

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

06/10/2021

CLERK OF THE COURT

SPECIAL WATER MASTER
SUSAN WARD HARRIS

A. Parmar
Deputy

In Re: Subflow Technical Report
Verde River Watershed, Case No. W1-106

FILED: June 16, 2021

In Re: The General Adjudication
of all Rights to Use Water in the
Gila River System and Source
W-1, W-2, W-3 and W-4 (Consolidated)

In Re: Oral Argument

MINUTE ENTRY

Central Court Building – Courtroom 301

2:30 p.m. This is the time set for an Oral Argument before Special Water Master Susan Ward Harris.

The following attorneys/parties appear via Court Connect:

- R. Lee Leininger on behalf of the United States. Department of Justice
- David A. Brown on behalf of the City of Cottonwood
- Charles Cahoy on behalf of the City of Phoenix
- Carrie Brennan on behalf of Arizona State Land Department (“ASLD”)
- Mark McGinnis, Michael Foy and John Weldon on behalf of Salt River Project (“SRP”)
- Clyde Halstead on behalf of City of Prescott
- Sue Montgomery on behalf of the Yavapai Apache Nation
- Sean Hood on behalf of Freeport Minerals
- William H. Anger on behalf of the Cities of Tempe, Mesa, Avondale, Glendale and Scottsdale
- Lauren Mulhern on behalf of the Tonto Apache Tribe
- Tony Gioia, former Mayor of the City of Camp Verde (observing)
- Janet Miller observing on behalf of Arizona Department of Water Resources (“ADWR”)
- Jenny Winkler on behalf of the City of Chandler
- William Staudenmaier on behalf of the Arizona Public Service (“APS”)

- Rhett Billingsley observing on behalf of American Smelting and Refining Company (“ASARCO”)
- John Burnside on behalf of BHP Copper

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

Mr. Foy addresses the Court. He reports that SRP does not oppose the April 2023 continuance requested by ADWR with the exception of the two places: the Sycamore subwatershed and the main stem of the Verde River. He requests that ADWR complete its work on these two reaches by December 31, 2021.

2:46 p.m. Carla Consoli appears on behalf of the Nature Conservancy, Steve Wene appears on behalf of the City of Safford, and Patrick Berry appears on behalf of the United States Department of Justice on the court’s telephonic bridgeline.

Mr. Leininger addresses the Court. He does not disagree with SRP but makes additional requests for ADWR to issue maps for all areas that are completed by the end of the year as well as a map for West Clear Creek. He stresses that the production of a map for Wet Beaver Creek is very important to the United States due to the presence of national monuments in the area.

Ms. Montgomery addresses the Court. She does support SRP’s position if it can be completed before the HSR process.

Ms. Miller does not believe the preparation of the subflow map should be done piecemeal. She requests that the Court order the parties to put these requests in writing so ADWR may respond.

Mr. Foy further addresses the Court.

Mr. Hood, Mr. Burnside, Mr. Billingsley and Mr. Brown take no position at this time.

Ms. Miller further addresses the Court. She expresses concerns regarding costs and resources necessary to provide notice and requests an opportunity to respond in writing to the latest proposals.

IT IS ORDERED granting the request. ADWR will have 15 days to respond to the latest proposal.

3:09 p.m. Matter concludes.

LATER:

On April 2, 2021, ADWR filed a request to extend the time for the preparation of a Subflow Technical Report for the Verde River Watershed from June 1, 2021 to April 30, 2023. The reason given for the requested extension was the need for additional geologic mapping by the Arizona Geological Survey of certain perennial and intermittent tributaries in the watershed. The request

was granted by Order dated April 14, 2021, but that order was vacated on April 28, 2021 because insufficient time had been allowed for the parties to file responses to ADWR's request.

Salt River Project, joined by a number of parties, objected to the request for an extension of almost two years to complete the subflow map for the Lower Verde Valley and Sycamore subwatersheds. At oral argument, SRP modified its opposition to the requested continuance by proposing that as to two reaches, the main stem of the Verde River and Sycamore Canyon, a seven-month rather than a two-year extension should be granted. According to the table prepared by ADWR, the work for the 193 miles of the Verde River is finished and the remaining step necessary to complete Sycamore Canyon is the preparation of a map for an estimated four-mile reach. In support of its position, SPR makes the point that the issuance of the subflow map for the two areas by the end of 2021 would give the parties and the adjudication court an additional 16 months to resolve objections to the proposed map and issue a court-approved delineation of the subflow zone. As SRP correctly stated, an approved subflow zone greatly advances the amount of progress that can be made to resolve contested cases in an adjudication after the issuance of the final hydrographic survey report ("HSR").

Arizona Department of Water Resources raised the issue of the additional costs and resources that would be required to notice the issuance of a subflow zone map at the end of 2021 and on April 30, 2023. Pursuant to the approach taken in the San Pedro River Watershed, ADWR will provide notice to all claimants in the Verde River Watershed and to persons listed on the Gila River Adjudication Court-Approved Mailing List. See Order dated September 28, 2005 issued in *In re Subflow Technical Report, San Pedro River Watershed*.

IT IS ORDERED that ADWR shall file a written response to the proposal made by SRP to issue a subflow map by December 31, 2021 for the main stem of the Verde River and Sycamore Canyon. The response shall also address the proposal made by the United States for a subflow map by December 31, 2021 for all areas designated as "Finished" on Table 1 attached to Arizona Department of Water Resources' Request for Extension of Time filed April 2, 2021 plus Sycamore Canyon and West Clear Creek. The response shall include an estimate of the cost of providing notice and the number of claimants in the Verde River Watershed. The response shall be filed by **July 2, 2021**.

IT IS ORDERED that the parties may file replies to ADWR's Response by **July 19, 2021**. Assuming that a December 31, 2021 extension is granted for the issuance of a subflow map for a part or all of the areas requested by SRP and the United States, the following deadlines may apply:

May 2, 2022	Objections to subflow map due
March 17, 2023	Discovery deadline
August 17, 2023	Trial

The replies will also address the parties' position on the proposed schedule.

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