

1  
2  
3  
4  
5  
6 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
7 IN AND FOR THE COUNTY OF APACHE  
8

9 IN RE THE GENERAL  
10 ADJUDICATION OF ALL RIGHTS  
11 TO USE WATER IN THE LITTLE  
12 COLORADO RIVER SYSTEM AND  
13 SOURCE

CV6417

Case: CV6417-33-6436

12 ORDER TO FILE UPDATED  
13 WATERSHED FILE REPORT  
14 AND  
15 DEADLINE FOR OBJECTIONS

15 CONTESTED CASE NAMES: *In re W & J Hamilton et al.*

16 HSR INVOLVED: Silver Creek Hydrographic Survey.

17 DESCRIPTIVE SUMMARY: The Arizona Department of Water Resources is ordered  
18 to file an amended WFR for 033-52-035 no later than **March 2, 2026**. Objections to the  
19 amended WFR must be filed no later than **April 3, 2026**.

20 NUMBER OF PAGES: 4

21 On December 2, 2025, Earnhardt Ranches, LLC, and the Arizona Department of  
22 Water Resources (“ADWR”) filed a joint status report that included draft abstracts for 4  
23 potential water rights (“PWRs”):

23 033-52-035-SP001

033-52-035-SP003

24 033-52-035-SP002

033-52-035-SW001

25 Copies of those abstracts can be found on the ADWR website at:

26 [https://www.azwater.gov/sites/default/files/adjudications\\_documents/2025%2012-](https://www.azwater.gov/sites/default/files/adjudications_documents/2025%2012-02%20Joint%20Status%20Report.pdf)  
27 [02%20Joint%20Status%20Report.pdf](https://www.azwater.gov/sites/default/files/adjudications_documents/2025%2012-02%20Joint%20Status%20Report.pdf)

28 All four of these abstracts describe *de minis* uses in the Silver Creek subwatershed.

1 As such, these uses must have a Watershed File Report (“WFR”) that supports their  
2 existence. Because the original 1990 WFR does not document the uses as they are  
3 claimed today, and the uses as claimed qualify as *de minimis*, an amended WFR is  
4 necessary.

5 **Attributes in a *De Minimis* Abstract Must be Corroborated by the Associated WFR**

6 As stated in previous contested cases, WFRs must present accurate information.<sup>1</sup>  
7 Potential water rights that are summarily adjudicated may rely on the WFR as the sole  
8 evidentiary record and therefore must match the associated WFR.<sup>2</sup> Furthermore, priority  
9 dates for *de minimis* uses in all three watersheds with summary adjudication procedures  
10 will be “the apparent date of first use as listed in the potential water rights section of the  
11 watershed file report;”<sup>3</sup> therefore this priority date must be verified.

12 The original WFR investigated a single Statement of Claimant (“SOC”), # 39-  
13 83009, for two claimed stockpond uses with claimed priority dates of 1980. The WFR  
14 listed the location as NENENW of Section 29, Township 10 North, and Range 24 East.  
15 However, the initial SOC appears listed two locations: NENENW S29, T10N, R24E and  
16 NWNWNE S29, T10N, R24E, and ADWR’s files show the location to be NWSWSE  
17 S20, T10N, R24E. The most recent abstracts for SP001 and SP002 also claim the  
18 locations of use to be NWSWSE S20, T10N, R24E. At a minimum, an amended WFR is  
19 necessary to resolve the location discrepancies.

20 Additionally, an amended WFR is appropriate because a new SOC has been  
21 submitted to ADWR regarding SP001 and Water Rights Registration Act filings (“36-  
22 filings”) have been submitted to ADWR to support both SOC’s. Not only were the 36  
23 filings not part of the original WFR, but the new filings also change the claimed priority  
24 date from 1980 to 1916. Before the Court approves a *de minimis* abstract, ADWR must

---

25 <sup>1</sup> W1-11-001214 Order on Motion for Clarification, at 2, June 2, 2025.

26 <sup>2</sup> Pursuant to Ariz. Rev. Stat. §45-256(F), claimants can “rely on the [watershed file] report as evidence of their  
water right.”

27 <sup>3</sup> W1-11-19, Memorandum Decision, Findings of Fact, and Conclusions of Law for Group 1 Cases Involving  
28 Stockwatering, Stockponds, and Domestic Uses (Nov. 14, 1994) at 42; CV 6417-400, Report of the Special  
Master on Summary Proceedings in the Lower Little Colorado Subwatershed (October 30, 2020) at 21; CV 6417-  
33-9005R, Report of the Special Master on Summary Proceedings in the Silver Creek Watershed (August 23,  
2020) at 21.

1 evaluate whether the new 36-filings support the PWRs identified in WFR 033-52-035.

2 **The Amended WFR 033-52-035 Will NOT Include Newly Claimed Uses -**


3 SOC 39-83099, included in the original WFR, claimed only two stockponds.  
4 Claimant's current draft abstracts include a completely new SOC, 39-180921, for SP002  
5 that includes a third stockpond, and SOC 39-180581 that claims a stockwatering use.  
6 Despite claimant's use of the same 36-filing as a basis of right, the locations of these uses  
7 do not appear to be within the scope of the area investigated in the original WFR No. 033-  
8 52-035, nor do these additional SOC's appear to present any claims substantially related  
9 to claims or uses identified in the 1990 WFR. Claims that are completely new claims  
10 require significantly more expansive notice and will therefore be adjudicated in Silver  
11 Creek HSR II.

12 **IT IS ORDERED** that ADWR shall file an amended Watershed File Report for  
13 033-52-035 no later than **March 2, 2026**.

14 **IT IS FURTHER ORDERED** that ADWR shall include only PWR #033-52-035-  
15 SP001 and PWR #033-52-035-SP002.

16 **IT IS FURTHER ORDERED** that objections to the amended WFR must be filed  
17 no later than **April 3, 2026**.

18 Signed this 9<sup>th</sup> day of December 2025.

19  
20  
21   
22 Sherri L. Zendri  
Special Water Master

23  
24 On December 9, 2025, the original  
25 of the foregoing was delivered to the Clerk of the  
26 Apache County Superior Court for filing and  
27 distributing a copy to all persons listed on the  
28 Court-approved mailing list for this contested  
case, a copy of which is attached.

  
Emily Natale

Court Approved Mailing List  
In re W & J Hamilton et al.  
CV6417-33-6436 (11 Names)  
Prepared by the Special Master  
12/9/2025

---

Andrew "Guss" Guarino  
U.S. Dept. of Justice - ENRD  
Tribal Resources Section  
999 18th Street, N. Terrace,  
Ste. 600  
Denver, CO 80202  
guss.guarino@usdoj.gov

J. Leonard, J. Dworkin, M.K.  
Hoover,  
E. Hiller, & C. French  
SACKS TIERNEY P.A.  
4250 N. Drinkwater Blvd. 4th  
Floor  
Scottsdale, AZ 85251

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

Karen J. Nielsen  
Arizona Dept. of Water  
Resources  
1110 W. Washington, Ste 310  
Phoenix, AZ 85007  
knielsen@azwater.gov

D. Brown, J. Brown, A. Brown  
G Perkins, B. Heiserman, B.  
Pew  
Brown & Brown Law P.C.  
PO Box 1890  
St. Johns, AZ 85936  
david@b-b-law.com;  
jabrown@b-b-law.com;  
bheiserman@b-b-law.com;  
laura@b-b-law.com

Mark Widerschein & Alexa  
Penalosa  
U.S. Dept. of Justice - ENRD  
Natural Resources Section  
PO Box 7611  
Washington, DC 20044  
mark.widerschein@usdoj.gov;  
alexa.penalosa@usdoj.gov

Ethel Branch & G. Michelle  
Brown-Yazzie  
Navajo Nation Department of  
Justice  
PO Drawer 2010  
Window Rock, AZ 86515  
mbranch@nndoj.org;  
myazzie@nndoj.org

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

J. Kolsrud, I. Fimbres-Ruiz, K.  
Shaffer  
May, Potenza, Baran &  
Gillespie, PC  
1850 N. Central Avenue, Ste  
1600  
Phoenix, AZ 85004-4633  
jkolsrud@maypotenza.com;  
kshaffer@maypotenza.com;  
irania@maypotenza.com

Phillip W. Londen  
OSBORN MALEDON, P.A.  
2929 N. Central Ave., Ste.  
2000  
Phoenix, AZ 85012  
plonden@omlaw.com

Sherri L. Zendri  
Special Master  
Central Court Building, Ste 3A  
201 West Jefferson  
Phoenix, AZ 85003-2205