

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

March 27, 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: April 4, 2025

In re: William P. Ullrich
Contested Case No. W1-11-1303

MINUTE ENTRY

Courtroom 301 – Central Court Building

10:00 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:

- Property Owners, Mary Graf and Charles Graf, are present on their own behalf
- Property Owners, Katherine Salwei and Leo Salwei, are present on her own behalf
- Property Owners, Shirley L. Bayham-Hicks and Perry L. Hicks, are present on their own behalf
- Kathryn Ust on behalf of the Salt River Project (“SRP”)
- Merrill C. Godfrey on behalf of the Gila River Indian Community (“GRIC”)
- Laurel Herrmann and Jana Sutton on behalf of the San Carlos Apache Tribe
- Alexandra Corcoran-Shannon (paralegal for Susan Montgomery) observing on behalf of the Yavapai Apache Nation and the Pascua Yaqui Tribe
- David Gehlert on behalf of the US Proprietary Agencies
- Amanda Eubanks on behalf of the United States Department of Justice

- David Brown on behalf of the St. David Irrigation District and Schmitt Trust
- Candace French observing on behalf of the Navajo Nation
- Karen Nielsen on behalf of the Arizona Department of Water Resources (“ADWR”)
- Kaitlyn Smith observing on behalf of American Smelting and Refining Company (“ASARCO”)
- Denise Riden observing on behalf of the Cochise County Attorney’s Office
- 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.

The Court inquires if property owner, Ronald Dolan Boyter, is in attendance. Mrs. Salwei indicates that they bought the parcel previously owned by Mr. Boyter and it is a grave easement.

The Court inquires where the parties are getting their water and for what use.

Mrs. Salwei indicates that they get their water from a well in their garage. They use water for their home, animals and gardens. She indicates they typically have horses, goats, chickens and dogs. She provides a well registration number, 55-645270.

Mr. Hicks states that there are a number of wells that are not included in this adjudication and inquires if that is intentional. The Court explains that those may be a part of another case that has not been initiated yet or those may be too far from the subflow zone.

Mr. Hicks states that there is not a well on the 35 acre property but they have been watering their livestock from their well located next to the Salweis. There is a dug well on the other smaller property and they bought that about a month ago. They have a well for domestic use on their home property but notes that it was not included in this adjudication.

Mr. Graf states there are two wells and two homes on their property. There is a domestic well in use and an unused irrigation well and windmill. He indicates that this was the original homesite of the 160 acre homestead.

The Court asks the parties to ensure their wells are registered. The Court clarifies that if a well is not in use but will be used in the future it should be registered. Completely unused wells should be abandoned.

ADWR Counsel Nielsen indicates that the homeowners can schedule a meeting with ADWR to provide a better location of the wells but their permitting department plot by the cadastral method.

The Court indicates that it intends to initiate the remaining cases in this immediate area and inquires if any of the parties have an objection to the Court’s proposal.

No objections are stated.

The Court notes that it will include additional information and resources as to what will be expected of the property owners in the future. The property owners are strongly encouraged to review this information, but the Court will communicate any further orders once the other cases are initiated.

The Court notes that all mail for William P. Ullrich has been returned. Mrs. Graf informs the Court that Mr. Ullrich passed in 2012 and Mrs. Ullrich passed in 2016. Therefore,

IT IS ORDERED removing William P. Ullrich from the Court-approved mailing list.

IT IS FURTHER ORDERED that the property owners ensure their wells are registered before the next hearing date. The parties will be informed of the next hearing by separate order once the other cases are initiated.

10:30 a.m. Matter concludes.

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

LATER:

Investigation of Adjacent Parcels

After further review of the parcels immediately adjacent to the parcels included in this contested case there are no other immediately adjacent parcels that were investigated by ADWR as part of San Pedro Hydrographic Survey Report. Accordingly,

IT IS ORDERED scheduling a status conference for **Tuesday, June 24, 2025, at 10:30 a.m.** for property owners to provide an update on their progress filing statements of claimant and basis of right documentation. The status conference will be held using the Court Connect program. Instructions for Court Connect are attached as Attachment A. 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.

The following information is provided for the convenience of potential claimants.

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). 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 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) Objections to Potential Water Rights Claims

Objections for this contested case were filed when ADWR published its findings. Claimants are encouraged to review these objections when filing pre-adjudication documents as some objections may be resolved simply by providing additional information. 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/W1-11-1303-Objections.pdf>

4) ADWR Contact Information

- 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>

University of Arizona - Arizona Adjudications Project

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.

Attachment A



Court Connect Hearing Notice for In re William P. Ullrich

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 William P. Ullrich, Contested Case No. W1-11-1303

Start Date/Time: Tuesday, June 24, 2025, 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](#)