

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

March 3, 2026

CLERK OF THE COURT
B. Powell
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 9, 2026

In re: Thomas E. and Elaine G. Byfield
Contested Case No. W1-11-1477

MINUTE ENTRY

Courtroom 301 – Central Court Building

10:31 a.m. This is the time set for a Status Conference to update the Court on the changes made by Mrs. Byfield before the Special Water Master Sherri Zendri.

The following parties/attorneys appear virtually through Court Connect:

- Property Owner, Elaine G. Byfield, is present on her own behalf
- Katrina Wilkinson on behalf of the Salt River Project (“SRP”)
- Michael Carter on behalf of the Gila River Indian Community (“GRIC”)
- Laurel Herrmann, Jana Sutton, and Joe Sparks on behalf of the San Carlos Apache Tribe
- Susan Montgomery on behalf of the Yavapai Apache Nation and the Pascua Yaqui Tribe
- Alexa Penalosa on behalf of the United States Department of Justice
- John Burnside on behalf of BHP Copper
- Rhett Billingsly on behalf of American Smelting and Refining Company (“ASARCO”)

- Rachel Carroll-Farias observing on behalf of the Tonto Apache Tribe
- Garrett Perkins on behalf of St. David Irrigation District and C-Spear LLC

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

The Court addresses Mrs. Byfield as to what is still required, how to achieve it and with whom.

Discussion is held with Mrs. Byfield about a permit to use appropriable water for the well which was installed in 1978.

The Special Master proposes two options: 1) the case can be stayed until Mrs. Byfield completes the permit process; or 2) Mrs. Byfield and ADWR can file joint annual status reports.

Katrina Wilkinson of SRP makes statements to the Court regarding moving forward and the concern the case may be “lost” if there are no status updates.

Based on the matters presented,

IT IS ORDERED that Mrs. Byfield, jointly with ADWR, shall file a Status Report regarding processing of Mrs. Byfield permit no later than **March 3, 2027**. The Special Master will determine the next steps by separate order once it has reviewed the report.

The Court will send documentation after this meeting and instruct Mrs. Byfield to read the information provided by the Court as it will contain relevant information to this proceeding.

10:45 a.m. Matter concludes.

LATER:

Attached is an **Application for Permit to Appropriate Public Water of the State of Arizona or to Construct a Reservoir**

Contact information:

ADWR Surface Water Permits Section - (602) 771-8621.

Office of the Special Master – (602) 372-4115

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

APPLICATION GUIDELINES

PERMIT TO APPROPRIATE PUBLIC WATER OF THE STATE OF ARIZONA OR TO CONSTRUCT A RESERVOIR

In accordance with Arizona Revised Statutes ("A.R.S.") §§ 41-1008 and 41-1079, the Arizona Department of Water Resources ("Department"), Surface Water Permitting Section, provides the following information regarding the application review process to assist applicants with a Permit to Appropriate Public Water of the State of Arizona or to Construct a Reservoir.

I. FEES

The initial application fee for an APPLICATION FOR PERMIT TO APPROPRIATE PUBLIC WATER OF THE STATE OF ARIZONA OR TO CONSTRUCT A RESERVOIR is \$1,000.00. Total fees for this application are based upon an hourly billable rate, which can be found on the Department's website located at www.azwater.gov. If the costs of reviewing your application exceed \$1,000.00, you will be invoiced for the difference, up to a maximum total fee of \$10,000.00. Payment may be made by cash, check, or credit card (if you wish to pay by credit card, please contact the Surface Water Permitting Section at 602-771-8621). Checks should be made payable to the Arizona Department of Water Resources. In addition to the hourly application fee, the applicant shall pay: (1) mileage expenses for traveling to and from a site inspection calculated at the rate set by the Arizona Department of Administration for state travel by motor vehicle and (2) the actual cost of mailing or publishing any legal notice of the application. **Failure to enclose the initial application fee will cause the application to be returned. Fees for an APPLICATION FOR PERMIT TO APPROPRIATE PUBLIC WATER OF THE STATE OF ARIZONA OR TO CONSTRUCT A RESERVOIR are authorized by Arizona Administrative Code ("A.A.C.") R12-15-103.**

II. STEPS FOR PROCESSING YOUR APPLICATION AND OBTAINING APPROVAL

Before filing your application, the Department encourages you to contact Department personnel indicated at the end of these guidelines to discuss the application process and review criteria. If you wish, a meeting may be scheduled to facilitate this process. To assist you in understanding the substantive requirements for this application, copies of A.R.S. §§ 45-152 and 45-153 are provided for your information.

It is imperative that you complete the application form in its entirety. An incomplete or incorrect application may result in a delay in processing your application. Please send the application to the address indicated on the form along with any required initial application fees and supporting documentation. The Department suggests that you retain a copy of all documents that are submitted for review. The first step in perfecting a water right is to obtain a Permit to Appropriate. The licensing time frame associated with this process is 450 days. The second step in perfecting a water right is to obtain a Certificate of Water Right. This is initiated by filing an APPLICATION FOR CERTIFICATE OF WATER RIGHT (PROOF OF APPROPRIATION) with the initial application fees authorized by A.A.C. R12-15-103.

III. TIME FRAMES FOR REVIEW OF YOUR APPLICATION AND ISSUANCE OF A PERMIT

Within 450 days after receipt of your application, the Department will determine whether your application should be granted or denied, unless this time is extended as described below. In processing your application, the Department will first determine whether the application is administratively complete (administrative completeness review) and then whether the application meets the substantive criteria established by statute or rule (substantive review). Each of these reviews will be completed within the times stated below. The time for the administrative completeness review plus the time for the substantive review is referred to as the overall time frame.

A. Administrative Completeness Review Time Frame

Within 30 days after receipt of your application, the Department will determine whether your application is complete and will issue a written notice of administrative completeness or deficiencies. After your application is complete, the Department will proceed with substantive review.

If the Department sends you a Notice of Deficiency, the Department will include a comprehensive list of specific deficiencies. Until the missing information is received, both the administrative completeness review and the overall time frames will be suspended. When the Department receives the missing information, the administrative completeness review and overall time frames will resume. Your application will not be complete until all of the requested information is received. If you do not supply the missing information within 60 days, the Department may deem your application withdrawn and close the file.

B. Substantive Review Time Frame

Within 420 days after the application is complete, the Department will review your application to determine whether it meets the substantive criteria required by statute or rule. By mutual written agreement between you and the Department, the time for substantive review may be extended by up to 112 days. In cases where a hearing is necessary prior to a decision, the substantive review time frame will be increased by 120 days.

During the substantive review, the Department may make one written request for additional information. You may also agree in writing to allow the Department to submit supplemental requests for additional information. If additional information is requested by the Department, both the substantive review and overall time frames will be suspended. When the additional information is received, the substantive review and overall time frames will resume.

At the end of the Department's substantive review, the Department will send you a written notice either granting or denying your application. If your application is denied, the notice will include the justification for the denial and an explanation of your right to appeal the denial.

AGENCY CONTACT

Please direct any questions, comments, or requests for further assistance to the Surface Water Permitting Section at (602) 771-8621.

ARIZONA REVISED STATUTES (A.R.S.) §§ 45-152 and 45-153

A.R.S. § 45-152 - Application for Permit to Appropriate Water

- A. Any person, including the United States, the state, or a municipality, intending to acquire the right to the beneficial use of water, shall make an application to the director of water resources for a permit to make an appropriation of the water. The application shall state:
1. The name and address of the applicant.
 2. The water supply from which the appropriation is applied for.
 3. The nature and amount of the proposed use.
 4. The location, point of diversion, and description of the proposed works by which the water is to be put to beneficial use.
 5. The time within which it is proposed to begin construction of such works, the time required for completion of the construction, and the application of the water to the proposed use.
- B. The application also shall set forth:
1. If for agricultural purposes, the legal subdivisions of the land and the acreage to be irrigated.
 2. If for power purposes, the nature of the works by which power is to be developed, the pressure head and amount of water to be utilized, the points of diversion and release of the water, and the uses to which the power is to be applied.
 3. If for the construction of a reservoir, the dimensions and description of the dam, the capacity of the reservoir for each foot in depth, the description of the land to be submerged, and the uses to be made of the impounded waters.
 4. If for municipal uses, the population to be served and an estimate of the future population requirements.
 5. If for mining purposes, the location and character of the mines to be served and the methods of supplying and utilizing the waters.
 6. If for recreation or wildlife, including fish, the location and the character of the area to be used and the specific purposes for which such area shall be used.
- C. The application shall be accompanied by maps, drawings, and data prescribed by the director.

A.R.S. § 45-153 - Criteria for Approval or Rejection of Applications; Restrictions on Approval

- A. The director shall approve applications made in proper form for the appropriation of water for a beneficial use, but when the application or the proposed use conflicts with vested rights, is a menace to public safety, or is against the interests and welfare of the public the application shall be rejected. An administrative hearing may be held before the director's decision on the application if the director deems a hearing necessary.
- B. An application may be approved for less water than applied for if substantial reasons exist, but shall not be approved for more water than may be put to a beneficial use. Applications for municipal uses may be approved to the exclusion of all subsequent appropriations if the estimated needs of the municipality so demand after consideration by and upon order of the director.
- C. If the director approves an application for the appropriation of water for use on land owned by the State of Arizona, a permit or certificate shall be issued as prescribed by section 37-321.01.
- D. Section 45-114, subsections A and B govern administrative proceedings, rehearing, review, and judicial review of final decisions of the director under this section.

(For office use only)
Registry No: _____
Date Filed: _____

**APPLICATION FOR PERMIT TO APPROPRIATE PUBLIC WATER OF THE STATE OF ARIZONA
OR TO CONSTRUCT A RESERVOIR**

1. Applicant _____ Telephone _____

Address _____ City _____ State _____ Zip _____

2. Type of water source and name _____

a tributary to _____ within the _____ watershed
(for office use only)

3. Please circle proposed beneficial use(s) of water requested (see #13 for required attachments):

- | | | | | |
|-------------|---------------|---------------|-------------------------|----------|
| A. Domestic | B. Municipal | C. Irrigation | D. Stockwatering | E. Power |
| F. Mining | G. Recreation | H. Wildlife | I. Groundwater Recharge | |

4. Amount of proposed beneficial water use (from worksheet or attachment):

Proposed Beneficial Use(s)	Amount & Measure (from worksheet)	Specific Months of Use (if not for entire year)

5. Location of proposed point of water diversion (see #13 for required attachment): County _____

Parcel I.D. No. _____ and/or Lot No. _____

Legal Description: _____ ¼ (40-acre tract) _____ ¼ (160-acre tract), Section _____, Township _____ N/S, Range _____ E/W

6. Location of proposed place(s) of water use and/or water storage: County _____

Parcel I.D. No(s). _____ and/or Lot No(s). _____

1/4 (10-acre tract)	1/4 (40-acre tract)	1/4 (160-acre tract)	Section	Township N/S	Range E/W	# of Acres Irrigated**

**This column must be completed for each place of use if irrigation is indicated as a use in Nos. 3 and 4 above.

7. Landowner at location of place of use (see #13 for required attachments)

Private _____ State _____ BLM _____ National Forest _____ Other _____

Lessee and/or Permittee name and address (if applicable)

Name _____ Address _____ City _____ State _____ Zip _____

Name _____ Address _____ City _____ State _____ Zip _____

Does the applicant have legal access to both the proposed diversion point and place(s) of use? Yes _____ No _____
If "No", explain in item 12 below.

8. Describe the works to be developed to put the water to the stated beneficial use:

9. Storage of water (see Instructions for more detailed information):

Reservoir name _____ Vertical dam height at downstream face _____ feet

Storage capacity at spillway crest _____ acre-feet Capacity for each foot in depth _____ cubic feet

(For office use only)

Primary Storage

Secondary Use

Both

10. Construction of facility or diversion works and beneficial use of water:

Estimated start date _____ Estimated completion date _____

For completed works, give the date of completion of the facility and first date of beneficial use; _____

11. Is the water to be used supplementally with other water(s)? Yes _____ No _____ If "Yes" explain

12. Additional comments or explanations:

13. **REQUIRED ATTACHMENTS:**

Initial Application Fee of \$1,000.00 as authorized by Arizona Administrative Code R12-15-103.

U.S.G.S. Topographical Quadrangle map or equivalent, or copy thereof, clearly showing the proposed point of diversion, any conveyance system, and the place(s) of use. Any land to be irrigated should be depicted by cross hatching.

Copy of recorded deed showing land ownership. If owned by other than applicant, provide copies of all pertinent leases, grazing permits, allotments, or a letter from the landowner authorizing the proposed appropriation.

Worksheet for determining quantities of use if the requested use(s) include domestic, irrigation, stockwatering, recreation, or wildlife. If the requested uses include municipal, power, mining, or groundwater recharge, provide the required information on a separate attachment.

14. **NOTICE:**

Arizona Revised Statutes § 41-1030(B), (E), (F) and (G) provide as follows:

B. An agency shall not base a licensing decision in whole or in part on a licensing requirement or condition that is not specifically authorized by statute, rule or state tribal gaming compact. A general grant of authority in statute does not constitute a basis for imposing a licensing requirement or condition unless a rule is made pursuant to that general grant of authority that specifically authorizes the requirement or condition.

E. This section may be enforced in a private civil action and relief may be awarded against the state. The court may award reasonable attorney fees, damages and all fees associated with the license application to a party that prevails in an action against the state for a violation of this section.

F. A state employee may not intentionally or knowingly violate this section. A violation of this section is cause for disciplinary action or dismissal pursuant to the agency's adopted personnel policy.

G. This section does not abrogate the immunity provided by section 12-820.01 or 12-820.02.

**Submit the completed application with the initial application fee, required attachments and supporting documents to:
Arizona Department of Water Resources, Surface Water Permitting Section, 1110 W. Washington Street, Suite 310,
Phoenix, Arizona 85007.**

Signature of Applicant/Representative (if representative, include authorization)

Date

INSTRUCTIONS FOR APPLICATION FOR A PERMIT TO APPROPRIATE PUBLIC WATERS OF THE STATE OF ARIZONA

Appropriable public water, or “surface water,” is defined as “the water of all sources, flowing in streams, canyons, or other natural channels, or in definite underground channels, whether perennial or intermittent, flood, waste, or surplus water, and of lakes, ponds, and springs on the surface. Water that is obtained through a well is presumed to be groundwater, however, an application for permit to appropriate may be submitted to the Arizona Department of Water Resources (“Department”). The initial burden of proving that water obtained through a well is surface water is borne by the applicant.

The following instructions are referenced by number to the questions on the application form. Review the questions on the application as they apply to your individual case. Answer only those questions that apply to the proposed appropriation being requested.

1. Complete name of applicant, current mailing address with zip code, and telephone number. If the applicant is a corporation or business, give the name of the authorizing agent.
2. List the name of the direct source of surface water and the type of source. Give the name of the drainage, creek, etc. to which the source is a tributary.
3. Indicate each of the proposed beneficial uses you are requesting:
 - A. **DOMESTIC** - On the attached worksheet, give the number of families and/or the total number of persons that would use the water from the source. ***Must complete attached worksheet.***
 - B. **MUNICIPAL** - Give the population to be served as well as an estimate of future population and water use requirements on a separate attachment. Exhibits may also be attached as evidence.
 - C. **IRRIGATION** - On the attached worksheet, give the number of acres to be irrigated and the type of crop to be irrigated for each legal description. ***Must complete attached worksheet.***
 - D. **STOCKWATERING** - On the attached worksheet, describe the type and number of stock to be watered. ***Must complete attached worksheet.***
 - E. **POWER** - Describe the nature of the works by which power is to be developed, the pressure head and amount of water to be utilized, point of diversion and release of the water, and the uses to which the power would be applied. ***Submit this information on a separate attachment.***
 - F. **MINING** - Describe the methods of developing, supplying, and using the water. If some water is to be returned to the source, give an estimate as to what percentage would be returned. If the proposed use is on federal or state land, a copy of the accepted plan of operation must also be submitted. ***Submit this information on a separate attachment.***
 - G. **RECREATION** - On the attached worksheet, describe the character of the area to be served and the specific water uses. ***Must complete attached worksheet.***
 - H. **WILDLIFE** (including fish) - On the attached worksheet, describe the type and number of wildlife, the character of the area to be served, and the specific purpose of the water use. ***Must complete attached worksheet.***
 - I. **GROUNDWATER RECHARGE** - Describe the proposed project in general terms and provide any application or permit numbers acquired. Additional information on the requirements for a Recharge Project is available upon request from the Department. ***Submit this information on a separate attachment.***

4. Specify quantities separately for each proposed beneficial use. Give the type of use, the amount and measure to be used, and the specific months of the year that the use would occur. The measure of use for irrigation should be listed in acre-feet; the measure of use for a flow rate should be given as cubic-feet per second (cfs); and use total gallons per annum (year) for stockwatering and wildlife.
5. List the legal land description for the location of the proposed point of diversion from the claimed source.
6. List the legal land description for the location(s) of the proposed place(s) of use of the water.
7. If the proposed point of diversion and/or place(s) of use are located on lands leased from either a state or federal agency, provide the name of the agency, and, if applicable, the Lessee or Permittee name and address. Answer the question as to legal access and explain, if applicable.
8. Describe how the water source is to be developed, the water conveyed, and the water put to the proposed beneficial use.
9.
 - A. Write “unnamed” if the reservoir is not named.
 - B. Dam height is defined by Arizona Revised Statute § 45-1201(2) as the vertical distance between the downstream toe of the dam and the spillway crest. Dam height is not defined as the total height of the dam (i.e., to the crest).
 - C. Small metal or masonry storage tanks that are not permanent structures do not need to be described.
10. Estimate the construction start and end dates. If the appropriation of water has already occurred and the project is already completed, give the date of completion and the date when the water was put to the stated beneficial use.
11. Identify supplemental water sources and describe the method of supplementing the proposed appropriation as required.

The applicant, or a representative of the applicant, must sign and date the application form. ***The initial application fee must be paid for the application to be accepted by the Arizona Department of Water Resources and establish a date of priority. Fees are authorized by Arizona Administrative Code R12-15-103.***

WORKSHEET FOR DETERMINING QUANTITIES OF USE

For Domestic, Irrigation, Stockwatering, Recreation, or Wildlife Beneficial Uses

Application No. _____
(for office use only)

This worksheet must be completed and attached to your application if you are requesting any of the above listed beneficial uses. Please use the attached Standard Water Use Quantities to calculate the amount of water needed for each proposed beneficial use. Complete only those sections that apply to the proposed use(s) being requested. If more space is needed to describe your beneficial use(s), an attachment is acceptable. Enter each total from this worksheet in section #4 of the application.

A. DOMESTIC

Household Use(number of people using water)	X Standard quantity	= Amount & measure
		GPA
Non-household Use: (lawns, gardens and landscape not exceeding one-half an acre)	X Description of non-household use: (i.e.: type and number of trees, crops growing)	GPA
		GPA
Total annual amount for domestic		GPA

C. IRRIGATION

Crop	Number of acres	X Standard quantity per acre for this crop	= Amount & measure
			AFA
			AFA
			AFA
Total annual amount for all irrigated acres			AFA*

D. STOCKWATERING

Number & type of head	X Standard quantity per head per day	X Number of days per year water is used	= Amount & measure
			GPA
			GPA
Total annual amount for stockwatering			GPA*

G. **RECREATION** - Describe the character of the area to be served and the specific water uses:

Total annual amount for recreation: _____ *

H. **WILDLIFE** (including fish) - Describe the type and number of wildlife, the character of the area to be served, and the specific water uses:

Total annual amount for wildlife: _____ *

*Enter each total on a separate line in Section #4 of this application.

STANDARD WATER USE QUANTITIES

As provided by Arizona Revised Statute § 45-153 (B), an application shall not be approved for more water than may be put to beneficial use. Although appropriations are considered on a case by case basis, the following information is provided to assist you in determining the quantity of water to be appropriated. These are quantities of water that the Arizona Department of Water Resources ("Department") considers reasonable for the listed beneficial uses in most cases.

Additional water may be approved by the Department if supporting justification is provided.

DOMESTIC USE: 180 gallons/person/day

Domestic use can include irrigation of less than 0.5 acres of lawn and garden associated with a domicile.

STOCKWATERING USE:

Cattle/Horses	12 gallons/animal/day
Hogs	2.5 gallons/animal/day
Sheep	1.5 gallons/animal/day
Poultry	0.25 gallons/animal/day

WILDLIFE USE:

Elk	3 gallons/animal/day
Antelope/Deer	1 gallon/animal/day
Other	0.5 gallon/animal/day

IRRIGATION USE:

Irrigation use is site specific and dependent upon crop type, land elevation, soil characteristics, method of irrigation, and conveyance system. Irrigation quantity of water use will be determined on a case by case basis. Contact the Surface Water Permitting Section at (602) 771-8621 or 1-800-352-8488 (within Arizona) when this quantity needs to be determined.

STORAGE:

Storage of water in an impoundment (stockpond or reservoir) is site specific and dependent upon the topography of the area, height of dam, location of spillway, and slope of watercourse. Water quantities authorized for storage will be determined on a case by case basis.