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

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

Civil 6417-33-6376

ORDER TO INITIATE CONTESTED CASE  
AND  
ORDER TO SET STATUS CONFERENCE

CONTESTED CASE NAME: *In re Arizona Game & Fish Department*  
HSR INVOLVED: Silver Creek Hydrographic Survey  
DESCRIPTIVE SUMMARY: The Clerk of Apache County is directed to initiate Civil 6417-33-6376. Status conference set for **September 29, 2022 at 3:30 p.m.**  
NUMBER OF PAGES: 14  
DATE OF FILING: August 19, 2022

**General Explanation**

This Order continues the process necessary to adjudicate claims made for rights to appropriable water by the Arizona Game and Fish Department. Most recently, this contested case was consolidated with CV 6417-33-9005 and litigation begun. The litigation appears to have ceased in 1994 without decision. By Order dated August 17, 2022, this case has been separated from and is no longer consolidated with CV 6417-33-9005.

1 This contested case is one of the many cases in the Arizona General Stream Adjudication  
2 for the Silver Creek Watershed to determine legal rights to water. The purpose of the General  
3 Adjudication is to determine the rights of those persons who filed Statements of Claimant for  
4 rights to use appropriable water in Arizona. The General Adjudication will also determine water  
5 rights for the Hopi Reservation, the Navajo Reservation, and other watersheds included in the  
6 Little Colorado River Watershed.

7 Arizona Game & Fish Department (“Claimant”) filed Statements of Claimant (“SOC”)  
8 39-88157 and 39-88158 on September 30, 1985, for rights to water from Silver Spring diverted  
9 from the SESW and SWSE of Section 20 T11N R23E. According to SOC 39-88157, the place  
10 of use is in Sections 19 and 20 T11N R23E. The Arizona Game & Fish Department claimed  
11 2,244 acre-feet of water per year. It also made a claim for 8.1 acre-feet of water for domestic  
12 use to supply water to a ranch house and two mobile trailers. The Arizona Department of Water  
13 Resources (“ADWR”) investigated the claims which it characterized as claims for domestic and  
14 industrial/commercial use. It prepared a report known as Watershed File Report No. 033-51-  
15 DAB-001 (“WFR”) published in the Final Silver Creek Watershed Hydrographic Survey Report  
16 (1991) (“Silver Creek HSR”). A copy of the WFR is attached as Attachment A.

17 Arizona Department of Water Resources did not quantify any amount for potential water  
18 rights. In its more extended explanation, it found that the water used for the production ponds  
19 was a non-consumptive use. Vol. 1 Silver Creek HSR at 276. A copy of the analysis from the  
20 Silver Creek HSR is attached as Attachment B. A copy of the map showing place of use prepared  
21 by ADWR is attached as Attachment C.

22 After ADWR issued the WFR, objections were filed to the findings made in the WFR.  
23 The purpose of this case is to consider the claims made for water rights that are the subject of the  
24 WFR and resolve the objections to the WFR.  
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1 **IT IS ORDERED:**

2 1. Contested Case. This contested case shall be known as *In re Arizona Game &*  
3 *Fish Department* and it will determine appropriable water rights asserted in the Statement of  
4 Claimant and objections that were filed to Watershed File Report No. 033-51-DAB-001  
5 published in the Final Silver Creek Watershed Hydrographic Survey Report (1991). Copies of  
6 objections can be found under the case name and number on the following website:  
7 [http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.](http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp)  
8 [asp](http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp)

9 2. Litigants. The litigants in this contested case are the Claimant and all persons  
10 who filed objections to the WFR, and parties who are allowed to intervene by order.

11 3. Court-Approved Mailing List.

12 A. The initial Court-approved mailing list for this case shall include all  
13 persons listed on Attachment D to this order. The list may be modified  
14 only by filing a motion with the Special Master to amend the Court-  
15 approved mailing list. Litigants are responsible for using the current  
16 Court-approved mailing list.  
17

18 B. A copy of any pleading filed with the Clerk of the Apache County  
19 Superior Court in this case shall be served upon each person listed on the  
20 Court-approved mailing list.  
21

22 C. Claimants wishing to be added or removed from the mailing list shall file  
23 a motion with the Special Master. Parties allowed to intervene will be  
24 automatically added to the Court-approved mailing list.  
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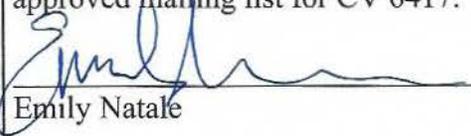
26 D. The Clerk of the Court will send copies of all minute entries and orders  
27 issued in this case to the parties listed on the Court-approved mailing list.  
28

1           4.     Status Conference.     A status conference shall be held to determine the  
2 appropriate procedures that will be implemented to continue the adjudication of the claimed  
3 water rights. Claimant shall be prepared by the status conference to identify issues that have  
4 been resolved and issues remaining to be resolved. The Status Conference shall be held on  
5 **September 29, 2022 at 3:30 p.m.** The Status Conference shall be held using the Court Connect  
6 program. Instructions for Court Connect are attached as Attachment E. If you receive this  
7 Order by email, click on the red box "Join Court Connect Hearing" on the attached instructions  
8 to make an appearance. If you do not receive this Order by email, log into the Court Connect  
9 program on the internet by typing <https://tinyurl.com/specialwatermaster>. If you do not have  
10 access to the internet, you may attend telephonically using the telephone number and access code  
11 included in the instructions for Court Connect. Alternatively, you may attend telephonically  
12 using the following instructions:

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15 Instructions for telephonic appearance:  
16 Dial: 602-506-9695 (local)  
17 1-855-506-9695 (toll free long distance)  
18 Dial Participant Pass Code 357264#

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SUSAN WARD HARRIS  
Special Master

22 On August 19, 2022, the original of the foregoing was delivered  
23 to the Clerk of the Apache County Superior Court for filing and  
24 distributing a copy to all persons listed on the Court-approved  
25 mailing list for this contested case, a copy of which is attached  
26 hereto as Attachment D, and to all persons listed on the Court-  
27 approved mailing list for CV 6417.

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Emily Natale

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# **ATTACHMENT A**



FILINGS AND DECREES

FILING 36-63809, FILED BY HATCH BROTHERS LIVESTOCK, CLAIMS STOCKWATERING USE FROM SILVER SPRINGS. GRAZING AND STOCKWATERING NO LONGER OCCUR AT THE SILVER SPRINGS FISH HATCHERY SITE.

DIVERSIONS

S1 & S2 - SILVER SPRINGS #1 AND #2 FLOW INTO FISH REARING PONDS USED FOR RAISING TROUT FINGERLINGS. THE SILVER SPRINGS ARE LOCATED WITHIN THE SILVER CREEK DRAINAGE AREA AT THE HEAD OF SILVER CREEK.

USES AND RESERVOIRS

DM1 & DM2 - DOMESTIC WATER USES AT THE HATCHERY BUILDINGS AND ADMINISTRATIVE SITE.  
ID1 - ARIZONA GAME AND FISH DEPARTMENT SILVER SPRINGS FISH HATCHERY. THE FISH HATCHERY CONSISTS OF SIX PONDS BELOW SILVER SPRINGS #1 AND THREE PONDS BELOW SILVER SPRINGS #2. THE EIGHT PONDS COVER APPROXIMATELY 1.4 SURFACE ACRES. FOR MORE INFORMATION THE SILVER SPRINGS FISH HATCHERY, SEE UNUSUAL CIRCUMSTANCES REPORTS IN VOLUME 1.

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# **ATTACHMENT B**

## SILVER SPRINGS FISH HATCHERY (WFR #033-51-DAB-1)

The Arizona Game and Fish Department's Silver Springs Fish Hatchery operation (Figure 6-4) is shown in detail on Figure 6-5 and in Volume 6 on subregion map 51-DAB.

### History

In 1965, an agreement with the Silver Creek Irrigation District allowed the Arizona Game and Fish Department to improve, utilize, and maintain privately operated trout production facilities at Silver Springs.

The rearing ponds were originally constructed in the early 1950s and have since been renovated by the Arizona Game and Fish Department. In 1976, the hatchery resumed operations and is currently being used to grow trout fingerlings to catchable size for stocking in the White Mountains area.

Future plans for the hatchery include lining the ponds at both springs with cement.

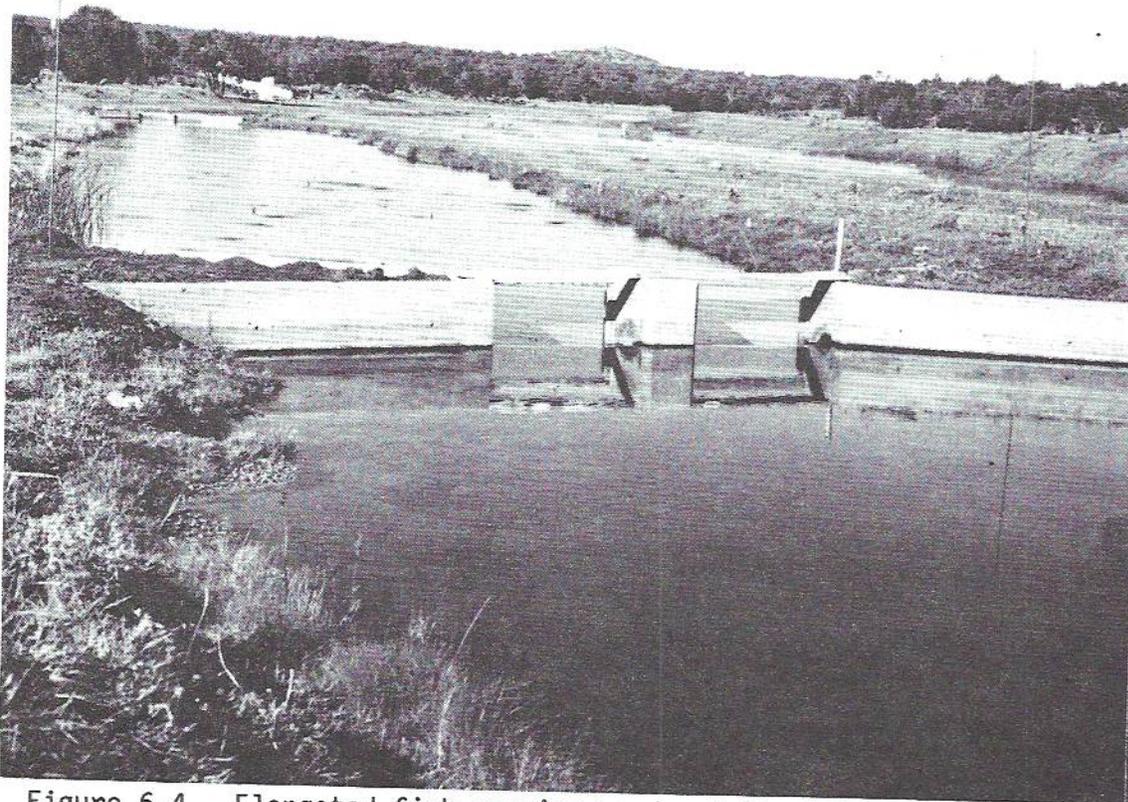


Figure 6-4. Elongated fish rearing ponds at the Arizona Game and Fish Department Silver Springs Fish Hatchery. These ponds are immediately downstream from the discharge point of Silver Springs #1.

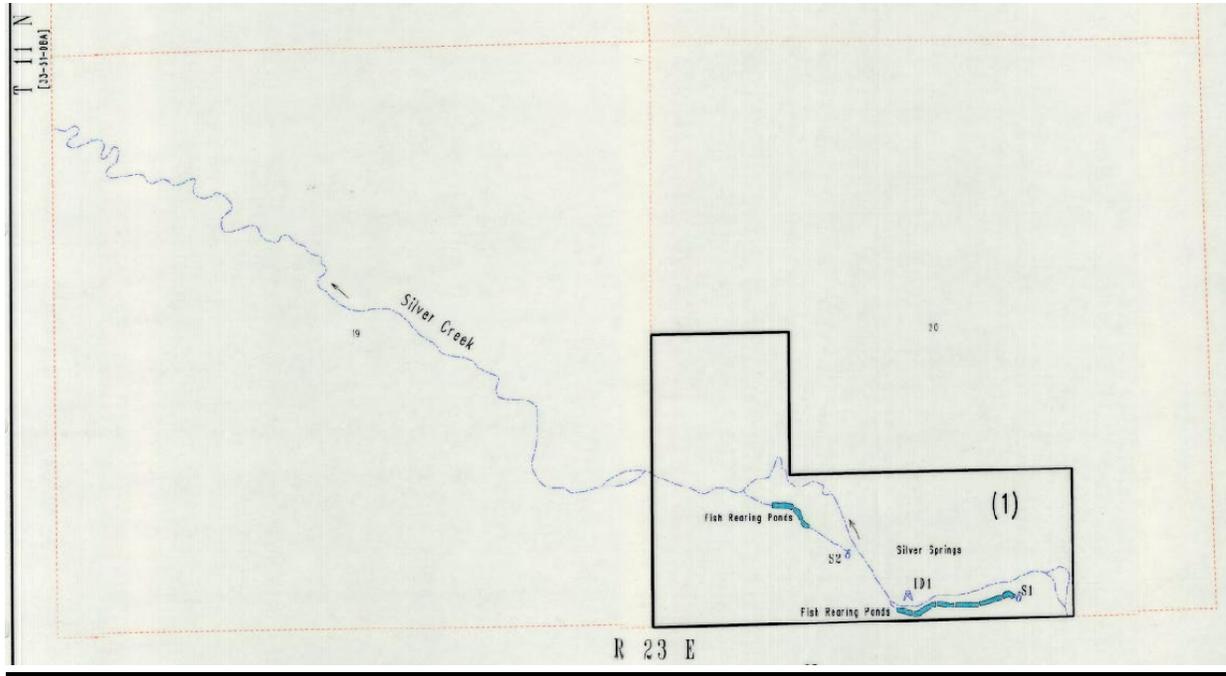
## Water Supply System

Water is obtained from two springs, Silver Spring #1 and Silver Spring #2. Flow measurements of the springs are obtained by DWR staff at the point where the two channels merge. The maximum flow recorded at this site was 8.13 cfs in June 1990. Water from each spring is held back temporarily by a series of nine cement check dams. Six of the dams are located below Silver Spring #1 creating six elongated fish production ponds. The three remaining dams are located immediately below Silver Spring #2 creating three fish production ponds. Water from the springs flows through the impoundments and then into Silver Creek. Water usage associated with these small rearing ponds is considered non-consumptive due to their extremely small surface areas and capacities. Earthen dikes around each spring and along the production ponds protect the facilities from floods.

Figure 6-5 shows the facilities associated with the Silver Springs Fish Hatchery.

# ATTACHMENT C

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Arizona Department of Water Resources  
Kimberly Parks  
P. O. Box 36020  
Phoenix, AZ 85067

Arizona Game and Fish Commission  
5000 West Carefree Highway  
Phoenix, AZ 85086

Arizona State Land Department  
Carrie Brennan and Kevin Crestin  
Arizona Attorney General  
Natural Resources Section  
2005 North Central  
Phoenix, AZ 85004

Clerk of the Superior Court  
Apache County  
P. O. Box 365  
St Johns, AZ 85936

Hopi Tribe  
General Counsel of the Hopi Tribe  
P. O. Box 123  
Kykotsmovi, AZ 86039

Navajo Nation  
Rodgerick T. Begay  
Stanley M. Pollack and Doreen N. McPaul  
Navajo Nation Depart. of Justice  
P.O. Box 2010  
Window Rock, AZ 86515-2010

Salt River Project  
J. B. Weldon, M. A. McGinnis, M. K. Foy  
Salmon, Lewis & Weldon  
2850 E. Camelback Rd. Suite 200  
Phoenix, AZ 85016

Special Master Susan Ward Harris  
Superior Court of Arizona  
201 W. Jefferson Street  
Courtroom 301  
Phoenix, AZ 85003

U. S. Department of Justice  
Andrew Guarino  
Vanessa Boyd Willard  
999 18<sup>th</sup> Street, Suite 370  
Denver, CO 80202

United States of America  
P. O. Box 607  
Albuquerque, New Mexico 87103

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# **ATTACHMENT E**



## Court Connect Hearing Notice for In re Arizona Game & Fish Dept.

*This hearing will be conducted through the new Court Connect program offered by the Superior Court of Arizona in Maricopa County. This new and innovative program allows Court participants to appear online, rather than in a physical courtroom. Hearings are preferably conducted by videoconference but can also be conducted by phone. Lawyers (and self-representing litigants) are responsible for distributing this notice to anyone who will be appearing on their behalf.*

*All participants must use the JOIN COURT CONNECT HEARING button or the dial in information below to participate.*

**Participants:** Please follow the steps below to participate in the remote proceeding.

1. Click the JOIN COURT CONNECT HEARING button below.
2. Enter your full name and role in name field.
3. Wait for the facilitator to admit you to the proceeding.

Remember to keep this email handy so you can use it to participate in the following proceeding.

**Case Name:** In re Arizona Game & Fish Department, Contested Case No. CV6417-33-6376

**Start Date/Time:** September 29, 2022 at 3:30 p.m.

**JOIN COURT CONNECT HEARING**

**Dial-in Information:** +1 917-781-4590

**Private Dial-in Information:** for privacy purposes, you can block your phone number by dialing \*67 +1 917-781-4590

**Dial-in Access Code:** 688 970 203#

Tiny URL: <https://tinyurl.com/specialwatermaster>

To ensure an optimal experience, please review the brief Court Connect training prior to the hearing: [Here](#)

