

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTIES OF MARICOPA AND APACHE**

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

**CV 6417
ORDER FOR TECHNICAL REPORT
AND
ORDER SETTING STATUS
CONFERENCE**

CONTESTED CASE NAMES: NONE

DESCRIPTIVE SUMMARY: ADWR to prepare a report by **May 26, 2023** and Status Conference set for **June 23, 2023 at 1:30 p.m.**

DATE OF FILING: February 22, 2023

NUMBER OF PAGES: 7

On January 18, 2023, a Status Conference was held in 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) to address the next hydrographic survey report that should be undertaken by Arizona Department of Water Resources (“ADWR”). It is anticipated that the next hydrographic survey report (“HSR”) will be proceeded by determinations of the relevant subflow zone and whether there are water uses that can be considered *de minimis* and adjudicated using summary procedures. The anticipated order of the technical reports and the HSR is different than their respective order in the first two

1 subwatersheds subject to the general adjudication. In the San Pedro Watershed, ADWR first
2 prepared a HSR and then prepared technical reports regarding the subflow zone and *de minimis*
3 uses. In the Silver Creek Watershed, ADWR prepared the HSR and subsequently submitted a
4 technical report on *de minimis* uses. Its technical report for the subflow zone will not be completed
5 for several more years. As a result of a change in the order of the reports, significant advance
6 planning must be undertaken to request technical reports and resolve objections to those report
7 before an HSR can be prepared and distributed.

8 The Court issued Pretrial Order No. 1 in 1986 and directed the preparation of a series of
9 HSRs in the consolidated General Adjudication of the Gila River System and Source (“Gila
10 Adjudication”) along with a schedule of dates. In accordance with that order, an HSR for the San
11 Pedro River Watershed was prepared as well as a preliminary HSR for the Upper Salt River
12 Watershed. A final HSR for the Upper Salt River Watershed has not been prepared. In addition
13 to HSRs for watersheds, the order directed preparation of HSRs for the following Indian
14 Reservations in the Gila River System and Source: White Mountain Apache Reservation, Tonto
15 Apache Reservation, Camp Verde Reservation, Prescott Yavapai-Apache Reservation, Ft.
16 McDowell Indian Reservation, San Carlos Apache Indian Reservation, Salt River Pima Maricopa
17 Indian Reservation, Gila River Indian Reservation, Gila Bend Papago Indian Reservation, Other
18 Papago Reservations, and the Yaqui Reservation. Since the issuance of that Pretrial Order No. 1,
19 a number of settlements have been reached for individual Indian Reservations.¹
20
21
22
23

24 ¹ See Tohono O’odham Settlement Agreement, Southern Arizona Water Rights Settlement Act of
25 1982, Pub. L. No. 97-293, 96 Stat. 1274; Arizona Water Rights Settlements Amendments Act of 2004, Pub.
26 L. No. 108-451, 118 Stat. 3536.; White Mountain Apache Tribe Water Rights Quantification Act of 2010,
27 Pub. L. No. 111-291, 124 Stat. 3064; White Mountain Apache Water Rights Quantification Settlement
28 Judgment and Decree (December 18, 2014); Yavapai-Prescott Indian Tribe Water Rights Settlement Act
of 1994, Pub. L. No. 103-434, 108 Stat. 4526; Fort McDowell Indian Community Water Rights Settlement
Act of 1990, P.L. 101-628; San Carlos Apache Tribe Water Rights Settlement Act of 1992, Pub. L. No.
102-575, 106 Stat. 4740. Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of
1988, Pub. L. No. 100-512, 102 Stat. 2549; Gila River Indian Community Water Rights Settlement Act of
2004, Pub. L. No. 108-451, 118 Stat. 3499.

1 Almost 20 years after the issuance of Pretrial Order No. 1 in the Gila Adjudication, the
 2 Court issued an order in Contested Case W1-11-232 that addressed the preparation of subflow and
 3 *de minimus* reports for the Gila River Adjudication and the sequence in which they were to be
 4 prepared. The schedules for the reports for the watersheds in the Gila Adjudication from the two
 5 orders are as follows:

Gila Pre-Trial Order No. 1 (May 30, 1986)	Order in W1-11-232 (Sept. 28, 2005)
San Pedro Sub-Watershed (January 1987)	San Pedro River
Upper Salt Sub-Watershed (July 1987)	Verde River
Verde Sub-Watershed (July 1989)	Upper Gila River
Upper Gila Sub-Watershed (1990–91)	Upper Salt River
Agua Fria Sub-Watershed	Upper Agua Fria River
Lower Gila Sub-Watershed	Lower Gila River
Salt River Project, Buckeye Irrigation District, Roosevelt Water Conservation District	Upper Santa Cruz River
Salt River Valley Municipalities	
Santa Cruz Sub-Watershed and Tucson Metropolitan Area	

16 Arizona Department of Water Resources has prepared a technical report for a portion of
 17 the subflow zone for the Verde River and is currently completing a technical report for the
 18 remainder of the subflow zone for the Verde River. It has also completed a technical report
 19 concerning potential *de minimis* uses in the Verde River Watershed. Preliminary HSRs for three
 20 subwatersheds within the Verde River Watershed have been requested and are scheduled to be
 21 completed in 2024-2026.

23 In 1987, the Court issued Pretrial Order No. 1 in the General Adjudication of the Little
 24 Colorado River that provided the order in which HSRs would be prepared for watersheds and for
 25 Indian Reservations:

1	Little Colorado Pre-Trial Order No. 1 (April 24, 1987)
2	Snowflake Subwatershed ² (Spring 1988)
3	St. Johns Subwatershed (Spring 1990)
4	Indian Lands HSR (Summer 1990)
5	Winslow Subwatershed (Spring 1991)

6 In accordance with that order, an HSR was prepared for the Silver Creek Subwatershed. A
7 final report concerning potential *de minimis* uses in the Silver Creek Subwatershed was filed by
8 the Special Master on April 20, 1994 in Civil No. 6417-033-9005, after the issuance of the HSR.
9 The court did not rule on the final report. A second final report by the Special Master was filed
10 on August 23, 2022. Arizona Department of Water Resources will deliver a technical report about
11 the subflow zone for the Silver Creek Subwatershed in 2026.

13 Subsequent orders amended the HSR to be prepared for Indian Lands. An HSR was
14 requested for the Hopi Reservation. The HSR was completed in 2015, objections filed, and after
15 a trial, a Final Report was filed by the Special Master on May 25, 2022. Arizona Department of
16 Water Resources has completed a portion of the Navajo Reservation HSR and is in the process of
17 completing an HSR for the remainder of the Navajo Reservation.

19 In 2018, ADWR was requested to prepare a HSR for the Winslow Subwatershed, which
20 ADWR refers to as the Lower Little Colorado River Subwatershed. It was subsequently requested
21 to prepare a technical report for potential *de minimis* uses in the Lower Little Colorado River
22 Subwatershed. Arizona Department of Water Resources filed its technical report in July 2019.
23 The Special Master filed a final report on October 30, 2020 recommending that certain rights be
24 considered *de minimis* and summarily adjudicated. The court approved the final report on May
25 25, 2021. In September 2021, ADWR filed a motion stating that it could not recommend water
26

27
28 ² Renamed the Silver Creek Watershed.

1 uses for the vast majority of the water users in the Lower Little Colorado River Watershed in the
2 absence of an approved subflow zone. Due to the representations made in the motion, the due date
3 for the filing of a preliminary HSR for the Lower Little Colorado River Subwatershed was vacated
4 and ADWR directed to prepare a technical report for the subflow zone for the Lower Little
5 Colorado Watershed. The subflow report will be filed by September 5, 2025. No date is currently
6 set for the completion and filing of the preliminary HSR for the Little Colorado River
7 Subwatershed.

8 At a recent status conference on January 18, 2023, multiple parties proposed that a second
9 status conference should be held to address the scheduling of technical reports and HSRs in the Little
10 Colorado River Watershed. A proposal was made to request that ADWR prepare technical reports
11 concerning potential *de minimis* uses and the subflow zones in the Upper Salt River, Upper Gila
12 River, and the Upper Little Colorado River Watershed, the reference name used by ADWR for the
13 St. Johns Subwatershed listed in the 1987 Pretrial Order No. 1. The reports prepared by ADWR
14 would be filed simultaneously. Proper consideration of this proposal requires input from ADWR.
15 Once ADWR provides information about the timing and feasibility of preparing reports for the three
16 watersheds, a status conference will be set to further address scheduling reports by ADWR for the
17 Upper Little Colorado River Watershed and the next watershed in the Gila River Watershed
18 following the completion of reports for the Verde River Watershed.

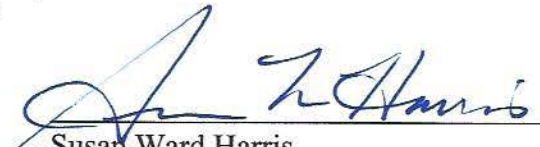
19
20
21 **IT IS ORDERED** that ADWR shall file by **May 26, 2023**, a report that addresses the amount
22 of time required by ADWR and the expected cost that would normally be payable to a third party to
23 prepare a subflow zone report for separate reports for Upper Salt River, Upper Gila River, and the
24 Upper Little Colorado River Watershed. The report shall also estimate the costs and time to prepare
25 a joint report, or three separate reports filed simultaneously with respect to the subflow zones for the
26 three watersheds. Arizona Department of Water Resources shall provide its recommendations as to
27
28

1 the most efficient method to complete the technical reports and HSRs for the Upper Salt River, Upper
2 Gila River, and the Upper Little Colorado River Watershed.

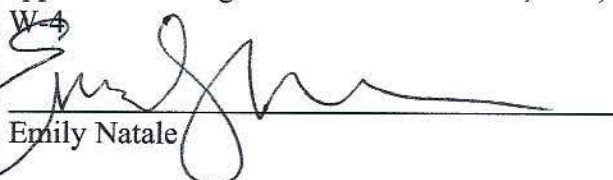
3 **IT IS FURTHER ORDERED** that a Status Conference shall be held **on June 23, 2023** at
4 **1:30 p.m.** The purpose of the Status Conference is to continue the discussion about the most
5 reasonable and efficient scheduling of the next HSR and related technical reports to be requested
6 from ADWR.

7 The Status Conference will be held using the Court Connect program. Instructions for
8 Court Connect are attached as Attachment A. If you receive this Order by email, click on the red
9 box "Join Court Connect Hearing" on the attached instructions to make an appearance. If you do
10 not receive this Order by email, log into the Court Connect program on the internet by typing
11 <https://tinyurl.com/specialwatermaster>. If you do not have access to the internet, you may attend
12 telephonically using the telephone number and access code included in the instructions for Court
13 Connect. Alternatively, you may attend telephonically using the following instructions:

14
15 Instructions for telephonic appearance:
16 Dial: 602-506-9695 (local)
17 1-855-506-9695 (toll free long distance)
18 Dial Participant Pass Code 357264#

19 
20 Susan Ward Harris
Special Master

21 On February 22, 2023, the original of the foregoing
22 was delivered to the Clerk of the Apache County
23 Superior Court for filing and distributing a copy to
24 all persons listed on the Court-approved mailing lists
25 for Case No. CV 6417 and to the Clerk of the
26 Maricopa County Superior court for filing and
27 distributing a copy to all persons listed on the Court-
28 approved mailing list for Case No. W-1, W-2, W-3,

26 ~~W-4~~
27 
28 Emily Natale



Court Connect Hearing Notice for In re General Adjudication of all rights to use Water in the Gila River System and Source & In re all Rights to use Water in the Little Colorado River System and Source

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 In re General Adjudication of all rights to use Water in the Gila River System and Source & In re all Rights to use Water in the Little Colorado River System and Source, Contested Case Nos. W-1, W-2, W-3, W-4 and CV6417

Start Date/Time: June 23, 2023 at 1:30 p.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](#)

