

SUPERIOR COURT OF ARIZONA  
APACHE COUNTY

August 13, 2024

CLERK OF THE COURT

SPECIAL WATER MASTER  
SHERRI ZENDRI

S. Ortega  
Deputy

FILED: August 14, 2024

In re: the General Adjudication  
of All Rights to Use Water in the  
Little Colorado River System and Source

In re: Fost W. Flake  
**Contested Case No. CV6417-33-5042**

In re: Status Conference

**MINUTE ENTRY**

Courtroom: CCB 301

10:01 a.m. This is the time set for a virtual Status Conference regarding questions and comments relating to the draft abstracts.

The following attorneys and parties appear virtually/telephonically through Court Connect:

- Vanessa Boyd Willard for the US Department of Justice
- Alexa Penalosa for the US Department of Justice
- David A. Brown for property owners, Gaylan Flake and Donna Flake
- Mark A. McGinnis observing for the Salt River Project (“SRP”)
- Katya M. Lancero for the Navajo Nation
- Karen Nielsen for Arizona Department of Water Resources (“ADWR”)
- Phillip Londen observing for the Hopi Tribe

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

Abstracts are discussed. Mr. Brown confirms that the five abstracts were emailed to all of the parties on July 9, 2024. No comments from the parties have been received to date.

Mr. Brown states that the Flake children quitclaimed all of their interest in the five stock ponds in Section 29 to their parents, Gaylan and Donna Flake. The deed was recorded on July 26, 2024. That change will need to be made on three of the abstracts to reflect the new ownership.

Discussion is held regarding LCR's Statement of Claimant (SOC) in Section 29 (SOC #39-95510 dated September 26, 2017, and included in ADWR's imaged records). Mr. Brown confirms that all of Section 29 is owned entirely by the Flakes. Mr. Brown will ask his office to look further into that SOC. The Court notes that due to the 2017 date of the SOC it does not have any bearing on this contested case.

Mr. Brown requests that these types of cases be handled differently moving forward to cut costs and expenses, and further discussion is held. Mr. Brown suggests that if they are *de minimis*, the priority date doesn't matter and should be added to the catalog automatically. The Court will review its notes and the recording and make sure that drafting of abstracts for *de minimis* water rights stays with ADWR.

Ms. Willard understands a *de minimis* standard has to be established in Arizona for each individual sub basin and wants to know if one of it has been adopted for Silver Creek. Mr. Brown confirms that there has been a *de minimis* ruling for the Silver Creek for some time.

Further discussion is held regarding the *de minimis* standard and how it fits with the objection process.

The Court notes that the next step is to make the corrections to the abstracts as to the owners and then submit the abstracts to the Court for final approval.

Ms. Willard requests that the parties be able to take another look at the abstracts once the ownership has been corrected.

**IT IS ORDERED** Mr. Brown will submit the revised abstracts to the parties by **Friday, August 16, 2024**. Final comments will be due no later than **August 23, 2024**.

10:19 a.m. Matter concludes.

A copy of the minute entry will be sent to all parties on the Court approved mailing list.