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7 **ARIZONA GENERAL STREAM ADJUDICATION**  
8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
9 **IN AND FOR THE COUNTY OF MARICOPA**

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

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

Contested Case No. **W1-11-2212**

14 **ORDER INITIATING CONTESTED**  
15 **CASE AND SCHEDULING INITIAL**  
16 **CONFERENCE HEARING**

17 **CONTESTED CASE NAME:** *In re Max J. Kartchner et al II*

18 **HSR INVOLVED:** San Pedro Hydrographic Survey.

19 **DESCRIPTIVE SUMMARY:** The Clerk of Maricopa County Superior Court is directed  
20 to initiate W1-11-2212. Parties who wish to pursue this case are ordered to attend an initial  
21 conference hearing scheduled for **Tuesday, January 7, 2025, at 10:00 a.m.**

22 **NUMBER OF PAGES:** 14

23 **This order opens a case to determine legal rights to use water.**

24 **This case is NOT being initiated because of any improper water use.**

25 **Failure to participate may result in dismissal of potential water rights.**

26 The state of Arizona is currently undergoing a General Stream Adjudication to  
27 determine water use and create an accurate, enforceable record of those water rights. In  
28 Arizona, surface water, and water pumped from some wells<sup>1</sup>, belong to the general public.  
An enforceable right to use this “appropriable” water may be acquired after review and

<sup>1</sup> Arizona law includes wells that may be pumping surface water in the General Stream Adjudication and subject to all requirements for surface well use.

1 approval by Arizona's General Stream Adjudication Court. This Court has been  
2 instructed to evaluate claims on water in much of the state of Arizona and determine the  
3 date of first use, amount, and type of potential water use. This process, the "general stream  
4 adjudication," is currently evaluating **COCHISE COUNTY PARCEL No. 208-49-014**  
5 for potential water rights to be included in the catalog of water rights for the Gila River  
6 system.

7 This court order opens a case to determine rights to use water on the parcel listed  
8 above, that the Cochise County Assessor has identified as owned by **DRAGOON**  
9 **RANCH LLC**. Current landowners who intend to pursue any potential water rights  
10 associated with this case must attend the initial status conference scheduled for **Tuesday,**  
11 **January 7, 2025, at 10:00am**. Interested Parties **MUST** attend the scheduled initial  
12 conference if they plan to pursue potential water rights. Failure to appear at the initial  
13 conference could result in the dismissal of the case and the loss of water rights associated  
14 with the property. The conference will be held virtually using the Court Connect program.  
15 Instructions for Court Connect are attached as Attachment A.

#### 16 17 **CURRENT LANDOWNERS**

18 DRAGOON RANCH LLC is the current landowner of COCHISE COUNTY  
19 PARCEL No. 208-49-014, which was previously owned by Max J. & Donna L. Kartchner  
20 and Mark M. & Marion B. Kartchner.

21 Arizona Department of Water Resources ("ADWR") records indicate that Max J.  
22 Kartchner filed Statements of Claimant 39-4106 and 39-4114 in June 1980, claiming water  
23 for stock and wildlife watering beginning in 1921. The filing of a Statement of Claimant  
24 declares an individual's intent to claim a water right and begins the process of pursuing  
25 that water right with the Court.

26 ADWR investigated this potential water use and issued Watershed File Report No.  
27 111-22-027. After the Watershed File Report was issued, the public was allowed an  
28 opportunity to object to the findings in the report if they believed there were errors or

insufficient documentation. This case will determine the water rights associated with the property investigated in the Watershed File Report:

Objector(s)	Summary of objections
Gila River Indian Community, San Carlos Apache Tribe, Yavapai-Apache Nation (Jointly)	<ul style="list-style-type: none"><li>• The water used is subject to federal and Indian claims</li><li>• Absence of water use rate</li><li>• Inconsistent claimed priority dates.</li></ul>

The Court recognizes there has been a long delay between the filing of the initial documents and the initiation of this case. Because of this delay, the property has changed ownership and may have been subdivided. Nonetheless, current landowners may still pursue certain water rights. Below is a summary of the water use found on the property at the time of the Report:

<b>Watershed File Report</b>	112-18-027	
<b>Cochise Co. Tax Parcel</b>	208-49-014	
<b>Claimant Name</b>	Max Kartchner	
<b>Existing claims</b>	<b>39-4106:</b> Wildlife stockpond using 0.34 acre feet annually from Upper Beacon Tank	<b>39-4114:</b> Wildlife stockpond using 0.13 acre feet annually from Middle Beacon Tank
<b>Water use found during ADWR investigation</b>	Wildlife stockpond of < 2 square acres of surface area and < 15 acre feet of volume from Upper Beacon Tank	Wildlife stockpond of < 2 square acres of surface area and < 15 acre feet of volume from Middle Beacon Tank
<b>Basis of Right</b>	36-26214 – Water Rights Registration Certificate 38-26225 – Stockpond Registration	36-26215 Water Rights Registration Certificate 38-26226 - Stockpond Registration

ADWR public records do not contain any assignments of the Statements of Claimant listed in the Watershed File Report nor do the current landowners appear to have filed any additional Statements of Claimant since the issuance of the HSR. Arizona law requires that for parties to obtain a legal water right, they must provide proof of their right by presenting to the Court an accurate Statement of Claimant claiming a water right, paired

1 with the appropriate basis of right, e.g. a statement of claim, decree, stockpond  
2 registration, or water rights certificate. According to the Watershed File Report, the  
3 following information will be needed to acquire a water right on this property:

4 A. The earliest available evidence of water use on the property.

5 B. An accurate Statement of Claimant in the name of the current landowner and  
6 accurately describing the water use being claimed. The current landowner may  
7 fulfill this requirement by either filing a new statement of claimant or obtaining  
8 an assignment or amendment of a preexisting statement of claimant.

9 C. A basis of right in the name of the current landowner (unless the basis is a  
10 judicial decree) and accurately describing the water use being claimed. The  
11 current landowner may fulfill this requirement by either filing a new basis of  
12 right or obtaining an assignment or amendment of a preexisting basis of right.

13 If the property owner is able to provide this proof to the Court to show the existence  
14 of a water right on their property, the court can recognize an enforceable water right in a  
15 “Final Decree.” Ariz. Rev. Stat. § 45-257(B). Alternatively, landowners may enter into  
16 Court approved settlements with the objecting parties.

## 17 18 **OBJECTING PARTIES**

19 Objectors to a potential water right must present the Court with a specific  
20 statement objecting to a specific potential water right attribute. Where an objection does  
21 not meet this requirement, the objecting party shall provide a detailed explanation of  
22 their objection during the initial conference hearing. Objectors to this contested case are  
23 the San Carlos Apache Tribe, the Tonto Apache Tribe, and the Yavapai-Apache Indian  
24 Community – Camp Verde Reservation. Copies of objections in this case can be found  
25 under the respective case name and number on the following website:

26 <http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp>  
27

1 **ATTACHMENTS TO THIS ORDER:**

2 Attachment A: Instructions on how to appear virtually or telephonically at the  
3 **Tuesday, January 7, 2025, at 10:00am** status conference

4 Attachment B: Additional information and resources on the process for determining  
5 water rights in Arizona

6 Attachment C: Copy of WFR No. 112-18-027

7 Attachment D: ADWR map showing land investigated in WFR No. 112-18-027

8 Attachment E: Map showing the relevant tax parcels and current ownership

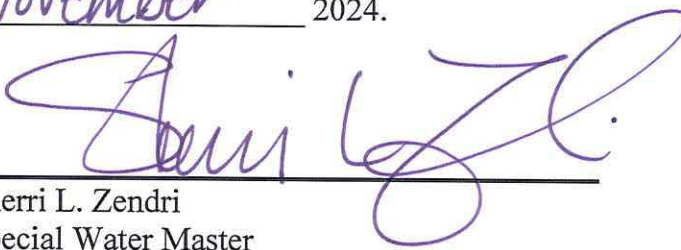
9 Attachment F: Initial Court Approved Mailing List

10  
11 **IT IS ORDERED** initiating contested case W1-11-2212, In re Max J. Kartchner et  
12 al II and scheduling an initial conference for **Tuesday, January 7, 2025, at 10:00am**. The  
13 initial Court-approved mailing list for this case shall include all parties listed on  
14 Attachment F to this order. Any document filed in this case must be served on all parties  
15 listed on the Court-Approved Mailing List. The list may be modified only by Court order.  
16 Anyone who would like to receive courtesy copies of minute entries and orders may  
17 request inclusion on an email list by sending a request to:

18 *emily.natale@jbazmc.maricopa.gov*.

19 If parties have questions regarding this Order or any of the attachments, please  
20 contact the General Stream Adjudication, Office of the Special Water Master, at (602)  
21 372-4115. Please note that staff can only answer administrative questions and cannot  
22 provide legal advice.

23 Signed this 21<sup>st</sup> day of November 2024.

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27 Sherri L. Zendri  
28 Special Water Master

1 On November 21, 2024, the original of  
2 the foregoing was delivered to the Clerk of the  
3 Maricopa County Superior Court for filing and  
4 distributing a copy to all persons listed on the  
5 Court-approved mailing list for this contested  
6 case, a copy of which is attached, and to all persons  
7 listed on the Court-approved mailing list for W1,  
8 W2, W3, and W4.

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Emily Natale

## ATTACHMENT A



### **Court Connect Hearing Notice for In re Max J. Kartchner et al II**

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 Max J Kartchner et al II**

**Contested Case No. W1-11-2212**

**Start Date/Time: Tuesday, January 7, 2025, at 10:00am**

**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 B

## **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 (both surface and groundwater) 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 C**  
**Watershed File Report**

AS OF 10/11/91

## LAND OWNER

WATERSHED FILE  
REPORT NUMBERKARTCHNER, MAX J.  
& DONNA L.  
KARTCHNER, MARK M.  
& MARION B.

112-18-027

PHOTO ID - 27-39 (79)

QUAD 1 - DRAGOON

## 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	TWNP	RNGE	CLAIM DATE	DIVERSION LOCATION SECTION	TWNP	RNGE
36-0026214		STOCK REC/FISH/WDLDF	.50				1976	NENW29	160S	220E
36-0026215		STOCK REC/FISH/WDLDF	2.80				1976	SWNW29	160S	220E
38-0026225		STOCK REC/FISH/WDLDF	.50	NENW29	160S	220E	1976	NENW29	160S	220E
38-0026226		STOCK REC/FISH/WDLDF	2.82	SWNW29	160S	220E	1976	SWNW29	160S	220E
39-0004106		STOCK	.34	SWNW29	160S	220E	1921	SWNW29	160S	220E
39-0004114		STOCK	.13	NENW29	160S	220E	1921	NENW29	160S	220E

## 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
36-0026214	STOCK WILDLIFE	STOCK INCIDENTAL		SP001
36-0026215	STOCK WILDLIFE	STOCK INCIDENTAL		SP002
38-0026225	STOCK WILDLIFE	STOCK INCIDENTAL		SP001
38-0026226	STOCK WILDLIFE	STOCK INCIDENTAL		SP002
39-0004106	STOCK	STOCK		SP002
39-0004114	STOCK	STOCK		SP001

## R E S E R V O I R S

PWR #	LOCATION SECTION	TWNP	RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO DATE	RESERVOIR NAME	STORAGE PURPOSE
SP001	NWENW29	160S	220E		SURFACE WATER	1979	UPPER BEACON TANK	STOCKWATERING WILDLIFE
SP002	NWSWNW29	160S	220E		SURFACE WATER	1979	MIDDLE BEACON	STOCKWATERING WILDLIFE

## 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
SP001	39-0004114	36-0026214 38-0026225	1976 36-26214 & 38-26255	SURFACE WATER: SAN PEDRO RIVER
SP002	39-0004106	36-0026215 38-0026226	1976 36-26215 & 38-26226	SURFACE WATER: SAN PEDRO RIVER

Q U A N T I T I E S   O F   U S E

112-18-027

PWR #	QUANTIFICATION TYPE		ACRES	CROP TYPE	EFF	WATER DUTY	ESTIMATED VOLUME	REMARKS
SP001	MAX.	AREA/CAP	LT 2.0				LTE 15.0 AF	
SP002	MAX.	AREA/CAP	LT 2.0				LTE 15.0 AF	

E X P L A N A T I O N

USES AND RESERVOIRS

- SP1 - UPPER BEACON TANK STOCKPOND.
- SP2 - MIDDLE BEACON TANK STOCKPOND.

**ATTACHMENT D**

**ADWR Parcel Map**

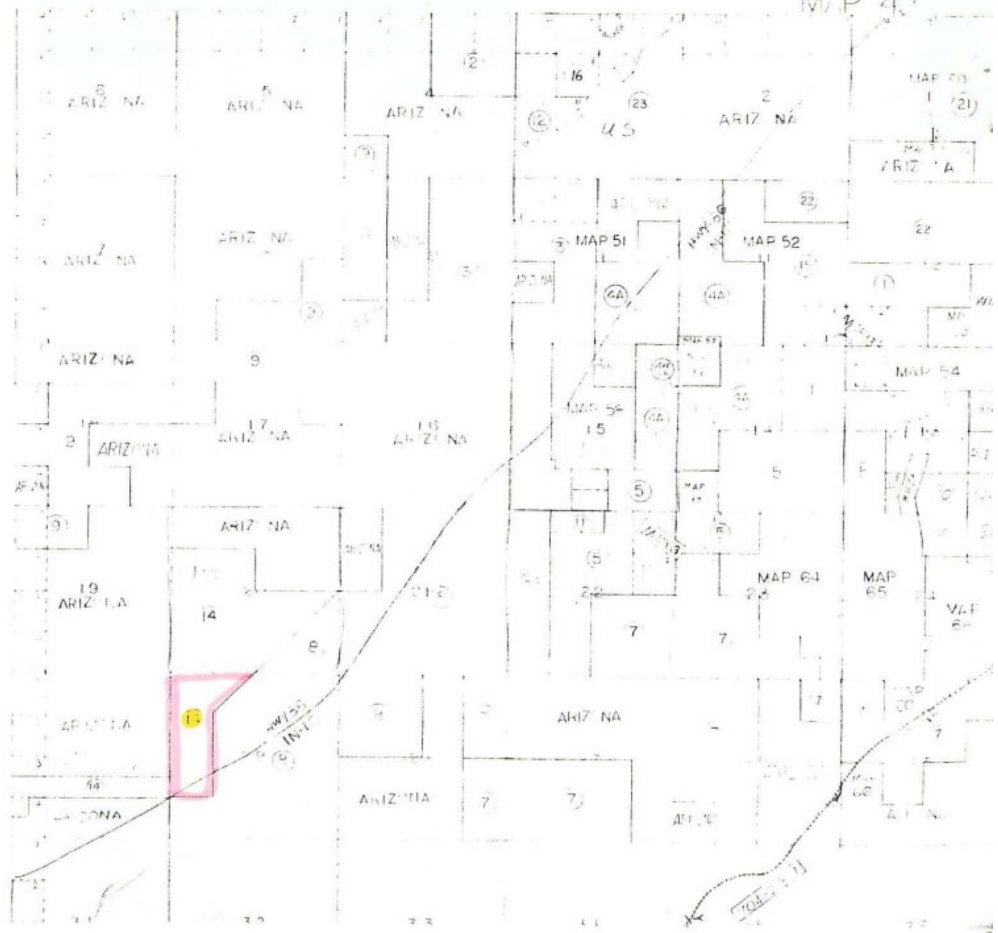
SEC.

TN. 16

RG. 22

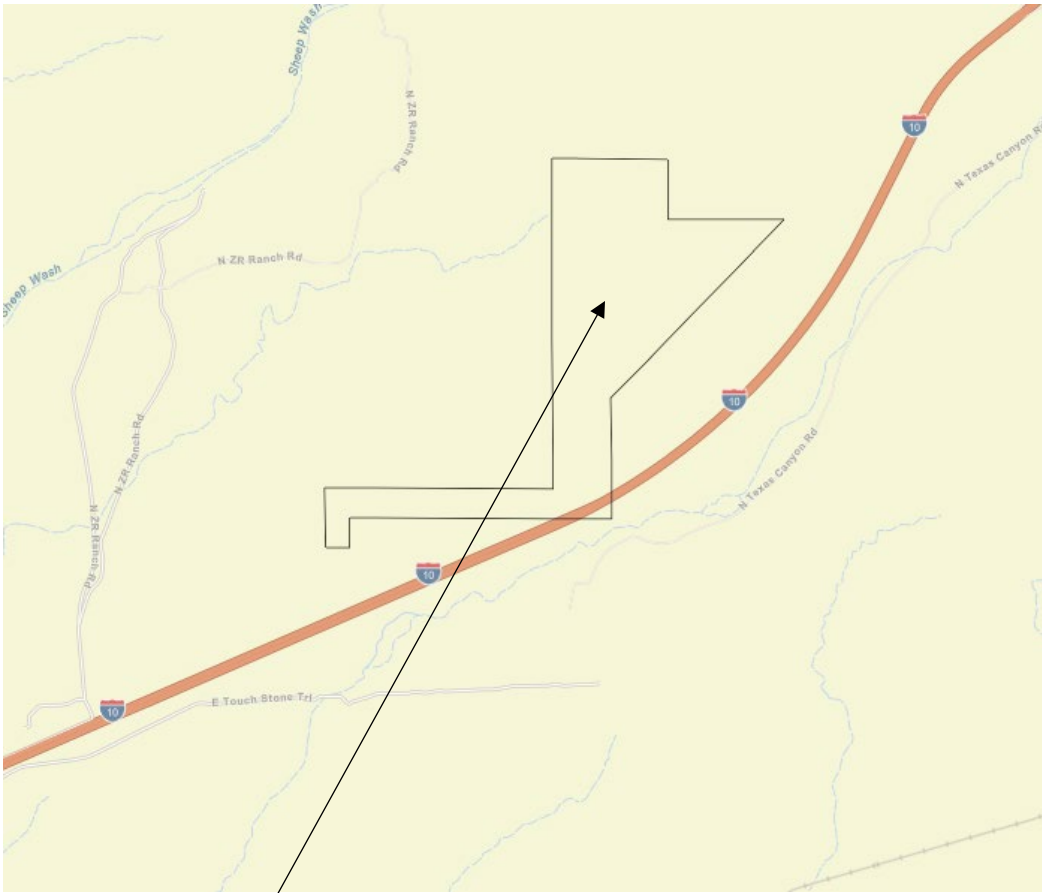
BOOK  
MAP 40

41-14  
41-7



**ATTACHMENT E**

**Assessor Map**



**Assessor Parcel No. 208-49-014**  
**Dragoon Ranch LLC**

**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	Jeremiah Weiner, Brett J. Stavin, and Jay Lee Rosette, LLP. 120 S. Ash Avenue, Suite 201 Tempe, AZ 85281
Clerk of the Superior Court Maricopa County Attn: Water Case 601 West Jackson St. Phoenix, AZ 85003	Susan B. Montgomery, Robyn Interpreter, Montgomery & Interpreter PLC 3301 E Thunderbird Road Phoenix, AZ 85032
Special Master Sherri Zendri Superior Court of Arizona 201 W. Jefferson Street Courtroom 301 Phoenix, AZ 85003	Gila River Indian Community Javier Ramos & Michael Carter Office of the General Counsel P.O. Box 97 Sacaton, AZ 85147
Alexander B. Ritchie San Carlos Apache Tribe Office of the Attorney General PO Box 40 San Carlos, AZ 85550	Merrill C. Godfrey and Brette A. Pena Akin Gump Straus Hauer & Feld LLP 2001 K Street, N.W. Washington, DC 20006
Joe P. Sparks and Laurel A. Hermann The Sparks Law Firm, P.C. 7503 First Street Scottsdale, AZ 85251-4573	Dragoon Ranch LLC 3040 N. Bear Canyon Rd. Tucson, AZ 85749-8771  Max J. Kartchner Rt. 1, Box 149 St. David, AZ 85630