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6 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
7 IN AND FOR THE COUNTY OF MARICOPA
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9 IN RE THE GENERAL
10 ADJUDICATION OF ALL RIGHTS
11 TO USE WATER IN THE GILA
12 RIVER SYSTEM AND SOURCE

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

Contested Case No. **W1-11-0524**

13 **ORDER INITIATING CONTESTED**
14 **CASE AND SETTING INITIAL**
15 **CONFERENCE**

16 CONTESTED CASE NAME: *In re Eric J. & Nancy J. Bergstrom*

17 HSR INVOLVED: San Pedro Hydrographic Survey.

18 DESCRIPTIVE SUMMARY: The Clerk of Maricopa County Superior Court is directed
19 to initiate W1-11-0524. Initial conference set for **Tuesday, October 8, 2024, at 10:30**
20 **am.**

21 NUMBER OF PAGES:

22 **General Explanation**

23 This order opens a case to determine rights to use water on land that the Santa
24 Cruz County Assessor has identified as owned by Kirk Miller and Lindie Brink and David
25 R. Whitaker. The first step in this case is an initial conference with the Court, scheduled
26 for **Tuesday, October 8, 2024, at 10:30 am.**, to determine if each landowner is interested
27 in pursuing water rights claims. Each current landowner **MUST** attend the scheduled
28 initial conference if they plan to pursue water rights claims. Failure to appear at the initial

conference could result in the dismissal of the case and the loss of potential surface water rights.

In this case, Eric J. Bergstrom and Nancy J. Bergstrom (“Claimants”) filed Statement of Claimant (“SOC”) 39-1583 to assert claims to use water on land that appears to comprise the Santa Cruz County tax parcels 108-60-009A and 108-60-010B.

During the initial conference, each current landowner must state whether he or she intends to pursue water rights claims.

Additional background information on the process for determining water rights in Arizona can be found on Attachment A.

Details of the Case

SOC #39-1583 contains the following claim(s):

Use	Quantity	Source	Location
Wildlife Pond	0.02 acre-feet annually	Unnamed tributary to Lyle Canyon	SENE 14 T22S, R18E

The Arizona Department of Water Resources (“ADWR”) investigated the claims made by the Claimant and prepared Watershed File Report (“WFR”) 111-22-027, published in the Final San Pedro Watershed Hydrographic Survey Report (1991) (“HSR”). The WFR recorded the following use(s):

Use	Quantity	Source	Location
Wildlife Pond	Less than or equal to 15 AF maximum volume	Babocomari River	NWNSENE 15 T22S, R18E

A copy of the WFR is attached as Attachment B. A map, prepared by ADWR, showing the area investigated is attached as Attachment C.

After ADWR issued the WFR, objections were filed to the findings made in the WFR by Gila River Indian Community, San Carlos Apache Tribe, and Yavapai-Apache Nation. The objections are summarized in the table below.

Objector(s)	Summary
Gila River Indian Community, San Carlos Apache Tribe, Yavapai-Apache Nation	• The water used is subject to federal and Indian claims • Absence of water use rate • Inconsistent claimed priority dates.

The purpose of this case is to consider the claims in SOC 39-1583 and to resolve the objections to WFR No. 111-22-027.

Claimant and Landowners

WFR 111-22-027 lists Eric J. Bergstrom and Nancy J. Bergstrom as the owner(s) of the property investigated in 1990. According to maps obtained from the Santa Cruz County Assessor's ('Assessor') website, the land investigated appears to comprise parcels 108-60-009A and 108-60-010B.

A copy of the map showing the relevant tax parcels and current ownership is attached as Attachment D. The public records of ADWR do not contain any assignments of the SOC listed in the WFR. Further, landowners do not appear to have filed any additional SOC's since the issuance of the HSR.

In order to obtain a decreed water right, each property owner must present to the Court an SOC claiming a water right and evidence of that right. This evidence may include the relevant WFR. Further, property owners must ensure that all water rights claims are paired with the appropriate basis of right, e.g. a statement of claim, decree, stockpond registration, or water rights certificate.

If either the property owner proves to the Court the existence of a water right on their property or enters into a valid settlement approved by the Court, the court will recognize an enforceable water right in a "Final Decree." Ariz. Rev. Stat. § 45-257(B).

This is an order from the Court, and all parties must comply with the following instructions. The failure to obey this, or any, court order may result in the dismissal of this case and the loss of potential surface water rights. If you have questions regarding this Order or any of the attachments, please contact the General Stream Adjudication, Office of the Special Water Master, at (602) 372-4115. Please note that staff can only

1 answer administrative questions and cannot provide legal advice.

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3 **IT IS ORDERED:**

4 **1. Case Initiation.** This order initiates contested case W1-11-0524, In re Eric J.
5 and Nancy J. Bergstrom. This case will resolve claims to use appropriable water asserted
6 in Statement(s) of Claimant 39-1583 and objections that were filed to Watershed File
7 Report No. 111-22-027.

8 **2. Initial Conference.** An initial conference shall be held on **Tuesday, October**
9 **8, 2024, at 10:30 am.** to determine whether each current landowner intends to pursue
10 claims for water rights. The conference will be held using the Court Connect program.
11 Instructions for Court Connect are attached as Attachment E. If you receive this Order by
12 email, click on the red box “Join Court Connect Hearing” on the attached instructions to
13 make an appearance. If you do not receive this Order by email, log into the Court Connect
14 program on the internet by typing <https://tinyurl.com/specialwatermaster>. If you do not
15 have access to the internet, you may attend telephonically using the telephone number
16 and access code included in the instructions for Court Connect.

17 **3. Parties.** The litigants in this contested case are the claimant(s), the current
18 landowner(s), and all parties who filed objections to the Watershed File Report. The
19 objector(s) in this case are Gila River Indian Community, San Carlos Apache Tribe, and
20 Yavapai-Apache Nation.

21 **4. Objections.** Copies of objections filed to this case can be found under the
22 respective case names and numbers on the following website:
23 <http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp>.
24

25 **5. Court-Approved Mailing List.**

26 A. The initial Court-approved mailing list for this case shall include
27 all persons listed on Attachment F to this order. The list may be
28 modified only by filing a motion with the Special Master to amend

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

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

6 C. Claimants wishing to be added or removed from the mailing list
7 shall file a motion with the Special Master. Parties allowed to
8 intervene will be automatically added to the Court-approved mailing
9 list.

10 D. The Clerk of the Court will send copies of all minute entries and
11 orders issued in this case to the parties listed on the Court-approved
12 mailing list.

13 E. Claimants who would like to receive courtesy copies of minute
14 entries and orders may request inclusion on an email list by sending
15 a request to emily.natale@jbazmc.maricopa.gov.

16 Signed this 10th day of September 2024.

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20 Sherri L. Zendri
21 Special Water Master

22 On September 10, 2024, the original of
23 the foregoing was delivered to the Clerk of the
24 Maricopa County Superior Court for filing and
25 distributing a copy to all persons listed on the
26 Court-approved mailing list for this contested
27 case, a copy of which is attached, and to all
28 persons listed on the Court-approved mailing list
for W1, W2, W3, and W4.

Emily Natale

ATTACHMENT A

General Background on the Water Rights Determination Process in Arizona

A general stream adjudication is a judicial proceeding to determine the quantity and priority of all water rights in a river system. Arizona is undertaking general stream adjudications of both the Gila River and the Little Colorado River systems. A river system includes surface water flowing “in streams or other natural channels,” groundwater sufficiently connected to that surface water, and water subject to claims by the federal government. Ariz. Rev. Stat. § 45-251(7). Recognizing and respecting water rights and the priority of such rights is important in Arizona where times of drought or water scarcity can occur.

All cases begin with the filing of a “Statement of Claimant,” (“SOC”) in which a property owner makes a claim for a right to use surface water on their property. Ariz. Rev. Stat. § 45-254(A). This person is the “claimant.” The SOC contains, among other characteristics, a description of the source and quantity of the water used, the location of use, the location from which the water was diverted, and the date when the water was first put to use. *Id.* § 45-254(C).

After the property owner files the SOC, the Arizona Department of Water Resources (“ADWR”) prepares a “Watershed File Report,” (“WFR”) in which ADWR investigates the claims in the SOC and recommends water rights associated with the property. *Id.* § 45-256(B). ADWR compiles all WFRs for a watershed into a comprehensive Hydrographic Survey Report (“HSR”) and publishes the report for public review and comment. In response, other claimants in the Adjudication may file “objections” disputing the information or recommendations in the WFR. The individuals who file objections are called “objectors.”

This “contested case”, one of thousands in the Gila River System, will evaluate claims asserted in specific Statements of Claimant while considering objections to the WFR that reported ADWR’s initial inspection of those claims.

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ATTACHMENT B
Watershed File Report

AS OF 10/11/91

LAND OWNER	WATERSHED FILE
-----	REPORT NUMBER
BERGSTROM, ERIC J.	111-22-027
& NANCY J.	

PHOTO ID - 12-5 (90) QUAD 1 - PYEATT RANCH

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

CLEARLY STATED INFORMATION FROM FILINGS AND DECREES

FILING NUMBER	FILING STATUS	USES	QUANTITY IN AFA	USE LOCATION SECTION	TWNP	RNGE	CLAIM DATE	DIVERSION LOCATION SECTION	TWNP	RNGE
33-0011511	CERTIF.	REC/FISH/WLDLF	.02	SENE14	220S	180E	1979	SENE14	220S	180E
39-0001583	AMENDED QUE.RECD	REC/FISH/WLDLF	.02	SENE14	220S	180E	1978	SENE14	220S	180E

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

FILING NUMBER	USES CLAIMED OR REFERENCED	USES FOUND BY DWR	APPLIES TO DIVERSIONS	APPLIES TO PWR NUMBERS
33-0011511	WILDLIFE	WILDLIFE		SP001
39-0001583	WILDLIFE	WILDLIFE		SP001

R E S E R V O I R S

PWR #	LOCATION SECTION	TWNP	RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO DATE	RESERVOIR NAME	STORAGE PURPOSE
SP001	NWSENE14	220S	180E		SURFACE WATER	1983	UNNAMED	WILDLIFE

P W R S U M M A R Y

PWR #	APPLICABLE ADJ FILINGS	APPLICABLE PRE FILINGS	*APPARENT FIRST USE DATE*	DATE BASIS FOR DATE	WATER SOURCES AND CLASSIFICATIONS
SP001	39-0001583	33-0011511	1979 FILING	33-11511	SURFACE WATER: BABOCOMARI RIVER

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

PWR #	QUANTIFICATION TYPE	ACRES	CROP TYPE	EFF	WATER DUTY	ESTIMATED VOLUME	REMARKS
SP001	MAX. AREA/CAP	LT 2.0				LTE 15.0 AF	

E X P L A N A T I O N

FILINGS AND DECREES

FILING 39-1583 - A UNIFORM QUESTIONNAIRE WAS RECEIVED WHICH REFLECTS INFORMATION PREVIOUSLY PROVIDED IN THE ORIGINAL STATEMENT OF CLAIMANT.

USES AND RESERVOIRS

SP1 - UNNAMED STOCKPOND.

QUANTITIES OF USE

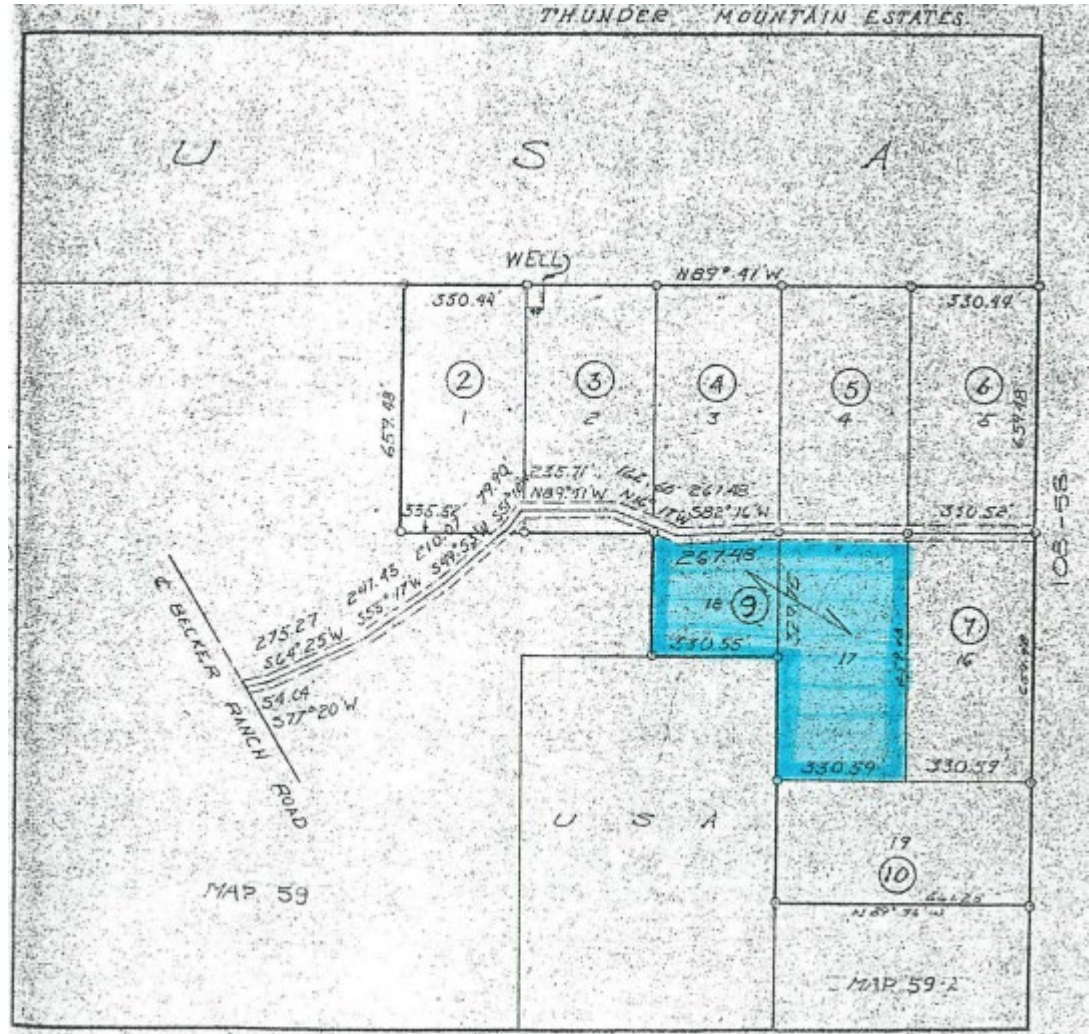
SP1 - FILING 33-11511 STATES A CERTIFICATED STOCKPOND CAPACITY OF 0.02 ACRE-FEET.

DISPOSITION OF LAND OWNER/CLAIMANT COMMENTS

A COMMENT WAS RECEIVED FROM THE LAND OWNER WHICH VERIFIED LAND OWNERSHIP.

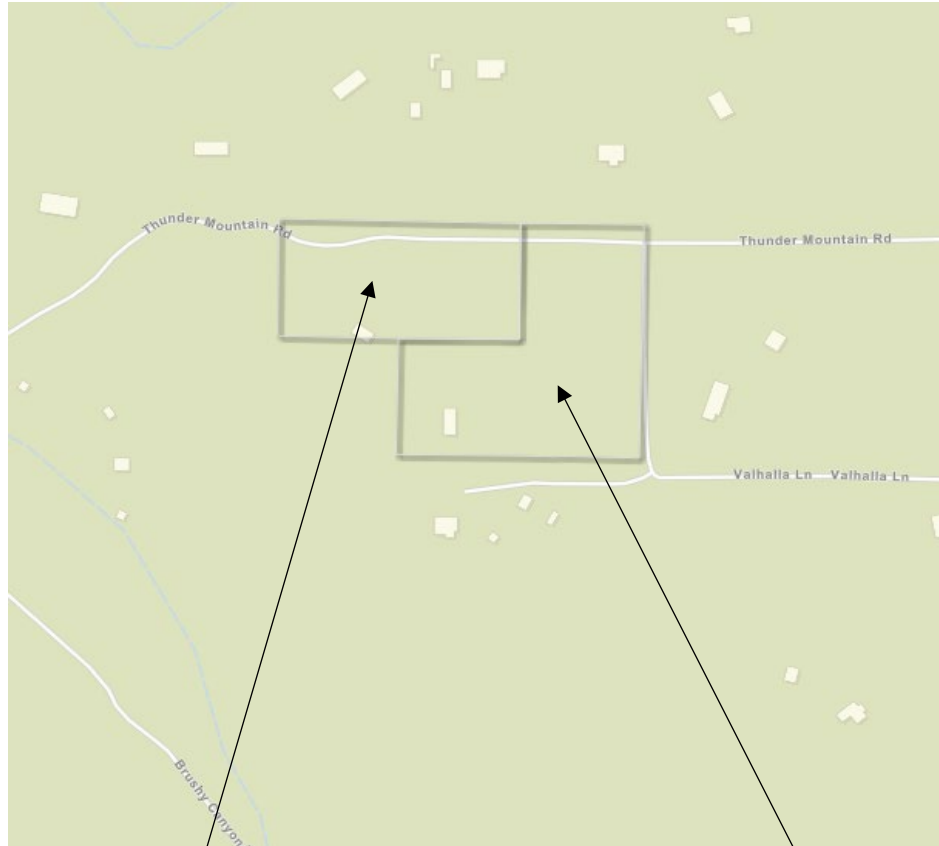
ATTACHMENT C

ADWR Parcel Map



ATTACHMENT D

Assessor Map



APN:108-60-009A
Kirk Miller and Lindie Brink

APN:108-60-010B
David R. Whitaker

ATTACHMENT E



Court Connect Hearing Notice for In re Eric J. Bergstrom and Nancy J. Bergstrom

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 Eric J. and Nancy J. Bergstrom

Contested Case No. W1-11-0524

Start Date/Time: Tuesday, October 8, 2024, at 10:30 am.

JOIN COURT CONNECT HEARING

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

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

Dial-in Access Code: 688 970 203#

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

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

ATTACHMENT F

Initial Court-Approved Mailing List

Arizona Department of Water Resources Kimberly R. Parks and Karen J. Nielsen 1110 West Washington, Suite 310 Phoenix, AZ 85007	Jeremiah Weiner, Brett J. Stavin, and Jay Lee Rosette, LLP. 120 S. Ash Avenue, Suite 201 Tempe, AZ 85281
Clerk of the Superior Court Maricopa County Attn: Water Case 601 West Jackson St. Phoenix, AZ 85003	Susan B. Montgomery, Robyn Interpreter, Montgomery & Interpreter PLC 3301 E Thunderbird Road Phoenix, AZ 85032
Special Master Sherri Zendri Superior Court of Arizona 201 W. Jefferson Street Courtroom 301 Phoenix, AZ 85003	Gila River Indian Community Javier Ramos and Sunshine Manuel Office of the General Counsel P.O. Box 97 Sacaton, AZ 85147
Alexander B. Ritchie San Carlos Apache Tribe Office of the Attorney General PO Box 40 San Carlos, AZ 85550	Merrill C. Godfrey and Brette A. Pena Akin Gump Straus Hauer & Feld LLP 2001 K Street, N.W. Washington, DC 20006
Eric J. Bergstrom H.C.R. Box 360 Elgin, AZ 85611	Kirk Miller and Lindie Brink 33 Thunder Mountain Rd. Elgin, AZ 85611
Joe P. Sparks and Laurel A. Hermann The Sparks Law Firm, P.C. 7503 First Street Scottsdale, AZ 85251-4573	David R. Whitaker 47 Thunder Mountain Rd Elgin, AZ 85611