

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF APACHE

IN RE THE GENERAL ADJUDICATION OF
ALL RIGHTS TO USE WATER IN THE
LITTLE COLORADO RIVER SYSTEM AND
SOURCE

CIVIL NO. 6417
PRETRIAL ORDER NO. 5
RE: NEW USE SUMMONS

Pursuant to the authority vested in this Court by Section 45-259, ARIZ. REV. STAT., and Rule 16(b) of the Arizona Rules of Civil Procedure, the Court hereby enters the following order concerning new uses of appropriable water:

1. Purpose of this Order

The purpose of this order is to allow statements of claimant to be filed for water uses initiated after the original summons was issued in this adjudication or subsequent summons were issued pursuant to this order. The Court intends this process to be a notice and filing procedure; it is not an approval or validation of a claimed use.

2. Scope of New Uses

This order addresses only new uses of water, including increases in water use not covered by prior water rights. The new uses within the scope of this order are:

A. Surface Water

(1) Applications to appropriate public waters filed after the last summons was issued. *See* ARIZ. REV. STAT. ANN. §§ 45-151 through –166.

(2) Stockpond registrations filed after the last summons was issued. *See* ARIZ. REV. STAT. ANN. §§ 45-271 through –276.

(3) Water Rights Registration Act filing. *See* ARIZ. REV. STAT. ANN. §§ 45-181 through –190.

B. Underground Water

(1) Unless otherwise ordered, the Arizona Department of Water Resources (ADWR or the Department) shall serve users or claimants of underground water only after those persons are brought into the adjudication as a result of a final court decision.

3. Service of New Uses

The Department shall serve summons and notices upon all new water users as provided for by this paragraph 3.

A. Form of Summons

The Court approves the form of summons attached as Attachment 1 for use by ADWR.

B. Service of Summons

Upon delivery of the summons issued by the Clerk of the Court to the Director of ADWR, the Director shall effect service by mailing a copy of the summons by registered or certified mail, return receipt requested, to all new water users identified under paragraph 3(C) *below*. After the initial service, this process shall be repeated on a biannual basis to serve persons who have initiated new uses of water since the last service of process. Biannual service will be discontinued (except for water right registrations) when ADWR implements an integrated method for applicants to secure a permit, accept summons, and file a statement of claimant all in one transaction. The Director shall not be required to serve new water users who are already parties to this adjudication.

C. Identification of New Water Users

ADWR shall identify those persons who have initiated “new uses” (as defined in paragraph 2, *above*) after a watershed filing deadline has passed, but before this order. Thereafter, new water users shall be identified at the time the new water user files for a “new use.”

D. New Water Uses Initiated by Parties

Parties to this adjudication who initiate new water uses shall file new use statements of claimant within the period of time allowed by ARIZ. REV. STAT. ANN. § 45-254. Service of summons shall not be required for those persons already participating as parties to the adjudication.

4. Treatment of New Use Statement of Claimant

New use statements of claimant shall be investigated and incorporated into the appropriate HSR by ADWR, in the manner set forth in the Order concerning late statements of claimant entered Nov. 3, 1994, except that the Department will have 120 days to file the new or amended watershed file report with the clerk of the court. If an amendment to a statement of claimant is filed when a new use statement of claimant is appropriate, or vice versa, the filing shall be accepted and treated as if the filing had been on the appropriate form. This paragraph shall not relieve any claimant from payment of the appropriate filing fees.

Dated this 26th day of July 2000.

/s/ Edward L. Dawson

EDWARD L. DAWSON
Judge of the Superior Court

Attachment 1
New Use Summons

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF APACHE

IN RE THE GENERAL ADJUDICATION OF ALL RIGHTS TO USE WATER IN THE LITTLE COLORADO RIVER SYSTEM AND SOURCE	CIVIL NO. 6417 SUMMONS
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TO: ALL WATER CLAIMANTS IN THE LITTLE COLORADO RIVER SYSTEM AND SOURCE

PLEASE BE ADVISED that a general adjudication of water rights is in progress for the area in which you use water or claim water rights. The adjudication is a comprehensive court proceeding to determine the nature, extent and relative priority of rights to use water in the Little Colorado River system and source.

YOU ARE HEREBY SUMMONED and required to appear and to assert any claims to water you may have in the Little Colorado River system and source. All rights to use water appropriable under section 45-141, ARIZONA REVISED STATUTES, and water subject to claims based upon federal law will be determined pursuant to section 45-251 *et seq.*, ARIZONA REVISED STATUTES.

Filing Forms. Claims to water rights may be asserted by filing the appropriate court approved statement of claimant form with the Arizona Department of Water Resources (ADWR) which has been authorized by the Superior Court to receive claims. There are four court-approved statement of claimant forms: an irrigation water rights form, a stockpond water rights form, a domestic water rights form, and a form for other water rights. You may obtain the form(s) you need for filing your claim(s) from the Arizona Department of Water Resources. All groundwater users should file the appropriate statement of claimant form for their groundwater use to defend their use in the event other claimants assert that groundwater is appropriable under section 45-141, ARIZONA REVISED STATUTES, or is subject to claims based upon federal law.

Filing Fee. The filing fee for an individual is twenty dollars. The filing fee for a corporation, municipal corporation, the state or any political subdivision, or an association or partnership, is two cents for every acre-foot of water claimed, or twenty dollars, whichever is greater. The filing fee should be paid by check or money order made payable to the order of the "Arizona Department of Water Resources." The Court or Special Master will not consider your claim unless the filing fees for the claim have been paid.

When and Where to File. Under section 45-254(A), ARIZONA REVISED STATUTES, all statements of claimant must be filed with the Arizona Department of Water Resources at 500 North Third Street, Phoenix, Arizona 85004-3903, within ninety days of the service of this summons unless an extension of time is granted by the Court. Section 45-254(E) describes under what circumstances statements of claimant may be filed after this ninety-day period.

Failure to File. According to section 45-254(F), “[A]ny potential claimant who is properly served and who failed to file a statement of claimant as prescribed by this article for any water right . . . is barred and estopped from subsequently asserting any right that was previously acquired on the river system and source . . . and forfeits any rights to the use of water in the river system and source that were not included in a properly filed statement of claimant.”

Previous Filings with ADWR are Not Claims in the Adjudication. You may lose the right to use the water of the Little Colorado River system and source if you fail to file a statement of claimant with the Arizona Department of Water Resources. This may happen even though you have received, if appropriate, a permit, certificate or other approval from the Arizona Department of Water Resources.

A Statement of Claimant is Not Permission to Use Water. You do not obtain a right to use water by filing a statement of claimant form. Rights to use water must be acquired in accordance with state or federal law. In many cases, you cannot initiate a new or increased use under state law until the appropriate permit, certificate or other approval has been received from the Arizona Department of Water Resources.

Address and Ownership Changes. After you have filed a statement of claimant in this adjudication, you must notify the Arizona Department of Water Resources of any of the following changes in or concerning your statement of claimant: (1) a change in your address; (2) an assignment of your statement of claimant to another person; (3) a transfer to another person of all or part of the land for which a water right has been claimed; and (4) a transfer to another person of all or part of the water right claimed, if the claimed water right has been severed and transferred to another parcel of land. Notice of any of the changes identified in this paragraph will be filed with ADWR within thirty (30) days of the change using a form approved by the Court. This form is available from ADWR.

GIVEN UNDER MY HAND AND SEAL of the Superior Court of the State of Arizona in and for the County of Apache this ____ day of _____, 2000.

For Information:
Arizona Department of Water Resources
500 N. Third St., Phoenix, AZ 85004-3903
602-417-2442; In Arizona 1-800-352-8488
www.adwr.state.az.us

SUE HALL
Clerk of the Court

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