

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

March 20, 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 28, 2025

In re: Arthur Verdugo Jr.  
Contested Case No. W1-11-2397

**MINUTE ENTRY**

Courtroom 301 – Central Court Building

11:00 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 Owner, Arthur Verdugo Jr. (of Arthur Verdugo Jr. Properties LLC and Arthur and Olivia Verdugo Living Trust) is present on his own behalf
- Property Owners, Gilda Marquez and Carlos Marquez, are present on their own behalf
- Mark McGinnis on behalf of the Salt River Project (“SRP”)
- Michael Carter on behalf of the Gila River Indian Community (“GRIC”)
- Laurel Herrmann and Jana Sutton on behalf of the San Carlos Apache Tribe
- Susan Montgomery on behalf of the Yavapai Apache Nation and observing for the Pascua Yaqui Tribe

- Mark Widerschein and Amanda Eubanks on behalf of the United States Department of Justice
- John Burnside on behalf of BHP Copper
- Rhett Billingsley on behalf of American Smelting and Refining Company (“ASARCO”)
- Karen Nielsen on behalf of the Arizona Department of Water Resources (“ADWR”)
- J. Brown on behalf of the St. David Irrigation District
- Katya Lancero Norris observing on behalf of the Navajo Nation
- 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 how the parties get their water and for what use.

Mr. Marquez indicates that they are using two wells, the upper well is for domestic use and the second lower well is for stock and for emergency backup.

Mr. Verdugo informs the Court that those wells are registered, the first well is 55-623961, the second well is 55-623962 and there is a third one that is not in use, 55-623963. He indicates the third is the windmill, it can be used but there are some minor repairs needed at this time.

Mr. Verdugo provides the following parcel numbers for the corresponding wells: first well is 306-33-012M second well is 306-33-012L and the windmill is 306-33-012K.

Discussion is held regarding how to proceed. The Court informs the parties that they will need to file updated Statements of Claimant and provide the basis of right forms.

Mr. Verdugo states that the map from 1990 showed the upper well out of the subflow zone. The Court clarifies that there has been extensive work done since then. A more recent map and report has been done by ADWR around 2014.

Mr. Verdugo inquires how rights for future uses are handled. The Court explains that it only deals with current use, but a different priority date would be assigned for future use.

The Court inquires about the four properties directly north of these properties. Mr. Verdugo explains that they shared a well with those properties in the past but around 1985, those people put in a large well/pond and there is no longer any shared use.

The Court will send resources and contact information as a “LATER” in today’s Minute Entry. The parties are instructed to read the information provided as it will contain relevant information to this proceeding and the next steps.

Based on the matters presented,

**IT IS ORDERED** setting a Status Conference to receive an update from the property owners regarding their progress with ADWR and their Statements of Claimant and Basis of Right Forms on **June 19, 2025, at 11:00 a.m.** before Special Water Master Sherri Zendri.

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.

11:26 a.m. Matter concludes.

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

**LATER:**

Property owners are strongly encouraged to contact ADWR for assistance with filing Statements of Claimants and basis of rights documentation as described below.

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).

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.” 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'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](mailto:smitchell@azwater.gov)
  - website: <https://www.azwater.gov/adjudications>
- Groundwater Well Registration – (602) 771-8527
  - Email: [wells@azwater.gov](mailto:wells@azwater.gov)
  - website: <https://www.azwater.gov/permitting-wells>
- Surface Water Permitting (Basis of Rights) – (602) 771-8621

- Email: [surfacewater@azwater.gov](mailto: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](mailto:law-azadjudicationsproject@arizona.edu).

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



## Court Connect Hearing Notice for In re Arthur Verdugo Jr.

*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 Arthur Verdugo Jr.

**Contested Case No.** W1-11-2397

**Start Date/Time:** June 19, 2025, at 11:00 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](#)