

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

March 20, 2025

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: March 28, 2025

In re: James F. Maloney & Patricia M. Matrecito
Contested Case No. W1-11-0075

MINUTE ENTRY

Courtroom 301 – Central Court Building

11:30 a.m. This is the time set for a Status Conference to determine whether the property owners are interested in pursuing water rights before the Special Water Master Sherri Zendri.

The following parties/attorneys appear virtually through Court Connect:

- Counsel, Roger Decker, is present on behalf of Santa Cruz County School District #25 with Superintendent, Dan Erickson and Business Manager, Heidi Gonzalez
- Harley Martin and Matt Martin of S&M Cattle Co. LLC are present on their own behalf
- Franklin Dodge (counsel, owner and manager) of Willows AZ LLC
- Patricia Matrecito of the Matrecito Family Revocable Trust is present on her own behalf
- Michael Carter on behalf of the Gila River Indian Community (“GRIC”)

- Laurel Herrmann, Jana Sutton and Steve Titla (observing) on behalf of the San Carlos Apache Tribe
- Susan Montgomery on behalf of the Yavapai Apache Nation and observing for the Pascua Yaqui Tribe
- Katrina Wilkinson observing on behalf of the Salt River Project (“SRP”)
- Karen Nielsen on behalf of the Arizona Department of Water Resources (“ADWR”)
- Katya Lancero Norris observing on behalf of the Navajo Nation
- Rhett Billingsley observing on behalf of American Smelting and Refining Company (“ASARCO”)
- John Burnside observing on behalf of BHP Copper
- J. Brown observing on behalf of the St. David Irrigation District
- Jay Lee observing on behalf of the Tonto Apache Tribe

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

The Court provides the purpose and background for these proceedings to the property owners.

Counsel Decker indicates there is a registered well. He cannot locate a 55 registration number.

Counsel Dodge indicates that there is no well or water going to Willows AZ LLC.

Mr. Martin doesn’t believe they have a well on their property but would like to put one in the future. He believes the stock tank is located on the Matrecito’s property.

Ms. Matrecito indicates that they have a stock tank and a stock tank. Both are registered.

The Court informs Ms. Matrecito that the Statement of Claimant will need to reflect the current property owner instead of Ms. Maloney.

The Court addresses the parties regarding the subflow zone and the effect it has on this adjudication process. The Court notes that it will need to review a map to determine if the wells are in the subflow zone.

Discussion is held regarding the next steps.

Mr. Martin inquires regarding the process for putting a stock tank in the future. The Court explains that it will have a later priority date.

Counsel Dodge inquires further about future well use. The Court can provide additional guidance to consider once it has reviewed the map.

Mr. Erickson explains that their district is not labelled correctly. Counsel Decker has submitted a Notice of Appearance explaining that they should be labeled as Sonoita Elementary School District #25 and not Santa Cruz County. The Court explains that they will need to address this with the Assessor's Office.

The Court will send resources and contact information as a "LATER" in today's Minute Entry. The parties are instructed to read the information provided as it will contain relevant information to this proceeding and the next steps.

Based on the matters presented,

IT IS ORDERED that ADWR locate and plot the two wells located in the subflow zone on a map **by April 25, 2025**. Once the Court has reviewed the map and registrations, a separate order will be issued to inform the parties on the next steps.

12:02 p.m. Matter concludes.

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

LATER:

Arizona regulates surface water and groundwater differently. Surface water is governed by the doctrine of "prior appropriation," which means that the first person to divert the water and put it to beneficial use has the senior right to that water. All subsequent water users have a junior right to the water and can only use the water as long as there is enough to fulfill all the senior rights first. Groundwater is governed by the doctrine of "reasonable use." A property owner may extract as much groundwater as can be reasonably used for a beneficial use.

However, case law as a result of Arizona's General Stream Adjudication has developed the legal concept of "subflow" - water that flows underground, but exists so close to, or reacts so directly with, a surface stream that the water is actually a part of that surface stream and not a separately distinguishable groundwater source. In 1993, the Arizona Supreme Court agreed that subflow can be regulated as surface water, and wells located within the subflow zone are presumed to be pumping surface water. Development of the subflow zone for any particular Arizona river system is a multiple year endeavor completed by the Arizona Department of Water Resources (ADWR) with cooperation from the Arizona Geological Survey. The April 2014 Revised Subflow Delineation for the San Pedro River, as well as documents prepared by the ADWR as part of the November 1991 Hydrographic Survey Report ("HSR") and can be found on the ADWR website at:

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

To pursue water rights, a property owner must **both** file a Statement of Claimant, and present to the Court evidence of a legal right to the water they claimed on the Statement

of Claimant. If the property owner proves to the Court the existence of a legal water right on their property, the Court will recognize enforceable water rights in a “Final Decree.” ARS § 45-257(B).

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/W1-11-1896-Objections.pdf>

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. Additionally, claimants must be able to document the use of the water had not been suspended for any period of five (5) successive years since the use began.

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 SOC as filed does not list current property owners or lessees. To update an SOC, parties may make an SOC amendment, obtain a SOC assignment from the original claimant, or file a new SOC for their use. See Ariz. Rev. Stat. §§ 45-254. 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 also provide a “basis of right.” To begin this process, the claimant must file a document 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, (90 days before the publication of the San Pedro 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 SOC’s 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 August 22, 1991, 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://glorerecords.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>.

3) Contact Information

To contact ADWR:

- Statements of claimant application and processing - 1-866-246-1414
 - Email: smitchell@azwater.gov
 - website: <https://www.azwater.gov/adjudications>
- Groundwater Well Registration – (602) 771-8527
 - Email: wells@azwater.gov
 - website: <https://www.azwater.gov/permitting-wells>
- Surface Water Permitting (Basis of Rights) – (602) 771-8621
 - Email: surfacewater@azwater.gov
 - website: <https://www.azwater.gov/surface-water/surface-water-overview>

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