

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

March 27, 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: April 4, 2025

In re: Bingham Sacaton Ranch
Contested Case No. W1-11-2586

MINUTE ENTRY

Courtroom 301 – Central Court Building

11:30 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, Larry Wilson (The Wilson Trust), is present on his own behalf
- Property Owner, Mark Toenies, is present on his own behalf
- Property Owner, Michelle Brobeck, is present on her own behalf
- Merrill C. Godfrey on behalf of the Gila River Indian Community (“GRIC”)
- Laurel Herrmann and Jana Sutton on behalf of the San Carlos Apache Tribe
- Alexandra Corcoran-Shannon (paralegal for Susan Montgomery) observing on behalf of the Yavapai Apache Nation and the Pascua Yaqui Tribe
- Karen Nielsen on behalf of the Arizona Department of Water Resources (“ADWR”)
- Candace French on behalf of the Navajo Nation

- Kathryn Ust observing on behalf of the Salt River Project (“SRP”)
- Denise Riden observing on behalf of the Cochise County Attorney’s Office
- David Brown observing on behalf of C-Spear LLC
- Jay Lee observing on behalf of the Tonto Apache Tribe
- Kaitlin Smith observing on behalf of American Smelting and Refining Company (“ASARCO”)
- Property Owner, Maricella M. Carrasco, is present on her own behalf

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 are getting their water and for what use.

Mr. Wilson states that most of the time there isn’t water on his property because the Kielberg creek is intermittent. There is an old dam in the creek bed that he may want to use to divert a little water in the future to feed a wildlife tank. He has obtained an assignment from the Bingham family and submitted a Statement of Claimant to ADWR about a week ago. He indicates that they have a deep well for domestic use.

Mr. Toenies states there is a man-made berm, Mr. Bingham estimated that it was built by the Bingham family in 1955. Mr. Toenies indicates that he too met with Mr. Bingham to notarize a Statement of Claimant. He states that his home is about eight miles away and has a well for domestic use.

Ms. Broebuck states that she has recently bought the property and doesn’t believe there is any water on the property. She has not been able to fully view the property yet.

Ms. Carrasco indicates that she owns multiple parcels and use water from the wells and reservoir for livestock and wildlife. She indicates that there are two stock ponds on the parcels, one is dried up and the other is half full.

Discussion is held regarding how to proceed. The Court notes that there are some property owners that did not appear today. The Court will provide those owners one more opportunity to participate and if the Court does not receive any notice of interest, they will be removed from the Court-approved mailing list. The property owners are directed to find out what exactly is on their respective land, stock ponds, wells, etc. prior to the next hearing.

The Court inquires if anybody on the line is familiar with William and Marjorie Lapedus and notes that it received returned mail for them.

Mr. Toenies asks how to formally record the notarized assignment from Mr. Bingham. The Court notes that it will need to be sent to ADWR and it will be up to Mr. Toenies if he would like to record it with the county.

The Court will include additional information/resources as a “LATER” in today’s Minute Entry. The parties are instructed to read the information provided by the Court as it will contain relevant information regarding updating Statements of Claim, Statements of Claimant and providing basis of right form. The Court will also include the next Status Conference date in about 60-90 days.

If the parties would like to share their email with each other, they may do so by emailing: water@jbazmc.maricopa.gov. The Court’s staff will ensure that the list of emails is circulated.

12:01 p.m. Matter concludes.

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

LATER:

IT IS ORDERED setting a status conference for **Tuesday, June 24, 2025, at 10:00 a.m.** 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.

The following property owners in this contested case failed to make an appearance at the initial conference:

RDF Land & Cattle Company LLC
Kalgoorlie LLC

Jon C. & Kathleen O. Sjogren
William Jack & Marjorie Jean Lapedus

IT IS FURTHER ORDERED that if any of the above listed property owners remain interested in pursuing whatever potential water right they may have, if any, on their property, they must attend the status conference on **Tuesday, June 24, 2025, at 10:00 a.m.** and explain the reason for their failure to attend the initial status conference

Property owners who fail to attend two conference proceedings will be removed from the court approved mailing list. The failure to participate in this proceeding may result in the forfeiture of potential water rights.

Additional Information

The following additional information is provided for the convenience of potential claimants.

Potential claimants in this case may have both surface water and groundwater uses on their properties. 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.

Case law as a result of Arizona’s General Stream Adjudication has also 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. For this contested case, any wells on the parcels in this contested case are outside the subflow zone and therefore will not be considered at this time.

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). 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)

An SOC is a landowner’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) Objections to Potential Water Rights Claims

Objections for this contested case were filed when ADWR published its findings. Claimants are encouraged to review these objections when filing pre-adjudication documents as some objections may be resolved simply by providing additional

information. 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/W1-11-2586-Objection.pdf>

4) ADWR Contact Information

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

Attachment A



Court Connect Hearing Notice for In Bingham Sacaton Ranch

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 Bingham Sacaton Ranch, Contested Case No. W1-11-2586

Start Date/Time: Tuesday, June 24, 2025, at 10:00 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](#)