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6 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
7 IN AND FOR THE COUNTY OF MARICOPA
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9 IN RE THE GENERAL
10 ADJUDICATION OF ALL RIGHTS
11 TO USE WATER IN THE GILA
12 RIVER SYSTEM AND SOURCE

W-1, W-2, W-3, W-4 (Consolidated)

Contested Case No. **W1-11-1506**

13 **ORDER INITIATING CONTESTED**
14 **CASE AND SETTING INITIAL**
15 **CONFERENCE**

16 CONTESTED CASE NAME: *In re James K. and Wanda L. Bell*

17 HSR INVOLVED: San Pedro Hydrographic Survey.

18 DESCRIPTIVE SUMMARY: The Clerk of Maricopa County Superior Court is directed
19 to initiate W1-11-0035. Initial conferenceset for **Tuesday, October 8, 2024, at 9:00 am.**

20 NUMBER OF PAGES: 15

21 **General Explanation**

22 This order opens a case to determine rights to use water on land that the Cochise
23 County Assessor has identified as owned by Nancy Luyten, Anulfo A. and Suzan
24 Baeurlen, Caleb David and Kimberly Barajas, and the Weaver Family Trust. The first
25 step in this case is an initial conference with the Court, scheduled for **Tuesday, October**
26 **8, 2024, at 9:00 am.**, to determine if each landowner is interested in pursuing water rights
27 claims. Each current landowner **MUST** attend the scheduled initial conference if they
28 plan to pursue water rights claims. Failure to appear at the initial conference could result

in the dismissal of the case and the loss of potential surface water rights.

In this case, James K. Bell (“Claimant”) filed Statements of Claimant (“SOC”) 39-6522 and 39-6523 to assert claims to use water on land that appears to comprise the Cochise County tax parcels 208-30-002G, 208-30-002U, 208-30-002Z, and 208-30-003. During the initial conference, each current landowner must state whether he or she intends to pursue water rights claims.

Additional background information on the process for determining water rights in Arizona can be found on Attachment A.

Details of the Case

SOCs #39-6522 and #39-6523 contain the following claim(s):

Use	Quantity	Location	Source
Domestic	None claimed	Section 8 T16S, R20E	Well
Stock watering	None claimed	Section 8 T16S, R20E	Well
Irrigation	None claimed	S1/2 Section 8 T16S, R20E	Well

The Arizona Department of Water Resources (“ADWR”) investigated the claims made by the Claimant and prepared Watershed File Report (“WFR”) 112-14-DDB-005, published in the Final San Pedro Watershed Hydrographic Survey Report (1991) (“HSR”). The WFR recorded the following use(s):

Use	Quantity	Location	Source
Domestic	None reported	SWSWSE8 T16S, R20E	Well
Discontinued irrigation	None reported	NESW, SESW 8 T16S, R20E	Well
Discontinued irrigation	None reported	NWSE, SWSE 8 T16S, R20E	Well

A copy of the WFR is attached as Attachment B. A map, prepared by ADWR, showing the area investigated is attached as Attachment C.

After ADWR issued the WFR, objections were filed to the findings made in the

WFR by Gila River Indian Community, San Carlos, Apache Tribe, Yavapai-Apache Nation, Magma Copper Co. (now BHP) and ASARCO Inc., Salt River Project, and the United States. The objections are summarized in the table below.

Objector(s)	Summary
USA, Gila River Indian Community, San Carlos, Apache Tribe, Yavapai-Apache Nation	<ul style="list-style-type: none">• The water use claimed depletes federal and Indian rights• Absence of well registration filing• Absence of water use rate• Absence of basis of right• Place of use and place of diversion descriptions too general• Filings with incomplete or inaccurate information• Rights forfeited.
Magma Copper Co. and ASARCO Inc.	Groundwater not subject to adjudication.
Salt River Project	<ul style="list-style-type: none">• Reservation of right to resolve issues pertaining to discontinued use• Water rights unquantified• Absence of diversion rate

The purpose of this case is to consider the claims in SOC's 39-6522 and 39-6523 and to resolve the objections to WFR No. 112-14-DDB-005.

Claimant and Landowners

WFR 112-14-DDB-005 lists James K. and Wanda L. Bell as the owner(s) of the property investigated in 1990. According to maps obtained from the Cochise County Assessor's ('Assessor') website, the land investigated appears to comprise parcels 208-30-002G, 208-30-002U, 208-30-002Z, and 208-30-003.

A copy of the map showing the relevant tax parcels and current ownership is attached as Attachment D. The public records of ADWR do not contain any assignments of the SOC listed in the WFR. Further, landowners do not appear to have filed any additional SOC's since the issuance of the HSR.

1 In order to obtain a decreed water right, each property owner must present to the
2 Court an SOC claiming a water right and evidence of that right. This evidence may
3 include the relevant WFR. Further, property owners must ensure that all water rights
4 claims are paired with the appropriate basis of right, e.g. a statement of claim, decree,
5 stockpond registration, or water rights certificate.

6 If either the property owner proves to the Court the existence of a water right on
7 their property or enters into a valid settlement approved by the Court, the court will
8 recognize an enforceable water right in a “Final Decree.” Ariz. Rev. Stat. § 45-257(B).

9 This is an order from the Court, and all parties must comply with the following
10 instructions. The failure to obey this, or any, court order may result in the dismissal of
11 this case and the loss of potential surface water rights. If you have questions regarding
12 this Order or any of the attachments, please contact the General Stream Adjudication,
13 Office of the Special Water Master, at (602) 372-4115. Please note that staff can only
14 answer administrative questions and cannot provide legal advice.

15
16 **IT IS ORDERED:**

17 **1. Case Initiation.** This order initiates contested case W1-11-1506, *In re James*
18 *K. and Wanda L. Bell*. This case will resolve claims to use appropriable water
19 asserted in Statement(s) of Claimant 39-6522 and 39-6523 and objections that
20 were filed to Watershed File Report No. 112-14-DDB-005.

21 **2. Initial Conference.** An initial conference shall be held on **Tuesday, October**
22 **8, 2024, at 9:00 am.** to determine whether each current landowner intends to
23 pursue claims for water rights. The conference will be held using the Court
24 Connect program. Instructions for Court Connect are attached as Attachment E. If
25 you receive this Order by email, click on the red box “Join Court Connect Hearing”
26 on the attached instructions to make an appearance. If you do not receive this
27 Order by email, log into the Court Connect program on the internet by typing
28

1 <https://tinyurl.com/specialwatermaster>. If you do not have access to the internet,
2 you may attend telephonically using the telephone number and access code
3 included in the instructions for Court Connect.

4
5 **3. Parties.** The litigants in this contested case are the claimant(s), the current
6 landowner(s), and all parties who filed objections to the Watershed File Report.
7 The objector(s) in this case are Gila River Indian Community, San Carlos, Apache
8 Tribe, Yavapai-Apache Nation, Magma Copper Company (now BHP) and
9 ASARCO, Salt River Project, and the United States.

10 **4. Objections.** Copies of objections filed to this case can be found under the
11 respective case names and numbers on the following website:
12 [http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudicati](http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp)
13 [on/whatsNew.asp](http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp).

14 **5. Court-Approved Mailing List.**

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

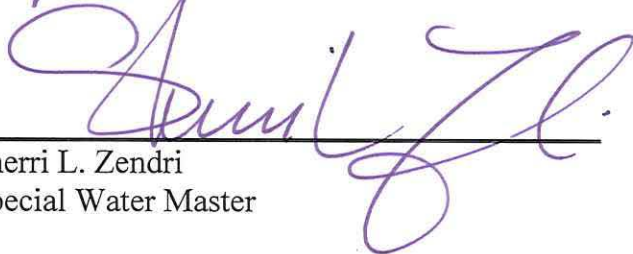
20 B. A copy of any pleading filed with the Clerk of the Maricopa County
21 Superior Court in this case shall be served upon each person listed on the
22 Court-approved mailing list.

23 C. Claimants wishing to be added or removed from the mailing list shall
24 file a motion with the Special Master. Parties allowed to intervene will be
25 automatically added to the Court-approved mailing list.

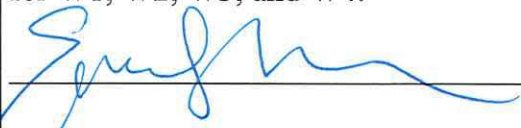
26 D. The Clerk of the Court will send copies of all minute entries and orders
27 issued in this case to the parties listed on the Court-approved mailing list.
28

1 E. Claimants who would like to receive courtesy copies of minute entries
2 and orders may request inclusion on an email list by sending a request to
3 emily.natale@jbazmc.maricopa.gov.
4

5 Signed this 9th day of September 2024.
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9 Sherri L. Zendri
Special Water Master
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14 On September 9, 2024, the original of
15 the foregoing was delivered to the Clerk of the
16 Maricopa County Superior Court for filing and
17 distributing a copy to all persons listed on the
18 Court-approved mailing list for this contested
19 case, a copy of which is attached, and to all
20 persons listed on the Court-approved mailing list
21 for W1, W2, W3, and W4.
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26 Emily Natale
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ATTACHMENT A

General Background on the Water Rights Determination Process in Arizona

A general stream adjudication is a judicial proceeding to determine the quantity and priority of all water rights in a river system. Arizona is undertaking general stream adjudications of both the Gila River and the Little Colorado River systems. A river system includes surface water flowing “in streams or other natural channels,” groundwater sufficiently connected to that surface water, and water subject to claims by the federal government. Ariz. Rev. Stat. § 45-251(7). Recognizing and respecting water rights and the priority of such rights is important in Arizona where times of drought or water scarcity can occur.

All cases begin with the filing of a “Statement of Claimant,” (“SOC”) in which a property owner makes a claim for a right to use surface water on their property. Ariz. Rev. Stat. § 45-254(A). This person is the “claimant.” The SOC contains, among other characteristics, a description of the source and quantity of the water used, the location of use, the location from which the water was diverted, and the date when the water was first put to use. *Id.* § 45-254(C).

After the property owner files the SOC, the Arizona Department of Water Resources (“ADWR”) prepares a “Watershed File Report,” (“WFR”) in which ADWR investigates the claims in the SOC and recommends water rights associated with the property. *Id.* § 45-256(B). ADWR compiles all WFRs for a watershed into a comprehensive Hydrographic Survey Report (“HSR”) and publishes the report for public review and comment. In response, other claimants in the Adjudication may file “objections” disputing the information or recommendations in the WFR. The individuals who file objections are called “objectors.”

This “contested case”, one of thousands in the Gila River System, will evaluate claims asserted in specific Statements of Claimant while considering objections to the WFR that reported ADWR’s initial inspection of those claims.

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ATTACHMENT B
Watershed File Report

AS OF 10/11/91

LAND OWNER	WATERSHED FILE REPORT NUMBER
BELL, JAMES K. & WANDA L.	112-14-DDB-005
PHOTO ID - 18-3 (87)	QUAD 1 - GALLETA FLAT EAST

A P P L I C A B L E F I L I N G S A N D D E C R E E S

CLEARLY STATED INFORMATION FROM FILINGS AND DECREES

FILING NUMBER	FILING STATUS	USES	QUANTITY IN AFA	USE LOCATION SECTION TWP RGE	CLAIM DATE	DIVERSION LOCATION SECTION TWP RGE
39-0006522	QUE.RECD	IRRIGATION		08 160S 200E	1977	08 160S 200E
39-0006523	QUE.RECD	IRRIGATION DOMESTIC STOCK		08 160S 200E	1977	08 160S 200E

D W R A N A L Y S I S O F F I L I N G S A N D D E C R E E S

FILING NUMBER	USES CLAIMED OR REFERENCED	USES FOUND BY DWR	APPLIES TO DIVERSIONS	APPLIES TO PWR NUMBERS
39-0006522	IRRIGATION	DISCONTINUED	W01	IR090, IR091
39-0006523	IRRIGATION DOMESTIC STOCK	DISCONTINUED DOMESTIC INCIDENTAL	W02	DM001, IR091

D I V E R S I O N S

DIV #	LOCATION SECTION TWP RGE	DIVERSION NAME	WATER SOURCE AND CLASSIFICATION
W01	SESW08 160S 200E	UNNAMED	GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER SHARED
W02	NESW08 160S 200E	UNNAMED	GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER

U S E S

PWR #	LOCATION SECTION TWP RGE	SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO DATE	SOURCE CHANGE	FACILITY NAME
DM001	SWSW08 160S 200E	W02	GROUNDWATER : ZONE 1		NO	
IR090	NESW08 160S 200E	W01	GROUNDWATER : ZONE 1	1935	NO	
	SESW08 160S 200E					
IR091	NWSE08 160S 200E	W01, W02	GROUNDWATER : ZONE 1	1955	NO	
	SWSE08 160S 200E					

S H A R E D U S E S A N D D I V E R S I O N S

** WATER FROM W01 IS SHARED WITH THESE ADDITIONAL FILES:
112-14-DDB-4

P W R S U M M A R Y

PWR #	APPLICABLE ADJ FILINGS	APPLICABLE PRE FILINGS	*APPARENT FIRST USE DATE* DATE BASIS FOR DATE	WATER SOURCES AND CLASSIFICATIONS
DM001	39-0006523	NONE		GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER
IR090	39-0006522	NONE	1923 1923 STATE SURVEY	GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER
IR091	39-0006522 39-0006523	NONE	1955 1955 AERIAL PHOTO	GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER

Q U A N T I T I E S O F U S E

112-14-DDB-005

PWR #	QUANTIFICATION TYPE	ACRES	CROP TYPE	EFF	WATER DUTY	ESTIMATED VOLUME	REMARKS
DM001							SEE VOLUME 1 - GENERAL ASSESSMENT DISCONTINUED IRRG. DISCONTINUED IRRG.
IR090	REGIONAL	20.3	NO CROP				
IR091	REGIONAL	27.7	NO CROP				

E X P L A N A T I O N

FILINGS AND DECREES

FILING 39-6523 - CLAIMS LAWN AND GARDEN IRRIGATION UNDER "OTHER" WATER USES. THIS USE WAS REFERENCED UNDER IRRIGATION WATER USES.
 FILINGS 39-6522 & 39-6523 - UNIFORM QUESTIONNAIRES WERE RECEIVED WHICH REFLECT INFORMATION PREVIOUSLY PROVIDED IN THE ORIGINAL STATEMENTS OF CLAIMANT.

DIVERSIONS

W1 - WELL PROVIDES WATER FOR IRRIGATION USES.
 W2 - WELL PROVIDES WATER FOR IRRIGATION, DOMESTIC, AND STOCKWATERING USES.

USES AND RESERVOIRS

DM1 - DOMESTIC USE.
 IR90 & IR91 - DISCONTINUED USE: D.W.R. HAS DETERMINED THAT NO IRRIGATION HAS OCCURRED ON THIS PROPERTY IN THE LAST FIVE YEARS, BUT THERE HAS BEEN IRRIGATION WITHIN THE PAST TEN YEARS BASED UPON A REVIEW OF HISTORICAL AERIAL PHOTOGRAPHY AND FIELD INVESTIGATIONS.

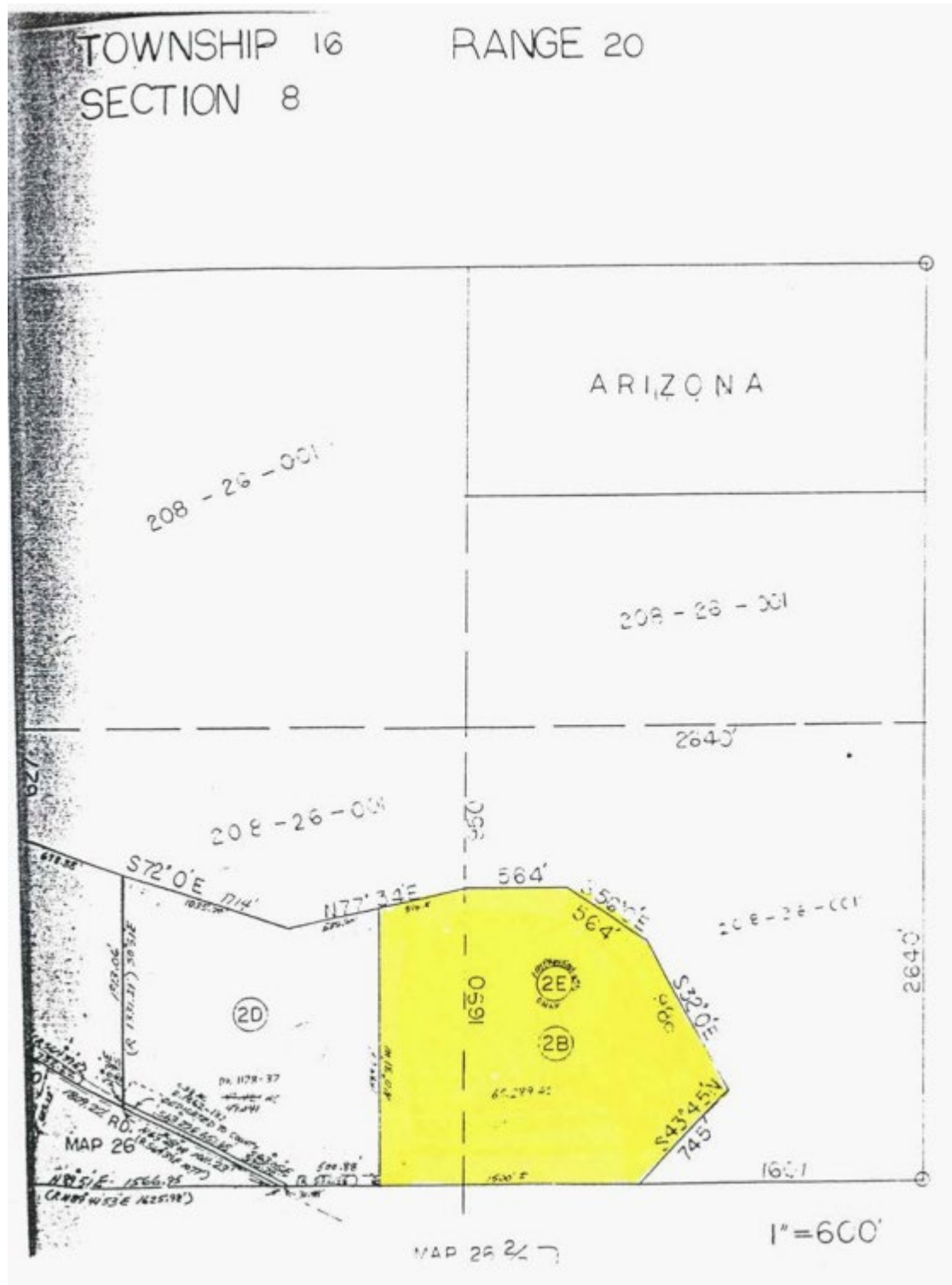
SHARED USES AND DIVERSIONS

W1 - WELL IS SHARED WITH W.F.R. #112-14-DDB-4.

PWR SUMMARY

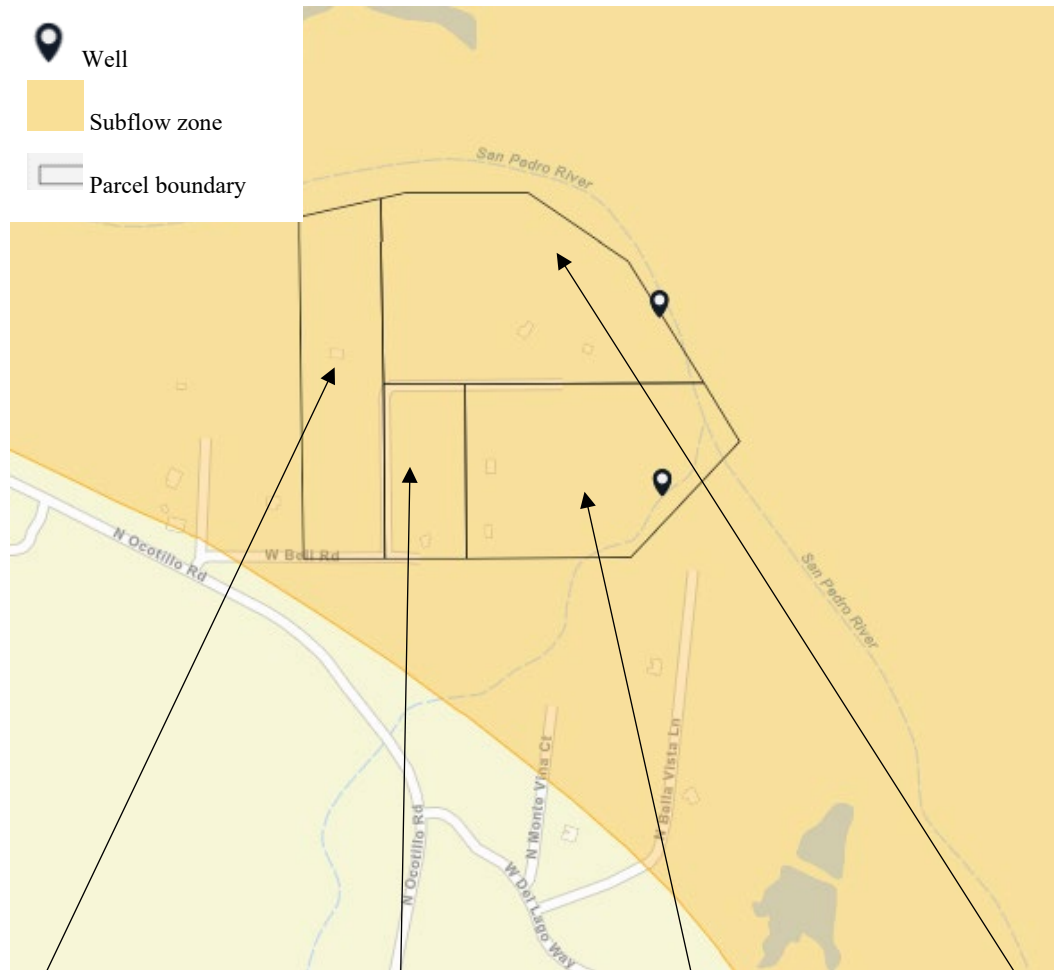
IR90 - THE APPARENT FIRST USE DATE IS BASED ON THE ARIZONA STATE WATER COMMISSIONER'S SURVEY OF 1923.

ADWR Parcel Map



ATTACHMENT D

Assessor Parcel Map



208-30-002G
Nancy Luyten

208-30-003
Weaver Family Trust

208-30-002Z
Caleb and Kimberly
Barajas

208-30-002U
Arnulfo and
Suzan Baeurlen

ATTACHMENT E



Court Connect Hearing Notice for In re James K. and Wanda L. Bell

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 James K. and Wanda L. Bell

Contested Case No. W1-11-1506

Start Date/Time: Tuesday, October 8, 2024, at 9:00 am.

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](#)

ATTACHMENT F

Initial Court-Approved Mailing List

Arizona Department of Water Resources
Kimberly R. Parks and Karen J. Nielsen
1110 West Washington, Suite 310
Phoenix, AZ 85007

Alexander B. Ritchie
San Carlos Apache Tribe
Office of the Attorney General
PO Box 40
San Carlos, AZ 85550

Clerk of the Superior Court
Maricopa County
Attn: Water Case
601 West Jackson St.
Phoenix, AZ 85003

Joe P. Sparks and Laurel A. Hermann
The Sparks Law Firm, P.C.
7503 First Street
Scottsdale, AZ 85251-4573

Special Master Sherri Zendri
Superior Court of Arizona
201 W. Jefferson Street
Courtroom 301
Phoenix, AZ 85003

Jeremiah Weiner, Brett J. Stavin, &
Jay Lee
Rosette, LLP.
120 S. Ash Avenue, Suite 201
Tempe, AZ 85281

James K. Bell
HCR 6900
Benson, AZ 85602

Susan B. Montgomery, Robyn Interpreter,
Montgomery & Interpreter PLC
3301 E Thunderbird Road
Phoenix, AZ 85032

Nancy Luyten
PO Box 3154
St. Charles, IL 60174

Gila River Indian Community
Javier Ramos and Sunshine Manuel
Office of the General Counsel
P.O. Box 97
Sacaton, AZ 85147

Arnulfo A. and Suzan Baeurlen
2262 N. Rivers Edge Road
Benson, AZ 85602

Merrill C. Godfrey and Brette A. Pena
Akin Gump Straus Hauer & Feld LLP
2001 K Street, N.W.
Washington, DC 20006

Caleb David and Kimberly Barajas
2241 N. Rivers Edge Road
Benson, AZ 85602

Weaver Family Trust
PO Box 156
Benson, AZ 85602-0156

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

Laura Boyer & Maggie Woodward
U. S. Department of Justice – ENRD
P.O. Box 7611, Ben Franklin Station
Washington, DC 20044

1 Lauren Caster
2 Fennemore Craig, P.C.
3 2394 East Camelback Road
4 Ste 600
5 Phoenix, AZ 85016

BHP Copper
John D. Burnside
Snell and Wilmer, L.L.P.
One E. Washington Street
Suite 2700
Phoenix, AZ 85004-2556

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