

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

**CV6417**  
  
Case: **CV6417-33-5704**

**ORDER INITIATING CONTESTED  
CASE AND SETTING INITIAL  
CONFERENCE**

CONTESTED CASE NAMES: *In re First American Title Insurance Co. of Arizona*  
HSR INVOLVED: Silver Creek Hydrographic Survey.  
DESCRIPTIVE SUMMARY: The Clerk of Apache County is directed to initiate CV6417-33-5704. Initial conference set for **Thursday, September 19, 2024, at 10:00 a.m.**  
NUMBER OF PAGES: 14

**General Explanation**

This order opens a case to determine rights to use water on properties that the Navajo County Assessor has identified as owned by the individuals listed on Attachment A to this order. The first step in this case is an initial conference with the Court, scheduled for **Thursday, September 19, 2024, at 10:00 a.m.** to determine if each

1 landowner is interested in pursuing water rights claims. Each current landowner **MUST**  
2 attend the scheduled initial conference if they plan to pursue water rights claims. Failure  
3 to appear at the initial conference could result in the dismissal of the case and the loss of  
4 potential surface water rights.

5 In this case, the United States Bureau of Land Management filed Statement of  
6 Claimant (“SOC”) 39-84810 on June 5, 1985, to assert claims to use water on land that  
7 appears to comprise the Navajo County tax parcels listed on Attachment A to this order.

8 During the initial conference, each listed landowner **Thursday, September 19,**  
9 **2024, at 10:00 a.m.** must state whether they intend to pursue a water rights claim.

10  
11 **Additional background information on the process for determining water rights**  
12 **in Arizona can be found on Attachment B.**

#### 13 14 **Details of the Case**

15 SOC 39-84810 contains a claim for a stockpond with a maximum volume of 2.6  
16 acre-feet located in southwest-southeast-northeast Section 28, Township 12 North  
17 Range 23 East.

18 The Arizona Department of Water Resources (“ADWR”) investigated the claim  
19 and prepared Watershed File Report (“WFR”) 33-51-023, published in the Final Silver  
20 Creek Watershed Hydrographic Survey Report (1991) (“Silver Creek HSR”). The WFR  
21 recorded the existence of a stockpond within southeast-southwest-northeast Section 28,  
22 Township 12 North Range 23 East. A copy of the WFR is attached as Attachment C. A  
23 copy of a map displaying the area investigated by ADWR is attached as Attachment D.

24 After ADWR issued the WFR, an objection was filed to the findings made in the  
25 WFR by Salt River Project. The purpose of this case is to consider claims for water rights  
26 in SOC 39-84810 and to resolve the objections to WFR No. 33-51-023.  
27  
28

1 **Claimant and Landowners**

2 WFR 33-51-023 lists First American Title Insurance Company of Arizona as the  
3 owner of the property investigated in 1991. According to maps obtained from the Navajo  
4 County Assessor’s (“Assessor”) website, the land investigated appears to comprise the  
5 various Navajo County tax parcels listed on Attachment A to this order.

6 A copy of the map showing the relevant tax parcels and current ownership is  
7 attached as Attachment A. The public records of ADWR do not contain any assignments  
8 of the SOC’s listed in the WFRs, and landowners do not appear to have filed any  
9 additional SOC’s since the issuance of the 1991 HSR.

10

11 **Objections**

12 The objection to WFR 33-51-023 filed by Salt River Project is regarding the  
13 priority date claimed on the SOC. Pre adjudication documents which were filed to  
14 justify the basis or right for the proposed water rights are dated more recently than the  
15 SOC claims. To establish an older priority date, current property owners must present  
16 the Court with additional evidence of ongoing beneficial use since the dates claimed in  
17 the SOC’s.

18 In order to obtain a decreed water right, a property owner must present to the  
19 Court an appropriate SOC claiming a water right in the name of the current property  
20 owner **and** evidence of that right. This evidence may include the relevant WFR.  
21 Alternatively, the property owners may settle with objectors. If either the property owner  
22 proves to the Court the existence of a water right on their property or enters into a valid  
23 settlement approved by the Court, the court will recognize enforceable water rights in a  
24 “Final Decree.” Ariz. Rev. Stat. § 45-257(B).

25 This is an order from the Court, and all parties must comply with the following  
26 instructions. The failure to obey this, or any, court order may result in the dismissal of  
27 this case and the loss of any potential surface water rights associated with the property

28

1 mentioned in this order. If you have questions regarding this Order or any of the  
2 attachments, please contact the General Stream Adjudication, Office of the Special  
3 Water Master, at (602) 372-4115. Please note that staff can only answer administrative  
4 questions and cannot provide legal advice.

5  
6 **IT IS ORDERED:**

7 1. Case Initiation. This order initiates contested case CV6417-33-5704.

8 This case will resolve claims to use appropriable water asserted in Statement  
9 of Claimant 39-84810 and objections that were filed to Watershed File  
10 Report No. 033-51-023.

11 2. Initial Conference. An initial conference shall be held on **Thursday,**  
12 **September 19, 2024, at 10:00 a.m.** to determine whether each current  
13 landowner intends to pursue water rights claims. The conference will be held  
14 using the Court Connect program. Instructions for Court Connect are attached  
15 as Attachment E. If you receive this Order by email, click on the red box “Join  
16 Court Connect Hearing” on the attached instructions to make an appearance.  
17 If you do not receive this Order by email, log into the Court Connect program  
18 on the internet by typing <https://tinyurl.com/specialwatermaster>. If you do not  
19 have access to the internet, you may attend telephonically using the telephone  
20 number and access code included in the instructions for Court Connect.

21 3. Parties. The litigants in this contested case are the claimants, the current  
22 landowners, and any party who filed objections to the Watershed File Report.  
23 The sole objector in this contested case is Salt River Project.

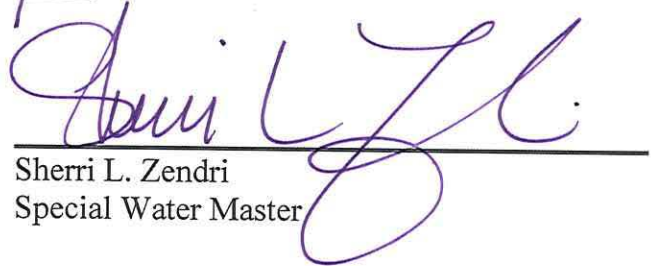
24 4. Objections. Copies of objections filed to this case can be found under the  
25 respective case names and numbers on the following website:  
26 [http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjud](http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp)  
27 [ication/whatsNew.asp.](http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

5. Court-Approved Mailing List.


- A. The initial Court-approved mailing list for this case shall include all persons listed on Attachment F to this order. The list may be modified only by filing a motion with the Special Master to amend the Court-approved mailing list. Litigants are responsible for using the current Court-approved mailing list.
- B. A copy of any pleading filed with the Clerk of the Apache County Superior Court in this case shall be served upon each person listed on the Court-approved mailing list.
- C. Claimants wishing to be added or removed from the mailing list shall file a motion with the Special Master. Parties allowed to intervene will be automatically added to the Court-approved mailing list.
- D. The Clerk of the Court will send copies of all minute entries and orders issued in this case to the parties listed on the Court-approved mailing list.
- E. Claimants who would like to receive courtesy copies of minute entries and orders may request inclusion on an email list by sending a request to [emily.natale@jbazmc.maricopa.gov](mailto:emily.natale@jbazmc.maricopa.gov).

Signed this 19<sup>th</sup> day of July 2024

  
\_\_\_\_\_  
Sherri L. Zendri  
Special Water Master

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

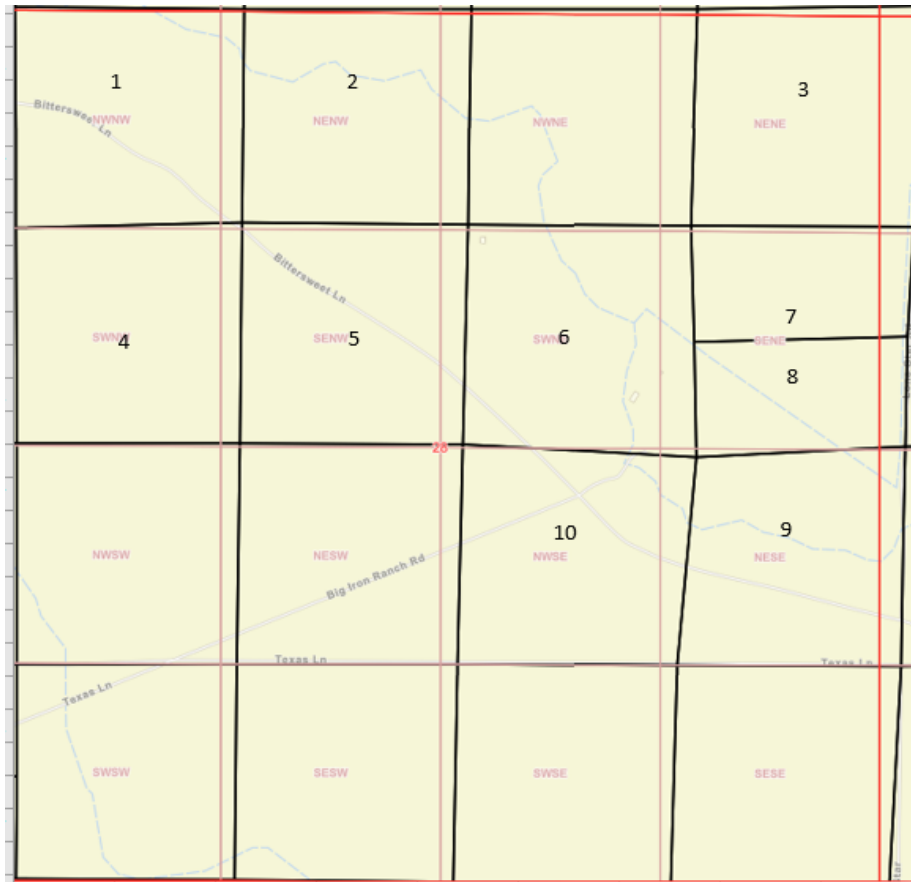
On July 19, 2024, the original of the foregoing was delivered to the Clerk of the Apache County Superior Court for filing and distributing a copy to all persons listed on the Court-approved mailing list for this contested case, a copy of which is attached hereto as Attachment D, and to all persons on the Court-approved mailing list for CV6417.

  
Emily Natale

**ATTACHMENT A**

**Assessor Map and Owner List**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

#	Parcel	Owner
1	40495052	Millette Herbert
2	40495051	Joshua R Bunch
3	40495049	James A Chartier
4	40495053	William & Lynette Mattingly
5	40495054	Eliodoro Montes
6	40495055	Timothy R Jeffries
7	40495056A	David Willett
8	40495056B	Michael Willett
9	40495057	Michael & Kelly Nail
10	40495058	Martin L Clark



## 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 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 SOCs contain, 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 SOCs, the Arizona Department of Water Resources (“ADWR”) prepares a “Watershed File Report,” (“WFR”) in which ADWR investigates the claims in the SOCs 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 Little Colorado 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.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ATTACHMENT C**  
**Watershed File Report**

LAND OWNER	WATERSHED FILE NO.
-----	-----
FIRST AMERICAN TITLE INSURANCE CO. OF ARIZONA	033-51-023

## 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 SECTION	LOCATION TWNP	RNGE
36-0020160		REC/FISH/WLDFL STOCKWATERING					1926	NE28	120N	230E
38-0088015		STOCKPOND REC/FISH/WLDFL		SENE28	120N	230E	1960	SENE28	120N	230E
39-0084810		STOCKPOND	2.60				1982	SWSENE28	120N	230E

## 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
36-0020160	STOCKPOND	STOCKPOND		SPOO1
38-0088015	REC/FISH/WLDFL STOCKPOND	INCIDENTAL STOCKPOND		SPOO1
39-0084810	REC/FISH/WLDFL STOCKPOND	INCIDENTAL STOCKPOND		SPOO1

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

PWR #	LOCATION SECTION	TWNP	RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCE	PHOTO DATE	RESERVOIR NAME	STORAGE PURPOSE
SPOO1	SESWNE28	120N	230E		SURFACE	1983	UNNAMED	STOCKWATERING WILDLIFE

## P W R S U M M A R Y

PWR #	APPLICABLE ADJ FILINGS	APPLICABLE PRE FILINGS	** APPARENT FIRST USE DATE	** DATA SOURCE	DRAINAGE AREA/ WATER SOURCE NAME
SPOO1	39-0084810	36-0020160 38-0088015	1960	38-88015	SILVER CREEK

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

PWR #	QUANTIFICATION TYPE	APPLICABLE ACREAGE/SURFACE AREA (ACRES)	WATER DUTY	ESTIMATED VOLUME	REMARKS
SPOO1	MAX. AREA/CAP	< 2.0		< OR = 15.0 AF	

## E X P L A N A T I O N

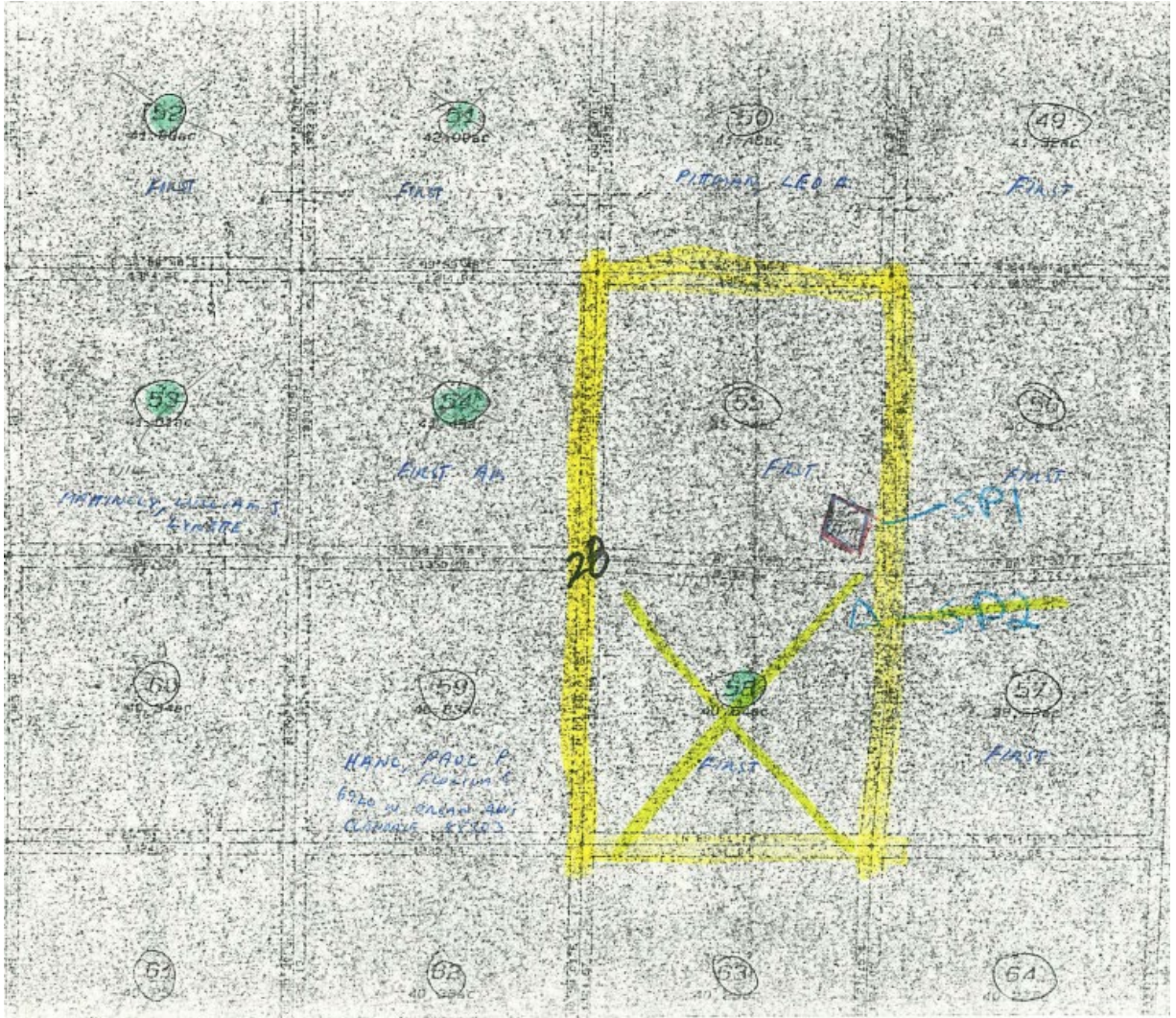
## USES AND RESERVOIRS

SP1 - STOCKPOND LOCATED ON AN UNNAMED TRIBUTARY TO MILLET SWALE, WITHIN THE SILVER CREEK DRAINAGE AREA.

ATTACHMENT D

ADWR Map

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28



**ATTACHMENT E**



**Court Connect Hearing Notice for In re First American Title Insurance Co. of Arizona**

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 First American Title Insurance Co. of Arizona**

**Contested Case No. CV6417-33-5704**

**Start Date/Time: Thursday, September 19, 2024, at 10:00 a.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](#)

**ATTACHMENT F**

**Initial Court-Approved Mailing List**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

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

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

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

Millette Herbert  
11295 E Cornville Rd Apt 27  
Cornville, AZ 86325

Joshua R Bunch  
1194 W Love Rd  
San Tan Valley, AZ 85143

James A Chartier  
3922 E Paradise Dr  
Phoenix AZ 85028-1430

William & Lynette Mattingly  
PO Box 7874  
Cave Creek AZ 85327

Eliodoro Montes  
9308 W Elwood St  
Tolleson AZ 85353

Timothy R Jeffries  
PO Box 90669  
White Mountain Lake, AZ 85912

David Willett  
636 S Cody Loop Rd  
Oracle AZ 85623-6100

Michael Willett  
11031 N Camino Central Tucson  
AZ 85742-9690

Michael & Kelly Nail  
10327 E Jacob Ave  
Mesa AZ 85209

Martin L Clark  
8941 N Magenta Way  
Tucson AZ 85743

U.S. Bureau of Land  
Management Phoenix Field  
Office  
2020 E Bell Rd  
Phoenix, AZ 85022

Josh Edelstein Phoenix Field Solicitor  
Office of the Solicitor  
U.S. Department of the Interior  
Sandra Day O'Connor U.S. Courthouse  
401 W. Washington St., Ste. 404, SPC 44  
Phoenix, AZ 85003