

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: Rancho Rio Vista Inc.
Contested Case No. W1-11-1983

MINUTE ENTRY

Courtroom 301 – Central Court Building

10:00 a.m. This is the time set for a Status Conference to receive an update from the property owners and ADWR regarding the application and processing of updated SOC and basis of right documents before Special Water Master Sherri Zendri.

The following parties/attorneys appear virtually through Court Connect:

- Property Owner, Seth Wilson, is present on his own behalf
- Property Owner, Tim Wilson, is present on his own behalf
- Laura Boyer on behalf of the United States Department of Justice, Environment and Natural Resources Division
- Kaitlyn Smith on behalf of American Smelting and Refining Company (“ASARCO”)
- John Burnside on behalf of BHP Copper
- Laurel Herrmann on behalf of the San Carlos Apache Tribe
- Mark McGinnis on behalf of the Salt River Project (“SRP”)
- Jay Lee on behalf of the Tonto Apache Tribe
- Susan Montgomery on behalf of the Yavapai Apache Nation and observing for

the Pascua Yaqui Tribe

- Merrill C. Godfrey on behalf of the Gila River Indian Community (“GRIC”)
- 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.

Counsel Nielsen confirms that it has received one updated Statement of Claimant from Seth Wilson and two from Tim Wilson. She reports that all three have been processed.

The Court received two letters from the Wilsons but did not receive any information regarding the basis of right. The Court inquires if either party has had a chance to discuss this with ADWR.

Seth Wilson states that they both met with ADWR in September 2024 and from his understanding they both had submitted everything required of them. Tim Wilson indicates that he submitted the basis of right in the form of titles.

Discussion is held regarding how to proceed. Both parties confirm that the water use on the property was post 1919. Seth Wilson indicates that his claim is for domestic use. Counsel Nielsen indicates that Tim Wilson submitted one claim for domestic and one for irrigation.

The Court will provide more information on the next steps as a “LATER” in today’s Minute Entry.

The Court reminds the Wilsons that their wells are located in the subflow zone and that requires additional information.

Seth Wilson inquires if his neighbors are out of the subflow zone. The Court explains that their northern neighbors’ water use was not included in the original water use investigated by ADWR. They only investigated the southern portion of the property.

Tim Wilson inquires what information is needed to obtain the basis of right. The Court will include more information regarding basis of right in today’s Minute Entry once it has had an opportunity to review the SOC’s.

Counsel Nielsen informs the Wilsons that they may set up a virtual pre-application meeting with ADWR’s surface water department by emailing: surfacewater@azwater.gov or calling (602) 771-8621.

Further discussion is held regarding procedures. The Court explains that objections were filed in the past to the original potential claim. ADWR circulates a draft proposed abstract at which time the objectors will have an opportunity to provide their comments to address any remaining objections.

LET THE RECORD REFLECT that the parties provide their emails, Tim Wilson: timthetoothman@gmail.com and Seth Wilson: seth23wilson@gmail.com.

The Court will provide additional information, including the next Status Conference date as a “LATER” in today’s Minute Entry.

10:35 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 **June 30, 2025**, Mr. Seth Wilson and Mr. Tim Wilson 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 Mr. Seth Wilson and Mr. Tim Wilson shall file with the Court notice of completion of the above basis of right applications, no later than 5 business days after the applications have been filed with ADWR.

Once the Special Master receives this notice, the next steps regarding status reports from ADWR and status conferences for the parties will be determined. The following additional information is a summary of information provided in the May 23, 2024, minute entry.

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 appropriable water in the subflow zone, a property owner must **both** file a Statement of Claimant, and present to the Court evidence of a legal right (“basis of 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).

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).

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>.

ADWR Contact Information

- Statements of claimant forms and processing procedures - 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>

Objections

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/W1-11-1983-OBJs.pdf>

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.