

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: Sandra B. and Charles E. Beeler
Contested Case No. W1-11-1896

MINUTE ENTRY

Courtroom 301 – Central Court Building

10:42 a.m. This is the time set for a Status Conference for the claimants to explain their failure to appear for the January 7, 2025 Status Conference and determine how to proceed before Special Water Master Sherri Zendri.

The following parties/attorneys appear virtually through Court Connect:

- Property Owners, Sonia G. and Raymond A. Preciado, are present on their own behalf
- Katrina Wilkinson on behalf of the Salt River Project (“SRP”)
- David Gehlert on behalf of the United States Proprietary Agencies and Tribal Resources Section
- 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

- Kaitlyn Smith on behalf of American Smelting and Refining Company (“ASARCO”)
- John Burnside on behalf of BHP Copper
- Karen Nielsen on behalf of the Arizona Department of Water Resources (“ADWR”)

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

The Preciados indicate that they are interested in pursuing potential water rights. Mr. Preciado reports that they currently get their water through Pomerene Domestic Water and they have a well.

The Court addresses the parties regarding why they are subject to this adjudication and what the next steps will be. The Court will include detailed information as a “LATER” in today’s Minute Entry. The parties are strongly encouraged to review all of the information provided; the Court will also include contact information in case the parties would like additional information/assistance.

Mr. Preciado indicates that he contacted Brown and Brown Law Offices, they were unable to retain them but would like the contact information for the University of Arizona Law Clinic. The Court will include that contact information in today’s Minute Entry.

The Court explains that the parties will need to update the Statements of Claimant (“SOC”) and provide basis of right. The Court will include some information about the objections as well, which will be worked through and resolved once the SOC and basis of right are submitted.

Discussion is held. The Preciados provide their email: RSPreciado@gmail.com.

The Court notes that all mailings sent to Sandra B. and Charles E. Beeler were returned with no forwarding address. Therefore,

IT IS ORDERED removing Sandra B. and Charles E. Beeler from the Court Approved Mailing List.

11:00 a.m. Matter concludes.

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

LATER:

IT IS ORDERED that no later than **May 2, 2025**, Sonia G. and Raymond A. Preciado shall file with ADWR statements of claimant for whatever potential water rights they intend to pursue. Water supplied by Pomerene Domestic Water should **not** be included in claims filed by the Preciados.

IT IS FURTHER ORDERED that no later than **July 7, 2025**, Sonia G. and Raymond A. Preciado shall file with ADWR all required forms to establish a basis of right (as explained below) for any potential water rights they may have through this contested case.

IT IS FURTHER ORDERED that Sonia G. and Raymond A. Preciado shall file with the Court a single notice of completion for both of the above requirements, no later than 5 business days after the application for the basis of right, the later of the two requirements, has been filed with ADWR.

Once the Special Master receives this notice, the next steps regarding status reports from ADWR and future status conferences for the parties will be determined.

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 should 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 for a well located within the subflow zone, 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. That evidence of a legal right to the water 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).

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.” 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.***

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://gloreCORDS.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>
- 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.