

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

March 24, 2026

CLERK OF THE COURT
A. Parmar
Deputy

SPECIAL WATER MASTER
SHERRI ZENDRI

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)

FILED: April 1, 2026

In Re: ASLD – Magma Copper Company III
Contested Case No. W1-11-002854

MINUTE ENTRY

Courtroom 301 – Central Court Building

10:01 a.m. This is the time set for a Status Conference to address the objections to the proposed abstracts before Special Water Master Sherri Zendri.

The following parties/attorneys appear virtually through Court Connect:

- Kevin Crestin and Eric Wilkins on behalf of the Arizona State Land Department (“ASLD”)
- Kathryn Ust on behalf of the Salt River Project (“SRP”)
- Brette Pena on behalf of the Gila River Indian Community (“GRIC”)
- Laurel Herrmann and Jana Sutton on behalf of the San Carlos Apache Tribe
- Rachel Carroll-Farias on behalf of the Tonto Apache Tribe
- Karen J. Nielsen on behalf of Arizona Department of Water Resources (“ADWR”)
- Sue Montgomery on behalf of the Yavapai Apache Nation and observing for the Pascua Yaqui Tribe
- John Burnside on behalf of BHP Copper
- Garrett Perkins observing on behalf of the St. David Irrigation District

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

LET THE RECORD REFLECT that this hearing is held with contested case numbers: W1-11-002323, W1-11-002402 and W1-11-002414. A separate Minute Entry shall issue under each cause.

The Special Master addresses the parties regarding the objections to the proposed abstracts.

Counsel Wilkins provides an update to the Special Master. He informs the Special Master that an amendment has been filled out and will be mailed for filing with respect to the place of use on stockpond 3 in Magma I. With regards to the additional issues/objections, he explains that the WFR does not match the abstracts due to the maps listing a different location than the WFR.

Discussion is held regarding the location discrepancies. Counsel Ust believes the place of use should be based on the WFR pursuant to former Special Water Master Thorson's order.

Discussion is held regarding the objection to use of December 31, 1883, as a priority date. Counsel Wilkins explains that because the former Special Water Master Thorson's order provides that the date on the WFR controls for stockwatering cases; the department defaulted to the date on the WFR. Counsel Pena explains that the primary objection is based on lack of evidence supporting this priority date. She defers to the San Carlos Apache Tribe as they made the same objection. Counsel Herrmann does not believe that a complete basis of right has been provided to support what is found in the WFR.

The Special Master inquires where ADWR obtained the date for the WFR. Counsel Nielsen believes the date was copied from the Statement of Claim. Counsel Wilkins cannot provide any additional insight as to the date on the SOC as he did not personally file it. He further notes that these proposed abstracts are for de minimis use.

As to the question of quantity for reasonable use,

The Special Master believes that reasonable use was agreed upon for stockwatering de minimis use and calls for any additional comments to the contrary. None are stated.

Discussion is held regarding the duplicate filings and certifications. Counsel Nielsen requests that ASLD provide a list of duplicate stockpond filings to determine an appropriate timeframe for certificate completions.

Counsel Wilkins moves for an order for the stockpond certificates to be processed in ASLD's name.

No objections are stated.

IT IS ORDERED granting ASLD’s Oral Motion and directing ADWR to process the stockpond registration certificates in ASLD’s name for the following:

38-94297 38-94299 38-88372 38-94301 38-94300 38-94298

Further discussion is held regarding the priority date objections.

The Special Master calls for any additional comments regarding the priority date issue.

Counsel Herrmann adds that it is the tribe’s position that some of these lands that are subject to these cases were not open to entry or surveyed as of 1884 and a water right cannot be established on those particular areas.

Discussion is held regarding the WFR and the de minimis use procedures.

The Special Master addresses the parties. Any further guidance regarding the remaining issues will be provided as a later in the Minute Entry.

Based on the matters presented,

IT IS ORDERED that ASLD shall provide a definitive list of duplicate filings (for cases: W1-11-002323, W1-11-002402, W1-11-002414, and W1-11-002854) to ADWR by **April 17, 2026**. The list does not need to be filed with the Court and the objecting parties.

IT IS ORDERED that ADWR shall provide a calendar of estimated completion times for the stockpond registration certificates listed below to the Court on or before **April 27, 2026**.

38-94297 38-94299 38-88372 38-94301 38-94300 38-94298

10:33 a.m. Matter concludes.

LATER:

Both the Gila River Indian Community (“Community”) and the San Carlos Apache Tribe (“Tribe”) claim that ASLD’s justification for the December 31, 1883, claimed priority date for stockwatering is inadequately justified. For each stockwatering claim, ASLD’s statements of claim of right filing includes historical summary of activity in the area, including supporting references, to defend the agency’s claimed priority date. The attachment provides a reasonable estimation of first beneficial usage. Furthermore, the stockwatering claims in question are eligible for summary adjudication, therefore as per Special Master Thorson, “The priority dates . . . Will be determined by use of the apparent dates of first use listed in the potential water right section of the watershed file report. If the watershed file report is incomplete or ambiguous, then the priority date will be determined [according to] the earliest date set forth in a judicial decree or water rights registration act filing.” W1-11-19, Memorandum Decision, Findings of Fact and Conclusions of Law for Group 1 Cases Involving Stockwatering, Stockponds and

Domestic Uses, at 42, November 14, 1994. Finally, ASLD recognized at the time of filing that specific parcels were not fenced and “livestock roamed at will.” As such, the survey status of any particular parcel would be irrelevant since free-roaming cattle pay little, if any, attention to survey boundaries.

With regard to the location of points of diversion and places of use. As was established in W1-11-000232, In re San Pedro Riparian National Conservation Area, to comply fully with summary adjudication procedures and to ensure that the evidentiary foundation for every summarily adjudicated abstract follows a predictable form, the place of use described in the WFR and basis of right must be consistent with the claimed place of use. Where the place of use in the WFR does not match the current place of use, but no discrepancy exists between the current place of use and the place of use described in the basis of right, a simple WFR amendment is appropriate.

Where the place of use in the WFR does not match the current place of use, AND the place of use in the basis of right, a modification to the basis of right and an amended WFR incorporating the modified basis and the current claimed place of use is required.

IT IS ORDERED that ASLD shall file any required modifications to their bases of right with ADWR no later than **May 1, 2026**.

A copy of this order is mailed to all persons listed on the Court-approved mailing list.