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6 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
7 IN AND FOR THE COUNTY OF MARICOPA
8

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

W-1 (Salt)
W-2 (Verde)
W-3 (Upper Gila)
W-4 (San Pedro)
Consolidated

13 CONTESTED CASE NO. W1-11-3346

14 ORDER TO INITIATE CONTESTED CASE

15 AND

16 ORDER SETTING STATUS CONFERENCE
17

18 CONTESTED CASE NAME: *In re ASLD – Agro Land and Cattle Co.*

19 HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report.

20
21 DESCRIPTIVE SUMMARY: Case initiated to adjudicate claims for rights to water for
22 stockponds and stock watering, domestic, and irrigation uses investigated in Watershed File Report
115-05-023. Arizona Department of Water Resources (ADWR) shall prepare draft abstracts with
maps by **February 28, 2023**. A status conference is set for **March 17, 2023, at 2:45**.

23 NUMBER OF PAGES: 15

24 DATE OF FILING: February 2, 2023
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1 This Order initiates a contested case to consider the claims for water rights filed by the
2 Arizona State Land Department ("ASLD") and Charles and Marian Proctor and assigned to Agro
3 Land and Cattle Co., Inc. The contested case will also resolve objections to Watershed File
4 Report 115-05-023 ("WFR") published in the Final San Pedro River Watershed Hydrographic
5 Survey Report (1991).
6

7 ASLD filed Statements of Claimant ("SOCs") 39-6778, 39-6779, 39-6780, and 39-13160
8 for stockpond, stock watering, wildlife, and domestic uses. On January 7, 1985, Charles and
9 Marian Proctor filed SOC's 39-12290 and 39-12288 for stockpond uses. On May 15, 1986, these
10 SOC's were assigned to Agro Land and Cattle Co., Inc.
11

12 The WFR identified potential water rights for domestic, stockpond, and stock watering
13 uses on land located in sections 23 and 35 of Township 6 South, Range 19 East. The WFR
14 identifies surface water from Aravaipa Creek as the source of water for the stockpond and stock
15 watering uses. The WFR identifies groundwater as the source of water for the domestic use and
16 referenced the Cataloged Wells which states that the well, cataloged well number 7597, is owned
17 by the Arizona State Land Department and is located in the SENENE section 35 T6S R19E. The
18 Arizona State Land Department described the well as located in SWSWNW Section 36 T6E
19 R19S. The Well Registry map maintained by ADWR shows wells in both locations. Neither
20 well was owned by Arizona State Land Department and both wells are now owned by Nature
21 Conservancy. A copy of the WFR is attached as Attachment A. A portion of the map prepared
22 for the WFR is attached as Attachment B on which the relevant land is labelled as "(23)."
23

24 According to a map made publicly available by ASLD, the land included within the
25 boundaries of the WFR is owned by the State of Arizona and leased to The Nature Conservancy.
26 A copy of the map is attached as Attachment C.
27
28

1 **Adjudication of Claims**

2 Under current law, the adjudication of “small water use claims in any specific
3 subwatershed shall be deferred until all other claims in that subwatershed are determined by the
4 superior court in the course of the adjudication,” except when the claimant who asserted the small
5 water use claim also asserted other claims in the subwatershed. Ariz. Rev. Stat. § 45-257(A)(1).
6

7 Among other claims, the term “Small Water Use Claims” only includes claims for
8 stockponds with a capacity of not more than 15 acre feet. A.R.S. §45-251(9). It does not include
9 stockponds with a greater capacity. In this contested case, a claim has been asserted for a
10 stockpond that has an estimated volume of 33.7 acre-feet. Therefore, because at least one claim is
11 not for a Small Water Use, this contested case will adjudicate all claims investigated in the WFR.
12

13 **Expedited Procedures**

14 Claims for rights to water for domestic use, stock watering, and certain stockponds in the
15 San Pedro Watershed, and the objections to the Watershed File Reports that examine those
16 claims are determined using an expedited process. The process is set forth in the Memorandum
17 Decision, Findings of Fact, and Conclusions of Law for Group 1 Cases involving Stockwatering,
18 Stockponds, and Domestic Uses, dated November 14, 1994, amended February 23, 1995,
19 approved and modified September 27, 2002 (“Decision”).
20

21 The first step in the procedure for stockponds, stockwatering, and domestic uses that
22 qualify for the expedited procedures is the preparation of proposed abstracts for each of the
23 claimed water rights analyzed by the Watershed File Reports. Drafts of the proposed abstracts
24 will be prepared by Arizona Department of Water Resources and distributed to all parties listed
25 on the attached mailing list. Following the Status Conference, the second step requires the court
26 to distribute proposed abstracts to all of the parties because the Decision directs that “the litigants
27 will be provided an opportunity to suggest the correction of mistakes in the proposed abstracts.”
28

1 Decision, p. 47. After suggested corrections have been received from the parties, the suggested
2 corrections will be reviewed and any necessary corrections will be made to the proposed
3 abstracts. The third step in the process is the inclusion of the reviewed and corrected abstracts
4 into a catalog of proposed water rights where they will be subject to very limited set of
5 objections and ultimately in a final decree.

7 **IT IS ORDERED:**

9 1. Contested Case. This contested case shall be known as *In re ASLD- Agro Land and*
10 *Cattle Co.* and it will address Statements of Claimant listed in and the objections to Watershed File
11 Report 114-03-005 published in the Final San Pedro River Watershed Hydrographic Survey Report
12 (1991). Copies of objections can be found under the case name and number on the following
13 website:

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

16 2. Litigants. The litigants in this contested case are the Claimants, the Assignee, the
17 current lessee, all persons who filed objections to the Watershed File Report who are listed on
18 Attachment D, and claimants who are allowed to intervene by order.

20 3. Court-Approved Mailing List.

21 A. The initial Court-approved mailing list for this case shall include all persons
22 listed on Attachment D to this order. The list may be modified only by
23 filing a motion with the Special Master to amend the Court-approved
24 mailing list. Litigants are responsible for using the current Court-approved
25 mailing list.
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1 B. A copy of any pleading filed with the Clerk of the Maricopa County
2 Superior Court in this case shall be served upon each person listed on the
3 Court-approved mailing list.

4 C. Claimants wishing to be added to or removed from the mailing list shall file
5 a motion with the Special Master. Parties allowed to intervene will be
6 automatically added to the mailing list.
7

8 4. Arizona State Land Department. Prior to the date of the status conference, Arizona
9 State Land Department shall meet with its lessee for the purposes of determining the ownership of
10 the claimed water rights.

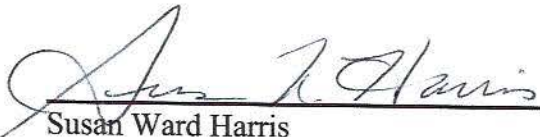
11 5. Arizona Department of Water Resources. By **February 28, 2023**, ADWR shall
12 prepare draft abstracts for 114-03-005-SP001 and 114-03-005-SW002.
13

14 6. Status Conference. Status Conference shall be held on **March 17, 2023, at 2:45**
15 **p.m.** The parties claiming water rights shall state whether they are claiming a right to water for
16 domestic use. If such a use is asserted, the claiming party shall provide the well registration
17 number of the well that is the source of the water and a statement about whether the well is located
18 inside or outside of the subflow zone. At the Status Conference Arizona State Land Department
19 shall be prepared to discuss the ownership of the claimed water rights and whether the parties are
20 in agreement regarding the ownership of the proposed water rights.
21

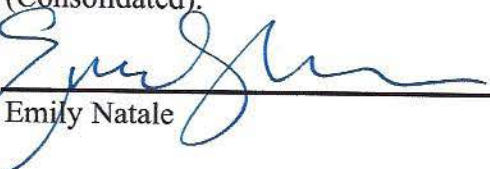
22 The Status Conference will be held using the Court Connect program. Instructions for
23 Court Connect are attached as Attachment A. If you receive this Order by email, click on the red
24 box "Join Court Connect Hearing" on the attached instructions to make an appearance. If you do
25 not receive this Order by email, log into the Court Connect program on the internet by typing
26 <https://tinyurl.com/specialwatermaster>. If you do not have access to the internet, you may attend
27
28

1 telephonically using the telephone number and access code included in the instructions for Court
2 Connect. Alternatively, you may attend telephonically using the following instructions:

3 Instructions for telephonic appearance:
4 Dial: 602-506-9695 (local)
5 1-855-506-9695 (toll free long distance)
6 Dial Participant Pass Code 357264#

7
8 
9 _____
10 Susan Ward Harris
11 Special Master
12
13

14 The original of the foregoing was delivered to the Clerk of
15 the Maricopa County Superior Court on February 2, 2023,
16 for filing and distributing a copy to all persons listed on the
17 Court approved mailing list for this contested case which is
18 attached as Attachment E and to all persons listed on the
19 Court-approved mailing list for W-1, W-2, W-3, and W-4
20 (Consolidated).

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23 Emily Natale
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ATTACHMENT A

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| LAND OWNER | WATERSHED FILE REPORT NUMBER | LESSEE/ALLOTTEE | LEASE-PERMIT ID |
|------------|---------------------------------|--------------------------|-----------------|
| SLD | 115-05-023 | AGRO LAND AND CATTLE CO. | 05-88461 |

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 |
|-----------------|---------------|---------------|--------------------|-----------------------------------|---------------|---|
| 10-0505525.1100 | | | | E223 060S 190E | 1912 | NW24 060S 190E |
| 36-0004944 | | STOCK | .98 | SWSE23 060S 190E | 1884 | SWSE23 060S 190E |
| | | REC/FISH/WLDF | | | | |
| 36-0004945 | | STOCK | .47 | SWNW23 060S 190E | 1884 | SWNW23 060S 190E |
| | | REC/FISH/WLDF | | | | |
| 36-0005409 | | STOCK | 33.70 | SESE23 060S 190E | 1884 | SESE23 060S 190E |
| | | REC/FISH/WLDF | | | | |
| 38-0071077 | | STOCK | .06 | NWSE23 060S 190E | 1943 | NWSE23 060S 190E |
| 38-0076237 | | STOCK | 2.00 | SWSE23 060S 190E | 1942 | SWSE23 060S 190E |
| 38-0094526 | | STOCK | | SWSE23 060S 190E | 1942 | SWSE23 060S 190E |
| | | REC/FISH/WLDF | | | | |
| 38-0094528 | | STOCK | 4.70 | SWNW23 060S 190E | 1972 | SWNW23 060S 190E |
| | | REC/FISH/WLDF | | | | |
| 39-0006778 | AMENDED | STOCK | .88 | SWSE23 060S 190E | 1884 | SWSE23 060S 190E |
| | | REC/FISH/WLDF | .10 | | | |
| 39-0006779 | AMENDED | STOCK | .42 | SWNW23 060S 190E | 1884 | SWNW23 060S 190E |
| | | REC/FISH/WLDF | .05 | | | |
| 39-0006780 | | DOMESTIC | .15 | NENE35 060S 190E | 1919 | 35 060S 190E |
| | | STOCK | .35 | | | |
| | | REC/FISH/WLDF | .03 | | | |
| | | OTHER | 21.00 | | | |
| 39-0012288 | | STOCK | .25 | SESE23 060S 190E | 1919 | SESE23 060S 190E |
| 39-0012290 | | STOCK | 1.20 | NWSW23 060S 190E | 1977 | NWSW23 060S 190E |
| 39-0013160 | | STOCK | 33.70 | SESE23 060S 190E | 1884 | SESE23 060S 190E |

DWR ANALYSIS OF FILINGS AND DECREES

| FILING NUMBER | USES CLAIMED OR REFERENCED | USES FOUND BY DWR | APPLIES TO DIVERSIONS | APPLIES TO PWR NUMBERS |
|-----------------|-------------------------------|----------------------|--------------------------|------------------------|
| 10-0505525.1100 | IRRIGATION | NONE | | SPO02, SPO03, SW002 |
| | DOMESTIC | NONE | | SW003 |
| | STOCK | STOCK | | |
| | MINING | NONE | | |
| | OTHER | NONE | | |
| 36-0004944 | STOCK | STOCK | | SW002 |
| | WILDLIFE | INCIDENTAL | | |
| 36-0004945 | STOCK | STOCK | | SW001 |
| | WILDLIFE | INCIDENTAL | | |
| 36-0005409 | STOCK | STOCK | | SW003 |
| | WILDLIFE | INCIDENTAL | | |
| 38-0071077 | STOCK | STOCK | | SPO02 |
| 38-0076237 | STOCK | STOCK | | SPO02 |
| 38-0094526 | STOCK | STOCK | | SPO02 |
| | WILDLIFE | INCIDENTAL | | |
| 38-0094528 | STOCK | STOCK | | SPO01 |
| | WILDLIFE | INCIDENTAL | | |
| 39-0006778 | STOCK | STOCK | | SPO02, SW002 |
| | WILDLIFE | INCIDENTAL | | |
| 39-0006779 | STOCK | STOCK | | SPO01, SW001 |
| | WILDLIFE | INCIDENTAL | | |
| 39-0006780 | DOMESTIC | DOMESTIC | | DM001 |
| | STOCK | INCIDENTAL | | |
| | WILDLIFE | INCIDENTAL | | |
| | OTHER | NONAPPROPRIABLE | | |
| 39-0012288 | STOCK | STOCK | | SPO03 |
| 39-0012290 | STOCK | STOCK | | SPO02 |
| 39-0013160 | STOCK | STOCK | | SPO03, SW003 |
| | WILDLIFE | INCIDENTAL | | |

| PWR # | SECTION | TWNP | RNGE | SUPPLIED BY DIVERSIONS | WATER SOURCES | PHOTO DATE | SOURCE CHANGE | FACILITY NAME |
|-------|----------|------|------|---------------------------|--------------------------|---------------|------------------|---------------|
| DMO01 | SENESE35 | 060S | 190E | | GROUNDWATER : CATALOGUED | | NO | |
| SWO01 | NENESW23 | 060S | 190E | | SURFACE WATER | | NO | INSTREAM USE |
| SWO02 | SESWSE23 | 060S | 190E | | SURFACE WATER | | NO | INSTREAM USE |
| SWO03 | SENESE23 | 060S | 190E | | SURFACE WATER | | NO | INSTREAM USE |

R E S E R V O I R S

| PWR # | SECTION | TWNP | RNGE | SUPPLIED BY DIVERSIONS | WATER SOURCES | PHOTO DATE | RESERVOIR NAME | STORAGE PURPOSE |
|-------|----------|------|------|---------------------------|---------------|---------------|----------------|---------------------------|
| SPO01 | SESNW23 | 060S | 190E | | SURFACE WATER | 1984 | TRIANGLE TANK | STOCKWATERING WILDLIFE |
| SPO02 | NWSWSE23 | 060S | 190E | | SURFACE WATER | 1984 | BLACKHILL TANK | STOCKWATERING WILDLIFE |
| SPO03 | SESESE23 | 060S | 190E | | SURFACE WATER | 1935 | TOP TANK | STOCKWATERING |

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 |
|-------|---------------------------|--|--|-----------------------------------|
| DMO01 | 39-0006780 | NONE | | GROUNDWATER : CATALOGUED |
| SPO01 | 39-0006779 | 38-0094528 | 1972 FILING 38-94528 | SURFACE WATER: ARAVAIPA CREEK |
| SPO02 | 39-0006778 | 10-0505525.1100 | 1942 FILING 38-76237 | SURFACE WATER: ARAVAIPA CREEK |
| | 39-0012290 | 38-0071077 38-0076237 38-0094526 | | |
| SPO03 | 39-0012288 | 10-0505525.1100 | 1935 1935 AERIAL PHOTO. | SURFACE WATER: ARAVAIPA CREEK |
| | 39-0013160 | | | |
| SWO01 | 39-0006779 | 36-0004945 | 1884 FILING 36-4945 | SURFACE WATER: ARAVAIPA CREEK |
| SWO02 | 39-0006778 | 10-0505525.1100 | 1884 FILING 36-4944 | SURFACE WATER: ARAVAIPA CREEK |
| | | 36-0004944 | | |
| SWO03 | 39-0013160 | 10-0505525.1100 | 1884 FILING 36-5409 | SURFACE WATER: ARAVAIPA CREEK |
| | | 36-0005409 | | |

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 |
|-------|------------------------|--------|-----------|-----|------------|---------------------|--------------------------------------|
| DMO01 | | | | | | | SEE VOLUME 1 - GENERAL ASSESSMENT |
| SPO01 | MAX. AREA/CAP | LT 2.0 | | | | LTE 15.0 AF | |
| SPO02 | MAX. AREA/CAP | LT 2.0 | | | | LTE 15.0 AF | |
| SPO03 | MAX. AREA/CAP | 6.0 | | | | 33.7 AF | |
| SWO01 | | | | | | | SEE VOLUME 1 - GENERAL ASSESSMENT |
| SWO02 | | | | | | | SEE VOLUME 1 - GENERAL ASSESSMENT |
| SWO03 | | | | | | | SEE VOLUME 1 - GENERAL ASSESSMENT |

E X P L A N A T I O N

FILINGS AND DECREES

FILING 39-6780 - CLAIMS RAINFALL RETENTION AS AN "OTHER" WATER USE. RAINFALL RETENTION IS CONSIDERED TO BE A NONAPPROPRIABLE USE.

USES AND RESERVOIRS

DM1 - DOMESTIC USE.
SP1 - TRIANGLE TANK STOCKPOND.
SP2 - BLACKHILL TANK STOCKPOND.
SP3 - TOP TANK STOCKPOND.
SW1 - INSTREAM STOCKWATERING AND WILDLIFE USES FROM TRIANGLE WASH.
SW2 - INSTREAM STOCKWATERING AND WILDLIFE USES FROM BLACKHILL WASH.
SW3 - INSTREAM STOCKWATERING AND WILDLIFE USES FROM TOP DRAW WASH.

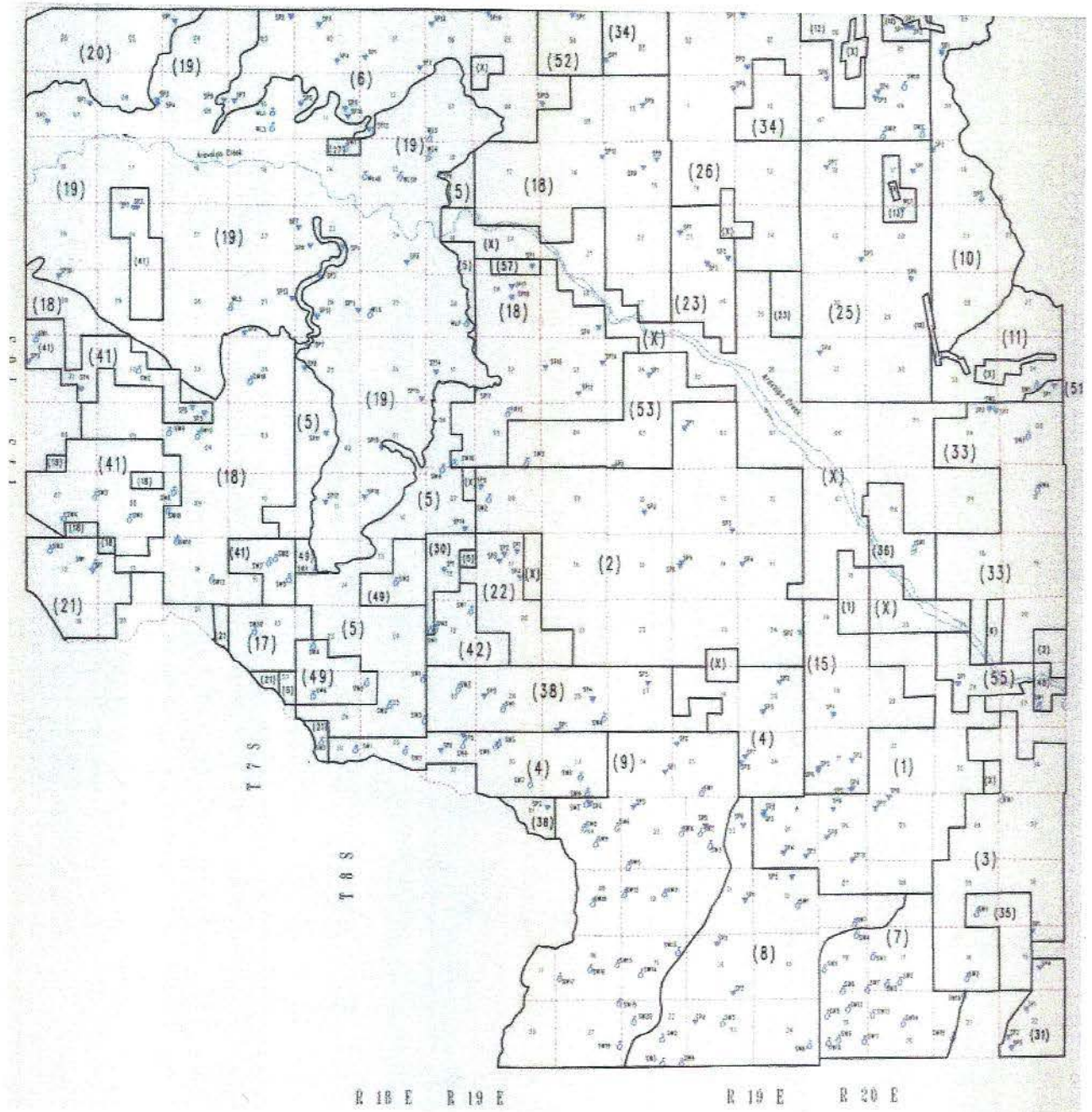
DISPOSITION OF LAND OWNER/CLAIMANT COMMENTS

FILE 115-05-023 (CONTINUED)
EXPLANATION (CONTINUED)

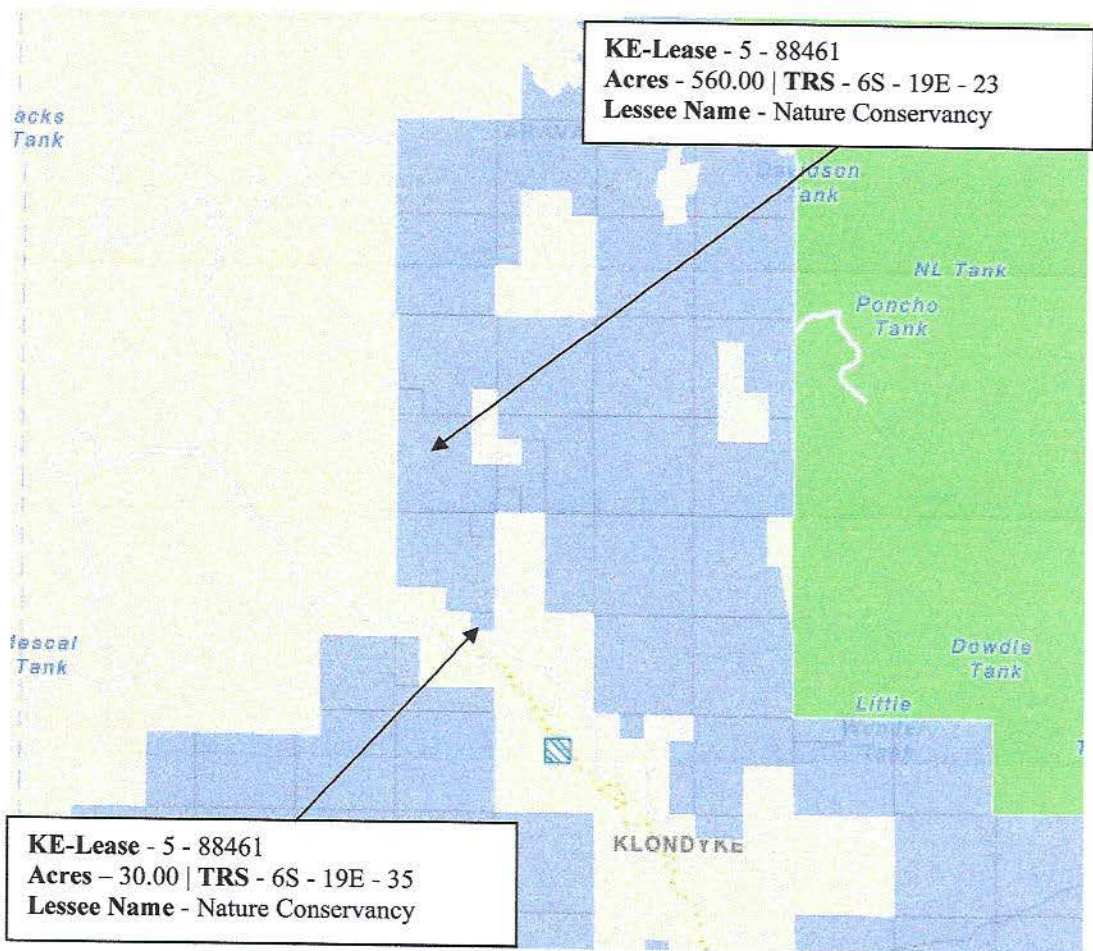
CONTINUATION OF PAGE: 114

A COMMENT WAS RECEIVED FROM THE LAND OWNER ON THE DISPOSITION OF FILINGS IN THIS W.F.R.

ATTACHMENT B



ATTACHMENT C



ATTACHMENT D

Carrie Brennan and Kevin Crestin
Arizona Attorney General
Natural Resources Department
2005 N. Central
Phoenix, AZ 85004

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

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

Kimberly R. Parks
Kome Apkolo
Arizona Department of Water Resources
1110 West Washington, Suite 310
Phoenix, AZ 85007

Carla Consoli
May Potenza Baran & Gillespie PC
1850 N. Central Avenue, 16th Floor
Phoenix, AZ 85004

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

Jeremiah Weiner, Kent Millward, Anthony
Proano, and Lauren Mulhern
Rosette, LLP
120 S. Ash Avenue, Suite 201
Tempe, AZ 85281

S. Montgomery, R. Interpreter, J. Tomkus
Montgomery & Interpreter, PLC
3301 E. Thunderbird Road
Phoenix, AZ 85032

Salt River Valley Water Users Association,
Salt River Project Agricultural Improvement
and Power District
J. B. Weldon, M. A. McGinnis, M. K. Foy
Salmon, Lewis & Weldon PLC
2850 E Camelback Rd, Ste. 200
Phoenix, AZ 85016

Susan Ward Harris
Special Master
Central Court Building, Ste 3A
201 West Jefferson
Phoenix, AZ 85003-2205

SHSFW LLC
Agro Land and Cattle Co.
6750 N. Oracle Rd.
Tucson, AZ 85704

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ATTACHMENT E



Court Connect Hearing Notice for In re ASLD–Argo Land and Cattle Co.

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 In re ASLD–Argo Land and Cattle Co., Contested Case No. W1-11-3346

Start Date/Time: March 17, 2023 at 2:45 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](#)

