



**JANICE K. BREWER**  
Governor

**SANDRA A. FABRITZ-WHITNEY**  
Director

**ARIZONA DEPARTMENT OF WATER RESOURCES**

3550 North Central Avenue, Second Floor  
PHOENIX, ARIZONA 85012-2105  
Telephone (602) 771-8621  
Fax (602) 771-8689

March 18, 2013

Michael & Susan Cavender  
1921 W. DeHaviland Way  
Tucson, Arizona 85737

RE: Statement of Claim of Right No. 36-105623

Applicant:

The Statement of Claim of Right you submitted has been received by the Arizona Department of Water Resources (Department) and has been issued the above-referenced number.

Check No. 3340 for \$5.00 was submitted by Anthony Fines, P.C. and has been deposited.  
Thank you for your payment.

Please do not hesitate to contact me at (602) 771-8618 or toll free (within Arizona only) at 1-800-352-8488 if you require further information or assistance.

Sincerely,

A handwritten signature in cursive script that reads "Barbara L. Norton".

Barbara L. Norton  
Surface Water Rights Specialist  
Permitting Unit

cc: Anthony Fines, P.C.

# ARIZONA DEPARTMENT OF WATER RESOURCES

## SURFACE WATER RIGHTS

MAIL TO: P.O. BOX 458

PHOENIX, ARIZONA 85001-0458 FEB 25 2013

500 North Third Street

Phoenix, Arizona 85004-3903

Telephone (602) 417-2442

Fax (602) 417-2424

(For office use only)

Registry No: 36-105623

Date Filed: 2-25-13

### STATEMENT OF CLAIM OF RIGHT TO USE PUBLIC WATERS OF THE STATE OF ARIZONA

1. Claimant Michael J. Cavender and Susan S. Cavender Telephone (520) 742-1448

Address 1921 West DeHaviland Way City Tucson State AZ Zip 85737

2. Type of water source and name Aravaipa Creek and drainage onto the property, as described on SCHEDULE A.

a tributary to San Pedro River within the \_\_\_\_\_ watershed

3. ITEM 3 - SEE Schedule A attached hereto. (for office use only)

Type of Water Use(s) (e.g., irrigation, domestic, stock)	Annual Use (list use amount for each type)	Acres Irrigated (irrigation use only)	Specific Months of Use (if not for entire year)
Stockwatering	0.67 AFA	n/a	Year-Round (Jan-Dec)
Rec/Fish/Wildlife	0.01 AFA	n/a	Year-Round (Jan-Dec)
Domestic Uses	0.44 AFA	n/a	Year-Round (Jan-Dec)

4. Date the water was first used beneficially (month/day/year): October 2, 1906 - See Schedule A

5. Location of point of water diversion: County Graham - See Schedule A

Lot \_\_\_\_\_, \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4, Section \_\_\_\_\_, Township \_\_\_\_\_ N/S, Range \_\_\_\_\_ E/W  
(if applicable)

6. Location of place(s) of water use: County Graham - See Schedule A

Lot \_\_\_\_\_, 1/4 \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4, Section \_\_\_\_\_, Township \_\_\_\_\_ N/S, Range \_\_\_\_\_ E/W  
(if applicable)

Lot \_\_\_\_\_, 1/4 \_\_\_\_\_ 1/4 \_\_\_\_\_ 1/4, Section \_\_\_\_\_, Township \_\_\_\_\_ N/S, Range \_\_\_\_\_ E/W  
(if applicable)

7. Legal basis for the claim (attach any documents being filed in support of claim): See Schedule A  
attached hereto.

The information contained herein is true and correct to the best of my (our) knowledge.

STATE OF ARIZONA )

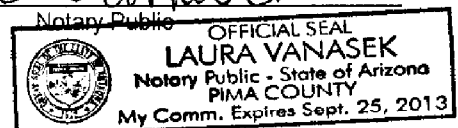
County of Pima )

Michael J. Cavender  
Michael J. Cavender  
Susan S. Cavender  
Susan S. Cavender  
Signature(s)

SUBSCRIBED AND SWORN to before me this 14th day of December, 20 12

My commission expires 9-25-13

Laura Vanasek  
Notary Public



# WORKSHEET TO ASSIST IN DETERMINING QUANTITIES OF USE

Beneficial Uses Include, but are not Limited to, Domestic, Municipal, Recreation, Wildlife, Including Fish, Agricultural, Mining, Stockwatering, and Power Purposes

Statement of Claim No. 36-105623  
(for office use only)

This worksheet and the Standard Water Use Quantities guide are provided as a means to help you calculate water use. Complete only those sections that apply to your use(s). Enter each total from this worksheet in section #3 of the Statement of Claim.

## DOMESTIC

# of people using water	X Standard quantity	= Amount & measure
4	720 GPD	See explanation
Total annual amount for domestic		0.44 AFA

Domestic uses are used 200 days per year, equalling 144,000 GPA. 144,000 GPA = 0.44 AFA.

## STOCKWATERING

# & type of head	X Standard quantity per head per day	X Number of days per year water is used	= Amount & measure
30 - 50	12 GPD	365	131,400 - 219,000 GPA
			GPA
Total annual amount for stockwatering			GPA

## WILDLIFE

# & type of head	X Standard quantity per head per day	X Number of days per year water is used	= Amount & measure
Various indigenous species, est'd @ 20	0.5 GPD	365	3650 GPA
			GPA
Total annual amount for wildlife			GPA

FEB 28 2013

03/21/2013

**SCHEDULE A**  
**Statement of Claim to Use Public Water**  
**Michael J. and Susan S. Cavender**

Item 3 -- Types of Water Uses

The property was settled in the early 1900s, as discussed in Item 4 below. Stockwatering can occur directly at Aravaipa Creek or at two ponds located in the SW SE NE Section 17 T7S R20E. These ponds are so close together that they might be considered one pond. They were natural depressions formed by water draining from various canyons and seeps on the property, which eventually drained into Aravaipa Creek. These ponds were used, along with the creek when water was available in it, for stockwatering by the original homesteaders.

During floods, these natural depressions and other drainage would wash out the farmland and also wash out Klondyke Road, which provides access to the property. In the 1950s, Claimants' predecessors worked on the ponds to help control the flooding problem, building berms. By the late 1980s, the U.S. Army Corps of Engineers performed some work in the area to help stabilize Klondyke Road and to prevent the damaging flooding by Aravaipa Creek and the washes and seeps that flowed into the creek.

The ponds were later improved by Claimants in the 1990s to regulate irrigation on their property. The ponds are capable of storing 0.35 acre-feet each, or 0.70 acre-feet in total. These small ponds are close together and might be considered one pond. In addition to the regulatory irrigation purposes, livestock and wildlife may drink from the ponds. Their primary purpose, however, is for flood control and irrigation regulation.

Domestic uses from surface water sources stem back to the original homesteaders. An old adobe house remains in the NE SE NW Section 21, T7S R20E and is considered to be the oldest house in the area. A hand-dug well is located at this adobe house, which had to be repaired in the 1950s because it silted in (the 1950s improved version was registered under 55-645605). To the best of Claimants' information, knowledge and belief, the original homesteaders obtained their water directly from the surface and from shallow wells which they were able to dig by hand, such as the one at the adobe house.

Item 4 -- Claimed Priority Date

The claim is based on continuous, historic beneficial use since the time that the land described herein was settled.

The following parcels received homestead patents on the dates indicated below (homestead patents are attached as Exhibit 1). With respect to a priority date, the priority would be at least five (5) years before the date of each homestead patent. This is because anyone wishing to homestead property had to reside upon and cultivate the land for a period of five (5) years prior to applying for a patent.

Legal Description	Number of Acres	Homesteader	Date of Patent	Priority Date
NE Section 20 T7S R20E	160	Henry D. Parker	February 18, 1915	February 18, 1910
NW Section 21 T7S R20E	160	Connie C. Hayes	June 23, 1914	June 23, 1909
SE Section 17 T7S R20E	160	David A. Upchurch	June 12, 1913	June 12, 1908
SW Section 17 T7S R20E	160	James T. Sanford	March 3, 1921	March 3, 1917
NE Section 17 T7S R20E	160	William A. Ferguson	October 24, 1914	October 24, 1909
NW Section 17 T7S R20E	160	Jesus W. Gienfuegos	October 2, 1911	October 2, 1906

Portions of a publication titled "Brands and Marks of Cattle, Horses, Sheep, Goats and Hogs as They Appear of Record in the Office of the Live Stock Sanitary Board of Arizona," are attached as Exhibit 2 for informational purposes to verify the historic stockwatering uses herein.

Attached as Exhibit 3 is a copy of the tax assessor's paperwork on the adobe house that is located on the property. The tax assessor believed that the house was constructed in 1916.

Item 6, Points of Diversion

Item 8, Means of Diversion

Item 9, Means of Conveyance

Stockwatering from Aravaipa Creek can take place directly at the creek, when it has water in it, which is shown on the map attached as Exhibit 4, but more typically occurs at the regulatory irrigation ponds that are also shown on Exhibit 4 and at drinkers located throughout the property.

To the extent that stockwatering, domestic and wildlife uses of surface water are provided by wells, the following points of diversion apply:

Well No. 1 55-613295	D(7-20) 21 BDB	NW SE NW Section 21 T7S R20E
Well No. 2 55-613296	D(7-20) 21 BDA	NE SE NW Section 21 T7S R20E
Well No. 3 55-613297	D(7-20) 21 BBC	SW NW NW Section 21 T7S R20E
Adobe House 55-645605	D(7-20) 21 BDA	NE SE NW Section 21 T7S R20E
Domestic 55-578417	D(7-20) 21 BDA	NE SE NW Section 21 T7S R20E
Domestic 55-553455	D(7-20) 20 AAA	NE NE NE Section 20 T7S R20E

Claimants are referring to the wells as potential points of diversion as a precaution in the event that the wells are found to be pumping subflow. However, Claimants are not stating or admitting that the wells listed herein do in fact pump subflow or appropriable surface water.

FILED 3.2.20

### Attachments

- Exhibit 1      Copies of homestead patents
- Exhibit 2      “Brands and Marks of Cattle, Horses, Sheep, Goats and Hogs as  
They Appear of Record in the Office of the Live Stock Sanitary Board of Arizona
- Exhibit 3      Tax assessor’s record on the adobe house
- Exhibit 4      Map showing the location of Aravaipa Creek and the regulatory ponds
- Exhibit 5      Copies of deeds to Claimants, showing ownership and interest in the property

EX-9-203

EXHIBIT 1  
Homestead Patents

FILED 2013

# 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

Henry D. Parker

has been established and duly consummated, in conformity to law, for the northeast quarter of Section twenty in Township seven south of Range twenty 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,

Woodrow Wilson

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 EIGHTEENTH

(SEAL)

day of FEBRUARY in the year of our Lord one thousand

nine hundred and FIFTEEN and of the Independence of the

United States the one hundred and THIRTY-NINTH.

By the President:

By

*Woodrow Wilson*  
*M. P. Le Roy* Secretary,  
*L. B. Lamar*  
 Recorder of the General Land Office.

RECORD OF PATENTS: Patent Number

458753

4-107

FEB 21 1915



# 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 **Connie C. Hayes** has been established and duly consummated, in conformity to law, for the **northwest quarter of Section twenty-one in Township seven south of Range twenty 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, **Woodrow Wilson**

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 **TWENTY-THIRD**

(SEAL)

day of **JUNE** in the year of our Lord one thousand nine hundred and **FOURTEEN** and of the Independence of the United States the one hundred and **THIRTY-EIGHTH.**

By the President:

By

*Woodrow Wilson*  
*M. O. Le Roy* Secretary  
*A. B. Lamar* Recorder of the General Land Office

RECORD OF PATENTS: Patent Number **416560**

The north half of the northwest quarter and the southeast quarter of the northwest quarter of Section twenty-one of the land above described are subject to all rights under an application by the Aravaipa Canyon Railroad Company, approved November 9, 1904, under the Act of March 3, 1875, being an application for right of way for Railroad purposes.

# 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 full payment has been made by the claimant

**David A. Upchurch**

according to the provisions of the Act of Congress of April 24, 1920, entitled "An Act making further provision for the sale of the Public Lands," and the acts supplemental thereto, for the southeast quarter of Section seventeen in Township seven south of Range twenty 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 the UNITED STATES OF AMERICA, in consideration of the premises, and in conformity with the several Acts of Congress in such case made and provided, HAS GIVEN AND GRANTED, and by these presents DOES GIVE AND GRANT, unto the said claimant, and to the heirs of the said claimant the Tract above described; TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereto belonging, 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, **Woodrow Wilson**

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 **TWELFTH**

(SEAL)

day of **JUNE** in the year of our Lord one thousand  
nine hundred and **THIRTEEN** and of the Independence of the  
United States the one hundred and **THIRTY-SEVENTH**

By the President:

By

*Woodrow Wilson*  
*M. P. LeRoy* Secretary,  
*H. J. Sanford*  
Recorder of the General Land Office.

RECORD OF PATENTS: Patent Number **340982**

The north half of the southeast quarter and the southeast quarter of the southeast quarter of Section seventeen of the land above described are subject to all rights under an application by the Aravaipa Canyon Railroad Company, approved November 9, 1904, under the Act of March 3, 1875, being an application for a Right of Way.

Phoenix 029876.

**The United States of America,**

Do 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 **James T. Sanford** has been established and duly consummated, in conformity to law, for the southwest quarter of Section seventeen in Township seven south of Range twenty 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 thereto, 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, **Woodrow Wilson**,

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, in the District of Columbia, the **THIRD**

day of **MARCH** in the year of our Lord one thousand nine hundred and **TWENTY-ONE** and of the Independence of the United States the one hundred and **FORTY-FIFTH**.

By the President: *Woodrow Wilson*  
 By: *W. P. Le Roy* Secretary.  
*C. C. Samson*  
 Recorder of the General Land Office.

RECORD OF PATENTS: Patent Number. **798559**

-2-

Phoenix 01756

# 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 **William A. Ferguson** has been established and duly consummated, in conformity to law, for the **northeast quarter of Section seven-**  
**teen in Township seven south of Range twenty 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, **Woodrow Wilson**

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 **TWENTY-FOURTH**

(SEAL)

day of **OCTOBER** In the year of our Lord one thousand

nine hundred and **FOURTEEN** and of the Independence of the

United States the one hundred and **THIRTY-NINTH.**

By the President:

By

Secretary:

RECORD OF PATENTS: Patent Number

**437975**

*John O'Connell*  
Acting

Recorder of the General Land Office.

The southwest quarter of the northeast quarter of the land above described is subject to all rights under an application by the Arapa Canyon Railroad, approved November 9, 1904, under the Act of March 3, 1875, being an application for Right of Way for railroad purposes.

# 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 full payment has been made by the claimant JESUS M. CIENFUEGOS according to the provisions of the Act of Congress of April 24, 1820, entitled "An Act making further provision for the sale of the Public Lands" and the acts supplemental thereto, for the NORTHWEST QUARTER OF SECTION SEVENTEEN IN TOWNSHIP SEVEN SOUTH OF RANGE TWENTY EAST OF THE GILA AND GALT 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 the UNITED STATES OF AMERICA, in consideration of the premises, and in conformity with the several Acts of Congress in such case made and provided, HAS GIVEN AND GRANTED, and by these presents DOES GIVE AND GRANT, unto the said claimant and to the heirs of the said claimant the Tract above described: TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, 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 SECOND

(SEAL)

day of OCTOBER In the year of our Lord one thousand nine hundred and ELEVEN and of the Independence of the United States the one hundred and THIRTY-SIXTH.

By the President:

By

Secretary.

RECORD OF PATENTS: Patent Number

227392

4-10223

Recorder of the General Land Office

## EXHIBIT 2

### Brands & Marks of Cattle, Horses, Sheep

# BRANDS AND MARKS

—OF—

## CATTLE, HORSES, SHEEP GOATS AND HOGS

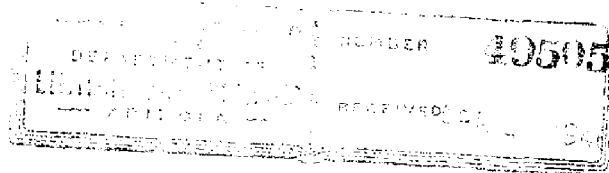
AS THEY APPEAR OF RECORD IN THE OFFICE OF THE  
LIVE STOCK SANITARY BOARD OF ARIZONA  
AT PHOENIX, ARIZONA

The Right to the Use of the Brands and Marks herein  
described is not lawful and the same are not  
lawful evidence of ownership unless  
the annual brand tax has  
been paid in full

ISSUED BY THE  
LIVE STOCK SANITARY BOARD OF ARIZONA

This Volume Includes  
All Brands and Marks Recorded to  
JULY 13, 1908

PRESS OF THE MCNEIL CO. PHOENIX



## INTRODUCTION

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This volume contains all brands recorded in the Territorial Brand Book of Arizona from No. 1, which was recorded on April 28, 1897, to No. 11,566, which was recorded July 13, 1908. The owner's name here given is that shown by the record, or by such instruments of conveyance as have been from time to time recorded in this office. It does not follow that because a brand is shown herein to be recorded in the name of a certain person, that such brand is a lawful brand and is the property of such person; because there might be instruments of conveyance not yet recorded which would accomplish a change of ownership, and also the legal right to the use of the brand may be impaired by neglect to pay the annual license fee or brand tax. But in order to render the greatest aid to stockmen and inspectors, we have herein published all brands ever recorded in this office regardless of whether the right to use of same still continues to be valid or not.

There will also be found in this book a number of valuable articles on subjects of peculiar interest to stock growers, notably a brief discussion of certain well known contagious diseases of live stock, some of which are alike fatal to the human family. The sanitary articles are carefully prepared by our Territorial Veterinarian, Dr. J. C. Norton, and not intended for the enlightenment of experts, but avoiding disputed theories are expressed as far as possible in terms that all laymen can understand. If all can learn and realize that practically all contagious diseases are due to the presence of some vegetable or animal parasite, which can not originate spontaneously, then it will be clear that with the intelligent united effort of all classes directed by wise regulations, it will be only a short time until contagion can be eradicated, the introduction of new infection entirely prevented, and loss of life from contagious disease reduced to a minimum.

LIVE STOCK SANITARY BOARD,

By George Pusch, Chairman.

J. D. CARTER, Secretary.



## STOCK GROWING AND AGRICULTURE.

The relationship between stock raising and agriculture is intimate. The farmer achieves best success who combines stock growing with his farming. The stock grower achieves best success who combines agriculture with his stock growing. Agriculture brings to the stock grower better feed, which means better beef, and teaches him the values of well bred cattle. It means reserve feed with which to "finish" his own feeders, or to keep his stock in good breeding condition when the range feed fails. Every range man should endeavor to acquire some agricultural land for his headquarters ranch, and maintain substantial enclosures, within which he should seek to improve the productiveness of the land by cultivation, and by seeding same to such grasses and grains as seem best adapted to his land and climatic conditions. He should raise his own hay and grain and plenty of it. He should try to have fruit trees, vines, berries, a garden, and make his cattle ranch a home which will have some attractiveness for his wife and family, and in which they may feel pride and contentment. He should help to develop the country, teach his boys and girls to work, and to know something more than riding a bucking bronco, throwing a rope and branding a calf. His chief pride should be in the development of an attractive home and in an intelligent, industrious and contented family. Good, intelligent and attractive women do not care to live surrounded by nothing but sage brush, miles and miles from anything that may please the eye or gratify the sense of home comfort. It is not altogether the element of pecuniary profit. There are other senses to be gratified than that of mere money getting. There is no amount of money which compensates an intelligent person for spending the best part of a life in barren, desolate or unpleasant surroundings. Build a decent house and keep it painted and in good repair. Plant shade trees. Dig or bore a good well, and raise enough water to the surface, so that you may produce your

own fruit and vegetables. Produce your own milk, butter and eggs. Plow up your pasture and seed it to drouth-resisting grains and grasses. Do not permit yourself to become shiftless, nor your home to look like a last year's bird-nest. Set a good example for your children and your neighbors, and encourage them to follow it.

# BRANDS AND MARKS

ZE		C—Left ribs H—Left thigh. W. Appleby, W. S. Appleby and J. F. Appleby, 7915 Tempe, Arizona
ZL		C—Right hip H—Right thigh John Northcutt, 9055 Phoenix, Arizona
Z/E		C—Left ribs H—Left hip. Jessie Wiltbank, 10395 Eagar, Arizona
ZE <sup>a</sup>		C—Left ribs to hip Dennis Ellison, 5931 Young, Arizona
ZF		C—Left ribs H—Left thigh Ernest Wilkins, 10317 Nutrioso, Arizona
ZH		C—Left ribs H—Left thigh. Whitehead & Hancock, 6147 San Simon, Arizona
ZI		H—Left thigh. J. R. Wallace & J. A. Johnson, 7342 Flagstaff, Arizona
SH		C—Left hip H—Left thigh. M. M. and Eugene Jackson, 6480 Altamont, Arizona
ZH		C—Left ribs to hip J. R. Wallace & J. A. Johnson, 7342 Flagstaff, Arizona
Z-H		C—Left shoulder to ribs to hip. H—Left thigh Zoe Hayes, 9197 Globe, Arizona
ZI		C—Left hip H—Left thigh. Mrs L. M. Harris, 10509 Hackberry, Arizona
Z/I		C—Left ribs R. H. Samuel, 5758 Young, Arizona
ZIL		C—Left ribs H—Left thigh Mrs Lizzie Dees, 8092 Pearce, Arizona
ZIP		C—Left hip H—Left shoulder R. A. Turner, 6859 Turner, Arizona
ZJ		C—Left hip H—Left thigh Ramon Alegria, 9892 Nogales, Arizona
ZJ		C—Right hip H—Right thigh J. T. Vance, 10268 Mesa, Arizona
ZK		C—Both hips H—Left thigh. John Kellner & Ramon Zepeda, 3311 Arivaca, Arizona
ZK		C—Left hip H—Left thigh H. B. Langers, 10560 Oracle, Arizona
ZK		C—Left hip H—Left thigh N. W. and C. E. Chilson, 7024 Payson, Arizona
ZL		C—Left hip H—Left thigh G. B. Davis, 10572 Hackberry, Arizona
1-162		
Z/L		C—Left hip H—Left thigh J. R. Spain, 5734 Buckeye, Arizona
Z/L		C—Left shoulder H—Left shoulder. Haish & Culbertson, 10412 Lordsburg New Mexico
Z-L		C—Left shoulder to ribs to hip H—Left shoulder Haish & Culbertson, 10977 Lordsburg New Mexico
ZM		C—Left ribs H—Left thigh. W. R. and F. D. Blackmer, 7243 Buckeye Arizona
ZM		H—Left thigh. I. G. Gibson, 6466 Payson, Arizona
ZM		C—Left ribs to hip I. G. Gibson, 6466 Payson, Arizona
Z/N		C—Left ribs H—Left thigh J. M. Sanders, 10482 Concho, Arizona
Z/N		C—Left ribs P. B. Crane, 6931 Fairbank, Arizona
ZO		C—Left ribs H—Left thigh. Paschall Slaughter, 9054 Springerville, Arizona
Z-O		C—Right ribs H—Right thigh Martin Sulzberger, 9055 Springerville, Arizona
ZON		C—Left ribs H—Left thigh V. R. McCuen, 8766 Ft. Thomas, Arizona
ZP		C—Left ribs H—Left thigh Ruby Baker, 10030 Gleason, Arizona
ZP		C—Left ribs Selvero Peraza, 7260 Cittenden, Arizona
Z/P		C—Left ribs H—Left thigh D. P. Pugh, 7326 Cittenden, Arizona
Z-P		C—Left ribs H—Left thigh H. D. Parker, 7892 Aravaipa, Arizona
ZQ		C—Right ribs H—Right thigh Helena Naegle, 10850 Concho, Arizona
ZR		C—Left ribs H—Left shoulder. Riley Casner, 9327 Camp Verde, Arizona
ZS		C—Left ribs H—Left shoulder Z. T. Stone, 359 Prescott, Arizona
ZT		C—Left hip H—Left thigh Mrs Mary Allenbaugh, 10065 Holbrook, Arizona
ZT		C—Left ribs R. H. Samuel, 9303 Young, Arizona
2-162		

T0		C-Left ribs H-Left thigh 7801 Clay and Clarence Cornwall, Owens, Arizona
T0		H-Left shoulder 6057 Thomas Ortiz, Flagstaff, Arizona
T0		C-Left ribs H-Left hip 9053 Joel Slaughter, Springerville, Arizona
T0		C-Left thigh H-Left thigh 10,877 Mrs M E Spink, Nogales, Arizona
T0		C-Left ribs H-Left thigh 11,009 Toribio Ochoba, Ash Fork, Arizona
T-O		C-Left shoulder to ribs to hip H-Left thigh 8281 Robert Van Winkle, Dos Cabezas, Arizona
TOD		C-Left ribs 3706 G W Todd, Willcox, Arizona
T		C-Left hip 6021 Fred Venator, Kymo, Arizona
TOL		C-Left shoulder to ribs to hip H-Left hip 9765 J E Cosper & Sons, Duncan, Arizona
TOM		C-Left ribs 1556 T J Riggs, Feviston, Arizona
T00		C-Left ribs H-Left thigh 4653 Asa Walker, Dragoon, Arizona
TOP		C-Left shoulder to ribs to hip H-Left thigh 8168 J R Lee, Nutrioso, Arizona
LO		H-Left hip 8979 J T Wakefield, Navajo, Arizona
LO		C-Left ribs to right shoulder 8979 J T Wakefield, Navajo, Arizona
TOY		C-Left ribs 9089 Callie Slaughter, Springerville, Arizona
P		C-Left hip H-Left thigh 10,392 Mrs A E Rodgers, Canille, Arizona
TP		C-Right hip H-Right thigh 9094 Tibulio Padillo, Cedar, Arizona
TP		C-Left hip H-Left thigh 4887 C E Tucker, Columbia, Arizona
T/P		C-Left ribs H-Left thigh 5724 Albert Benedict, Nogales, Arizona
T-P		C-Right ribs H-Right hip 10,714 Thorwald Peterson, Pinedale, Arizona
T		C-Left hip 66 Teodora Bega, Avicaca, Arizona
R		C-Both hips 4342 Thomas Richards, Ft Grant, Arizona
TR		C-Left hip H-Left thigh 10,900 Emil Huter, Mesa, Arizona
Tα		C-Left hip H-Left thigh 8592 H H Taylor, Mesa, Arizona
T/R		C-Left hip H-Left thigh 5763 Concepcion Armenta, Yuma, Arizona
T/R		C-Left hip H-Left thigh 7895 James Chappell, Mohawk, Arizona
I/R		C-Right hip 7861 Lupe Randell, Florence, Arizona
T S		C-Left ribs H-Left thigh 10,227 W J Davidson, Camp Verde, Arizona
S		C-Left hip H-Left thigh 1141 James McPherson, Florence, Arizona
J		C-Left hip H-Left thigh 4567 Perrin & Cheape, Williams, Arizona
J		C-Left ribs and left hip H-Left shoulder 11,223 Tobe Riley, Duncan, Arizona
J		C-Left hip 6022 W D Webb, Seligman, Arizona
J		C-Left hip 4398 Elizabeth Bissig, Payson, Arizona
J		H-Left thigh 3746 Bonacher Bros., Payson, Arizona
LS		C-Left hip H-Left thigh 1603 J H Simpson, Sr., Phoenix, Arizona
TS		C-Left hip H-Left thigh 8950 Thomas Smith, Williams, Arizona
Tα		C-Left ribs H-Left thigh 9677 J T Sanford, Aravaipa, Arizona
T/S		C-Right ribs H-Right thigh 8760 Teofilo Sena, Concho, Arizona
T/S		C-Left hip H-Left thigh 7331 Tomas Selaya, Yuma, Arizona
T-S		C-Left ribs H-Left shoulder 10,899 T A Stafford, Dos Cabezas, Arizona

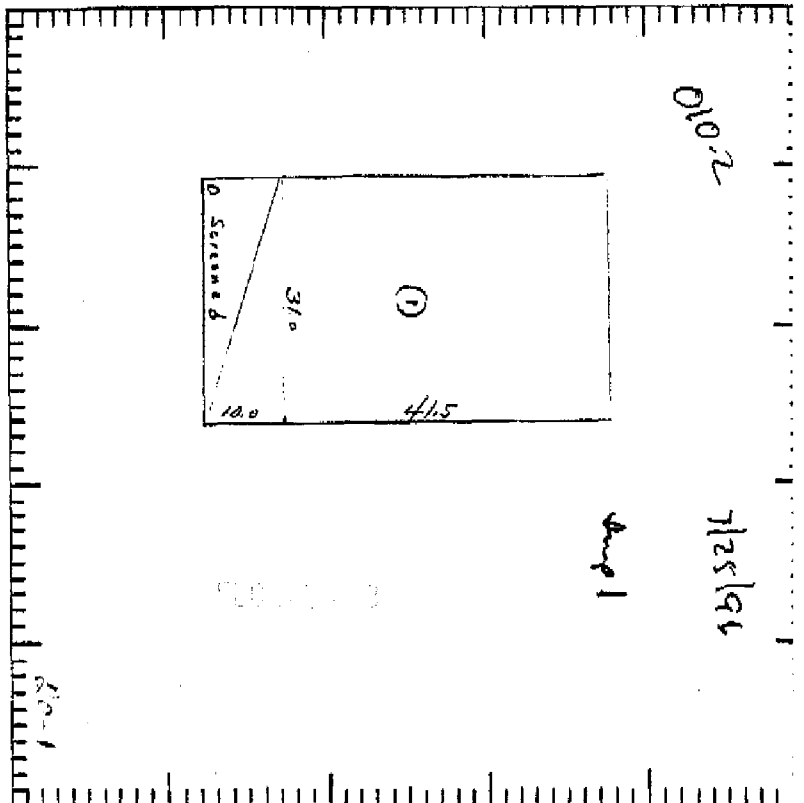
## EXHIBIT 3

### Tax Assessor's Record on the Adobe House

Ship	Tonn	Disch./Mn	Mrs	Scale	Amount
1916	413	1084-1287	4.43	11/11	2859
	1341	510			1373
		310			

1916

10153

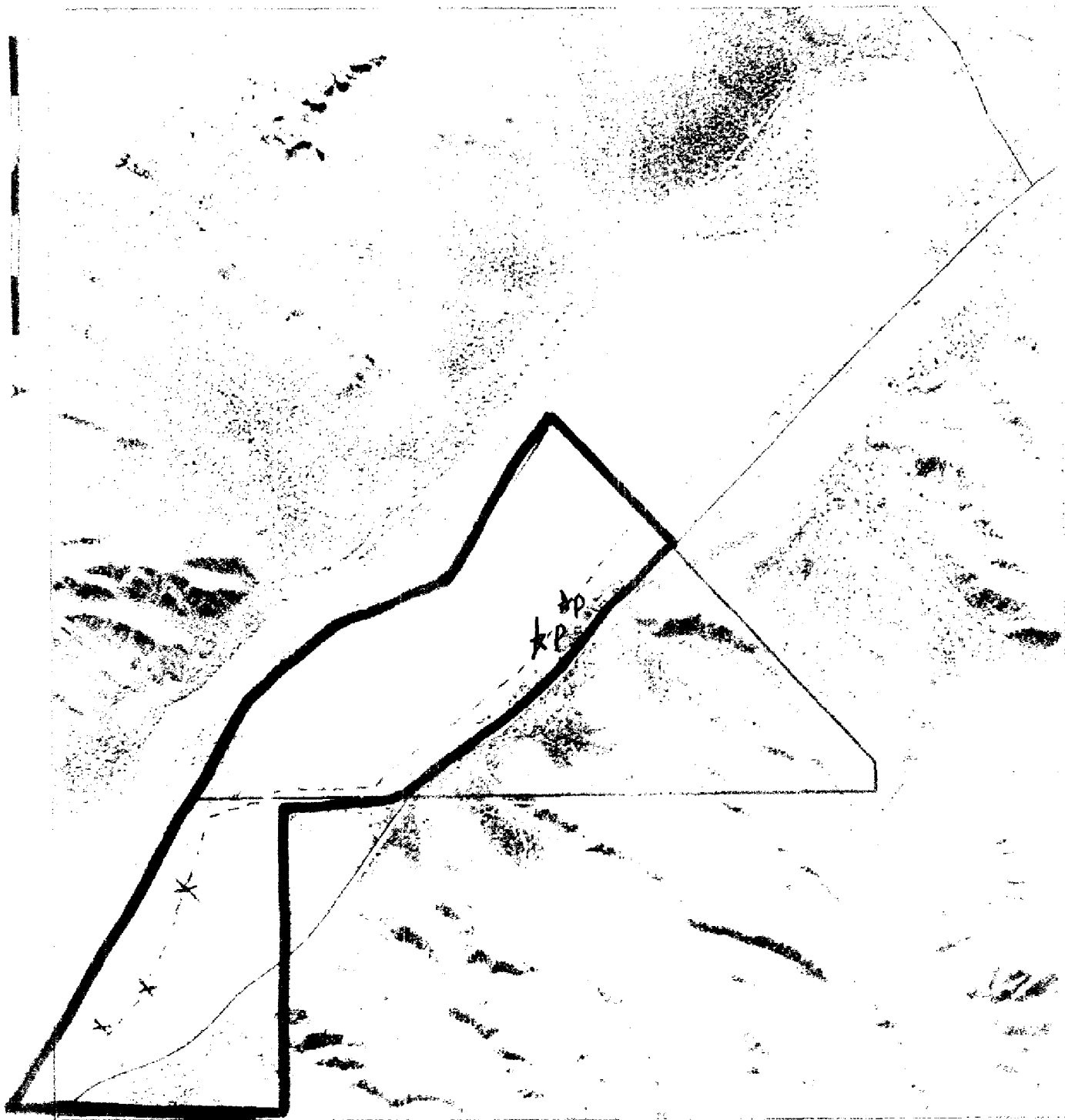
[illegible]

[illegible]



## EXHIBIT 4

Map showing the location of Aravaipa Creek  
and the regulatory ponds



\* P = POND LOCATION

## EXHIBIT 5

Deeds showing Claimants' interest in the property.

Received at the request of

When recorded, read to

**MICHAEL J. CAVERMAN**  
1922 W. DeWittland Way  
Tucson, AZ 85737

**Joint Tenancy Declaration**

In the presence of me, the undersigned, **MICHAEL J. CAVERMAN**, an Arizona corporation, and **BARBARA INDUSTRIES, INC.**, an Arizona corporation, have executed this instrument.

Subscribed and sworn to before me on this **19th** day of **August**, 1998, by **MICHAEL J. CAVERMAN** and **BARBARA INDUSTRIES, INC.**, who are joint tenants with right of survivorship.

Not a public or common law, but a private law, and the same is not subject to the provisions of the Uniform Gifts to Minors Act (UGMA) or the Uniform Transfers to Minors Act (UTMA).

SEE ATTACHED COPY OF LEGAL DESCRIPTION

Notarized as correct facts and statements of the parties and all essential facts of the instrument, and the same is not subject to the provisions of the Uniform Gifts to Minors Act (UGMA) or the Uniform Transfers to Minors Act (UTMA).

The parties by signing and accepting before me have acknowledged to me the contents of this instrument and the nature of the same, and the same is not subject to the provisions of the Uniform Gifts to Minors Act (UGMA) or the Uniform Transfers to Minors Act (UTMA).

Dated this **19th** day of **August**, 1998.

Accepted and approved:

*Michael J. Cavanaugh*  
**MICHAEL J. CAVERMAN**

*Barbara Industries, Inc.*  
**BARBARA INDUSTRIES, INC.**

STATE OF ARIZONA  
County of Maricopa

This instrument was acknowledged before me by **MICHAEL J. CAVERMAN** and **BARBARA INDUSTRIES, INC.**

My commission expires **1999**

STATE OF ARIZONA  
County of Maricopa

This instrument was acknowledged before me by **MICHAEL J. CAVERMAN** and **BARBARA INDUSTRIES, INC.**

My commission expires **1999**

My Commission Expires Aug 31, 1999

5024592

# EXHIBIT LEGAL DESCRIPTION ORIGINAL DOCUMENT

That part of Sections 20 and 21, Township 7 South, Range 20 West, Meridian 1, Graham County, Arizona, is more fully described as follows:

BEGINNING at the Northwest corner of said Section 21;  
thence North 89 deg. 15' 00" East a distance of 1345.93 feet to a fence line;  
thence South 89 deg. 15' 00" East, along said fence line, a distance of 1345.93 feet;  
thence South 41 deg. 41' 16" East a distance of 602.90 feet;  
thence South 31 deg. 19' 33" East a distance of 428.14 feet;  
thence South 60 deg. 43' 20" East a distance of 367.11 feet;  
thence South 19 deg. 09' 56" East a distance of 240.16 feet;  
thence South 18 deg. 09' 56" East a distance of 206.11 feet;  
thence South 83 deg. 40' 20" West a distance of 228.60 feet;  
thence North 65 deg. 55' 11" West a distance of 22.46 feet;  
thence North 73 deg. 59' 55" West a distance of 40.78 feet;  
thence North 76 deg. 54' 27" West a distance of 402.69 feet;  
thence North 67 deg. 36' 59" West a distance of 1897.48 feet;  
thence North 53 deg. 36' 59" West a distance of 483.85 feet;  
thence North 71 deg. 21' 10" West a distance of 864.77 feet;  
thence North 49 deg. 05' 55" West a distance of 645.91 feet;  
thence North 21 deg. 18' 28" West a distance of 369.10 feet;  
thence North 21 deg. 05' 04" West a distance of 832.36 feet;  
thence North 52 deg. 31' 09" West a distance of 268.24 feet;  
thence North 84 deg. 00' 11" West a distance of 612.85 feet;  
thence South 62 deg. 30' 00" East a distance of 6.15 feet;  
thence North 85 deg. 19' 12" West a distance of 918.62 feet;  
thence North 46 deg. 13' 30" East a distance of 1525.10 feet;  
thence North 45 deg. 13' 30" East a distance of 764.08 feet;  
thence South 81 deg. 43' 10" East a distance of 200.67 feet;  
thence South 66 deg. 43' 10" East a distance of 15.61 feet;  
thence South 55 deg. 13' 13" East a distance of 431.34 feet;  
thence South 42 deg. 11' 15" East a distance of 733.00 feet;  
thence South 30 deg. 31' 15" East a distance of 671.13 feet;  
thence South 44 deg. 21' 15" East a distance of 499.75 feet;  
thence North 00 deg. 03' 00" West a distance of 1059.81 feet to the POINT OF BEGINNING.

000150241593

STEWART TITLE  
GUARANTY COMPANY

400

**CLERK OF THE COUNTY**

RECORDED 04/20/83 11:32 AM 552 803

TAMMISSEY Title Agency  
552 8033 TRS

WHEN RECEIVED, MAIL  
Mr. and Mrs. Michael J. Cavender  
1921 W. Dehavenland Way  
Tucson, AZ 85717

542148  
110-45-007A, part.

**WARRANT DEED  
COMMUNITY ESTATE WITH RIGHT OF SURVIVORSHIP**

KNOW ALL MEN BY THESE PRESENTS:  
KATRAS INDUSTRIES, INC., an Arizona Corporation,  
For the consideration of Ten and No/100 Dollars, and other valuable  
considerations, the Grantor herein, does hereby convey and

**MICHAEL J. CAVENDER and SUSAN S. CAVENDER, his wife** the Grantee

not as tenants in common but as a community property estate with right  
of survivorship, the following described real property situate in Graham  
County, Arizona:

SEE ATTACHED EXHIBIT FOR REFERENCE MADE A PART HEREOF

SUBJECT TO: Existing taxes, assessments, liens, encumbrances,  
covenants, conditions, restrictions, rights of way and easements of  
record.

And the Grantee warrant title against all persons whomsoever,  
subject to the matters above set forth.

THE GRANTEE affirms that they are married to each other and by signing  
below, evidence their intention to acquire the premises as a community  
property estate with right of survivorship.

Dated this \_\_\_\_ day of \_\_\_\_, 1983.

ACCEPTED AND APPROVED:  
*Michael J. Cavender*  
Michael J. Cavender  
*Susan S. Cavender*  
Susan S. Cavender

KATRAS INDUSTRIES, INC.  
*[Signature]*  
Vice President

552 803

**OFFICIAL NOTICE**

STATE OF ARIZONA  
COUNTY OF GRAHAM

On this, the 20th day of April, 1998, before me, Marilyn Welker, a Notary Public, personally appeared Michael S. Cavender, who acknowledged himself to be the President of Kalbar Industries, Inc., a corporation, and acknowledged that he, as such officer, was authorized so to do, executing the foregoing instrument for the purposes therein contained by signing the name of the corporation, himself, as such officer.

My commission expires: 12/31/00

STATE OF ARIZONA  
COUNTY OF Yavapai

This instrument was acknowledged before me this 20th day of April, 1998, by Michael S. Cavender and Susan S. Cavender, husband and wife.

My commission expires: 12/31/00

NOTARY PUBLIC  
MARILYN WELKER  
COUNTY OF GRAHAM  
ARIZONA  
My Comm. Expires 12/31/00

NOTARY PUBLIC  
MARILYN WELKER  
COUNTY OF GRAHAM  
ARIZONA  
My Comm. Expires 12/31/00

BOOK 552 - 804

# ALTA

## AMENDED EXHIBIT A

LEGAL DESCRIPTION

FILE NO: 980148

That part of the Northwest Quarter of Section 21, Township 30 North, Range 10 East of the Gila and Salt River Basins and Meridian, Graham County, Arizona, described as follows:

COMMENCING at the Northwest corner of said Section 21;  
 THENCE North 89° 42' 46" East along the North Boundary of said Section 21 and the basis for bearing, a distance of 1343.93 feet to the POINT OF BEGINNING;  
 THENCE North 89° 42' 46" East a distance of 1306.59 feet to the Northwest corner of said Section 21;  
 THENCE South 00° 23' 01" East along the North-South Boundary of said Section 21, a distance of 2182.53 feet;  
 THENCE North 41° 09' 56" East a distance of 545.82 feet;  
 THENCE North 18° 09' 56" West a distance of 206.11 feet;  
 THENCE North 19° 21' 25" West a distance of 240.16 feet;  
 THENCE North 60° 43' 20" East a distance of 262.33 feet;  
 THENCE North 31° 19' 33" West a distance of 428.14 feet;  
 THENCE North 43° 41' 16" West a distance of 602.40 feet;  
 THENCE North 38° 41' 16" West a distance of 583.56 feet to the POINT OF BEGINNING.

SUBJECT TO the following conditions and reservations retained by the Grantors herein.

1. Grantor may terminate the perimeter of the acreage lying North of the County Road prior to April 30, 2008 to allow free movement of livestock across the property.
2. Grantors shall retain an easement across the acreage lying North of the County Road running from the County Road to the lay barn which lies North of the sale property boundary.

*Michael J. [Signature]*  
*James [Signature]*

REC-552 FILE 505



LAW OFFICE OF L. ANTHONY FINES  
145 S. SIXTH AVENUE  
TUCSON, ARIZONA 85701  
TELEPHONE: (520) 547-2890  
FACSIMILE: (520) 882-0617

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FACSIMILE TRANSMITTAL SHEET

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TO:	Barbara Norton	FROM:	L. Anthony Fines
COMPANY:	ADWR	DATE:	3/7/13
FAX NUMBER:	602-771-8689	TOTAL NO. OF PAGES INCLUDING COVER:	6
PHONE NUMBER:	602-771-8618	SENDER'S REFERENCE NUMBER:	Cavender
RE:	Michael and Susan Cavender	YOUR REFERENCE NUMBER:	

---

☒ URGENT    ☐ FOR REVIEW    ☐ PLEASE COMMENT    ☒ PLEASE REPLY    ☐ PLEASE RECYCLE

---

NOTES/COMMENTS:

Barbara,

Per your request, attached is a revised Schedule A to the Statement of Claim of Right to Use Public Waters in the State of Arizona regarding Michael and Susan Cavender.

Should you have any questions, please contact our office.

L. Anthony Fines

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS ATTORNEY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU.

---

**SCHEDULE A**  
**Statement of Claim to Use Public Water**  
**Michael J. and Susan S. Cavender**

**Item 3 - Types of Water Uses**

The property was settled in the early 1900s, as discussed in Item 4 below. Stockwatering can occur directly at Aravaipa Creek or at two ponds located in the NE SW Section 17 T7S R20E. These ponds are so close together that they might be considered one pond. They were natural depressions formed by water draining from various canyons and seeps on the property, which eventually drained into Aravaipa Creek. These ponds were used, along with the creek when water was available in it, for stockwatering by the original homesteaders.

During floods, these natural depressions and other drainage would wash out the farmland and also wash out Klondyke Road, which provides access to the property. In the 1950s, Claimants' predecessors worked on the ponds to help control the flooding problem, building berms. By the late 1980s, the U.S. Army Corps of Engineers performed some work in the area to help stabilize Klondyke Road and to prevent the damaging flooding by Aravaipa Creek and the washes and seeps that flowed into the creek.

The ponds were later improved by Claimants in the 1990s to regulate irrigation on their property. The ponds are capable of storing 0.35 acre-feet each, or 0.70 acre-feet in total. These small ponds are close together and might be considered one pond. In addition to the regulatory irrigation purposes, livestock and wildlife may drink from the ponds. Their primary purpose, however, is for flood control and irrigation regulation.

Domestic uses from surface water sources stem back to the original homesteaders. An old adobe house remains in the NE SE NW Section 21, T7S R20E and is considered to be the oldest house in the area. A hand-dug well is located at this adobe house, which had to be repaired in the 1950s because it silted in (the 1950s improved version was registered under 55-645605). To the best of Claimants' information, knowledge and belief, the original homesteaders obtained their water directly from the surface and from shallow wells, which they were able to dig by hand, such as the one at the adobe house.

**Item 4 - Claimed Priority Date**

The claim is based on continuous, historic beneficial use since the time that the land described herein was settled.

The following parcels received homestead patents on the dates indicated below (homestead patents are attached as Exhibit 1). With respect to a priority date, the priority would be at least five years before the date of each homestead patent. This is because anyone wishing to homestead property had to reside upon and cultivate the land for a period of five years prior to applying for a patent.

Legal Description	Number of Acres	Homesteader	Date of Patent	Priority Date
NE Section 20 T7S R20E	160	Henry D. Parker	February 18, 1915	February 18, 1910
NW Section 21 T7S R20E	160	Connie C. Hayes	June 23, 1914	June 23, 1909
SE Section 17 T7S R20E	160	David A. Upchurch	June 12, 1913	June 12, 1908
SW Section 17 T7S R20E	160	James T. Sanford	March 3, 1921	March 3, 1917
NE Section 17 T7S R20E	160	William A. Ferguson	October 24, 1914	October 24, 1909
NW Section 17 T7S R20E	160	Jesus W. Gienfuegos	October 2, 1911	October 2, 1906

Portions of a publication titled "Brands and Marks of Cattle, Horses, Sheep, Goats and Hogs as They Appear of Record in the Office of the Live Stock Sanitary Board of Arizona," are attached as Exhibit 2 for informational purposes to verify the historic stockwatering uses herein.

Attached as Exhibit 3 is a copy of the tax assessor's paperwork on the adobe house that is located on the property. The tax assessor believed that the house was constructed in 1916.

Item 5 - Location of Points of Diversion.

*Generally:*

Section 17, Township 7S, Range 20E:

SE¼ of the NW¼  
NE¼ of the SW¼  
SW¼ of the SE¼.

Section 21, Township 7S, Range 20E:

NW¼ of the NW¼  
NE¼ of the NW¼  
SW¼ of the NW¼  
SE¼ of the NW¼.

*Specifically:*

**STOCKWATERING/WILDLIFE/REGULATORY IRRIGATION STORAGE POINTS OF DIVERSION:** The two ponds located in the NE¼ of the SW¼, Section 17, T7S, R20E, and as shown on the map attached as Exhibit 4.

**STOCKWATERING POINTS OF DIVERSION:** Stockwatering from Aravaipa Creek can take (and has taken) place directly at the creek, when it has water in it, which is shown on the map attached as Exhibit 4 (but more typically occurs at the regulatory irrigation ponds that are also shown on Exhibit 4 and at drinkers located throughout the property).

**DOMESTIC/STOCKWATERING/WILDLIFE POINTS OF DIVERSION:** To the extent that stockwatering, domestic and wildlife uses of surface water are provided by wells, the following points of diversion apply:

Well No. 1 55-613295	D(7-20) 21 BDB	NW¼ of the SE¼ of the NW¼, Sec 21 T7S R20E
Well No. 2 55-613296	D(7-20) 21 BDA	NE¼ of the SE¼ of the NW¼, Sec 21 T7S R20E
Well No. 3 55-613297	D(7-20) 21 BBC	SW¼ of the NW¼ of the NW¼, Sec 21 T7S R20E
Adobe House 55-645605	D(7-20) 21 BDA	NE¼ of the SE¼ of the NW¼, Sec 21 T7S R20E
Domestic 55-578417	D(7-20) 21 BDA	NE¼ of the SE¼ of the NW¼, Sec 21 T7S R20E
Domestic 55-553455	D(7-20) 20 AAA	NE¼ of the NE¼ of the NE¼, Sec 20 T7S R20E

Claimants are referring to the wells as potential points of diversion as a precaution in the event that the wells are found to be pumping subflow. However, Claimants are not stating or admitting that the wells listed herein do in fact pump subflow or appropriable surface water. To the best of Claimants' knowledge, the well described as the Adobe House Well has been used before the year 1919 and to the extent it pumps subflow, has a priority date of June 23, 1909.

#### Item 6 - Location of Places of Water Use.

##### *Generally:*

##### Section 17, Township 7S, Range 20E:

SW¼ of the NE¼  
SE¼ of the NW¼  
NE¼ of the SW¼  
SW¼ of the SE¼  
SE¼ of the SE¼  
NE¼ of the SE¼  
NW¼ of the SE¼.

##### Section 21, Township 7S, Range 20E:

NW¼ of the NW¼  
NE¼ of the NW¼  
SW¼ of the NW¼  
SE¼ of the NW¼.

##### *Specifically:*

See map attached as Exhibit 4.

**STOCKWATERING USES:** Stockwatering from Aravaipa Creek can take (and has taken) place directly at the creek, when it has water in it, which is shown on the map attached as Exhibit 4, but more typically occurs at the regulatory irrigation ponds that are also shown on Exhibit 4 (NE¼ of the SW¼, Section 17, T7S, R20E) and at drinkers located throughout the property.

**STOCKWATERING/WILDLIFE USES:** Wildlife uses occur throughout the property described on the map attached as Exhibit 4, but is claimed for the two ponds described above.

Domestic uses occur throughout the property described on the map attached as Exhibit 4 (in the ¼-¼ sections described under "Generally" above), but specifically correspond with the creek and possible (but not probable) subflow pumping at the points of diversion known as Well Nos. 1 through 3, the Adobe House Well, and the two domestic wells described in Item 5 above. To the best of Claimants' knowledge, the well described as the Adobe House Well has been used before the year 1919 and to the extent it pumps subflow, has a priority date of June 23, 1909.

[Also, irrigation can take (and has taken) place in the following ¼-¼ sections:

Section 17, Township 7S, Range 20E:

SW¼ of the NE¼  
SE¼ of the NW¼  
NE¼ of the SW¼  
SW¼ of the SE¼  
SE¼ of the SE¼  
NE¼ of the SE¼  
NW¼ of the SE¼.

Section 21, Township 7S, Range 20E:

NW¼ of the NW¼  
NE¼ of the NW¼.]

A pipeline runs from the wells to the fields as shown on the map attached as Exhibit 4.

Item 7 - Legal Basis for the Claim (and Means of Diversion and Means of Conveyance).

See discussion and information provided under items 3- 6, above and the attachments.

Attachments

- Exhibit 1 Copies of homestead patents
- Exhibit 2 "Brands and Marks of Cattle, Horses, Sheep, Goats and Hogs as They Appear of Record in the Office of the Live Stock Sanitary Board of Arizona
- Exhibit 3 Tax assessor's record on the adobe house
- Exhibit 4 Map showing the location of Aravaipa Creek and the regulatory ponds
- Exhibit 5 Copies of deeds to Claimants, showing ownership and interest in the Property

**LAW OFFICE OF L. ANTHONY FINES**  
**145 S. SIXTH AVENUE**  
**TUCSON, ARIZONA 85701**  
**TELEPHONE: (520) 547-2890**  
**FACSIMILE: (520) 882-0617**

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**FACSIMILE TRANSMITTAL SHEET**

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TO:	Barbara Norton	FROM:	L. Anthony Fines
COMPANY:	ADWR	DATE:	3/14/13
FAX NUMBER:	602-771-8689	TOTAL NO. OF PAGES INCLUDING COVER:	7
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☒ URGENT    ☐ FOR REVIEW    ☐ PLEASE COMMENT    ☒ PLEASE REPLY    ☐ PLEASE RECYCLE

---

NOTES/COMMENTS

Barbara,

Per your request and our conversations, attached is a revised Schedule A and a new Schedule A-1 to the Statement of Claim of Right to Use Public Waters in the State of Arizona regarding Michael and Susan Cavender.

Should you have any questions, please contact our office.

L. Anthony Fines

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**SCHEDULE A**  
**Statement of Claim to Use Public Water**  
**Michael J. and Susan S. Cavender**

**Item 3 - Types of Water Uses**

The property was settled in the early 1900s, as discussed in Item 4 below. Stockwatering can occur directly at Aravaipa Creek or at two ponds located in the NE SW Section 17 T7S R20E. These ponds are so close together that they might be considered one pond. They were natural depressions formed by water draining from various canyons and seeps on the property, which eventually drained into Aravaipa Creek. These ponds were used, along with the creek when water was available in it, for stockwatering by the original homesteaders.

During floods, these natural depressions and other drainage would wash out the farmland and also wash out Klondyke Road, which provides access to the property. In the 1950s, Claimants' predecessors worked on the ponds to help control the flooding problem, building berms. By the late 1980s, the U.S. Army Corps of Engineers performed some work in the area to help stabilize Klondyke Road and to prevent the damaging flooding by Aravaipa Creek and the washes and seeps that flowed into the creek.

The ponds were later improved by Claimants in the 1990s to regulate irrigation on their property. The ponds are capable of storing 0.35 acre-feet each, or 0.70 acre-feet in total. These small ponds are close together and might be considered one pond. In addition to the regulatory irrigation purposes, livestock and wildlife may drink from the ponds. Their primary purpose, however, is for flood control and irrigation regulation.

Domestic uses from surface water sources stem back to the original homesteaders. An old adobe house remains in the NE SE NW Section 21, T7S R20E and is considered to be the oldest house in the area. A hand-dug well is located at this adobe house, which had to be repaired in the 1950s because it silted in (the 1950s improved version was registered under 55-645605). To the best of Claimants' information, knowledge and belief, the original homesteaders obtained their water directly from the surface and from shallow wells, which they were able to dig by hand, such as the one at the adobe house.

**Item 4 - Claimed Priority Date**

The claim is based on continuous, historic beneficial use since the time that the land described herein was settled.

The following parcels received homestead patents on the dates indicated below (homestead patents are attached as Exhibit 1). With respect to a priority date, the priority would be at least five years before the date of each homestead patent. This is because anyone wishing to homestead property had to reside upon and cultivate the land for a period of five years prior to applying for a patent.



Legal Description	Number of Acres	Homesteader	Date of Patent	Priority Date
NE Section 20 T7S R20E	160	Henry D. Parker	February 18, 1915	February 18, 1910
NW Section 21 T7S R20E	160	Connie C. Hayes	June 23, 1914	June 23, 1909
SE Section 17 T7S R20E	160	David A. Upchurch	June 12, 1913	June 12, 1908
SW Section 17 T7S R20E	160	James T. Sanford	March 3, 1921	March 3, 1917
NE Section 17 T7S R20E	160	William A. Ferguson	October 24, 1914	October 24, 1909
NW Section 17 T7S R20E	160	Jesus W. Gienfuegos	October 2, 1911	October 2, 1906

Portions of a publication titled "Brands and Marks of Cattle, Horses, Sheep, Goats and Hogs as They Appear of Record in the Office of the Live Stock Sanitary Board of Arizona," are attached as Exhibit 2 for informational purposes to verify the historic stockwatering uses herein.

Attached as Exhibit 3 is a copy of the tax assessor's paperwork on the adobe house that is located on the property. The tax assessor believed that the house was constructed in 1916.

#### **Item 5 – Location of Points of Diversion**

*Points of Diversion (1/4-1/4 sections):*

##### **Section 17, Township 7S, Range 20E:**

SE¼ of the NW¼  
NE¼ of the SW¼  
SW¼ of the SE¼

##### **Section 21, Township 7S, Range 20E:**

NW¼ of the NW¼  
NE¼ of the NW¼  
SW¼ of the NW¼  
SE¼ of the NW¼

*Schedule A-1, which should be considered part of this Schedule A, contains supplemental information regarding the points of diversion.*

#### **Item 6 - Location of Places of Water Use**

*Places of use (1/4-1/4 sections):*

##### **Section 17, Township 7S, Range 20E:**

SW¼ of the NE¼  
SE¼ of the NW¼  
NE¼ of the SW¼  
SW¼ of the SE¼  
SE¼ of the SE¼  
NE¼ of the SE¼

**NW¼ of the SE¼**

**Section 21, Township 7S, Range 20E:**

**NW¼ of the NW¼**

**NE¼ of the NW¼**

**SW¼ of the NW¼**

**SE¼ of the NW¼**

*Schedule A-1, which should be considered part of this Schedule A, contains supplemental information regarding the places of use.*

**Item 7 - Legal Basis for the Claim (and Means of Diversion and Means of Conveyance)**

*See discussion and information provided under items 3- 6, above and the attachments.*

Attachments

**Schedule A-1 Supplemental information regarding points of diversion and places of use**

- Exhibit 1** Copies of homestead patents
- Exhibit 2** "Brands and Marks of Cattle, Horses, Sheep, Goats and Hogs as They Appear of Record in the Office of the Live Stock Sanitary Board of Arizona
- Exhibit 3** Tax assessor's record on the adobe house
- Exhibit 4** Map showing the location of Aravaipa Creek and the regulatory ponds
- Exhibit 5** Copies of deeds to Claimants, showing ownership and interest in the Property

**SCHEDULE A-1**  
**Statement of Claim to Use Public Water**  
**Michael J. and Susan S. Cavender**  
 (supplements and is a part of Schedule A)

*Supplemental Information regarding Points of Diversion (Item 5).*

The points of diversion are as described in Schedule A. The following information provides additional detail regarding the points of diversion:

**STOCKWATERING/WILDLIFE/REGULATORY IRRIGATION STORAGE POINTS OF DIVERSION:** The two ponds located in the NE¼ of the SW¼, Section 17, T7S, R20E, and as shown on the map attached as Exhibit 4.

**STOCKWATERING POINTS OF DIVERSION:** Stockwatering from Aravaipa Creek can take (and has taken) place directly at the creek, when it has water in it, which is shown on the map attached as Exhibit 4 (but more typically occurs at the regulatory irrigation ponds that are also shown on Exhibit 4 and at drinkers located throughout the property).

**DOMESTIC/STOCKWATERING/WILDLIFE POINTS OF DIVERSION:** To the extent that stockwatering, domestic and wildlife uses of surface water are provided by wells, the following points of diversion apply:

Well No. 1 55-613295	D(7-20) 21 BDB	NW¼ of the SE¼ of the NW¼, Sec 21 T7S R20E
Well No. 2 55-613296	D(7-20) 21 BDA	NE¼ of the SE¼ of the NW¼, Sec 21 T7S R20E
Well No. 3 55-613297	D(7-20) 21 BBC	SW¼ of the NW¼ of the NW¼, Sec 21 T7S R20E
Adobe House 55-645605	D(7-20) 21 BDA	NE¼ of the SE¼ of the NW¼, Sec 21 T7S R20E
Domestic 55-578417	D(7-20) 21 BDA	NE¼ of the SE¼ of the NW¼, Sec 21 T7S R20E
Domestic 55-553455	D(7-20) 20 AAA	NE¼ of the NE¼ of the NE¼, Sec 20 T7S R20E

Claimants are referring to the wells as potential points of diversion as a precaution in the event that the wells are found to be pumping subflow. However, Claimants are not stating or admitting that the wells listed herein do in fact pump subflow or appropriable surface water. To the best of Claimants' knowledge, the well described as the Adobe House Well has been used before the year 1919 and to the extent it pumps subflow, has a priority date of June 23, 1909.

*Supplemental Information regarding Places of Use (Item 6).*

The places of use are as described in Schedule A. The following information provides additional detail regarding the places of use:

See map attached as Exhibit 4.

**STOCKWATERING USES:** Stockwatering from Aravaipa Creek can take (and has taken) place directly at the creek, when it has water in it, which is shown on the map attached as Exhibit 4, but more typically occurs at the regulatory irrigation ponds that are also shown on Exhibit 4 (NE $\frac{1}{4}$  of the SW $\frac{1}{4}$ , Section 17, T7S, R20E) and at drinkers located throughout the property.

**STOCKWATERING/WILDLIFE USES:** Wildlife uses occur throughout the property described on the map attached as Exhibit 4, but is claimed for the two ponds described above.

Domestic uses occur throughout the property described on the map attached as Exhibit 4 (in the  $\frac{1}{4}$ - $\frac{1}{4}$  sections described under "Generally" above), but specifically correspond with the creek and possible (but not probable) subflow pumping at the points of diversion known as Well Nos. 1 through 3, the Adobe House Well, and the two domestic wells described in Item 5 above. To the best of Claimants' knowledge, the well described as the Adobe House Well has been used before the year 1919 and to the extent it pumps subflow, has a priority date of June 23, 1909.

Also, irrigation can take (and has taken) place in the following  $\frac{1}{4}$ - $\frac{1}{4}$  sections:

Section 17, Township 7S, Range 20E:

SW $\frac{1}{4}$  of the NE $\frac{1}{4}$   
SE $\frac{1}{4}$  of the NW $\frac{1}{4}$   
NE $\frac{1}{4}$  of the SW $\frac{1}{4}$   
SW $\frac{1}{4}$  of the SE $\frac{1}{4}$   
SE $\frac{1}{4}$  of the SE $\frac{1}{4}$   
NE $\frac{1}{4}$  of the SE $\frac{1}{4}$   
NW $\frac{1}{4}$  of the SE $\frac{1}{4}$

Section 21, Township 7S, Range 20E:

NW $\frac{1}{4}$  of the NW $\frac{1}{4}$   
NE $\frac{1}{4}$  of the NW $\frac{1}{4}$

A pipeline runs from the wells to the fields as shown on the map attached as Exhibit 4.

THE LAW OFFICE OF

L. ANTHONY FINES  
lafines@lafinespc.com

**L. ANTHONY FINES, P.C.**  
145 S. Sixth Avenue  
Tucson, Arizona 85701

TELEPHONE  
(520) 547-2890  
TELEFAX  
(520) 882-0617

February 20, 2013

Arizona Department of Water Resources  
Surface Water Rights  
P.O. Box 458  
Phoenix, AZ 85001-0458

Re: Michael J. Cavender and Susan S. Cavender

Dear Sir or Madam:

Enclosed are the originals and one copy of the following documents:

1. Statement of Claim of Right to Use Public Waters of the State of Arizona with a filing fee of \$5.00; and
2. Statement of Claimant Form for Other Uses Amendment.

We have also enclosed a self-addressed, stamped envelope for the return of the filed-stamped copies. If you have any questions, please call our office.

Sincerely,



L. Anthony Fines

LAF:lv  
Enclosures

FEB 23 2013

Arizona Department of Water Resources

3550 N Central Ave.  
Phoenix AZ 85012

Customer:

ANTHONY FINES, P.C.  
145 S SIXTH AVENUE  
TUCSON, AZ 85701

Receipt #: 13-26737  
Office: MAIN OFFICE  
Receipt Date: 02/28/2013  
Sale Type: IN\_PERSON  
Cashier: WRBLN

Item No.	Index	AOBJ	Description	Ref ID	Qty	Unit Price	Ext Price
67530	15239	4315-TT	Statement of claim for a water right	36-105623.	1	5.00	5.00
RECEIPT TOTAL:							5.00

Payment type: CHECK

Amount Paid: \$5.00

Payment Received Date: 02/28/2013

Notes: FROM TTA. Applicant: Michael J. & Susan S. Cavender

Check # 3340