

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

March 4, 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 18, 2025

In re: Lee E. and Sharie H. Taylor
Contested Case No. W1-11-1483

MINUTE ENTRY

Courtroom 301 – Central Court Building

11:01 a.m. This is the time set for a Status Conference to determine the status of the applications that ADWR is processing before Special Water Master Sherri Zendri.

The following parties/attorneys appear virtually through Court Connect:

- Property Owner, Sunni Snow, is present on her own behalf (Rancho Fiesta Land & Cattle, LLC)
- Merrill C. Godfrey on behalf of the Gila River Indian Community (“GRIC”)
- Laurel Herrmann on behalf of the San Carlos Apache Tribe
- Susan Montgomery on behalf of the Yavapai Apache Nation and observing for the Pascua Yaqui Tribe
- John Burnside on behalf of BHP Copper
- Kaitlyn Smith on behalf of American Smelting and Refining Company (“ASARCO”)
- Mike Foy on behalf of the Salt River Project (“SRP”)
- Laura Boyer on behalf of the United States Department of Justice, Environment and Natural Resources Division

- Karen Nielsen on behalf of the Arizona Department of Water Resources (“ADWR”)
- Danika Mazillier on behalf of the Arizona Chapter of the Nature Conservancy

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

The Court notes that it received two reports from ADWR and calls for any comments to the reports.

Counsel Foy addresses the Court. While he doesn’t object to ADWR’s recommended approach to sever that parcel, he suggests initiating the contested case associated with the Watershed File Report (“WFR”) #112-14-DA-001 and consolidating it with this contested case.

Counsel Nielsen addresses the Court. She does not object to Counsel Foy’s approach but believes severing that parcel will be necessary regardless as well as an amended WFR.

The Court agrees that Counsel Foy’s approach may be cleaner initially and agrees that an amended WFR will likely be necessary later on. The Court will send out a Case Initiation Order for WFR #112-14-DA-001 in the next few days.

The Court inquires if Ms. Snow’s wells are registered.

Sunni Snow indicates the wells are registered and provides both numbers: oldest well is 55-618142 and the second, smaller well is 55-068256. She has submitted a number of documents regarding the history of ownership since 1980 to present.

Sunni’s husband, Ken Snow, indicates that he is on the status conference as well. He believes the mailings to the Taylors and Snow Development could be eliminated now that mail is going to Rancho Fiesta Land & Cattle, LLC. Sunni Snow believes she has resolved this mailing issue.

The Court inquires what was provided for basis of right.

The Snows report that they submitted ownership documents from Dr. Taylor. The Court will include more information as a “LATER” in today’s Minute Entry once it has reviewed their Statement of Claimant. The Court notes that there are three wells on the map. Sunni Snow states that there is a potential third well, but she doesn’t know where it is. She believes it was put in by Dr. Taylor but never used and likely buried over.

Counsel Nielsen asks for the Snow’s SOC number so she can verify if it has been processed. Sunni Snow provides her filing number, 39-006326.

Discussion is held regarding basis of right. Sunni Snow states that she has not had much luck finding any records beyond what she has already provided but will contact ADWR for assistance. The Court will reiterate the information on basis of right that was

provided in the first Minute Entry so the property owners can determine how to demonstrate their basis of right as well as information regarding permit fees.

Counsel Nielsen indicates that she was not able to locate the assignment and amendment and will follow up to ensure it has been processed.

The Court will set an Initial Status Conference on the contested case initiated for WFR #112-14-DA-001 to determine who, if anyone, is interested in participating before setting the next status conference for this contested case and consolidating both cases.

No objections are stated.

11:27 a.m. Matter concludes.

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

LATER:

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. This evidence of a legal right is often referred to as the Basis of Right. 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).

The SOC for this contested case, #39-006326 references a single well registration number. Property owner Sunni Snow provided well registration numbers for two wells. ADWR will only research uses as claimed on an SOC.

Basis of Right

To obtain a water right, a claimant must also 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, (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.***

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>.

To contact ADWR:

- Statements of claimant application and processing - 1-866-246-1414
 - Email: smitchell@azwater.gov
 - website: <https://www.azwater.gov/adjudications>
- 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>

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

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>