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

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

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

Contested Case No. W1-11-3454
and W1-11-2838

**ORDER ACCEPTING NEW
WATERSHED FILE REPORT
AND INITIATING NEW
CONTESTED CASE**

CONTESTED CASE NAME: *In re Palo Verde RV Park, LLC and In re Howard S.
and Ella D. Slotter*

HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report.

DESCRIPTIVE SUMMARY: Order accepting Arizona Department of Water
Resources new Watershed File Report # 114-01-CCD-0008 and creating a new
contested case. Any objections to Watershed File Report # 114-01-CCD-0008 must be
filed by **January 8, 2024.**

NUMBER OF PAGES:13

1 On December 12, 2019, Special Master Harris ordered Arizona Department of
2 Water Resources (ADWR) to create a new Watershed File Report (WFR) to investigate
3 claims made with respect to the water used on approximately 12.06 acres located in the
4 southwestern quarter of Section 30 T5S R16E, owned by Palo Verde RV Park LLC, and
5 two wells with Well Registration #55-601353 and 55-601354. The completed report
6 was filed by ADWR on September 26, 2023.

7 **IT IS ORDERED** that the WFR # 114-01-CCD-0008 is accepted by the Court
8 and shall be filed under contested case # W1-11-3454, known as *In re Palo Verde RV*
9 *Park LLC*.

10 In contested case W1-11-3454, the Court will determine claims to appropriable
11 water asserted in Statements of Claimant #39-4037 and 39-4038, filed October 6, 2020,
12 and published in WFR # 114-01-CCD-0008. A copy of the WFR is included with this
13 Order as Attachment A.

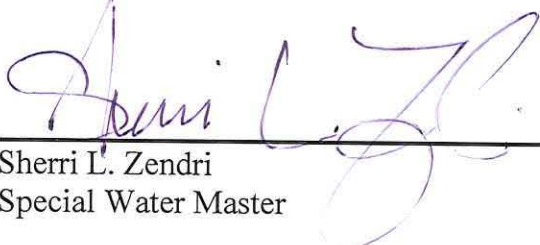
14 The litigants in contested case W1-11-3454 are the current landowners and all
15 parties associated with contested case W1-11-2838.

16 **IT IS FURTHER ORDERED** that any objections to this WFR must be filed
17 with the Clerk of Court under this case number by **January 8, 2024**.

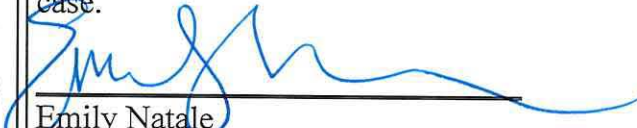
18 Once the deadline for objections has passed and ADWR has filed their report for
19 the Subflow Depletion Test, the Court will schedule a status conference to determine
20 whether the Claimant and current landowners intend to pursue claims for rights to
21 appropriable water.
22
23

1 For completeness of the record, this order only shall also be filed in case W1-11-
2 2838. All future pleadings shall be filed in case W1-11-3454.

3
4 Signed this 16 day of November 2023

5
6 
7 Sherri L. Zendri
Special Water Master

8 The original of the foregoing was delivered to
9 the Clerk of the Maricopa County Superior
10 Court on November 16, 2023, for filing and
11 distributing a copy to all persons listed on the
12 Court approved mailing list for this contested
13 case.

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Emily Natale

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Attachment A

ARIZONA DEPARTMENT OF WATER RESOURCES' REPORT

Palo Verde RV Park, LLC

WFR 114-01-CDC-018

September 2023

1.0 Introduction and Background

The Arizona Department of Water Resources (ADWR) has prepared this report in response to the Court's January 6, 2020, Minute Entry Order (2020 Order) in Contested Case No. W1-11-2838, *In re Howard S. & Ella D. Slotter* regarding the Zone 2 Well Report of the 1991 Hydrographic Survey Report for the San Pedro River Watershed (HSR) created for the Slotter property.¹

The Zone 2 Well Report provided information about one shared well, W02, which is located on property owned by ASARCO, LLC (ASARCO) and provides water to the Slotter property. W02 is listed as providing water for irrigation of small grains on land that is contiguous with the irrigated acreage found in Watershed File Report (WFR) 114-01-CCD-001, also known as Robinson Ranch, belonging to ASARCO (Robinson Ranch). Three Statement of Claimant (SOC) numbers were listed in the Zone 2 Well Report: 39-4037, 39-4038, 39-2480.

At the December 12, 2019, status conference, Counsel for ASARCO indicated that the Slotter Zone 2 Well Report incorrectly included a 1/10th acre parcel belonging to ASARCO, along with one of ASARCO's wells (W02) and one of ASARCO's SOC's (39-2480).²

The current owner of the Slotter property is the Palo Verde RV Park, LLC. Mr. Charles T. Jordan Jr. (Jordan) owns and operates the Palo Verde RV Park, LLC on the property. During the status conference, Jordan stated "the water from the wells are used to supply water to 22 RV spaces, not all of which are filled, and one house."³ These current water uses (wells 55-601353 and 55-601354) or claims were not accurately represented in the HSR Zone 2 Well Report for the Slotter property.

¹ Court orders for W1-11-2838 are consolidated with W1-11-2801 *In re ASARCO Irrigation*.

² Minute Entry Order filed January 6, 2020, in Contested Case No. W1-11-2838, *In re Howard S. and Ella D. Slotter* at 2 (referencing ASARCO LLC's Amendment and Clarification of Objections to Zone 2 Well Report No. 114-01-CDC-007, *In re: the General Adjudication of All Rights to Use Water in the Gila River System and Source*, Contested Case No. W1-11-2838).

³ *Id.*

The 2020 Order consolidated two Contested Cases, W1-11-2801, *In re ASARCO-Irrigation* and W1-11-2838, *In re Howard S. and Ella D. Slotter*, for the purpose of addressing whether the 1/10th acre parcel should be added to land attributable to ASARCO.⁴ After the hearing, the Court concluded that the Zone 2 Well Report addresses claims made by ASARCO.⁵ The 2020 Order requested ADWR to prepare a new WFR for the claims assigned to the Palo Verde RV Park, LLC (RV Park), as described in SOC 39-4037 and 39-4038, which is the subject of this report.⁶

ADWR assigned a new WFR number, 114-01-CDC-018, to address the current claims for water use on the Slotter property.

2.0 WFR Investigation

ADWR's investigation included a review of the HSR, SOC, Wells 55 records, court filings, aerial imagery, and information provided by the Jordans as described in the 2020 Order. ADWR reviewed all filings associated with domestic uses on the property within the boundaries of WFR 114-01-CDC-018. On October 10, 2020, ADWR met with ASARCO to discuss ASARCO's WFRs in the San Pedro River watershed. Presentation slides were submitted to ADWR which included property maps for Robinson Ranch (WFR 114-01-CCD-001); the Robinson Ranch property maps were also reviewed for this report.⁷ ADWR's determinations are summarized in **Appendix A-1**. The WFR map, including the boundary of 114-01-CDC-018, the San Pedro River subflow zone boundary, and two wells are presented in **Figure 1**.

2.1 WFR Boundary and Land Ownership

WFR 114-01-CDC-018 is in the NE 160-acre ¼ and the SE 160-acre ¼ of Section 30, Pinal County parcels 300-11-015, 300-11-011, 300-11-010, and 300-11-009 in a subdivision known as Upshaw's Acres.

The current landowners of WFR 114-01-CDC-018 are Palo Verde RV Park, LLC. Grantors, Charles T. Jordan, Jr. and Sandra L. Jordan, purchased the property from Thomas H. Slotter, son of Howard S. & Ella D. Slotter (deceased), in 2019.

⁴ *Id.* at 3.

⁵ *Id.*

⁶ *Id.* at 3-4. The Court further requested that ADWR issue notice of its report to the Gila River general stream adjudication mailing list. ADWR understands that the Court will determine the appropriate course of action once the report is filed, which may include a deadline for filing objections and the creation of a new contested case.

⁷ ASARCO's Irrigation Water Rights for Robinson Ranch presentation slides from meeting between ADWR and ASARCO held on October 8, 2020.

The Robinson Ranch property maps showed that the WFR 114-01-CCD-001 property boundary is adjacent to the RV Park's boundary and that ASARCO's irrigated field boundaries do not overlap the RV Park property boundaries.

2.2 Review of Applicable Claims and Filings Provided by the Jordans

ADWR's investigation confirmed that two SOC's, 39-4037 and 39-4038, were assigned to the Palo Verde RV Park, LLC on October 6, 2020. Information from these filings is summarized below and listed in **Appendix A-1**.

SOC 39-4037:

The Sloters filed SOC 39-4037 with the Arizona Water Commission on June 10, 1980, in which the Sloters claimed water usage for domestic purposes was initiated in October 1956 and first used on March 23, 1957.⁸ The information on SOC 39-4037 was updated on the Uniform Questionnaire for the San Pedro River Watershed (Questionnaire) filed on October 11, 1988. The Questionnaire reflected a claim for the right to use groundwater from a well registered as D-(5-16)30CCB as the Basis of Right and a first use date of March 23, 1957, for the Place of Use located in NWSWSW Sec.30 T5SR16E. The Questionnaire stated a well was constructed in October 1956 for domestic water usage and was shared with trailer court tenants and three dwellings year-round.

On October 6, 2020, Jordan filed an SOC Assignment and provided aerial imagery of the RV Park's property including well locations. Property photographs, well record information for both 55-601353 and 55-601354, SOC query results, and a Quit Claim Deed were also provided with the Assignment.

On October 15, 2020, ADWR received a Warranty Deed, an Acceptance of Community Property with Right of Survivorship, and an Affidavit of Property Value from the Jordans.

ADWR confirmed the well registration number D(5-16)30 CCB listed on the Questionnaire for SOC 39-4037 matched the associated well registration number 55-601354 via the information received with the SOC Assignment on October 6, 2020.

Well locations were matched with parcel numbers listed in the Affidavit of Property Value and correlated with parcels on the Pinal County Recorder website. Cadastral locations were

⁸ Filing 39-4037 filed with Arizona Water Commission distinguishes between the "initiation of right" date and the "date water first used for beneficial purposes." The Sloters reported an initiation of right date as "October 1956" which correlates to the completion date (October 1, 1956) for well 55-601354. ADWR was unable to correlate the "first use" date of March 23, 1957.

compared with wells in ADWR's well database and visually associated with locations on submitted aerial photographs and Google Earth.

SOC 39-4037 shows a claim for domestic water use, which is consistent with the water use stated in the Well Registry information for 55-601354.

SOC 39-4038:

The Sloters filed SOC 39-4038 with the Arizona Water Commission on June 10, 1980. The Sloters claimed a "domestic and trailer court" and irrigation water use. The filing states the water usage was first used on August 21, 1964.

The information on SOC 39-4038 was updated in the Questionnaire filed on October 11, 1988. The Questionnaire reflected a claim for the right to use groundwater from a well registered as D-(5-16)30CBC as the Basis of Right, and a first use date of August 21, 1964, for the Place of Use (POU) located in SWNWSW Section 30 T5SR16E⁹. The Questionnaire stated a well was constructed in August 1964 for domestic water usage and was shared with trailer court tenants and twenty dwellings year-round.

On October 6, 2020, Jordan filed an SOC Assignment and provided aerial imagery of the RV Park's property including well locations. Property photographs, well record information for both 55-601353 and 55-601354, SOC query results, and a Quit Claim Deed were also filed on this date.

On October 15, 2020, the ADWR received a Warranty Deed, an Acceptance of Community Property with Right of Survivorship, and an Affidavit of Property Value from the Jordans.

ADWR confirmed the well registration number D(5-16)30 CBC listed on the Questionnaire for SOC 39-4038 matched the associated well registration number, 55-601353, via the information received with the SOC Assignment on October 6, 2020.

Well locations were matched with parcel numbers listed in the Affidavit of Property Value and correlated with parcels on the Pinal County Recorder website. Cadastral locations were compared with wells in ADWR's well database and visually associated with locations on submitted aerial photographs and Google Earth.

SOC 39-4038 shows a claim for domestic and irrigation water use which was consistent with the water use stated in the Well Registry information for 55-601353.

⁹ Filing 39-4038 filed with the Arizona Water Commission states the same date (August 18, 1967) for "initiation of right" and "date water first used for beneficial purposes." ADWR was not able to correlate the date August 18, 1967.

3.0 Zone 2 Well Report Discrepancies

In the 2020 Order, Jordan stated that none of the property is irrigated.¹⁰ ADWR confirmed irrigated fields existed outside the RV Park property boundary using Google earth imagery, parcel information, and by reviewing the Robinson Ranch property maps from the meeting held on October 08, 2020, between ADWR and ASARCO. Therefore, no irrigation water use exists on the RV Park property.

3.1 Diversions

The points of diversion for WFR 114-01-CDC-018 are two wells: W01 (55-601353) and W02 (55-601354) which are located approximately 401 feet and 592 feet, respectively, outside the subflow zone of the San Pedro River. The locations of the wells in relation to the subflow zone are depicted in Figure 1.

3.2 Places of Use

ADWR investigated places of use via aerial imagery and determined water usage from the two wells is used to supply twenty-two RV spaces and one house. No irrigation was seen on aerial imagery within the RV Park parcel boundaries.

ADWR used the Pinal County Assessor website to calculate a combined acreage of 12.07 which includes the four parcels owned by Jordan.

4.0 Quantity and Use

Arizona Revised Statutes (A.R.S.) § 45-251(1) defines domestic use as a single appropriative water right serving a residence, or multiple residences up to a maximum of three residential connections, for household purposes with associated irrigation of lawns, gardens, or landscape in an amount of not more than one-half acre per residence.¹¹ The Slotters claimed one house meeting the statutory definition for domestic use. The remainder of the use consists of twenty-two RV spaces as part of the RV Park. ADWR recommends that this use be classified as commercial. Neither Jordan nor the Slotters claimed a quantity for their water uses.

¹⁰ Minute Entry Order, *supra* note 2, at 3.

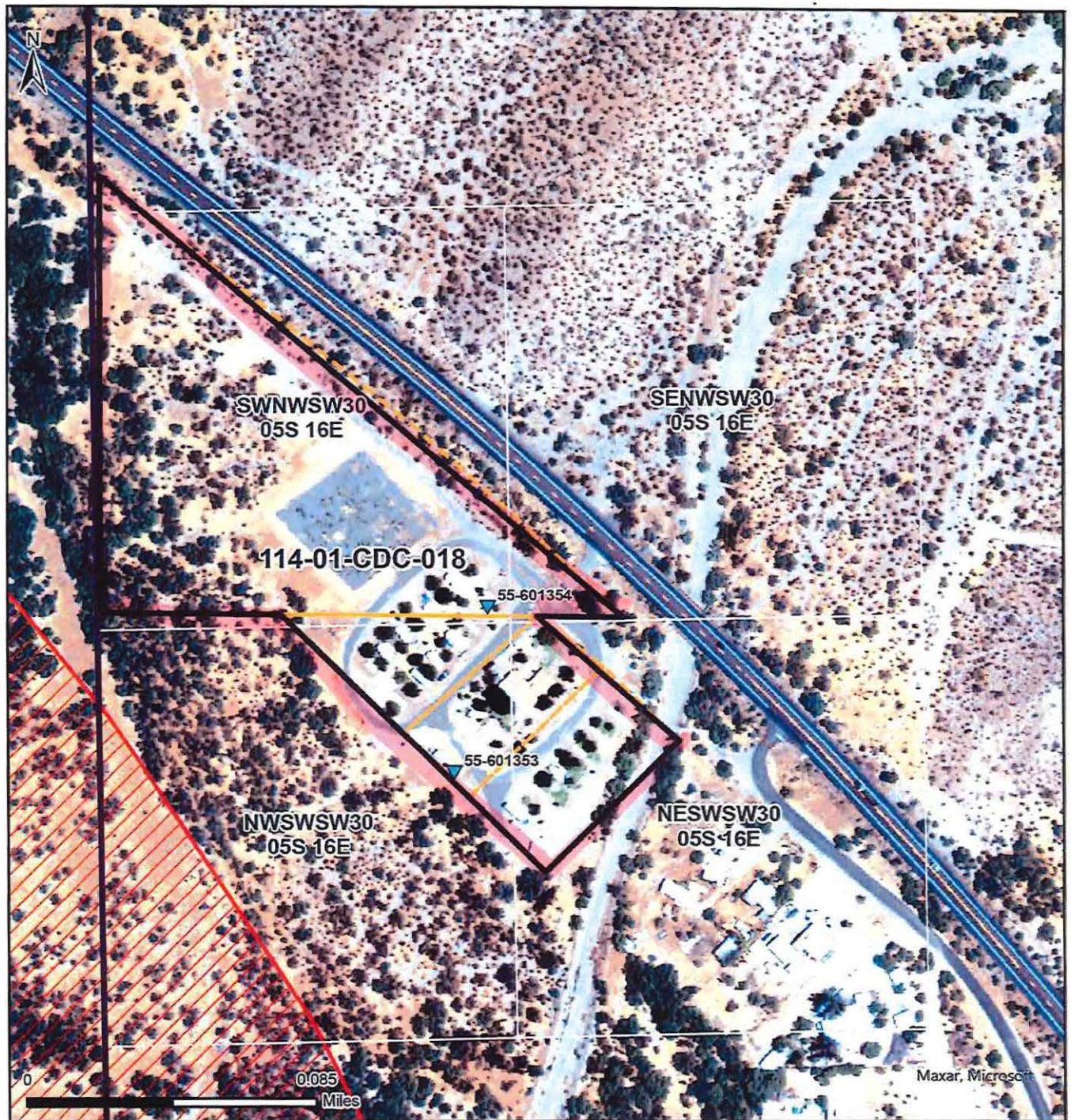
¹¹ The San Pedro HSR categorized trailer parks as domestic uses which included water used for household needs and associated irrigation of less than two acres supplied by groundwater or less than 0.5 acres supplied by Zone 1 groundwater. Hydrographic Survey Report for the San Pedro River Watershed, Vol. 1, *In re the General Adjudication of the Gila River System and Source*. ADWR, 1991, P 561.

5.0 Potential Water Rights

ADWR does not recommend a Potential Water Right (PWR) for any of the claimed uses at this time because both wells are located outside the subflow zone of the San Pedro River.¹² Further, there is no legal basis of right showing a pre-existing surface water right filed by the Jordans or the Sloters. A well registration record does not convey a right to use surface water and is therefore not a basis of right.¹³

¹² The court will identify wells outside the subflow zone boundary that are subject to the general stream adjudication at a later date.

¹³ Report of the Special Master filed September 23, 2021, in Contested Case No. W1-11-0245, *In re Town of Huachuca* at 14.



Legend

- Well
- Subflow Zone
- Pinal County Parcel Boundary
- Township Range
- 10 Acre Quarter
- WFR Boundary



Figure 1. WFR Map
Location of Watershed File Report
Section 30 Township 5S Range 16E

Palo Verde RV Park LLC
Watershed File Report 114-01-CDC-018



ADWR September 2023

Land Owners PALO VERDE RV PARK, LLC.		Watershed File Report Number 114-01-CDC-018			PALO VERDE RV PARK, LLC. - September 2023						
APPLICABLE FILINGS AND DECREES											
CLEARLY STATED INFORMATION FROM FILINGS AND DECREES											
						Use Location				Diversion Location	
Filing Number	Filing Status	Filing Date	Uses	Quantity in AFA	Section	Township	Range	Claimed Priority Date	Section	Township	Range
39-4037	ASSIGNMENT	10/6/2020	DOMESTIC	NOT CLAIMED	NWSWSW30	05S	16E	3/23/1967	SWNWSW30	05S	16E
39-4038	ASSIGNMENT	10/6/2020	DOMESTIC	NOT CLAIMED	SWNWSW30	05S	16E	8/21/1964	SWSWNW30	05S	16E
ADWR ANALYSIS OF FILINGS AND DECREES											
Filing Number	Uses Claimed or Referenced			Uses Found by ADWR 1991		Uses found by ADWR 2023		Applies to Diversions		Applies to PWR Numbers	
39-4037	DOMESTIC, SHARE WITH TRAILER COURT TENANTS			DOMESTIC		DOMESTIC, COMMERCIAL		W02(55-601354)		N/A	
39-4038	DOMESTIC, SHARE WITH TRAILER COURT TENANTS			DOMESTIC, IRRIGATION		DOMESTIC, COMMERCIAL		W01(55-601353)		N/A	
SHARED USES AND DIVERSIONS											
DIV #		Use Location		Diversion Name		Well Registry No.		Water Source and Classification			
		Section	Township	Range							
W02(55-601354)		SWNWSW30	05S	16E	55-601354		55-601354	WELL OUTSIDE SUBFLOW ZONE			
W01(55-601353)		SWSWNW30	05S	16E	55-601353		55-601353	WELL OUTSIDE SUBFLOW ZONE			
USES											
PWR #	Location				Supplied by Diversions		Water Sources		Photo Date	Source Change	Facility Name
		Section	Township	Range							
N/A											
PWR SUMMARY											
PWR #	Applicable ADJ Filings		Applicable Pre Filings		*APPARENT FIRST USE DATE* DATE BASIS FOR DATE			Water Sources and Classifications			
N/A											
QUANTITIES OF USE											
PWR#	Quantification Type		Acres		Crop Type	EFF	Water Duty	Estimated Volume	Remarks		
N/A											
PWR NOT RECOMMENDED											
EXPLANATION											
<u>ADWR ANALYSIS OF FILINGS AND DECREES:</u> FILING 39-4037 CLAIMS DOMESTIC USE AND WELL #55-601354 AS A BASIS OF CLAIM. A WELL REGISTRATION IS NOT A BASIS FOR A SURFACE WATER RIGHT. ADWR CANNOT RECOMMEND A PWR. FILING 39-4038 CLAIMS DOMESTIC AND IRRIGATION USES AND WELL #55-601353 AS A BASIS OF CLAIM. A WELL REGISTRATION IS NOT A BASIS FOR A SURFACE WATER RIGHT. ADWR CANNOT RECOMMEND A PWR. NO IRRIGATION USE WAS FOUND AT THE CLAIMED LOCATION. FILINGS 39-4037 & 39-4038 CLAIM A DOMESTIC USE SHARED WITH TRAILER COURT TENANTS. THE DWELLING IS A CONSIDERED DOMESTIC USE. THE TWENTY-TWO RV SPACES ARE CONSIDERED A COMMERCIAL USE. <u>SHARED USES AND DIVERSIONS:</u> WELL 55-601354 & 55-601353 ARE LOCATED OUTSIDE THE SUBFLOW ZONE. <u>QUANTITIES OF USE:</u> ADWR CANNOT RECOMMEND A PWR. A WELL REGISTRATION IS NOT A BASIS FOR A SURFACE WATER RIGHT.											

Attachment B

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