

**\*\* Please Provide Requested Information in Typewritten Format \*\***

**\*\* DEADLINE: DECEMBER 28, 2009 \*\***

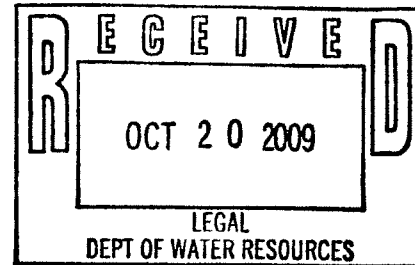
Name: Richard Donahue

Mailing Address: PO Box 6047; Huachuca City, AZ 85616.

Physical Address: 1396 East Lincoln Road; Huachuca City, AZ 85616

Telephone: 520-456-2484

E-Mail: [donahue@c2i2.com](mailto:donahue@c2i2.com)



**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. W1-103  
(The Honorable Eddward P. Ballinger, Jr.)

**OBJECTION TO SUBFLOW ZONE  
DELINEATION REPORT FOR THE  
SAN PEDRO RIVER WATERSHED  
DATED JUNE 30, 2009**

1. I affirm that I am a claimant in the Gila River adjudication and that I am entitled to file an objection in this matter because I hold the following Statement(s) of Claimant for water rights in the San Pedro River Watershed: **55-86185**.

2. The objection is based on the following reasons (attach additional pages if necessary):

**Respectfully request an Environmental Impact Study of the "Bruce Babbitt" commercial well located on Oak Street, Whetstone, Arizona – for inclusion in this report.**

**I welcome the San Pedro River Watershed Subflow Zone Report – in that it correctly establishes a linkage between Ground Water and Surface Water.**

**Therefore – in light of this linkage – Mr. Babbitt’s statement that his commercial well (pumping between 700 and 1,000 gallons per minute (attachment)) – for the proposed Rain Valley development in Cochise and Santa Cruz Counties - will affect neither the San Pedro Subflow nor private wells in the Whetstone area – does not “hold water.” (Pun intended).**

**As a footnote: I trust that this is the correct forum in which to raise the issue of the inclusion of an environmental impact study. If not – I apologize for unnecessarily having taken the court’s time.**

**Thank you.**

**p.s. Additionally – I would encourage the courts to entertain the inclusion of appropriate language – i.e. Grandfather Clause – in any and all settlements - to protect the water rights of private well owners who have filed a claim for water rights in the San Pedro River Watershed.**

**3. The original copy of this objection is being sent by first class mail – for receipt no later than December 28, 2009 to:**

**Clerk of the Superior Court**

**Maricopa County, Attn: Water Case**

**601 W. Jackson Street**

**Phoenix, Arizona 85003**

**4. Also – copies of this objection are being sent by first class mail to each of the sixty persons on the attached mailing list, which includes the Judge and Special Master assigned to this matter.**

**Signature:**



**Date:**



State of Arizona



## DEPARTMENT OF WATER RESOURCES

222 North Central Avenue, Suite 850, Phoenix, Arizona 85004

November 12, 1980

Donald L Schell  
#3 Lower Mesh Dr  
Box #506 Mormon Lake 86001

Registration No. 55-86185

Dear Well Owner:

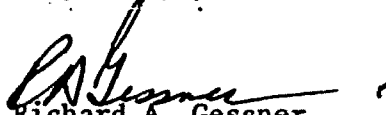
A copy of Notice of Intention to Drill a Well is returned to you for your records. Your driller has been mailed separately a Well Drilling Card, Well Drilling Report, and a Completion Report.

ARS 45-600 requires the driller to furnish this Department a complete and accurate log of the well within 30 days of completion of drilling, and a Completion Report within 30 days after installation of pumping equipment.

Also enclosed for your future use is a Change of Well Information Form. Per ARS 45-493, the person to whom a well is registered shall notify this Department of a change in ownership of the well and information pertaining to the physical aspects of the well to keep the well registration record current and accurate.

In the event it is necessary to change the location of the proposed well, you should obtain the written permission of the Department of Water Resources before proceeding with the drilling.

Very truly yours,

  
Richard A. Gessner  
Chief, Records Section

RAG  
Enclosures

Think Conservation!

Administration 255-1550, Water Resources and Flood Control Planning 255-1566, Dam Safety 255-1541,  
Flood Warning Office 255-1548, Water Rights Administration 255-1581, Hydrology 255-1586.

CHANGE OF WELL INFORMATION

Registration Number 55-86185

I request the following information be changed in well file number D(20-20)23cba :

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Well Owner

STATEMENT OF CHANGE OF WELL OWNERSHIP

I, \_\_\_\_\_, state that I am (no longer)  
(new) owner of the well described below:

TWP 20S RGE 20E, SEC. 23, NE 1/4, NW 1/4, SW 1/4.

Registration No. 55-86185 File No. D(20-20)23cba

\_\_\_\_\_  
Previous Owner

\_\_\_\_\_  
New Owner

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip

\_\_\_\_\_  
City State zip

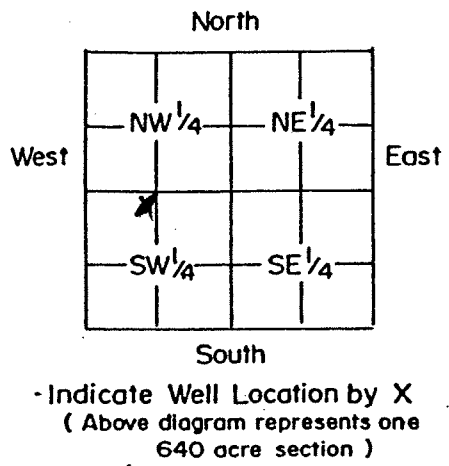
NOTE: ARS 45-594 requires that the Department be notified of change in well ownership and that well owner is required to keep the Department well registration records current and accurate. Well data and ownership changes must be submitted within 30 days after changes take place.

EXEMPT WELL  
FILING FEE: \$3.00

DEPARTMENT OF WATER RESOURCES  
NOTICE OF INTENTION TO DRILL OR DEEPEN  
AN EXEMPT WELL

EXEMPT WELL

Section 45-596, Arizona Revised Statutes, provides: A person may not drill or cause to be drilled any well or deepen or replace an existing well without first filing a Notice of Intention to Drill with the Department on a form prescribed and furnished by the Department. The well shall be completed within one year after the date of Notice. An exempt well means a well having a pump with a maximum design capacity of not more than 35 gallons per minute which is used to withdraw groundwater. An exempt well may include the non-commercial irrigation of not more than 1 acre of land.



DESCRIPTION OF WELL:

8. Diameter 6  
Depth 160

9. Type of Casing PVC

10. Principle use of Water  
Domestic

PLACE OF USE:

13. Township 20-S  
14. Range 20-E  
15. Section 23  
16. Legal description of land  
water is to be used on:  
42' static level

17. Design Pump Capacity  
10 GPM

WELL/LAND LOCATION:

1. Township 20-S  
2. Range 20-E  
3. Section 23  
4. N 1/2 NW 1/2 SW 1/2  
10 acre sub-division  
5. County Cochise

(If for non-commercial irrigation, state approximate area being cultivated.)

12. Construction will start about:  
Month 11 Year 80

18. Action Requested:  
Drill X  
Deepen \_\_\_\_\_  
Replace \_\_\_\_\_

19. This notice filed by:  
Owner \_\_\_\_\_  
Lessee \_\_\_\_\_  
Driller X

6. Owner of Well:  
Donald A. Schell  
Name  
43 Lower Mesh DR  
Address  
Box 506 MORMAN LAKE  
City State Zip  
86001

7. Owner of Land:  
AZ. 86001  
Name  
354-2434  
Address  
City State Zip

DO NOT WRITE IN THIS SPACE  
OFFICE RECORD

FILE NO. D(20-20)23 cha

FILED 11-4-80 BY [Signature]

INPUT NOV 7 1980 BY [Signature]

DUPLICATE MAILED 11-12-80 BY [Signature]

REGISTRATION NO 55-86185

AMA  
NON EXPANSION AREA \_\_\_\_\_

Name Lee's Well Drilling  
P. O. Bx-4558  
Address Huachuca City, AZ. 85616  
City State Zip

20. Drillers Name:  
Name Lee's Well Drilling  
P. O. Bx-4558  
Address Huachuca City, AZ. 85616  
City 789797 State [Signature]

Department License Number 7-8-c

Fill out this form in duplicate and mail to P.O. Box 2600, Phoenix, Arizona, 85002, or deliver to 222 N. Central Ave., Suite 550, Phoenix, Arizona, 85004.  
If the Exempt Well is in fact a replacement (or deepening) well, state the registration number of the existing well.  
Construction standards for new and replacement wells and the deepening and abandonment of existing wells, shall be in accordance with Department Rules and Regulations.  
Donald A. Schell, state that the construction will be under the direct and personal supervision of the well driller designated on this form and that the designated driller holds a contractor's license pursuant to ARS 45-595.

11-3-80  
Date

Donald A. Schell  
Signature of Person Filing

## Whetstone well to supply planned homes

Published: Tuesday, April 1, 2008 4:53 PM CDT

Dana Cole

A commercial well recently completed along Oak Street west of Highway 90 on property overseen by a former governor is a sign there could be more to come.

And that has some area residents concerned.

The well is the property of a corporation, BBA Foresight, with Bruce Babbitt, former governor of Arizona and interior secretary during the Clinton administration, named as manager.

**In a recent phone interview, Babbitt said he is representing a group of investors who purchased Rain Valley Ranch, a working cattle ranch, with acreage in Cochise and Santa Cruz counties. The investors are planning a low-density development that will be completed in multiple stages.**

The well, Babbitt said, "was drilled in order to get the water certificate to do low-density development on the ranch."

The development will be following guidelines set by Cochise County's Conservation Subdivision Ordinance, which means that 50 percent of the subdivision will be dedicated to open space, with a density of about one unit per three acres.

"The purchase was a time-sale, with a number of provisions written into it," Babbitt said. "The deeded land on the ranch is about 5,000 acres, and the investors purchased all of that property."

Babbitt, who says he has "a very small sweat-equity investment in this (development)," said he is primarily working on the project's water rights.

Arizona Beeman Drilling, a company from the Phoenix area, drilled the well on the 36-acre site. During its construction, Lucinda Earven, a local veterinarian whose property is directly across from the well, watched its progress and documented several phone conversations with a number of officials involved on the project. Earven is concerned about the potential impact a commercial well that size could have on smaller, private wells in the Whetstone area.

**On a fact-finding quest, Earven was told by the Arizona Department of Water Resources that the well is about 700 feet deep and should be capable of pumping a substantial amount of water, between 700 and 1,000 gallons per minute.**

In addition to the potential impact on private wells, Earven and other Whetstone residents question the long-term impact a well that size could have on the Upper San Pedro Water Basin.

Congress established the San Pedro Riparian National Conservation Area in 1988, directing that the river water should flow so its fragile ecosystem would continue to flourish. During a visit to this area on April 28, 2000, while Babbitt was secretary of the interior, he issued a stern warning, stating that if something isn't done to reduce development in the Upper San Pedro River Basin, a federal court may dictate growth limits and decide the area's future.

**"If development begins to affect the San Pedro River, as it will, there will be litigation, I'm sure of it," Babbitt stated during that visit. "Ensuring the river flows is a legally enforceable right."**

Babbitt also said growth will happen, but it must be with constraints, along with a plan to conserve water. He reiterated there must be controlled growth, "or the river will die and the scenic vistas will be replaced with rooftops."

So how much impact will this commercial well have on the area's private wells and the Upper San Pedro River Basin?

**"We hired a hydrologist to help us with the project. We've gone deep enough so as not to impact local wells," Babbitt said.**

When questioned about potential impact to the river, he said, "I'm not concerned about that because the well is far enough from the river."

Mike Hayhurst, who owns Brookline Ranch, a working cattle ranch in the lower Babocomari area, said he has "serious concerns about the area's river basin and the private wells in Whetstone."

He does not share Babbitt's outlook regarding the well's benign impact on the area's private wells and has deep reservations about its potential affect on the Upper San Pedro River Basin.

"I've ranched the Babocomari area for 20 years now, and I've seen unbelievable changes in the Babocomari River," Hayhurst said. "Sections of the river that once had fish are completely dry now, and it gets worse every year."

**Changes in the Babocomari River, Hayhurst warned, directly impact the San Pedro, as the Babocomari drains into the San Pedro. Hayhurst is a representative of the Hereford National Resource Conservation District and involved in the Upper San Pedro Partnership. The partnership, he explained, is designed to preserve the river while supporting economic development. It's a delicate balancing act, one that he believes is leaning toward developers.**

Earven agrees.

"It's unfortunate that we're not part of an Active Management Area," she said. "I was told by Monica Ortiz, who works in compliance at ADWR, that, because we're not in an AMA, once the well permit is signed and approved, they don't offer any more oversight."

Tom Whitmer, manager of regional water planning with the Department of Water Resources, explained the agency's regulatory role.

"There are different regulations, depending on whether the well is in an Active Management Area," he said, which Cochise County is not. "An impact analysis is done to determine if there could be an impact on wells in the area. Outside Active Management Areas, there are no statutory requirements to conduct an impact study on surrounding wells."



Whitmer said all proposed subdivisions in Cochise County must go through the state water agency and demonstrate adequate water supply for 100 years, based on statutory criteria that was recently established by a vote of the Cochise County Board of Supervisors.

"If they can't demonstrate that, then the subdivision cannot be built," Whitmer added.

The developer could go back to the drawing board and opt to build a smaller development, one that meets the 100-year supply.

Judy Anderson, director of Cochise County Planning Department, has been in communication with Babbitt regarding the development, but it was about a year ago. About two-thirds of the development will be in Cochise County, with the rest in Santa Cruz County, she said.

Anderson did not have much information about the commercial well.

"I knew they were digging the well as a water source for the development," she said.

The county, she added, does not oversee wells. All wells, commercial or domestic, must go through the state Department of Water Resources.

One thing is certain: Some Whetstone residents will be watching the development once it's under way, along with the well's impact.

"It will definitely affect the Babocomari River," Hayhurst said. "And if it affects the Babo, it will affect the San Pedro. I'm afraid it's going to suck the smaller wells in the area dry."

(Dana Cole is a reporter at the Sierra Vista Herald/Bisbee Daily Review.)