

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

May 23, 2024

CLERK OF THE COURT

SPECIAL WATER MASTER  
SHERRI ZENDRI

S. Ortega  
Deputy

FILED: May 29, 2024

In Re The General Adjudication  
Of All Rights to Use Water in the  
Gila River System and Source

W1-11-1983

*In re Rancho Rio Vista Inc.*

**MINUTE ENTRY**

Central Court Building – Courtroom 301

10:00 a.m. This is the time set for an Initial Status Conference before Special Water Master Sherri Zendri to determine if landowners are interested in pursuing potential water rights.

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

The following parties/counsel appear virtually and/or telephonically:

- Property owners Carron Elford, Annette Johansen, Marcus Tucker, Kimberly Skolkin, Seth Anderson, and Tim Wilson dba The Marm LLC
- Mark Widerschein and Laura Boyer for the United States Department of Justice (USDOJ)
- Rhett Billingsley for ASARCO LLC
- John Burnside for BHP Copper fka Magma Copper Company
- Merrill C. Godfrey for Gila River Indian Community
- Alexander Ritchie for San Carlos Apache Tribe
- Bernardo Velasco and Jana Sutton observing for San Carlos Apache Tribe
- Sue Montgomery for Yavapai Apache Nation and observing on behalf of Pascua Yaqui Tribe

- Katrina Wilkinson for Salt River Project (SRP)
- Karen Nielsen and Kimberly Parks for the Arizona Department of Water Resources (ADWR)
- Brian Heiserman observing for the St. David Irrigation District
- Katya M. Lancero observing for Navajo Nation

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

Property owners Carron Elford, Annette Johansen, Kimberly Skolkin, Seth Anderson, and Tim Wilson dba The Marm LLC affirm that they wish to move forward in pursuing potential water rights.

Discussion is held regarding the location of the water wells at issue and whether they have been registered. The property owners affirm that the wells have been registered and are currently being used.

Property owner Marcus Tucker affirms that he wishes to move forward in pursuing potential water rights and that the well on his property is registered and in use.

10:09 a.m. Wane Roseberry, spouse of William Roseberry, announces her appearance and affirms she is interested in pursuing potential water rights. Mrs. Roseberry states that there is a well on their property that has been registered and is in use.

The Court addresses statements of claimant (SOCs) for the two wells. The SOC's will need to be updated. If there are other wells, separate SOC's will be required.

The Court explains the next steps in the water adjudication process. The Court will send more information to the parties as an attachment to this minute entry regarding the water adjudication process including links for forms and additional contact information. The Court suggests that the parties contact ADWR to set up a time to fill in the appropriate forms.

The Court will also include a link to the objections that have been filed. The objections are related to whether or not the wells have been in continuous use, legal descriptions, and the amount of water actually being used from those wells.

Questions and comments from the property owners are discussed.

10:17 a.m. William Roseberry announces his appearance. Mr. Roseberry objects to having to make a claim on water rights that are already on his property and in use.

The Court discusses ground water, surface water, and sub-flow zone. The parties here are presumed to be drawing surface water. Surface water in the State of Arizona requires an appropriate of right.

Kimberly Parks confirms that property owners have to register a well that they own or that they intend to drill. The wells do not require a permit. The registration includes language that the well may not constitute a water right depending on the outcome of the general stream adjudication.

Discussion is held regarding the owners' water rights and getting the assistance needed to further pursue those rights. The Court will include information in this minute entry about a clinic out of the University of Arizona that may be able to provide further assistance to the parties.

Discussion is held regarding objections to the claim. The Court will include a link in this minute entry for the parties to review the objections that have been made.

Further discussion is held regarding the wells in use by the parties in this case.

As this hearing was set for 30 minutes, the Court will set another hearing in this matter within 30-45 days to allow the parties to return with more questions. Additional information concerning the history of the adjudication will also be included in this minute entry which will help explain the situation.

Discussion is held regarding the possible outcome of the matter. The Court states that the outcome is to make sure that the parties have an appropriate legal right to use the water they are using. The additional information which will be contained in this minute entry will explain the appropriate documentation of how the owners are getting the water.

Further discussion is held regarding objections.

Copies of this minute entry will be mailed by first class mail to the property owners. The parties may send their email addresses to the Court's Judicial Assistant, [Emily.Natale@jbazmc.maricopa.gov](mailto:Emily.Natale@jbazmc.maricopa.gov), if they want to receive electronic courtesy copies of this minute entry.

10:41 a.m. Matter concludes.

**LATER:**

**IT IS ORDERED** scheduling a status conference for **Tuesday, July 23, at 10:00 am.** This conference will be scheduled for a full hour to better assist parties with their questions. 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.

Under state law, appropriable water, which is subject to the General Adjudication, includes surface water and certain subsurface water referred to as “subflow.” Subflow is underground water that is hydraulically connected to a stream and is considered part of the surface stream. Wells pumping subflow are subject to the same rules of appropriation as the surface stream itself.

This contested case is to resolve potential water claims associated with wells located on Cochise County Parcels 123-37-005G (owned by Paul M. and Kimberly R. Skolkin) and 124-18-013 (owned by Marm LLC). Parties who do not withdraw water from these two wells should be prepared to inform the court as such and provide the registration numbers of any additional wells where water is being withdrawn.

Wells drilled after November of 1991 may not be included in this contested case but will be adjudicated in the future if they are presumed to be pumping surface water or subflow. All parties must register their wells, regardless of where the well is located, and file statements of claimants for potential water rights to appropriate San Pedro subflow. At the status conference, in addition to any questions, parties should be prepared to inform the Court what progress has been made to file updated statements of claimant, and basis of right documentation.

To pursue water rights, a property owner must file a Statement of Claimant and present to the Court evidence of the existence of a water right on their property. This evidence may include the WFR. If the property owner proves to the Court the existence of a 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:

<http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/docs/W1-11-1983-Combined-Objs-for-web.pdf>

Documents prepared by the Arizona Department of Water Resources (ADWR) as part of the November 1991 Hydrographic Survey Report (“HSR”) and the April 2014 Revised Subflow Delineation for the San Pedro River can be found on the ADWR website at:

<https://www.azwater.gov/adjudications>

Parties wishing to move forward with historical water right 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 has 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://glorerecords.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>.

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 ADWR regarding application forms and processing procedures please call 1-866-246-1414, email [smitchell@azwater.gov](mailto:smitchell@azwater.gov), or visit <https://www.azwater.gov/adjudications>.

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



## Court Connect Hearing Notice for In re Rancho Rio Vista Inc.

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

**Start Date/Time:** Tuesday, July 23, at 10:00 am

**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](#)