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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

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

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

Contested Case No. W1-11-1688

ORDER TO INITIATE CONTESTED CASE

CONTESTED CASE NAME: *In re Jerry Brimhall et al*
HSR INVOLVED: San Pedro River Watershed Hydrographic Survey WFR
DESCRIPTIVE SUMMARY: Case initiated and status conference set for **April 7, 2022 at 1:50 p.m.**
NUMBER OF PAGES: 14
DATE OF FILING: February 3, 2022

General Explanation

This Order begins the process necessary to adjudicate claims made for rights to appropriable water for use on land that the Cochise County Assessor has identified as owned by Fenner LLC. This contested case is one of the many cases in the Arizona General Stream Adjudication for the San Pedro River Watershed to determine legal rights to water. Other cases in which claims have been made for legal rights to water in the San Pedro River Watershed have

1 been completed, are in the process of determining water rights, or are awaiting initiation. The
2 purpose of the General Adjudication is to determine the rights of those persons who filed
3 Statements of Claimant for rights to use appropriable water in Arizona. The General
4 Adjudication will also determine water rights in the Upper Salt, Verde, Upper Gila, Lower Gila,
5 Agua Fria, and Upper Santa Cruz watersheds.

6
7 In this case, Max J. Kartchner (“Claimant”) filed Statement of Claimant (“SOC”) 39-
8 004115 on June 11, 1980 for rights to water for use on land in the northwest quarter of the
9 southeast quarter of Section 7 Township 17S Range 21E. The Arizona Department of Water
10 Resources (“ADWR”) investigated the claim, which it characterized as a claim for domestic,
11 stock watering, and other uses, and prepared a report known as Watershed File Report No. 112-
12 17-AB-012 (“WFR”) published in the Final San Pedro River Watershed Hydrographic Survey
13 Report (1991). A copy of the WFR is attached as Attachment A.
14

15 The SOC filed includes claims for 46.4 acre-feet annually of water for domestic, stock
16 watering, and other uses with a priority date of 1912. The WFR found no domestic, stock
17 watering or industrial uses on the land described in the WFR. After ADWR issued the WFR,
18 objections were filed to the findings made in the WFR. The purpose of this case is to consider
19 the claims made for water rights that are the subject of the WFR and resolve the objections to the
20 WFR.
21

22 23 **Claimant & Landowners**

24 The WFR identified one SOC relevant to the potential water right: 39-4115. Max J.
25 Kartchner filed the SOC claiming water for domestic, stock watering, and other uses. The WFR
26 lists Mark M. and Marion B. Kartchner and Jerry and L. Ruth Brimhall as the owners of the
27 property. The records of the Cochise County Assessor indicate that Fenner LLC is the owner of
28

1 the land described in the WFR. Fenner LLC owns tax parcel no. 120-02-003A. The public
2 records of the Arizona Department of Water Resources do not contain an assignment of the SOC
3 from Max. J. Kartchner to any successor landowners. A copy of the map prepared by the Cochise
4 County Assessor showing tax parcel no. 120-02-003A is attached as Attachment B.

5
6 **IT IS ORDERED:**

7
8 1. Contested Case. This contested case shall be known as *In re Jerry Brimhall et al*
9 and it will determine appropriable water rights asserted in the Statement of Claimant and
10 objections that were filed to Watershed File Report 112-17-AB-012 published in the Final San
11 Pedro River Watershed Hydrographic Survey Report (1991). Copies of objections can be found
12 under the case name and number on the following website:

13 [http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.](http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp)
14 [asp](http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp)
15

16 2. Litigants. The litigants in this contested case are the Claimants, the current
17 landowners, all persons who filed objections to the WFR, and parties who are allowed to
18 intervene by order.

19
20 3. Court-Approved Mailing List.

21 A. The initial Court-approved mailing list for this case shall include all
22 persons listed on Attachment C to this order. The list may be modified
23 only by filing a motion with the Special Master to amend the Court-
24 approved mailing list. Litigants are responsible for using the current
25 Court-approved mailing list.
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1 B. A copy of any pleading filed with the Clerk of the Maricopa County
2 Superior Court in this case shall be served upon each person listed on the
3 Court-approved mailing list.

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


7
8 D. The Clerk of the Court will send copies of all minute entries and orders
9 issued in this case to the parties listed on the Court-approved mailing list.
10 Upon request, the Clerk of the Court will provide copies by email. Parties
11 may request emailed copies of minute entries and orders by completing
12 and submitting a CONSENT FOR ELECTRONIC RECEIPT OF WATER
13 CASE DOCUMENTS, which is attached as Attachment D.
14

15 4. Status Conference. An initial status conference shall be held to determine
16 whether the Claimant or current landowner, Fenner LLC, intend to pursue claims for rights to
17 appropriable water for irrigation or stock watering use. If no person claiming a water right
18 appears at the Status Conference, then Statement of Claimant 39-004115 and this case will be
19 dismissed and no further action will be taken with respect to the WFR or the objections filed to
20 the WFR.
21

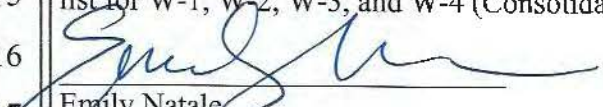
22 The Status Conference shall be held on **April 7, 2022 at 1:50 p.m.** The Status
23 Conference shall be held using the Court Connect program. Instructions for Court Connect are
24 attached as Attachment E. If you receive this Order by email, click on the red box “Join Court
25 Connect Hearing” on the attached instructions to make an appearance. If you do not receive this
26 Order by email, log into the Court Connect program on the internet by typing
27 <https://tinyurl.com/specialwatermaster>. If you do not have access to the internet, you may attend
28

1 telephonically using the telephone number and access code included in the instructions for Court
2 Connect. Alternatively, you may attend telephonically using the following instructions:

3
4 Instructions for telephonic appearance:
5 Dial: 602-506-9695 (local)
6 1-855-506-9695 (toll free long distance)
7 Dial Participant Pass Code 357264#

8
9 
10 SUSAN WARD HARRIS
Special Master

11
12 On February 3, 2022, the original of the foregoing was
13 delivered to the Clerk of the Maricopa County Superior
14 Court for filing and distributing a copy to all persons
15 listed on the Court-approved mailing list for this contested
16 case, a copy of which is attached hereto as Attachment C,
17 and to all persons listed on the Court-approved mailing
18 list for W-1, W-2, W-3, and W-4 (Consolidated).

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23 Emily Natale

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ATTACHMENT A

LAND OWNER	WATERSHED FILE
-----	REPORT NUMBER
KARTCHNER, MARK M. & MARION B. BRIMHALL, JERRY & L. RUTH	112-17-AB-012

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 *W1-11-1688*

FILING NUMBER	FILING STATUS	USES	QUANTITY IN AFA	USE LOCATION			CLAIM DATE	DIVERSION LOCATION		
				SECTION	TWNP	RNGE		SECTION	TWNP	RNGE
39-0004115		DOMESTIC	1.23	NWSE07	17OS	21OE	1912	NWSE07	17OS	21OE
		STOCK	.17							
		COMMERCIAL/IND	45.00							

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

P W R S U M M A R Y

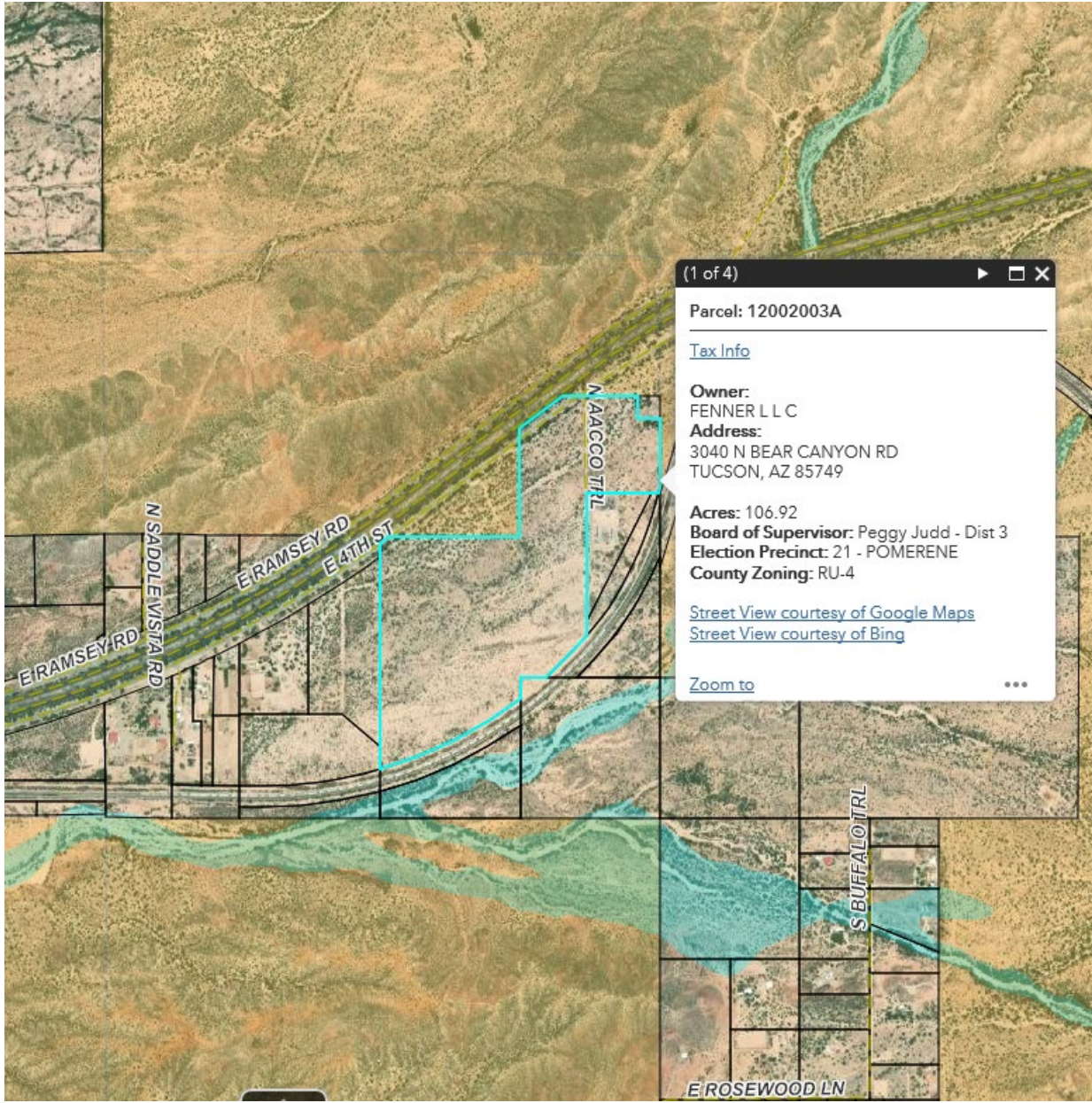
PWR #	APPLICABLE	APPLICABLE	*APPARENT FIRST USE DATE*	WATER SOURCES AND CLASSIFICATIONS
	ADJ FILINGS	PRE FILINGS	DATE BASIS FOR DATE	
NONE	39-0004115	NONE		

E X P L A N A T I O N

FILINGS AND DECREES
 FILING 39-4115 - CLAIMS DOMESTIC, STOCKWATERING, AND INDUSTRIAL WATER USES. NO DOMESTIC STOCKWATERING, OR INDUSTRIAL USES WERE FOUND AT THE CLAIMED LOCATION.

ATTACHMENT B

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ATTACHMENT C

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3 Arizona Department of Water Resources
4 Kimberly Parks
5 P. O. Box 36020
6 Phoenix, AZ 85067

Max J. Kartchner
Rt 1, Box 149
St. David, AZ 85630

7 Clerk of the Superior Court
8 Maricopa County
9 Attn: Water Case
10 601 West Jackson Street
11 Phoenix, AZ 85003

Special Master Susan Ward Harris
Superior Court of Arizona
201 W. Jefferson Street
Courtroom 301
Phoenix, AZ 85003

12 Fenner LLC
13 3040 N Bear Canyon Rd
14 Tucson, Az 85749

Tonto Apache Tribe
Richard Palmer, Jr., Jeremiah Weiner
and Lauren Mulhern
Rosette, LLP
565 W. Chandler Blvd. Suite 212
Chandler, AZ 85225

15 Gila River Indian Community
16 Linus Everling and Thomas L. Murphy
17 Office of the General Counsel
18 P. O. Box 97
19 Sacaton, AZ 85147

Yavapai Apache Nation
S. Montgomery, R. Interpreter, J. Tomkus
Montgomery & Interpreter, Plc
3301 E. Thunderbird Road
Phoenix, AZ 85032

20 Mark Kartchner
21 5300 E. Erickson #108
22 Tucson, AZ 85712

23 San Carlos Apache Tribe
24 Joe P. Sparks and Laurel A. Herrmann
25 The Sparks Law Firm, P.C.
26 7503 First Street
27 Scottsdale, AZ 85251-4573
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ATTACHMENT D

**CLERK OF THE COURT
SUPERIOR COURT OF ARIZONA**

Jeff Fine
Clerk

**MARICOPA COUNTY
Customer Service Center
601 West Jackson
Phoenix, AZ 85003**

602 372-4115
Water Case Clerk

CONSENT FOR ELECTRONIC RECEIPT OF WATER CASE DOCUMENTS

In an effort to provide more timely and cost effective distribution of copies of filed Water Case documents, the Clerk of the Superior Court would like implement electronic distribution via email. To do so, we require your consent to receive copies of documents electronically at an email address provided to our office.

This consent is voluntary and can be rescinded if you so choose. If you no longer wish to receive Water Case documents from the Clerk of Superior Court electronically, please send written notification to the Clerk of the Superior Court Water Case Specialist at the email address below requesting that all future records be sent in paper form.

Please note that if you consent to receive documents via email, you must notify the Clerk's Office of any change to your email address to avoid delay in receiving future filings. In the event there is no valid email address on file with the Clerk of the Superior Court Water Case Specialist, documents will be mailed to the address provided.

If you wish to consent to receive future documents via email, please either fill out the information below and mail to our office or provide the below information to Mayra.Antelo@Maricopa.Gov.

Preferred email address:

Alternate email address:

Physical address:

Phone number:

Firm Name:

Name [Printed]:

Signature:

Date:

Thank you,

Mayra Antelo
Clerk of the Superior Court
Water Case Specialist
(602) 372-5375 options 7,1,3,4

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ATTACHMENT E



Court Connect Hearing Notice for In re Jerry Brimhall et al

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 Jerry Brimhall et al, Contested Case No. W1-11-1688

Start Date/Time: April 7, 2022 at 1:50 p.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](#)

