

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. W1-11-1886

ORDER TO SET STATUS CONFERENCE

CONTESTED CASE NAME: *In re Barry Gene and Judy Sherman*

HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report.

DESCRIPTIVE SUMMARY: Status Conference set for **January 20, 2022 at 2:10 p.m.** to determine whether the landowner, Jesse Allen Konrad, intends to assert rights to appropriative water with a priority date prior to 1991.

NUMBER OF PAGES: 16

DATE OF FILING: November 29, 2021

This case involves a potential water right for an irrigation use associated with a domestic use in the northeast quarter of the southeast quarter of Section 34 Township 16S Range 20E. The purpose of this case is to resolve the objections to Watershed File Report 112-17-BAA-208 published in the Final San Pedro River Watershed Hydrographic Survey Report (1991). A copy

of the Watershed File Report 112-17-BAA-208 (“WFR”) is attached as Attachment A. A copy of the map prepared by Arizona Department of Water Resources that identifies the land investigated for the WFR is attached as Attachment B and the land involved is labelled on the map as “(208)” with a red arrow pointing to it. The WFR lists the source of water as a diversion from the San Pedro River into the Pomerene Water Users Association Canal. The WFR does not list any Statements of Claimant or any other filings with Arizona Department of Water Resources to obtain rights to appropriable water. The purpose of this case is to resolve the objections to the potential water rights to the extent that the current landowner intends to pursue them.

Background

Until October 5, 2018, this case was consolidated with and a part of the group of cases known as *In re Pomerene Water Users Association*, contested case no. W1-11-1676. In that case, the court scheduled a status conference for June 28, 2017 in part to identify the proper parties. At the status conference, counsel for the Pomerene Water Users Association was given until October 2, 2017 to provide documentation concerning the continuing authority of Pomerene Water Users Association to act. No landowners appeared at the status conference.

By order dated July 26, 2017, the court directed the owners of land for which Arizona Department of Water Resources had identified as places of use for water diverted through the Pomerene Canal to file new or amended statements of claimant if they desired to assert a claim for a right to divert water through the Pomerene Canal for irrigation use. A second status conference was set for October 18, 2017. A copy of the order was sent to Jesse Allen Konrad.

At the status conference held on October 18, 2017, the newly elected board of the Pomerene Water Users Association appeared along with its counsel. The court directed the Pomerene Water Users Association to file a list by December 29, 2017 that identified those landowners who were members of the Pomerene Water Users Association and whose interests

would be represented by the Pomerene Water Users Association in this adjudication of water rights. The court also set a third status conference for September 6, 2018. On December 21, 2017, the Pomerene Water Users Association timely filed a list of 26 landowners. Jesse Allen Konrad was included in the list of the represented landowners.

On August 31, 2018, Pomerene Water Users Association filed a Notice of Termination. At the third status conference, counsel for the Pomerene Water Users Association provided a list of its members who agreed to be annexed into the St. David Irrigation District. Jesse Allen Konrad was not included on this list and did not appear at the status conference.

By order dated October 5, 2018, the cases previously consolidated into a single case known as *In re Pomerene Water Users Association* were separated into individual cases. As a result, the potential water rights analyzed in the WFR will be considered in this separate case.

Landowner

The first step to adjudicate the water rights identified by the WFR is to identify the current landowners involved in this case. Based on the WFR, the land involved includes the following tax parcel: 20843026. According to the Cochise County Assessor's Office the current owner of this tax parcel is Jesse Allen Konrad. Attached as Attachment C is a map showing tax parcel 208-43-026 from the Cochise County Assessor's Office.

Jesse Allen Konrad has not filed a Statement of Claimant for a right to appropriable water. Accordingly,

IT IS ORDERED:

1. Contested Case. This contested case will adjudicate any claims for water rights investigated by and objections to Watershed File Report 112-17-BAA-208 published in the Final San Pedro River Watershed Hydrographic Survey Report (1991). No claims for water use that

began after 1991 shall be adjudicated in this case. 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. 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.
- C. Claimants wishing to be added or removed from the mailing list shall file a motion with the Special Master. Parties allowed to intervene will be automatically added to the Court-approved mailing list.
- D. The Clerk of the Court will send copies of all minute entries and orders issued in this case to the parties listed on the Court-approved mailing list. Upon request, the Clerk of the Court will provide copies by email. Parties may request emailed copies of minute entries and orders by completing and submitting a CONSENT FOR ELECTRONIC RECEIPT OF WATER CASE DOCUMENTS, which is attached as Attachment E.

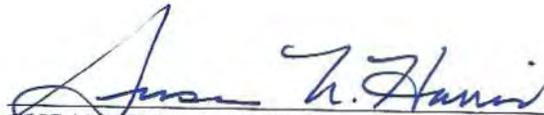
4. Status Conference.

- A. An initial status conference shall be held to determine whether Jesse Allen Konrad intends to pursue claims for rights to appropriable water. If so, Jesse Allen Konrad shall be prepared at the Status Conference to provide information about efforts undertaken to assign or file a Statement of Claimant.
- B. If Jesse Allen Konrad or a representative of Jesse Allen Konrad does not appear at the Status Conference, this case will be dismissed.
- C. If the objections cannot be settled, then a subsequent date will be set for a scheduling conference to identify issues, file disclosure statements, conduct discovery, submit prehearing motions, and hold a trial. No party shall conduct any discovery or file any motions prior to the Status Conference.

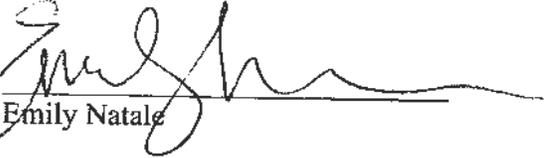
The Status Conference shall be held on **January 20, 2022 at 2:10 p.m.** The Status Conference shall be held using the Court Connect program. Instructions for Court Connect are attached as Attachment F. If this Order is delivered by email, click on the red box “Join Court Connect Hearing” on the attached instructions to make an appearance. If you do not receive this Order by email, log into the Court Connect program on the internet by typing <https://tinyurl.com/specialwatermaster>. If you do not have access to the internet, you may attend telephonically using the telephone number and access code included in the instructions for Court Connect. If you are unable to access Court Connect, you may also attend telephonically using the following instructions:

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


SUSAN WARD HARRIS
Special Master

On November 29, 2021, the original of the foregoing was delivered to the Clerk of the Maricopa County Superior Court for filing and distributing a copy to the persons listed as Attachment D.


Emily Natale

ATTACHMENT A

LAND OWNER	WATERSHED FILE
-----	REPORT NUMBER
SHERMAN, BARRY GENE	112-17-BAA-208
& JUDY	

D I V E R S I O N S

	LOCATION					
DIV #	SECTION	TWNP	RNGE	DIVERSION NAME	WATER SOURCE AND CLASSIFICATION	
-----	-----	-----	-----	-----	-----	
DO1	NWSENE36	17OS	200E	POMERENE CANAL	SURFACE WATER: SAN PEDRO RIVER SHARED	

W1-11-1886

U S E S

	LOCATION			SUPPLIED BY		PHOTO SOURCE	
PWR #	SECTION	TWNP	RNGE	DIVERSIONS	WATER SOURCES	DATE	CHANGE FACILITY NAME
-----	-----	-----	-----	-----	-----	-----	-----
OTO01	NESE34	16OS	200E	DO1	SURFACE WATER	1972	NO

S H A R E D U S E S A N D D I V E R S I O N S

** DIVERSION DO1 OPERATED BY THE POMERENE WATER USERS ASSOC.
(FILE 112-17-89) SUPPLIES WATER TO PWRS IN THIS FILE.

P W R S U M M A R Y

	APPLICABLE	APPLICABLE	*APPARENT FIRST USE DATE*		
PWR #	ADJ FILINGS	PRE FILINGS	DATE	DATE	WATER SOURCES AND CLASSIFICATIONS
-----	-----	-----	-----	-----	-----
OTO01	NONE	NONE	1972	1972 AERIAL PHOTO	SURFACE WATER: SAN PEDRO RIVER

Q U A N T I T I E S O F U S E

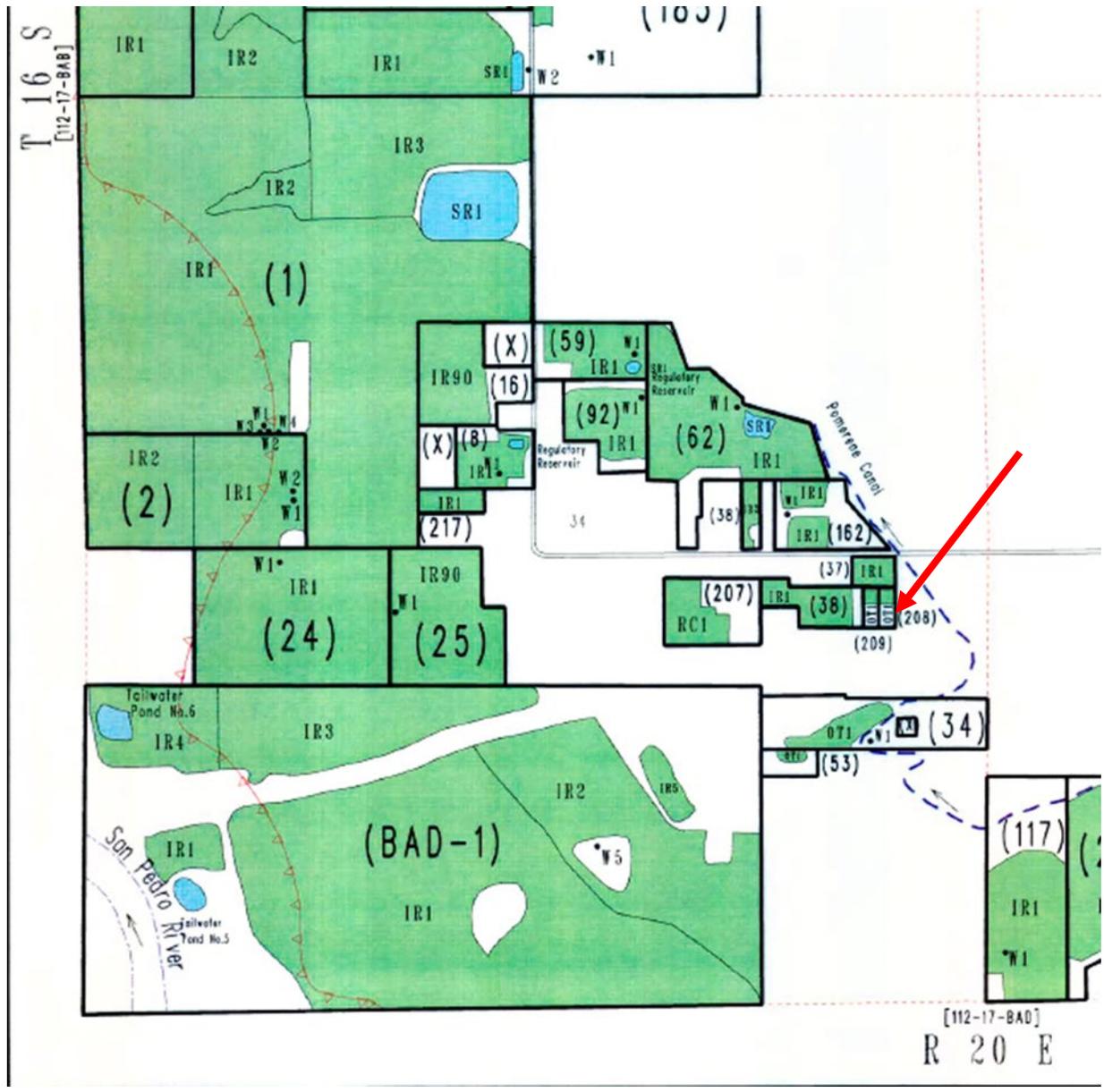
	QUANTIFICATION					ESTIMATED	
PWR #	TYPE	ACRES	CROP TYPE	EFF	WATER DUTY	VOLUME	REMARKS
-----	-----	-----	-----	-----	-----	-----	-----
OTO01	REGIONAL	.2	AVE. CROP	50%	5.4 AF/AC	1.1 AFA	

E X P L A N A T I O N

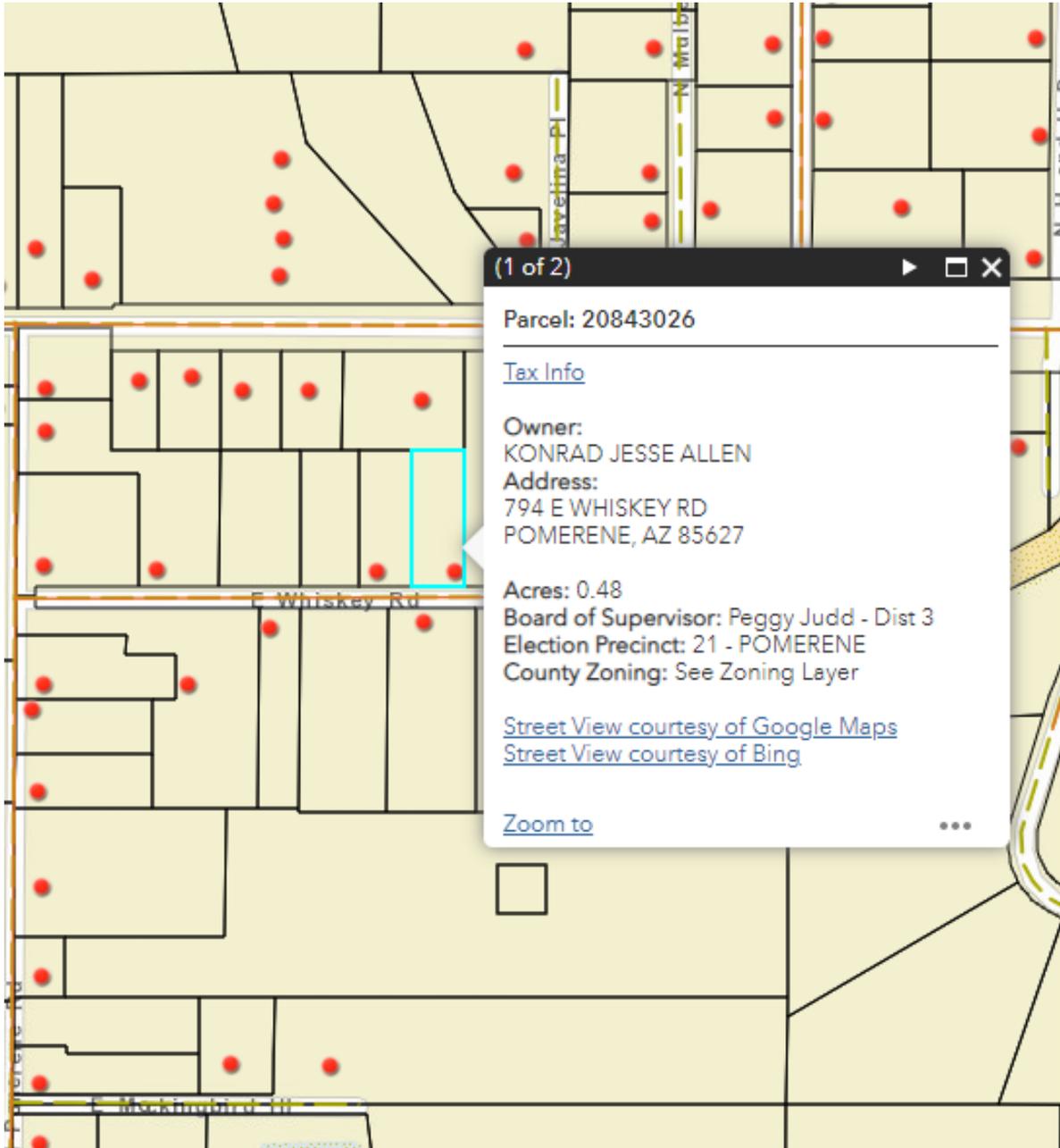
DIVERSIONS
D1 - DIVERSION FROM THE SAN PEDRO RIVER INTO THE POMERENE WATER USERS ASSOCIATION CANAL.

USES AND RESERVOIRS
OT1 - IRRIGATION TOTALING LESS THAN TWO ACRES ASSOCIATED WITH A DOMESTIC USE.
DOMESTIC WATER USE IS SUPPLIED BY THE POMERENE DOMESTIC WATER USERS ASSOCIATION.

ATTACHMENT B



ATTACHMENT C



ATTACHMENT D

Arizona Department of Water Resources
Kimberly Parks
Janet L. Miller
P. O. Box 36020
Phoenix, AZ 85067

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

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

Jesse Allen Konrad
794 E. Whiskey Rd.
Pomerene, AZ 85627

Salt River Project
John B. Weldon, Jr., Mark A. McGinnis,
and Michael Foy
Salmon, Lewis & Weldon PLC
2850 E Camelback Rd.
Suite 200
Phoenix, AZ 85016

San Carlos Apache Tribe
Joe P. Sparks and Laurel A. Herrmann
The Sparks Law Firm, P.C.
7503 First Street
Scottsdale, AZ 85251-4573

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

United States
F. Patrick Barry
U.S. Department of Justice
P. O. Box 7611
Washington, DC 20044-7611

Tonto Apache Tribe
Richard Palmer, Jr., Jeremiah Weiner
and Lauren Mulhern
Rosette, LLP
565 W. Chandler Blvd. Suite 212
Chandler, AZ 85225

Yavapai-Apache Nation
S. Montgomery, R. Interpreter, J. Tomkus
Montgomery & Interpreter, Plc
3301 E. Thunderbird Road
Phoenix, AZ 85032

ATTACHMENT E

CONSENT FOR ELECTRONIC RECEIPT OF WATER CASE DOCUMENTS

In an effort to provide more timely and cost effective distribution of copies of filed Water Case documents, the Clerk of the Superior Court would like implement electronic distribution via email. To do so, we require your consent to receive copies of documents electronically at an email address provided to our office.

This consent is voluntary and can be rescinded if you so choose. If you no longer wish to receive Water Case documents from the Clerk of Superior Court electronically, please send written notification to the Clerk of the Superior Court Water Case Specialist at the email address below requesting that all future records be sent in paper form.

Please note that if you consent to receive documents via email, you must notify the Clerk's Office of any change to your email address to avoid delay in receiving future filings. In the event there is no valid email address on file with the Clerk of the Superior Court Water Case Specialist, documents will be mailed to the address provided.

If you wish to consent to receive future documents via email, please either fill out the information below and mail to our office or provide the below information to Mayra.Antelo@Maricopa.Gov.

Preferred email address:

Alternate email address:

Physical address:

Phone number:

Firm Name:

Name [Printed]:

Signature:

Date:

Thank you,

Mayra Antelo
Clerk of the Superior Court
Water Case Specialist
(602) 372-5375 options 7,1,3,4

ATTACHMENT F



Court Connect Hearing Notice for In re Barry Gene and Judy Sherman

This hearing will be conducted through the new Court Connect program offered by the Superior Court of Arizona in Maricopa County. This new and innovative program allows Court participants to appear online, rather than in a physical courtroom. Hearings are preferably conducted by videoconference but can also be conducted by phone. Lawyers (and self-representing litigants) are responsible for distributing this notice to anyone who will be appearing on their behalf.

All participants must use the JOIN COURT CONNECT HEARING button or the dial in information below to participate.

Participants: Please follow the steps below to participate in the remote proceeding.

1. Click the JOIN COURT CONNECT HEARING button below.
2. Enter your full name and role in name field.
3. Wait for the facilitator to admit you to the proceeding.

Remember to keep this email handy so you can use it to participate in the following proceeding.

Case Name: In re Barry Gene and Judy Sherman Contested Case No. W1-11-1886

Start Date/Time: January 20, 2022 at 2:10 p.m.

JOIN COURT CONNECT HEARING

Dial-in Information: +1 917-781-4590

Private Dial-in Information: for privacy purposes, you can block your phone number by dialing *67 +1 917-781-4590

Dial-in Access Code: 688 970 203#

Tiny URL: <https://tinyurl.com/specialwatermaster>

To ensure an optimal experience, please review the brief Court Connect training prior to the hearing: [Here](#)

