

SUPERIOR COURT OF ARIZONA
APACHE COUNTY

March 27, 2024

CLERK OF THE COURT

SPECIAL WATER MASTER
SHERRI ZENDRI

A. Parmar
Deputy

FILED: March 29, 2024

In re: the General Adjudication
Of All Rights to Use Water in the
Little Colorado River System and Source
Case No. CV6417-33-5071

In Re: Glen and Janet Flake

MINUTE ENTRY

Central Court Building – Courtroom 301

11:00 a.m. This is the time set for Status Conference before Special Water Master Sherri Zendri.

The following attorneys appear virtually through Court Connect:

- Karen Nielsen on behalf of the Arizona Department of Water Resources (“ADWR”)
- Katrina Wilkinson on behalf of the Salt River Project (“SRP”)
- Kevin Crestin on behalf of the Arizona State Land Department (“ASLD”)
- Garrett Perkins observing on behalf of the LCR Coalition
- Mark Widerschein and Vanessa Boyd Willard observing on behalf of the U.S. Department of Justice
- Brandon Delgado observing on behalf of the Hopi Tribe
- Katya Lancero observing on behalf of the Navajo Nation

A record of the proceedings is made digitally in lieu of a court reporter.

The Court notes that it muted someone on the phone and the party is unable to unmute themselves. It is likely the landowner attempting to appear. Therefore,

11:04 a.m. The Court stands in recess to allow the party to call back in.

11:06 a.m. The Court reconvenes with the above-named counsel present.

A record of the proceedings is made digitally in lieu of a court reporter.

LET THE RECORD REFLECT that David Brimhall, the new owner of the property (formerly owned by Glen and Janet Flake), is now present telephonically on his own behalf. He provides his email for the Court and other parties: davidbrimhall@brimhallsandroek.com.

Discussion is held. Mr. Brimhall indicates that he would like to pursue water rights for mining and the well on the property. The Court notes that the original Statement of Claimant (“SOC”) may not have included use for mining and Mr. Brimhall may need to modify the SOC. The Court will include links to the original SOC and objections as a “LATER” in the Minute Entry.

IT IS ORDERED that Mr. Brimhall shall review the filings and modify any inaccurate or missing information. The Court will set another hearing in about 60 days to obtain an update from Mr. Brimhall regarding his progress and how he would like to proceed.

11:12 a.m. Matter concludes.

A copy of this minute entry is provided to all parties on the Court approved mailing list.

LATER:

Objections for this contested case can be found on the General Stream Adjudication website under “Active Cases” at:

<https://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/docs/CV6417-33-5071-objections.pdf>

Documents prepared by the Arizona Department of Water Resources (ADWR) as part of the Hydrographic Survey Report (“HSR”) for Silver Creek can be found on the ADWR website at:

<https://www.azwater.gov/adjudications>

Parties wishing to move forward with historical water rights claims on their property must ensure Statement of Claimants are current and that documentation of the reason the claim to the water is legally valid, also known as the “basis of right,” is presented to the Court.

1. Statement of Claimants (SOCs)

A SOC is a landowner’s or lessee’s (“claimant’s”) written statement to the Court that provides details about their water right claim. This claim to use public water is

filed with the Arizona Department of Water Resources (“ADWR”). Although a water right generally remains attached to the land, the SOC must reflect the current claimant’s name and contact information as well as any changes to the original claim. The SOCs currently do not list current property owners or lessees. To update an SOC, one may obtain a SOC assignment, make an SOC amendment, or file a new SOC. Forms may be found on ADWR’s website at:

<https://www.azwater.gov/adjudications/statement-claimant-new-use-summons-forms>

2. Basis of Right

To obtain a water right, a claimant must provide a “basis of right.” A basis of right is a document filed with ADWR either registering a water right, applying for a permit to appropriate water, or applying for a stockpond claim of right. See Arizona Revised Statutes (“Ariz. Rev. Stat.”) §§ 45-182(A), 45-152(A), 45-273.

If a claimant proves that the water right claimed was initiated prior to June 12, 1919, they do not need to file an “application for a permit to appropriate,” but must present a statement of claim registering their claimed water right and filed prior to September 1, 1990 (90 days before the publication of the Silver Creek HSR). See Ariz. Rev. Stat. §§ 45-171, 45-182(A). Note that a statement of claim is a different document than a statement of claimant.

ADWR can help the current property owners determine if former Claimants properly registered the potential water rights claimed on the SOCs for this contested case. If a claimant either cannot prove that the water right claimed was initiated prior to June 12, 1919, or cannot present a statement of *claim* filed prior to September 1, 1990, the claimant must file either an “application for a permit to appropriate public water” or an “application for a stockpond claim of right.” Ariz. Rev. Stat. §§ 45-152(A), 45-272(C).

If the claimed water right is for a pond constructed before 1977, less than 15 acre-feet, and used solely for watering livestock or wildlife (but not primarily for fishing or culturing of fish), the claimant should file an “application for a stockpond claim of right.” Ariz. Rev. Stat. §§ 45-271, 45-272. If the claimed water right is for any other use, the claimant must file an “application for a permit to appropriate public water.” Blank forms for either application may be found on the ADWR website at:

<https://www.azwater.gov/surface-water/surface-water-forms-and-documents>.

Because of the time and cost involved in pursuing an “application for a permit to appropriate public water” or an “application for a stockpond claim of right,” claimants should first gather as much evidence as possible to determine which, if any, of their water rights claims are for water uses initiated prior to June 12, 1919, and described in a timely filed statement of *claim*.

Federal land entry case files (e.g. homestead proofs and affidavits) may be useful for proving historical farming and grazing activity on your land. Resources for finding land entry filings are listed below:

- Federal land patents may be found here: <https://gloreCORDS.blm.gov/search/default.aspx>
- Pre-1908 homestead proofs may be accessed from a physical FamilySearch location. See <https://locations.familysearch.org/en/search> for more information.
- Any other land entry case files can be ordered using the following form: <https://www.archives.gov/forms/pdf/natf-84.pdf>.

While it is not necessary, Claimants are free to seek their own legal counsel at any time should they decide to do so. In addition, The Arizona Adjudications Project is taking applications to provide free, limited legal representation in the adjudication. The team can help claimants who are not already represented by an attorney. You can apply for assistance here:

<https://law.arizona.edu/academics/clinical-programs/natural-resource-use-management-clinic/arizona-adjudications-clinic>.

To contact the University of Arizona Adjudications Project call (520) 621 6722 or via email at: law-azadjudicationsproject@arizona.edu.

To contact ADWR regarding application forms and processing procedures please call 1-866-246-1414, email smitchell@azwater.gov, or visit <https://www.azwater.gov/adjudications>.

To contact the Office of the Special Water Master please call (602) 372-4115.

IT IS ORDERED setting a second Status Conference for **Tuesday, May 28, 2024, at 10:15 a.m.** before Special Water Master Zendri.

The status conference will be held using the Court Connect program. Instructions for Court Connect are attached. If you receive this Order by email, click on the red box “Join Court Connect Hearing” on the attached instructions to make an appearance. If you do not receive this Order by email, log into the Court Connect program on the internet by typing <https://tinyurl.com/specialwatermaster>. If you do not have access to the internet, you may attend telephonically using the telephone number and access code included in the instructions for Court Connect.



Court Connect Hearing Notice for In re Glen and Janet Flake

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 Glen and Janet Flake, Contested Case No. CV6417-33-5071
Start Date/Time May 28, 2024, at 10:15 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](#)

