

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

02/08/2018

CLERK OF THE COURT  
FORM V000

SPECIAL WATER MASTER  
SUSAN HARRIS

A. Hatfield

Deputy

In re: Redfield Canyon State Claims  
Contested Case No. W1-11-2665

FILED: 02/20/2018

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: Status Conference

**MINUTE ENTRY**

**Courtroom: CCB 301**

12:45 p.m. This is the time set for a Status Conference before Special Master Susan Ward Harris on the status of the United States' claims for water rights under state law.

The following attorneys appear in-person: Carrie J. Brennan on behalf of Arizona State Land Department; Monique Coady on behalf of City of Phoenix; Michael K. Foy and R. Jeffrey Heilman on behalf of Salt River Project; John L. Gaudio and Rayshieta Cole on behalf of the U.S. Department of the Interior; David Gehlert and R. Lee Leininger on behalf of the U.S. Department of Justice; and Kimberly R. Parks on behalf of Arizona Department of Water Resources

The following attorneys appear telephonically: Laurel A. Herrmann on behalf of San Carlos Apache Tribe and Tonto Apache Tribe; Jay Tomkus on behalf of the Pascua Yaqui Tribe and Yavapai-Apache Nation.

Court reporter, Tanya McCowan is present and a record of these proceedings is made digitally.

R. Lee Leininger advises the Court that in their pleading they have identified the landowners in the Watershed File Reports "WFR" as being the United States Forest Service "USFS" and the Bureau of Land Management "BLM".

Carrie Brennan states that the Arizona State Land Department's position is not contrary to that of the United States.

The Court notes that the Nature Conservancy has filed several Statements of Claimant (SOCs) with respect to land that the United States reports as owned by BLM. Discussion is held.

The United States and Arizona State Land Department both agree that the Arizona State Land Department's (SOCs) listed in the United States Report have been assigned to the BLM.

The United States filed a Report that identified additional SOC's that the United States filed but which were not identified in the Court's previous Order. The Court notes that 14 of those SOC's are analyzed in WFR 113-13-007. The Court will add WFR 113-13-007 to this case. Statement of Claimant 39-11160 listed in WFR 113-12-008 will also be addressed in this case.

The Court notes that Statement of Claimant 39-11587 identified by the United States in its Report is included in WFR 113-13-015 and lists the Nature Conservancy as the landowner. However, based on the legal description it appears that this Statement of Claimant may more properly be included in WFR 113-13-007. The Court directs the Arizona Department of Water Resources to confirm whether Statement of Claimant 39-11587 should be included in WFR 113-13-007 or WFR 113-13-015. Upon receipt of the information from the Arizona Department of Water Resources, a decision will be made whether WFR 113-13-015 should be added to this case.

Discussion is held regarding three instream flow claims that are listed within the SOC's: 39-13618, 39-13619, 39-13620. The Court proposes that the *de minimis* claims be handled first and then move on to instream flow. Further discussion is held.

Kimberly Parks advises the Court that the Arizona Department of Water Resources has received letters from BLM requesting the withdrawal of applications, which are listed in Section 4 of the United States Report as follows: 36-100209, 33-95466, 33-95465, 33-95464

1:00 p.m. Matter concludes.

## LATER

### Statements of Claimant to be withdrawn by the United States or dismissed

According to WFR 113-13-007, BLM has requested the withdrawal of Statements of Claimant 39-7273, 39-7276, 39-7280, 39-7283, 39-7301, 39-7302, 39-7307 and 39-7308. As stated above, BLM evidently submitted letters to the Arizona Department of Water Resources to withdraw four of the applications listed in the United States' Report dated January 16, 2018. In that Report, the United States related Statements of Claimant to the applications identified by Arizona Department of Water Resources as follows:

Basis of Claim listed in United States Report, p. 6.	Statements of Claimant associated in United States Report, p. 6	Statement of Claimant associated to Basis of Claim by ADWR in WFR 113-13-007
36-100209	39-7282	36-100209 not listed
33-95466	39-7275	None
33-95465	39-7274	None
33-95464	39-7272	None

**IT IS ORDERED** that the United States shall file by **April 5, 2018**, a motion to withdraw or a request to have considered: Statements of Claimant 39-7272, 39-7273, 39-7274, 39-7275, 39-7276, 39-7280, 39-7282, 39-7283, 39-7301, 39-7302, 39-7307 and 39-7308.

### Nature Conservancy

The Nature Conservancy has filed Statements of Claimant with respect to water uses on land reported as owned by BLM.

Statement of Claimant	Watershed File Report
39-5553	113-09-016
39-5556	113-09-016
39-5557	113-09-016
39-5559	113-09-016
39-5566	113-09-016
39-5569	113-09-016
39-0996	113-13-007
39-5548	113-13-007
39-5580	113-13-007
39-5598	113-13-007

In order to determine whether an issue of ownership of water rights must be decided,

**IT IS ORDERED** that the United States and the Nature Conservancy shall file by **April 5, 2018**, a joint report stating the action Nature Conservancy intends to take with respect to the SOCs listed above and the United States' and Nature Conservancy's respective positions concerning ownership of any water rights adjudicated based upon the SOCs listed in the table above.

#### Instream Flow

Watershed File Report 113-12-010 includes an analysis of SOC 39-13617 which originally claimed 10,860 acre feet annually for instream use for wildlife in Redfield Canyon. This SOC was later amended to claim 3,620 acre feet annually. Application 33-94369 for water in Red River Canyon and Swamps Spring Canyon was listed as the basis for the claim.

Watershed file Report 113-12-009 includes an analysis of SOC 39-13618, which originally claimed 5,068 acre feet annually of instream flow from Swamp Springs Canyon. Application 33-94370 was listed as the basis of its claim. SOC 39-13618 was subsequently amended to claim 1,448 acre feet of water. Based on a letter from Arizona Department of Water Resources dated February 10, 1998, Application No. 33-94369 will include the water claimed in Application No. 33-94370, which became inactive.

Application No. 33-94369 has not been granted and is, presumably, the application for which BLM is currently collecting the necessary data and is the subject of the United States Report, p. 7 and the subject of its oral status report. No action will be taken at this time with respect to SOCs 39-13617 and 39-13618 until the process associated with Application No. 33-94369 has been completed. The Court may, in the future, request status reports to ascertain the stage of the proceedings associated with Application No. 33-94369.

Watershed File Report 113-13-007, which was added to this case as a result of the United States' Report identifying numerous SOCs analyzed in WFR 113-13-007 as claims concerning Redfield Canyon, contains three potential water rights for instream flow: WL001, WL002, and WL003. Certifications of Water Use have been granted as shown below:

Statement of Claimant	Amount of Water Claimed	Watershed File Report	Application for Certificate of Water Right	Date Certification of Water Right Granted	Location
39-7290	452.2	113-13-007	33-95454	08/18/1999	Wildcat Canyon
39-4870 39-13619	3,620	113-13-007	33-94372	07/10/1999	Hot Springs Canyon
39-4870 39-13620	2,172	113-13-007	33-94371	10/28/1999	Bass Canyon

Not all of these claims for instream use appear to be located within the boundaries of the 1990 Redfield Canyon reservation. Unless a party files an objection by **April 5, 2018**, identifying good cause to not adjudicate potential water rights WL001, WL002, and WL00 3 in this case along with the other claims for water use analyzed in WFR 113-13-007, the claims will be adjudicated to avoid unnecessary confusion that may occur by adjudicating less than all of the claims in identified in a watershed file report in the contested case associated with that watershed file report.

A copy of this order is mailed to all persons listed on the Court approved mailing list for Contested Case No. W1-11-2665.