DEPARTMENT OF WATER RESOURCES

BEFORE THE DIRECTOR

IN THE MATTER OF THE APPLICATION TO APPROPRIATE WATER AND/OR TO CONSTRUCT A RESERVOIR AND STORE WATER FOR BENEFICIAL USE NO. (S): 33-81465	
APPLICANT(S): Frank M. and Marwood Miller	
SOURCE: San Pedro River Watershed	ORDER FOR HEARING
PROTESTANTS: United States Department of the Interior, Bureau of Indian Affairs, San Carlos Irrigation Project	

The Department of Water Resources, through a Hearing Officer, appointed by the Director, will hold a public hearing at 3:30 o'clock P.M., in the afternoon, on Wednesday, the 27th day of May, 1981, or as soon thereafter, as the cause may be heard, in Room Number One of the Sierra Vista Community Center, 2400 Tacoma, in the City of Sierra Vista, Arizona, to hear evidence, per Section 45-143, Arizona Revised Statutes, regarding the above entitled application, as follows:

a. Does the proposed appropriation conflict with vested rights?

b. Would such use and/or construction be a menace to public safety?

c. Would approval of the application be against the interest and welfare of the public?

GIVEN, under my hand and the Official Seal of the Department of Water Resources this 8th day of April, 1981.

S E A L

W. Don Maughan
Deputy Director

NOTICE

The proceedings will be recorded by means of a tape recorder. Any party who wants a Court reported transcript of the proceedings may have a court reporter present to report the proceedings. Any expense of a court reporter shall be the sole responsibility of the party requesting his attendance.

A hearing has been set to consider your Application for a permit to appropriate public waters for beneficial use. A Hearing Officer duly appointed by the Director of the Department of Water Resources will preside. The hearing will be open to the public, and the proceedings will be recorded by tape recorder, unless otherwise Ordered.

A copy of the Order for Hearing was mailed to all persons who submitted a written protest to the Application.

All parties will be afforded an opportunity to respond and present evidence on all issues. The matters identified in the hearing order must be considered pursuant to Arizona Revised Statutes, Section 45-143, and Sections 41-1009 and 41-1010, but all relevant issues, including those raised by the parties, will be heard and determined.

The Applicant must appear personally or by legal counsel duly authorized to represent the Applicant. The absence of either may result in the hearing being vacated and the application cancelled.

A full and complete presentation should be made of each item stated in the Application. The Applicant should be able to reasonably answer all pertinent questions.

Evidence of the following elements shall be presented to the Hearing Officer:

1. Status of the Applicant, ie., original, successor-in-interest or assignee, (ownership).

2. Ownership of the land to which the water right will be put to beneficial use.

3. Nature and amount of the proposed use, (surface, groundwater).

4. Legal description by township and range of the a.) source of water supply, b.) point(s) of diversion, c.) place of use, and d.) map depicting the proposed works.

5. The time in which the applicant will need to begin construction of such works, the time needed for completion of construction, and the time element in which water will be beneficially applied.

Protestants must be prepared to give evidence on all issues raised by the Protestant, including the presentation of documentary and/or oral testimony.

The hearing may be continued upon reasonable request by any party. All such requests should be made, in writing, no later than seven (7) days prior to the hearing date, and must set forth the valid reasons for the continuance. The Department may demand additional information prior to ruling on any request, and may impose reasonable conditions on any continuance.

The Hearing Officer may take notice of judicial facts and of generally recognized technical or scientific facts within the Department's specialized knowledge.

The experience, technical competence and specialized knowledge of the Department may be used in the evaluation of the evidence.

The Hearing Officer may cause to be issued subpoenas for the attendance of witnesses and for the production of books, records and other evidence. The Hearing Officer may permit, upon application of any party, a deposition to be taken, in the matter and upon terms designated by the Officer, of a witness who cannot be subpoenaed or is unable to attend the hearing.

Unless otherwise stated, the Arizona Rules of Civil Procedure and Rules of Evidence, promulgated by the Arizona Supreme Court, will be followed in the conduct of these proceedings.

Questions concerning amended pleadings, continuance of hearings, judicial notice, and other pertinent questions, involving the application, will be answered by contacting the "Hearing Officer", Water Rights Division, Department of Water Resources, 222 North Central Avenue, Phoenix, Arizona 85004, phone Area Code (602) 255-1581, Phoenix.

A copy of the foregoing Order for Hearing is sent by certified mail this 8th day of April, 1981, to the following:

Frank M. and W. Marwood Miller
Route 1, Box 179
St. David, Arizona 85630

Certified No. 1596080

United States Department of the Interior
Bureau of Indian Affairs
San Carlos Irrigation Project
P.O. Box 456
Coolidge, Arizona 85228

Certified No. 1596081

William Swan
Office of the Solicitor
United States Department of the Interior
201 North Central Avenue
Suite 2080
Phoenix, Arizona 85073

Certified No. 1596082

Barbara S. Robison

Barbara S. Robison
Department of Water Resources
P.O. Box 2600
Phoenix, Arizona 85002
602/255-1581