from the public records of the Arizona Department  
16 of Water Resources (ADWR) are attached as Appendix B. Mr. Zapata represented that he  
17 cultivated 20 acres of the land. *See* Homestead Entry Final Proof, p. 2. On May 16, 1912,  
18 the United States issued a patent to Mr. Zapata for the land described in the homestead  
19 documents. A copy of the Patent is attached as Appendix C.

20 **B. ADWR Report**

21  
22 The Hydrographic Survey Report for the San Pedro River Watershed released in  
23 1991 (HSR) analyzed claims made in Section 34 T6S R17E. A copy of the portion of the  
24 Comprehensive Index from the HSR compiled by location of potential water rights that  
25 includes Section 34 T6S R17E is attached as Appendix D. As shown by the  
26 Comprehensive Index, ADWR prepared three watershed file reports for claims for water  
27 uses in the northeast quarter of Section 34 T6S R17E: 115-04-009, 115-04-ADB-001 and  
28 115-04-ADB-002. A copy of the map prepared by ADWR and issued as part of the HSR

1 showing Section 34 T6S R17E is attached as Appendix E. Watershed File Reports 115-04-  
2 009 and 115-04-ADB-001 are the subject of *In re Brighthawk*, contested case no. W1-11-  
3 3312 and Watershed File Report 115-04-ADB-002 is the subject of this contested case.  
4 Louis W. and Henrietta E. Barassi objected to Watershed File Report 115-04-ADB-002.  
5 Copies of all Objections to Watershed File Report 115-04-ADB-002 are attached as  
6 Appendix F.

7 **C. Transfer of Property by Mr. and Mrs. Barassi to Aravaipa Canyon Ranch,**  
8 **LLC**

9 On August 28, 2003, Mr. and Mrs. Barassi recorded a deed in the Official Records of  
10 Pinal County Recorder to transfer property in SWNE Sec. 34 T6S R17E to Aravaipa Canyon  
11 Ranch LLC, an Arizona limited liability company. For property tax purposes, Pinal County  
12 identifies the property as tax parcel no. 300-29-001A. A copy of the parcel map prepared  
13 by Pinal County is attached as Appendix G. The Arizona Department of Water Resources  
14 records do not contain a statement of claimant filed by or assigned to Aravaipa Canyon  
15 Ranch, LLC for water rights in SWNE Sec. 34 T6S R17E.

16  
17 **II. Adjudication of Claims**

18 To assist in the adjudication of the potential water claims at issue here, ADWR shall  
19 submit a report that identifies the wells on the property identified in the WFR by GPS  
20 coordinates and state whether the wells are located within the subflow zone. In addition,  
21 ADWR shall submit an aerial map of the property that includes an overlaid grid showing the  
22 section, township and range. Thereafter, a scheduling conference shall be held to address  
23 the potential for settlement of objections to the potential water rights listed in the WFR. No  
24 party shall conduct any discovery or file any motions prior to the Scheduling Conference.  
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1           **IT IS ORDERED:**

2           1.       Contested Case Designation and Docket Number. This contested case shall  
3 be known as *In re Barassi*, and it will address the objections that were filed to the watershed  
4 file report 115-04-ADB-002 published in the Final San Pedro River Watershed  
5 Hydrographic Survey Report (1991).

6           2.       Litigants. The litigants in this contested case are the Claimants, the successor  
7 in interest to the Claimants, and all persons who filed objections to Watershed File Report  
8 115-04-ADA-002 and claimants who are allowed to intervene by order.

9           3.       Court-Approved Mailing List.

10           A. The initial Court-approved mailing list for this case shall include all  
11 persons listed on Appendix H. The list may be modified only by filing a  
12 motion with the Special Master to amend the Court-approved mailing list.

13           Litigants are responsible for using the current Court-approved mailing list.

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

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

20           4.       Report and Map from ADWR. Arizona Department of Water Resources shall  
21 file the Report and Map described above on or by **October 31, 2018**.

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5. Scheduling Conference. The Scheduling Conference shall be held on November 7, 2018, at 9:30 a.m. before:

Special Master Susan Ward Harris  
Superior Court of Arizona  
201 West Jefferson Street  
Courtroom 301  
Phoenix, AZ 85003-2202

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

  
\_\_\_\_\_  
SUSAN WARD HARRIS  
Special Master

On September 25, 2018 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 W-1, W-2, W-3 and W-4 (consolidated) and this contested case, a copy of which is attached hereto as Appendix H.

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# APPENDIX A

LAND OWNER	WATERSHED FILE
-----	REPORT NUMBER
BARASSI, LOUIS W. & HENRIETTA E.	115-04-ADB-002

APPLICABLE FILINGS AND DECREES

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
36-0068562	AMENDED	IRRIGATION DOMESTIC STOCK	68.80 2.00 .03	SWNE34	060S	170E	1900	SWNE34	060S	170E
36-0100099			100.00	SWNE34	060S	170E	1889	SWNE34	060S	170E
36-0101539		IRRIGATION	16.50	SWSWNE34	060S	170E	1899	SWSWNE34	060S	170E
39-0006579	AMENDED	IRRIGATION DOMESTIC STOCK	68.80 2.00 .03	SWNE34	060S	170E	1900	SENW34	060S	170E
39-0006580		IRRIGATION STOCK	320.00	N2NE34	060S	170E	1900	SWNE34	060S	170E
39-0006581		IRRIGATION DOMESTIC STOCK	320.00 1.00	N2NE34	060S	170E	1900	NESWNE34	060S	170E
39-0011897	QUE.RECD	IRRIGATION DOMESTIC STOCK	32.00 .61 1.00	SENW34	060S	170E	1900	SENW34	060S	170E
39-0014031		IRRIGATION	55.00	SWSWSE34	060S	170E	1900	SWSWSE34	060S	170E

DWR ANALYSIS OF FILINGS AND DECREES

FILING NUMBER	USES CLAIMED OR REFERENCED	USES FOUND BY DWR	APPLIES TO DIVERSIONS	APPLIES TO PWR NUMBERS
36-0068562	IRRIGATION DOMESTIC STOCK	IRRIGATION DOMESTIC INCIDENTAL	WO1,WO2	DMOO1,IROO1,OTOO1
36-0100099	IRRIGATION	IRRIGATION		IROO1,OTOO1
36-0101539	IRRIGATION	IRRIGATION		IROO1
39-0006579	IRRIGATION DOMESTIC STOCK	IRRIGATION DOMESTIC INCIDENTAL	WO1	DMOO1,IROO1,OTOO1
39-0006580	IRRIGATION STOCK	IRRIGATION INCIDENTAL		IROO1,OTOO1
39-0006581	IRRIGATION DOMESTIC STOCK	IRRIGATION DOMESTIC INCIDENTAL	WO1	DMOO1,IROO1,OTOO1
39-0011897	IRRIGATION DOMESTIC STOCK	IRRIGATION DOMESTIC INCIDENTAL	WO1	DMOO1,IROO1,OTOO1
39-0014031	IRRIGATION	IRRIGATION	WO2	IROO1,OTOO1

DIVERSIONS

DIV #	LOCATION SECTION	TWNP	RNGE	DIVERSION NAME	WATER SOURCE AND CLASSIFICATION
WO1	NWSWNE34	060S	170E	UNNAMED	GROUNDWATER : ZONE 1 OF THE ARAVAIPA CREEK
WO2	SWSWNE34	060S	170E	UNNAMED	GROUNDWATER : ZONE 1 OF THE ARAVAIPA CREEK
WO3	NWSWNE34	060S	170E	OLD DUG WELL	GROUNDWATER : ZONE 1 OF THE ARAVAIPA CREEK UNUSED

USES

PWR #	LOCATION SECTION	TWNP	RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO DATE	SOURCE CHANGE	FACILITY NAME
DMOO1	NWSWNE34	060S	170E	WO1	GROUNDWATER : ZONE 1		YES	
IROO1	SWNE34	060S	170E	WO2	GROUNDWATER : ZONE 1	1935	YES	
OTOO1	SWNE34	060S	170E	WO1	GROUNDWATER : ZONE 1	1990	NO	

PWR #	APPLICABLE ADJ FILINGS	APPLICABLE PRE FILINGS	*APPARENT FIRST USE DATE* DATE BASIS FOR DATE	WATER SOURCES AND CLASSIFICATIONS
DMOO1	39-0006579 39-0006581 39-0011897	36-0068562		GROUNDWATER : ZONE 1 OF THE ARAVAIPA CREEK
IROO1	39-0006579 39-0006580 39-0006581 39-0011897 39-0014031	36-0068562 36-0100099 36-0101539	1900 FILING 36-68562	GROUNDWATER : ZONE 1 OF THE ARAVAIPA CREEK
OTOO1	39-0006579 39-0006580 39-0006581 39-0011897 39-0014031	36-0068562 36-0100099	1990 1990 AERIAL PHOTO	GROUNDWATER : ZONE 1 OF THE ARAVAIPA CREEK

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
DMOO1							SEE VOLUME 1 - GENERAL ASSESSMENT DEFICIT IRRIGATION
IROO1	MAX. OBSERVED REGIONAL	3.1	MULTI.CROPS	60%	3.7 AF/AC	11.5 AFA	
	MAX. POTENTIAL REGIONAL	3.1	AVE. CROP	50%	5.4 AF/AC	16.7 AFA	
OTOO1	REGIONAL	1.5	ALFALFA	60%	5.6 AF/AC	17.4 AFA	
			AVE. CROP	50%	5.4 AF/AC	8.1 AFA	

E X P L A N A T I O N

FILINGS AND DECREES

FILING 39-11897 - A UNIFORM QUESTIONNAIRE WAS RECIEVED WHICH DESCRIBED CURRENT AND PROPOSED WATER USES.

DIVERSIONS

- W1 - WELL PROVIDES WATER FOR IRRIGATION USES AND DOMESTIC USES.
- W2 - WELL PROVIDES WATER FOR IRRIGATION USES.
- W3 - UNUSED HAND DUG WELL.

USES AND RESERVOIRS

- DM1 - DOMESTIC USE INCLUDES STOCKWATERING USES.
- IR1 - IRRIGATED PECAN ORCHARD AND PASTURE.
- OT1 - IRRIGATION TOTALING LESS THAN TWO ACRES ASSOCIATED WITH A DOMESTIC USE.

DISPOSITION OF LAND OWNER/CLAIMANT COMMENTS

A COMMENT WAS RECEIVED WHICH DISCUSSED WATER USE QUANTITIES AND IRRIGATED ACREAGE ON THE NORTH SIDE OF ARAVAIPA CREEK.



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# APPENDIX B

# BRIGHTHAWK LLC - EXHIBIT 1

4-369.

Form approved by the Secretary of the Interior November 23, 1908.

DEPARTMENT OF THE INTERIOR.

## HOMESTEAD ENTRY.

U. S. LAND OFFICE, No. 03686

### FINAL PROOF.

RECEIPT NO. 786325

#### TESTIMONY OF CLAIMANT.

QUESTION 1. What is your full name, age, and post-office address?

ANSWER. My name is Manuel Zapata. My age is fifty-six years and my residence is at Wamoth, Pinal County, Arizona and Post office address

QUESTION 2. Are you a native-born citizen of the United States, and if so, in what State or Territory were you born? (If foreign born, see Note 1.)

ANSWER. I am a Native born citizen. I was born in the state of California.

QUESTION 3. Are you the same person who made Homestead Entry No. 03686, at the Phoenix Land Office on the 10th day of April, 1907, for the

North half northeast quarter, Southwest quarter of Northeast quarter, Southeast quarter Northwest quarter, Section 34, Township 6 S., Range 17 E., G. & S. R. Meridian?

ANSWER. I am the same person.

QUESTION 4. (a) Are you married or single? ANSWER. I am married  
(b) If married, of whom does your family consist?

ANSWER. My family consists of my wife and three children.  
(c) If a married woman, state whether your husband now has an unperfected homestead entry, and during what time he has resided on this land with you.

ANSWER. ~~xxxxxx~~

QUESTION 5. (a) When did you first establish actual residence upon this land?

ANSWER. In the month of December, 1905.

(b) When was your house built on this land?  
There was a house on the land when I first took up my residence on the land.

(c) Have either you or your family ever been absent from the homestead since establishing residence?  
Neither myself or family have ever been absent from

the homestead since establishing residence thereon.

(d) If there has been such absence, give the dates covered by each absence; and as to each absence, state whether you, your family, or both, were thus absent and the reason for each such absence.

ANSWER. There have been none.

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ADJUDICATIONS

# BRIGHTHAWK LLC - EXHIBIT 1

## FINAL AFFIDAVIT REQUIRED OF HOMESTEAD CLAIMANTS

I, Manuel Zapata, having made a homestead entry of  
 the Phoenix Arizona IT  
NANPA SW 1/4, Section 34,  
Phoenix Arizona  
 Township 6 S., Range 17 E., C. & S. R. Meridian,  
 subject to entry at Phoenix, under  
 section No. 2289 of the Revised Statutes of the United States, do now  
 apply to perfect my claim thereto by virtue of section No. 2290  
 of the Revised Statutes of the United States; and for that purpose do  
 solemnly swear that I am a Native born  
(Native born or naturalized.)  
 citizen of the United States;  
 that I have made actual settlement upon and have cultivated and resided  
 upon said land since the 15th day of December,  
 1905, to the present time; that no part of said land has been alienated,  
 except as provided in section 2288 of the Revised Statutes, but that I  
 am the sole bona fide owner as an actual settler; that I will bear true  
 allegiance to the Government of the United States; and further, that I  
 have not heretofore perfected or abandoned an entry made under the home-  
 stead laws of the United States, except #####

Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 1911.

*Edw. M. Baker*  
*M. E. Truman*

*Manuel Zapata*  
(Man sworn to before me)

**NOTE.**—Every person swearing falsely to the above affidavit will be punished as provided by law for such offense. (See Sec. 5392 R. S., below.)

I HEREBY CERTIFY that the foregoing affidavit was read to or by  
 affiant in my presence before affiant affixed signature thereto; that  
 affiant is to me personally known (or has been satisfactorily identified  
 before me by #####);  
(Give full name and post-office address.)  
 that I verily believe affiant to be a credible person and the identical  
 person hereinbefore described, and that said affidavit was duly subscribed  
 and sworn to before me, at my office, in Florence  
(Town.)  
Final County Arizona, this 14th day  
(County and State)  
 of December, 1911

*David C. Stephens*

CLERK, DISTRICT COURT, TERRITORY OF ARIZONA, IN AND FOR  
FINAL COUNTY.

### REVISED STATUTES OF THE UNITED STATES: TITLE LXX -- CRIMES. -- CHAP. 4.

**Sec. 5392.** Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, (that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years; and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See Sec. 1750.)

**NOTE.**—In addition to the above penalty, every person who knowingly or willfully in anywise procures the making or presentation of any false or fraudulent affidavit pertaining to any matter within the jurisdiction of the Secretary of the Interior may be punished by fine or imprisonment.

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**ADJUDICATIONS**

# BRIGHTHAWK LLC - EXHIBIT 1

QUESTION 6. Describe the land embraced in above entry by legal subdivisions, showing fully the character of same, and kind and amount of timber, if any.

ANSWER.

Subdivision.	Acres cultivable.	Acres timbered.	Feet timber.
NE 1/4 of NE 1/4 said Sec. 34	5 acres	none	none.
SE 1/4 of NE 1/4 said Sec. 34	" "	" "	" "
SW 1/4 NE 1/4 said Sec. 34	" "	" "	" "
SE 1/4 NW 1/4 said Sec. 34	" "	" "	" "

QUESTION 7. State by subdivisions the number of acres cultivated, kind of crop planted, and amount harvested, each year. How many acres of the claim are now cleared, or broken, and under cultivation? If used for grazing only, state number and kind of stock grazed each year and by whom owned.

ANSWER. The full five acres in each legal subdivision are planted to orchard, apples and peaches. The average amount harvested each year from said orchard is about \$500.00. This 20 acres include all the land of said entry broken and under cultivation.

QUESTION 8. Describe fully and in detail the amount and kind of improvements on each subdivision. State total value of improvements on the claim.

ANSWER.

Subdivision.	Character of Improvements.
NE 1/4 of NE 1/4 said Sec. 34	Dwelling house valued at \$300.00; fence valued at \$50.00; Orchard valued at \$500.00
SE 1/4 of NE 1/4 said Sec. 34	fence valued at \$50.00; Orchard valued at \$200.00
SW 1/4 NE 1/4 said Sec. 34	Fence valued at \$50.00; orchard valued at \$300.00
SE 1/4 NW 1/4 said Sec. 34	Fence valued at \$50.00; orchard valued at \$200.00; dwelling house valued at \$300.00
Total value of improvements \$2200.00	

QUESTION 9. Is your present claim within the limits of an incorporated town or selected site of a city or town, or used in any way for trade or business?

ANSWER. It is not.

QUESTION 10. Are there any indications of coal, salines, or minerals of any kind on the land? If so, describe what they are.

ANSWER. There are none.

QUESTION 11. Have you ever made any other homestead entry? If so, describe the same.

ANSWER. I have never made or attempted to make any other homestead entry.

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ADJUDICATIONS

BRIGHTHAWK LLC - EXHIBIT 1

QUESTION 12. Have you sold, conveyed, or agreed to sell or convey any portion of the land; if so, to whom and for what purpose?

ANSWER... I have never sold or agreed to sell or convey any portion of this land.

QUESTION 13. Have you optioned, mortgaged, or agreed to option or mortgage, or convey this land, or any part thereof; if so, when, to whom, and for what purpose and in what amount?

ANSWER... I have not optioned or mortgaged, or agreed to option or mortgage any portion of this land.

QUESTION 14. Have you any personal property of any kind elsewhere than on this claim? If so, describe the same, and state where the same is kept.

ANSWER... I have no personal property of any kind elsewhere than on this land.

QUESTION 15. Describe by legal subdivisions, or by number, kind of entry, and office where made, any other entry or filing (not mineral) made by you since August 30, 1890.

ANSWER... There were none.

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ADJUDICATIONS

Witnesses to Mark:

*[Handwritten signatures of witnesses]*

*[Handwritten signature: Manuel X Zapata]*

NOTE 1.—If applicant is alien born, he should state the fact and file evidence of citizenship in due form, either a certificate of his own naturalization in a court of competent jurisdiction, or, if claiming to be a citizen by virtue of his father's naturalization, and his own minority and residence in the United States at the date thereof, or, if a married woman claiming citizenship by virtue of her husband's nativity or naturalization, then record evidence of the naturalization of the father, or husband, or an affidavit as to the nativity of the latter.

NOTE 2.—The officer before whom the proof is made will see that all answers are complete and responsive to the questions.

NOTE 3.—The officer before whom the deposition is taken should call the attention of the witness to section 5392 of the Revised Statutes (over), and state to him that it is the purpose of the Government, if it be ascertained that he testifies falsely, to prosecute him to the full extent of the law.

I HEREBY CERTIFY that the deponent was examined separately and apart from the other witnesses in the case; that the foregoing deposition was read to or by deponent in my presence before deponent affixed signature thereto; that deponent is to me personally known (or has been satisfactorily identified before me by *[redacted]*); that I verily believe deponent to be the identical person hereinbefore described, and that said deposition was duly subscribed and sworn to before me at my office, in Florence Pinal County Arizona, within the Phoenix Arizona, land district, this 14th day of December, 1911

*[Handwritten signature: Daniel O. Stevens]*  
CLERK, DISTRICT COURT PINAL COUNTY ARIZONA  
(Official designation of officer.)

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# APPENDIX C

The United States of America,

To all to whom these presents shall come, Greeting:

WHEREAS, a Certificate of the Register of the Land Office at PHOENIX, ARIZONA, has been deposited in the General Land Office, whereby it appears that, pursuant to the Act of Congress of May 20, 1862, "To Secure Homesteads to Actual Settlers on the Public Domain," and the acts supplemental thereto, the claim of MANUEL ZAPATA has been established and duly consummated, in conformity to law, for the NORTH HALF OF THE NORTHEAST QUARTER, THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, AND THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION THIRTY-FOUR IN TOWNSHIP SIX SOUTH OF RANGE SEVENTEEN EAST OF THE GILA AND SALT RIVER MERIDIAN, ARIZONA, CONTAINING ONE HUNDRED SIXTY ACRES,

according to the Official Plat of the Survey of the said Land, returned to the GENERAL LAND OFFICE by the Surveyor-General:

NOW KNOW YE, That there is, therefore, granted by the UNITED STATES unto the said claimant the tract of Land above described; TO HAVE AND TO HOLD the said tract of Land, with the appurtenances thereof, unto the said claimant and to the heirs and assigns of the said claimant forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States.

IN TESTIMONY WHEREOF, I, WILLIAM H. TAFT

President of the United States of America, have caused these letters to be made Patent, and the seal of the General Land Office to be hereunto affixed.

GIVEN under my hand, at the City of Washington, the SIXTEENTH day of MAY in the year of our Lord one thousand nine hundred and TWELVE and of the Independence of the United States the one hundred and THIRTY-SIXTH

(SEAL)

By the President:

By

Wm. H. Taft  
H. O. LeRoy Secretary  
Recorder of the General Land Office

RECORD OF PATENTS: Patent Number 266686  
4-3177

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ADJUDICATIONS

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# APPENDIX D



***** LOCATION *****	COMPLETE POTENTIAL	OWNER NAME	VOLUME	TABL
SUBDIV SEC TWPN RNGE	WATER RIGHT NUMBER	(LESSEE/ALLOTTEE NAME)		-PAG
SENENW 27 060S 170E	114-04-012-SW002	BLM - SAFFORD DISTRICT	6	2-24
SENW 27 060S 170E	115-04-005-SW018	(GENTRY REALTY, INC.)	6	4-29
SESENW 27 060S 170E	115-04-005-SW001	BLM - SAFFORD DISTRICT	6	4-29
SESE 27 060S 170E	115-04-006-SW001	(GENTRY REALTY, INC.)	6	4-30
NENENW 29 060S 170E	114-04-009-SW004	BLM - SAFFORD DISTRICT	6	2-12
NENE 34 060S 170E	115-04-ADB-001-IRO01	(WHITE, JEPHTHA O.)	6	4-13
NENENE 34 060S 170E	115-04-009-SW001	SLD	6	4-13
NWNENE 34 060S 170E	115-04-ADB-001-DM001	(UNION NORTH LTD PRTRSHIP.)	6	4-13
NWNE 34 060S 170E	115-04-ADB-001-IRO01	WHITE, JEPHTHA O.	6	4-13
SWNE 34 060S 170E	115-04-ADB-002-IRO01	WHITE, JEPHTHA O.	6	4-13
SWNE 34 060S 170E	115-04-ADB-002-OTO01	BARASSI, LOUIS W.	6	4-17
NWSWNE 34 060S 170E	115-04-ADB-002-DM001	BARASSI, LOUIS W.	6	4-17
NESW 34 060S 170E	115-04-ADB-003-OTO01	BARASSI, LOUIS W.	6	4-17
NENESW 34 060S 170E	115-04-ADB-003-DM001	ISER, JERRY & VERA	6	4-80
SWSW 34 060S 170E	115-04-ADB-006-OTO01	ISER, JERRY & VERA	6	4-80
SWSW 34 060S 170E	115-04-ADB-007-IRO01	YOUNG, LEMUEL B.	6	4-144
SWSW 34 060S 170E	115-04-ADB-008-OTO01	YOUNG, MARY LOUISE	6	4-146
SWSW 34 060S 170E	115-04-ADB-009-OTO01	YOUNG, LESTER	6	4-146
SWSW 34 060S 170E	115-04-ADB-010-OTO01	RICHARDSON, ANTHON G.	6	4-99
NESWSW 34 060S 170E	115-04-ADB-006-DM001	YOUNG, HAROLD D.	6	4-143
NESWSW 34 060S 170E	115-04-ADB-007-DM001	YOUNG, LEMUEL B.	6	4-144
SESWSW 34 060S 170E	115-04-ADB-008-DM001	YOUNG, MARY LOUISE	6	4-146
SESWSW 34 060S 170E	115-04-ADB-009-DM001	YOUNG, LESTER	6	4-145
SESWSW 34 060S 170E	115-04-ADB-010-DM001	RICHARDSON, ANTHON G.	6	4-99
SESENE 35 060S 170E	115-04-004-SW010	YOUNG, HAROLD D.	6	4-143
SESWNW 35 060S 170E	115-04-004-SW009	SLD	6	4-104
NENWSW 35 060S 170E	115-04-004-SW002	(WHITE, JEPHTHA O. & PEGGY)	6	4-104
SESWNE 36 060S 170E	115-04-004-SW011	SLD	6	4-104
NESENE 36 060S 170E	115-04-003-SW002	(WHITE, JEPHTHA O. & PEGGY)	6	4-104
NWNWSW 36 060S 170E	115-04-004-SW003	BLM - SAFFORD DISTRICT	6	4-28
NESESE 36 060S 170E	115-04-004-SW004	SLD	6	4-104
SWNWSW 01 060S 180E	115-05-006-SPO01	(WHITE, JEPHTHA O. & PEGGY)	6	4-104
NESESE 01 060S 180E	115-05-006-SPO02	BLM - SAFFORD DISTRICT	6	4-32
SWNENW 02 060S 180E	115-05-006-SPO03	BLM - SAFFORD DISTRICT	6	4-32
NESWSE 02 060S 180E	115-05-006-SPO04	BLM - SAFFORD DISTRICT	6	4-32
NENENE 03 060S 180E	115-05-006-SPO05	BLM - SAFFORD DISTRICT	6	4-32
SENWNW 04 060S 180E	115-05-020-SPO01	BLM - SAFFORD DISTRICT	6	4-32
SESENE 07 060S 180E	115-05-019-SPO01	BLM - SAFFORD DISTRICT	6	4-38
SWSENE 07 060S 180E	115-05-020-SW001	BLM - SAFFORD DISTRICT	6	4-37
SWNESW 07 060S 180E	115-05-019-SPO02	BLM - SAFFORD DISTRICT	6	4-37
SESENE 08 060S 180E	115-05-019-SPO03	BLM - SAFFORD DISTRICT	6	4-37
SESENE 08 060S 180E	115-05-019-SPO04	BLM - SAFFORD DISTRICT	6	4-37
NESENE 09 060S 180E	115-05-006-SPO08	BLM - SAFFORD DISTRICT	6	4-37
SWSWNW 10 060S 180E	115-05-006-SPO07	BLM - SAFFORD DISTRICT	6	4-32
NENWSE 10 060S 180E	115-05-019-WL001	BLM - SAFFORD DISTRICT	6	4-32
NESWSE 10 060S 180E	115-05-019-WL002	BLM - SAFFORD DISTRICT	6	4-37
SWSWNW 11 060S 180E	115-05-019-SPO05	BLM - SAFFORD DISTRICT	6	4-37
NWNESE 11 060S 180E	115-05-006-SPO11	BLM - SAFFORD DISTRICT	6	4-37
SWNESE 11 060S 180E	115-05-006-SPO10	BLM - SAFFORD DISTRICT	6	4-32
NESWSW 12 060S 180E	115-05-006-SPO12	BLM - SAFFORD DISTRICT	6	4-32
NWSW 13 060S 180E	115-05-019-WL040	BLM - SAFFORD DISTRICT	6	4-32
NWSE 13 060S 180E	115-05-019-WL039	BLM - SAFFORD DISTRICT	6	4-37
NENE 14 060S 180E	115-05-027-SW001	BLM - SAFFORD DISTRICT	6	4-37
NENWNW 18 060S 180E	115-05-019-WL001	SALAZAR, E.G.	6	4-101
NWNWNW 18 060S 180E	115-05-005-SPO16	BLM - SAFFORD DISTRICT	6	4-37
NENWNE 20 060S 180E	115-05-041-SPO02	BLM - SAFFORD DISTRICT	6	4-31
NWNWNE 20 060S 180E	115-05-041-SPO01	AZ. CHAP. NATURE CONSERV.	6	4-11
		AZ. CHAP. NATURE CONSERV.	6	4-11

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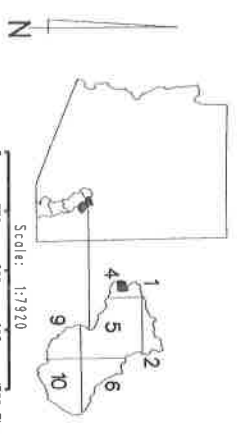
# APPENDIX E

[115-04-ADA]



[115-04-ADC]  
R 17 E

182



State of Arizona Department of Water Resources ADJUDICATIONS DIVISION	
<b>MAP OF WATER USES</b>	
Watershed:	SAN PEDRO
Subwatershed:	ARAVAIPA
Region:	04-ADB
Date:	July 1990

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# APPENDIX F

82

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

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

W4 (San Pedro)  
Contested Case No.

~~W1-11-00006~~

W1-11-3313

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.

115 04 ADB 002  
(please insert no.)

or Catalogued Well No.

(please insert no.)

OBJECTOR INFORMATION

Objector's Name: Barassi, Louis W. and Henrietta E.,

Objector's Address: 485 S. Main Tucson, AZ 85701

Objector's Telephone No.: ( 602 ) 884-7777

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 - \_\_\_\_\_

STATE OF ARIZONA

COUNTY OF PIMA

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 13th day of March, 1992, postage prepaid and addressed as follows:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

(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.)

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.

[Signature]  
Signature of Objector or Objector's Representative

SUBSCRIBED AND SWORN to before me this 12th day of March, 1992.

Darlene Riety

Notary Public for the State of Arizona

Residing at 485 S. Main Tucson

My commission expires 10/14/92

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.

FILED  
MAY 13 PM 2:11  
ALLEN, CLARK  
MARICOPA DEP.



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. W111003313

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. 11504ADB 002  
(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: BARASSI, LOUIS W.  
Address: 485 SOUTH MAIN AVENUE  
TUCSON AZ 85701

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.

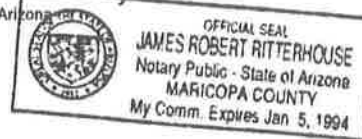
Alfred S. Cox Joe Sparks

Signature of Objector or Objector's Representative

SUBSCRIBED AND SWORN to before me this 6 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.

## 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).
- 2     Claim date from filing(s) and/or pre-filing(s) are inconsistent (478)(430).
- 2     Quantities from filing(s) and/or pre-filing(s) are inconsistent (478)(430).

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

RECEIVED MAY 11 1992

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

No. W1,W2,W3 & W4  
W1-11-003313

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. 115 - 04 - ADB - 002 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

VERIFICATION (must be completed by objector)

COUNTY OF MARICOPA

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 BARASSI, LOUIS W.  
and && HENRIETTA E.  
Address 485 SOUTH MAIN AVENUE  
TUCSON, AZ 85701

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. Corbett  
Signature of Objector's Representative (Magma)

Ami Oberkump  
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.

## 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 Decreases
- 3. I object to the description of DWR's Analysis of Filings and Decreases
- 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)
- 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)

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## 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.

### Attorneys for Magma:

Robert B. Hoffman (004415)  
Carlos D. Ronstadt (006468)  
Jeffrey W. Crockett (012672)  
SNELL & WILMER  
One Arizona Center  
Phoenix, Arizona 85004-0001  
(602) 382 - 6000

### Attorneys for ASARCO:

Burton M. Apker (001258)  
Gerrie Apker Kurtz (005637)  
APKER, APKER, HAGGARD  
& KURTZ, P.C.  
2111 E. Highland, Suite 230  
P.O. Box 10280  
Phoenix, Arizona 85064-0280  
(602) 381 - 0085

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. W1-11-003313

COPY

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.

115-04-ADB-002  
(please insert no.)

or Catalogued Well No.

(please insert no.)

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: BARASSI, LOUIS W.

Address: 485 SOUTH MAIN AVENUE

TUCSON, AZ 85701

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.

David C. Roberts  
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

WFR CATEGORY 8 - PWR SUMMARY

The Salt River Project objects to the absence of an apparent date of first use for this Potential Water Right (PWR). Previous filings, where available, are the evidentiary basis for any appropriative right. This PWR has been matched to a Water Rights Registration Act (WRRR) filing. The date claimed in the WRRR filing should form the basis for the apparent date of first use, unless sufficient historical evidence indicates a contrary date.

The Watershed File Report fails to articulate sufficient historical evidence to refute the priority date claimed in the WRRR filing matched to this PWR. In the absence of such evidence, the apparent date of first use assigned to this PWR should be the date claimed in the WRRR filing (0910). This objection applies to: DMO01.

\* \* \* \*

The Salt River Project objects to the apparent date of first use assigned to this Potential Water Right (PWR). Previous filings, in this case, filings made pursuant to the Water Rights Registration Act (WRRR), are the evidentiary foundation for the priority date associated with a water right. Where two or more WRRR filings have been matched to the same PWR but claim different dates of priority, the WRRR filing claiming the earliest date should form the basis for the apparent date of first use, unless sufficient historical evidence indicates a contrary date.

The Watershed File Report fails to set forth sufficient historical evidence to refute the earliest date of priority claimed in the WRRR filings matched to this PWR. In the absence of such evidence, the apparent date of first use for this PWR should be the earliest date claimed in the WRRR filing (0920). This objection applies to: IR001 and OT001.

\* \* \* \*

**WFR CATEGORY 8 - PWR SUMMARY (continued)**

The Salt River Project objects to the weight placed upon aerial photography in determining the apparent date of first use for this Potential Water Right (PWR). Where DWR concludes that no use exists on a parcel as of a given photo date, it does not follow that a claimant either had no water right to start with or abandoned that right by nonuse. Scattered photos reflecting occasional periods of nonuse over a fifty-year time span should not be interpreted by DWR to refute the priority date or dates evidenced by a claimant's previous filings (0910). This objection applies to: OT001.

**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.

\* \* \* \*

The Salt River Project objects to the quantity of use assigned to this Potential Water Right (PWR). The regional method used by DWR for determining quantity of use for certain agricultural and other irrigation PWRs is inconsistent with the Arizona doctrine of prior appropriation; this method is also technically inaccurate. For an additional discussion of the problems associated with DWR's method of quantification for these types of PWRs, see the Salt River Project's Volume 1 objections to this method, a copy of which is attached to this objection and incorporated herein by reference (1020). This objection applies to: OT001.

\* \* \* \*

WFR CATEGORY 9 - QUANTITIES OF USE (continued)

The Salt River Project objects to the failure of DWR to assign a quantity of use to this Potential Water Right (PWR). All water rights subject to the court's jurisdiction must be quantified in accordance with A.R.S. § 45-257(B). This PWR is no exception (1010). This objection applies to: DM001.

\* \* \* \*

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: DM001, IR001 and OT001.

**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.

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

**REGIONAL IRRIGATION QUANTITY ESTIMATES**

(page numbers refer to Volume 1)

**INTRODUCTION**

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

First, 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"). The "regional" quantification method employed by DWR does not properly estimate maximum actual historical beneficial use as required by law.

Second, 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.

Third, there are several 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.

### **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."

### **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

Contested Case File: W111003313

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. 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 85008.

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

115-04-ADB-002

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 18<sup>th</sup> day of May, 1992, postage prepaid and addressed as follows:

115-04-ADB-002  
Name: BARASSI, LOUIS W.  
& HENRIETTA E.  
Address: 485 SOUTH MAIN AVENUE  
TUCSON AZ 85701

(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.

*Robert Barry*  
Signature of Objector or Objector's Representative

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

*Joe Sparks*  
Signature of Co-Objector or Co-Objector's Representative

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

*Pamela L. Sparks*



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 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).
- 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) (W01; W02)  
  
The available historical record does not support the priority date listed in the pre-filings. (SM 430) (IR001)  
  
The available historical record does not support the priority date listed in the adjudication filings. (SM 478) (IR001)  
  
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 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)  
  
There is no quantity amount listed for a pre-filing and/or filing under this WFR. (SM 1000) (3900065800000; 3900065810000)
- 3. Adjudication filings associated with this WFR contain inaccurate or incomplete information. (SM 478)
- 4. According to ADWR, the Point of Diversion (POD) identified as serving the Places of Use (POU) under this WFR is currently inactive. The claimant and/or ADWR need(s) to provide information regarding the POD that provides water to the POUs. (SM 500)  
  
The diversion is not associated with a POU. It may be unused, discontinued or not applicable and should not be assigned a water right. (SM 600)

8. The claimant and/or ADWR fail(s) to associate this claim with a pre-adjudication water filing as required by Arizona statute. (SM 420) (W01; W02)

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) (W01; W02; W03)

The available historical record does not support the priority date listed in the ADWR analysis of Apparent First Use Date. (SM 920) (IR001)

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)

The regional volume of use is less than both the claimed and maximum observed volume of use. This indicates that the water is being used inefficiently. The claimant is not entitled to the water that will be wasted. (SM 1000)

9. 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)

The regional volume of use is less than both the claimed and maximum observed volume of use. This indicates that the water is being used inefficiently. The claimant is not entitled to the water that will be wasted. (SM 1000)

ADWR uses a methodology that over-estimates crop water requirements. (SM 1020)

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# APPENDIX G

SEC. 34 TN.06S RG.17E

SEE MAP 300-28

300-29

AREA CODE  
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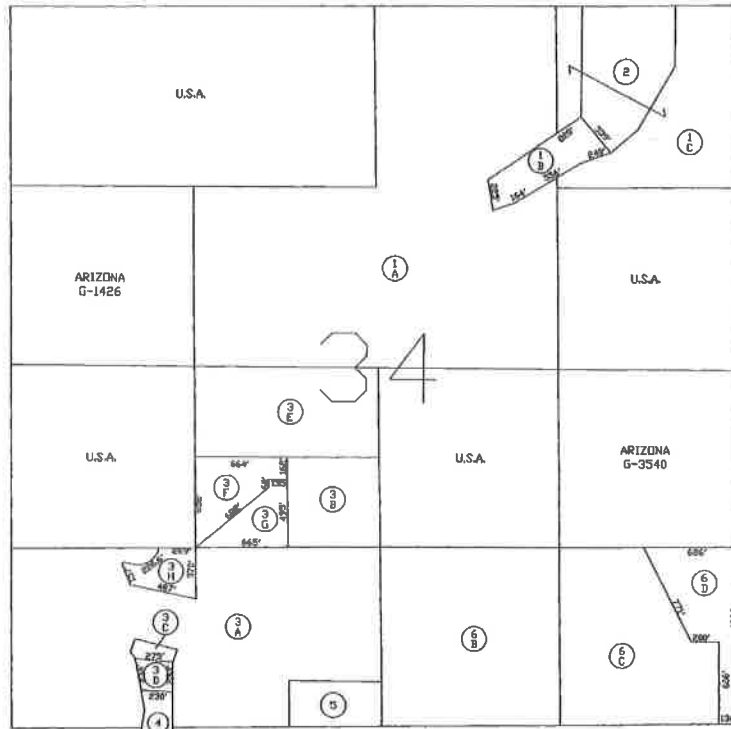
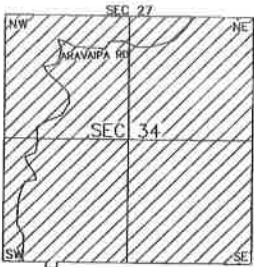
SPECIAL DISTRICTS  
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THIS MAP IS FOR TAX PURPOSES ONLY.  
THIS OFFICE WILL NOT ASSUME LIABILITY FOR  
REPRESENTATION, MEASUREMENTS OR AGREEMENT.

SEE MAP 300-28

SEE MAP 300-28

VICINITY MAP



SEE MAP 300-41

PINAL COUNTY ASSESSORS MAP

SCALE: 1" = 600'

05-07-2003



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# APPENDIX H

Aravaipa Canyon Ranch, LLC  
1714 Clay St. Apt 1  
San Francisco, CA 94109

Clerk of the Superior Court  
Maricopa County  
Attn: Water case  
601 West Jackson Street  
Phoenix, AZ 85003

F. Patrick Barry, Yosef Negose  
US Department Of Justice  
Environment & Natural Resources  
P. O. Box 7611  
Washington, DC 20044-7611

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Scottsdale, AZ 85251-4573

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Phoenix, AZ 85016

John D. Burnside and Megan Tracy  
Snell & Wilmer, L.L.P.  
400 East Van Buren Street  
Suite 1900  
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Arizona Department of Water  
Resources  
P. O. Box 36020  
Phoenix, AZ 85067

L. J. Caster, B.J. Heiseman, B. J. Pew  
Fennemore Craig, P.C.  
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Linus Everling and Thomas L. Murphy  
Gila River Indian Community  
Office of the General Counsel  
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Sacaton, AZ 85147

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S. Montgomery, R. Interpreter, J. Tomkus  
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Susan Ward Harris  
Special Master  
Central Court Building, Ste 3A  
201 West Jefferson  
Phoenix, AZ 85003-2205