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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

**CV6417**  
Case: **CV6417-33-6777**

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

CONTESTED CASE NAME: *In re Dave Fellar's Dump Truck and Service Inc.*  
HSR INVOLVED: Silver Creek Hydrographic Survey.  
DESCRIPTIVE SUMMARY: The Clerk of Apache County Superior Court is directed to initiate CV 6417-33-6777. Initial conference set for **March 27, 2024, at 10:30 a.m.**  
NUMBER OF PAGES: 13

**General Explanation**

This order opens a case to determine rights to use water on land that the Navajo County Assessor has identified as owned by Mahavir Investments LLC. The first step in this case is an initial conference with the Court, scheduled for **March 27, 2024, at 10:30 a.m.** to determine if landowners are interested in pursuing potential water rights. Interested Parties **MUST** attend the scheduled initial conference if they plan to pursue

1 potential water rights. Failure to appear at the initial conference could result in the  
2 dismissal of the case and the loss of water rights associated with the properties.

3 In this case, Maurice and Caroline Sharp filed Statements of Claimant (“SOC”)  
4 39-80564 on February 22, 1982, to assert claims to use water on Navajo County tax  
5 parcels 210-33-010B and 210-33-010C. Both parcels are currently owned by Mahavir  
6 Investments LLC.

7 The first step in this case will be an initial conference, where landowners will state  
8 whether they intend to pursue water rights.

9  
10 **Additional background information on the process for determining water rights**  
11 **in Arizona can be found on Attachment A.**

### 12 13 **Details of the Case**

14 On February 22, 1982, Maurice and Caroline Z. Sharp (“Claimants”) filed  
15 Statement of Claimant 39-80564 claiming a domestic groundwater use.

16 The Arizona Department of Water Resources (“ADWR”) investigated the claims  
17 made by Claimants and prepared Watershed File Report No. 33-56-066 (“WFR”),  
18 published in the Final Silver Creek Watershed Hydrographic Survey Report (1991)  
19 (“Silver Creek HSR”). The WFR recorded that water was supplying a storage reservoir  
20 on the property but found no domestic groundwater use. A copy of the WFR is attached  
21 as Attachment B.

22 After ADWR issued the WFR, objections were filed to the findings made in the  
23 WFR by the Salt River Project, the United States, and the Arizona State Land Department.  
24 The Hopi Tribe, Navajo Nation, and San Juan Southern Paiute Tribe joined in the United  
25 States’s objections. The purpose of this case is to consider the claims made for water  
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1 rights in SOC 39-80564, determine potential water rights investigated by ADWR, and to  
2 resolve the objections to WFR 33-56-066.

3  
4 **Claimant and Landowners**

5 The WFR lists Dave Fellar’s Dump Truck and Service, Inc. as the owner of parcels  
6 210-33-010C and 210-33-010B in 1991.

7 Attachment C contains a description of the relevant documents obtained from the  
8 Navajo County Recorder showing transfer of the parcels to Mahavir Investments LLC. A  
9 copy of the map on file with the Assessor showing the relevant tax parcels and current  
10 ownership is attached as Attachment D.

11 The public records of the Arizona Department of Water Resources do not contain  
12 any assignments of the SOC listed in the WFR, and the current landowners do not appear  
13 to have filed any additional SOCs.

14 Property owners must file Statements of Claimant and present to the Court  
15 evidence that water rights exist on their property. This evidence may include the WFR.  
16 If either the property owners prove to the Court the existence of water rights on their  
17 properties or enter into a valid settlement approved by the Court, the Court will recognize  
18 enforceable water rights in a “Final Decree.” Ariz. Rev. Stat. § 45-257(B).

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

1 **IT IS ORDERED:**

2 1. Case Initiation. This contested case shall be known as *In re Dave Fellar's*  
3 *Dump Truck and Service Inc.*, and it will resolve claims to appropriable water  
4 asserted in Statement of Claimant 39-80564 and objections that were filed to  
5 Watershed File Report No. 33-56-066.

6 2. Initial Conference. An initial conference shall be held on **March 27, 2024,**  
7 **at 10:30 a.m.** to determine whether current landowners intend to pursue claims  
8 for water rights. The conference will be held using the Court Connect program.  
9 Instructions for Court Connect are attached as Attachment F. If you receive  
10 this order by email, click on the red box "Join Court Connect Hearing" on the  
11 attached instructions to make an appearance. If you do not receive this order  
12 by email, log into the Court Connect program on the internet by typing  
13 <https://tinyurl.com/specialwatermaster>. If you do not have access to the  
14 internet, you may attend telephonically using the telephone number and access  
15 code included in the instructions for Court Connect.

16 3. Parties. The litigants in this contested case are the Claimant, the current  
17 landowners, and all parties who filed objections to the Watershed File Report.  
18 The objectors in this case are the United States, Salt River Project, Arizona  
19 State Land Department, the Hopi Tribe, the San Juan Southern Paiute Tribe,  
20 and the Navajo Nation.

21 4. Objections. Copies of objections filed to WFR No. 033-56-066 can be found  
22 under the case number CV 6417-33-6777 on the following website:  
23 <http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudi>  
24 [cation/whatsNew.asp](http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp).

25 5. Court-Approved Mailing List.

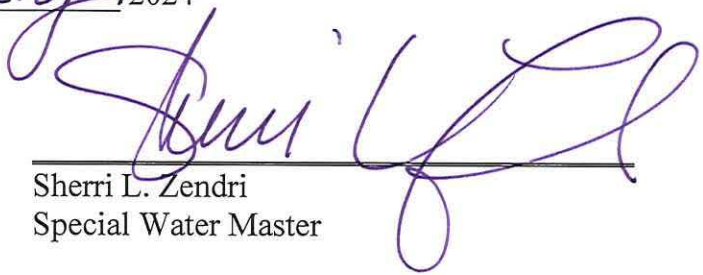
26 A. The initial Court-approved mailing list for this case shall include all  
27 persons listed on Attachment E to this order. The list may be  
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modified only by filing a motion with the Special Master to amend the Court-approved mailing list. Litigants 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 20<sup>th</sup> day of February, 2024

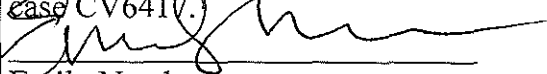


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Sherri L. Zendri  
Special Water Master

1 On February 20, 2024 the original  
2 of the foregoing was delivered to the Clerk of  
3 the Apache County Superior Court for filing  
4 and distributing a copy to all persons listed  
5 on the Court-approved mailing list for this  
6 contested case, a copy of which is attached  
7 hereto as Attachment E, and to all persons  
8 listed on the Court-approved mailing list for

case CV6417.

  
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 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.

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**ATTACHMENT B**  
**Watershed File Report**



LAND OWNER \_\_\_\_\_ WATERSHED FILE NO. \_\_\_\_\_  
 DAVE FELLAR'S DUMP TRUCK & SERVICE, INC. 033-56-066

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
39-0080564		DOMESTIC								

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
39-0080564	DOMESTIC	NONE		

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
PS001	SWNESE32	100N	22OE		SURFACE	1970	UNNAMED	OTHER

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
PS001	NONE	NONE	1970	1970 AERIAL PHOTO	SHOW LOW CREEK
NONE	39-0080564	NONE			

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
PS001	MAX. AREA/CAP	3.4		26.1 AF	

E X P L A N A T I O N

FILINGS AND DECREES

FILING 39-80564 CLAIMS A DOMESTIC USE. NO DOMESTIC USE WAS FOUND AT THE CLAIMED LOCATION.

USES AND RESERVOIRS

PS1 - PRIMARY STORAGE RESERVOIR LOCATED ON AN UNNAMED TRIBUTARY TO SHOW LOW CREEK. RESERVOIR PS1 IS A FORMER BORROW PIT AND ITS STORAGE PURPOSE AND USE ARE UNKOWN.

**ATTACHMENT C**

**Summary of County Recorder Documents**

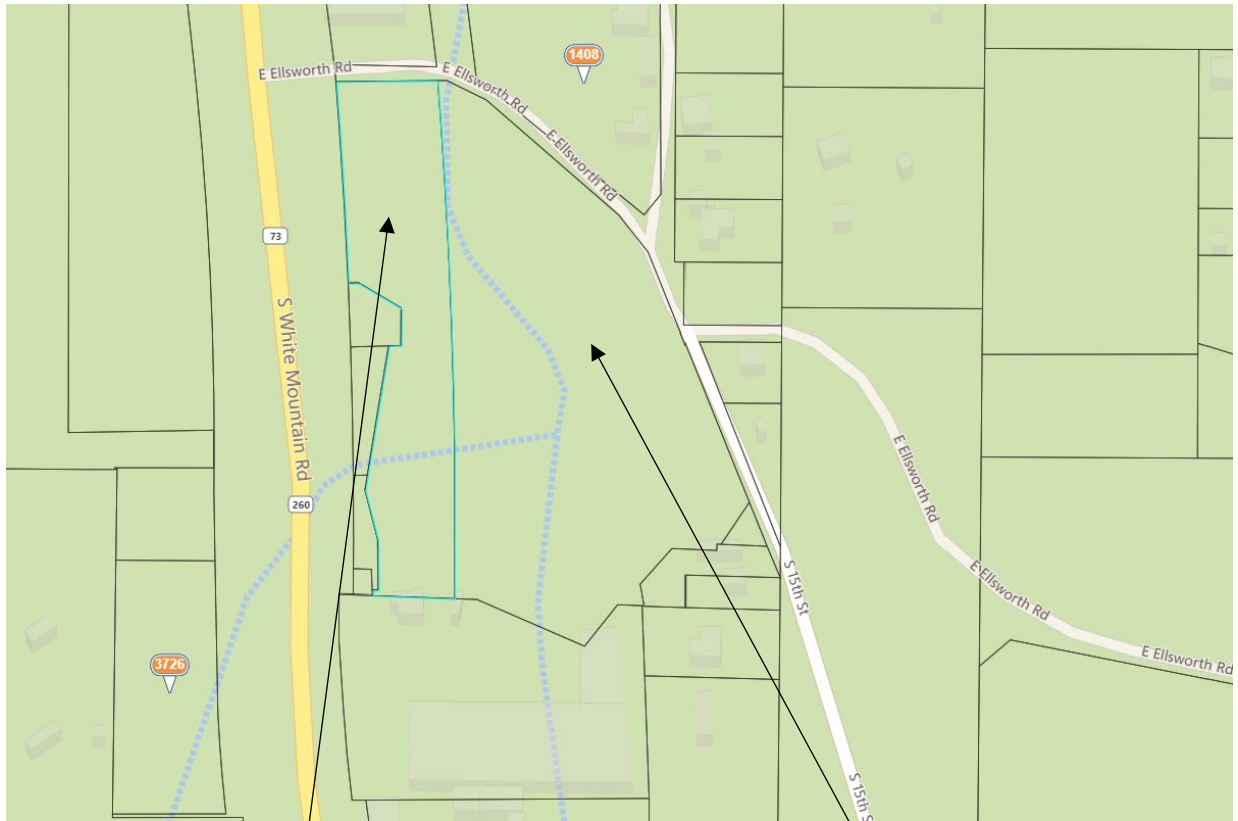
**210-33-010C, 210-33-010B**

<b>Doc</b>	<b>Transferor</b>	<b>Transferee</b>
2020-04193	AM Property 2002 LLC	Mahavir Investments
2012-21136	Rhonda J Hertz	AM Property 2002 LLC
1998-13754	David Fellars and Wilma Fellars	Christopher A and Rhonda J Hertz
1996-21497	Dave Fellars Dump Truck Service	David Fellars and Wilma Fellars

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**ATTACHMENT D**

**Assessor Map**



**210-033-010C**  
3521 South White Mountain Road  
Show Low, AZ 85901

**210-033-010B**  
1417 East E Ellsworth Road  
Show Low, AZ 85901

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**ATTACHMENT E**

**Initial Court-Approved Mailing List**

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

C. Campbell, P. Londen, P. Bowden  
OSBORN MALEDON, P.S.  
2929 North Central Avenue, Ste 2100  
Phoenix, AZ 85012

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

San Juan Southern Paiute Tribe  
J. Kolsrud, I. Fimbres-Ruiz, K. Shaffer  
May, Potenza, Baran & Gillespie, PC  
1850 N. Central Avenue, Ste 1600  
Phoenix, AZ 85004-4633

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

Navajo Nation  
Evan Hiller, Candace French, Jeffrey Leonard,  
Judith Dworkin and Kathryn Hoover  
SACKS TIERNEY P.A.  
4250 N. Drinkwater Blvd., 4th Floor  
Scottsdale, AZ 85251

Mark J. Widerschein  
Maggie Woodward  
US Dept of Justice – ENRD  
Natural Resources Section  
PO Box 7611  
Washington, DC 20044

Navajo Nation Department of Justice  
Ethel Branch & G. Michelle Brown-Yazzie  
PO Drawer 2010  
Window Rock, AZ 86515

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

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

Maurice and Caroline Sharp  
PO Box 998  
Lakeside, AZ 85929

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

Mahavir Investments LLC  
c/o Shilpa Bhanvadia  
4090 S Pacific Dr.  
Chandler, AZ 85248,

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**ATTACHMENT F**



**Court Connect Hearing Notice for *In re Dave Fellar's Dump Truck and Service Inc.***

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 Dave Fellar's Dump Truck and Service Inc.**

**Contested Case No. CV6417-33-6777**

**Start Date/Time: March 27, 2024, at 10:30 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](#)