

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

July 14, 2023

CLERK OF THE COURT

A. Parmar

Deputy

SPECIAL WATER MASTER  
SHERRI ZENDRI

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

FILED: July 21, 2023

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)

**MINUTE ENTRY**

Central Court Building – Courtroom 301

9:00 a.m. This is the time set for a Status Conference before Special Water Master Sherri Zendri.

The following attorneys/parties appear via Court Connect:

- Joe Sparks and Alexander Ritchie observing on behalf of the San Carlos Apache Tribe
- Anthony Proano on behalf of the Tonto Apache Tribe
- Sue Montgomery and Robyn Interpreter on behalf of the Yavapai Apache Nation (and observing on behalf of the Pascua Yaqui Tribe)
- Charles Cahoy on behalf of the City of Phoenix
- Alexandra Arboleda on behalf of the City of Flagstaff and Town of Prescott Valley
- Steve Wene on behalf of City of Safford and Camp Verde
- John Burnside on behalf of the Town of Chino Valley
- David Brown on behalf of the City of Cottonwood
- Mike Foy on behalf of Salt River Project (“SRP”)
- Sean Hood on behalf of Freeport Minerals Corporation
- Brian Heiserman observing on behalf of American Smelting and Refining Company (“ASARCO”)
- Elias Ancharski on behalf of the Arizona Water Company
- Carrie Brennan and Kevin Crestin on behalf of Arizona State Land Department (“ASLD”)
- Kimberly Parks and Karen Nielsen on behalf of Arizona Department of Water Resources (“ADWR”)

- R. Lee Leininger on behalf of the United States. Department of Justice
- Katya Lancero on observing behalf of the Navajo Nation
- Danika Marzillier on behalf of the Nature Conservancy
- Tony Gioia, former Mayor of the City of Camp Verde (observing)
- Michael Rolland on behalf of the Cities of Tempe, Mesa, Avondale, Glendale and Scottsdale

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

**LET THE RECORD REFLECT** that all participants appear virtually through Court Connect.

Discussion is held regarding clarification on the Court's briefing schedule for Freeport Mineral's *Motion for Summary Judgment of the United States' Federal Reserved Right Claims as a Matter of Law to All Unappropriated Flow Within Wilderness Areas* filed May 23, 2023. By agreement of all parties,

**IT IS ORDERED** amending the briefing schedule to allow responses to be filed on or before **July 21, 2023** and replies to be filed on or before **August 31, 2023**. The extension of deadlines shall apply to all parties.

**IT IS FURTHER ORDERED** vacating the Oral Argument set for August 31, 2023 at 1:30 p.m. The Court will reset the Oral Argument for late September and will specify the date and time as a later in today's Minute Entry.

Discussion is held regarding SRP, ASLD and Freeport Mineral's *Motion for Summary Judgment Re: Objection to Subflow Zone Delineation Report for Verde Mainstem and Sycamore Canyon Subwatershed*. Mr. Hood requests that the Court vacate and reset the trial set for August 17, 2023 and set Oral Argument on the Motion for Summary Judgment in September. No objections are stated.

**IT IS FURTHER ORDERED** granting Freeport Mineral's request and vacating the Trial set for August 17, 2023. The Court will set an Oral Argument on the Motion for Summary Judgment in early September as a later in today's Minute Entry.

Mr. Foy notes that the new parties have filed timely objections to the mainstem delineation report but he has not been able to locate the objections. Ms. Parks notes they do not have copies of the objections to post to ADWR's site. The Court will set a deadline for the parties to send the objections to all parties on the Court-Approved Mailing List as a later in today's Minute Entry if it is not able to locate the objections to send to ADWR.

Ms. Montgomery notes that there are new de minimus objections that she has not been able to locate either. The Court notes that the objections should be added in about a week.

Discussion is held regarding the ADWR's concerns with the schedule for the trial set to be held on July 10, 2024. The Court proposes its schedule to push the trial out by seven days.

No objection having been made,

**IT IS ORDERED** granting ADWR's request and amending the trial schedule as follows:

- Disclosure statements filed/expert reports disclosed by **October 27, 2023**
- Rebuttal reports due by **December 29, 2023**
- Discovery deadline: **March 1, 2024**
- Dispositive motions shall be filed by **April 12, 2024**
- Trial begins: **July 17, 2024**

9:29 a.m. Matter concludes.

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

**LATER:**

After a review of this Court's processes in cooperation with the Maricopa and Apache County Clerks of the Court, and ADWR, the Parties can expect documents that have been provided to the Water Master will be posted online within 10 business days. Where a courtesy copy of a document has not been provided to the Water Master, the timeframe may be slightly extended depending upon the individual workloads of the specific county Clerks of the Court.

On July 18, 2023, the United States filed *Motion for Amended Briefing and Oral Arguments Schedule, and for Extension of Briefing Page Limitations* in reference to Freeport Mineral's *Motion for Summary Judgment of the United States' Federal Reserved Right Claims as a Matter of Law to All Unappropriated Flow Within Wilderness Areas* filed May 23, 2023. According to the United States filing, "After the pretrial conference, United states Counsel became aware of a scheduling conflicts for the proposed week of oral argument...." p. 2.

This is the second request for an extension of the briefing schedule from the United States. This Court certainly understands the "demands on counsels' time" and "scheduling conflicts," and will continue to work as cooperatively as possible with all parties in scheduling oral arguments with many participants. However, deadlines cannot become constantly moving targets. It is important that all parties can rely on deadlines and scheduled dates.

**IT IS ORDERED** that all parties are prepared to discuss scheduling modifications when attending any status conference before this Court.

**IT IS FURTHER ORDERED** scheduling Oral Arguments for Freeport Mineral's *Motion for Summary Judgment of the United States' Federal Reserved Right Claims as a Matter of Law to All Unappropriated Flow Within Wilderness Areas* filed May 23, 2023 for **Wednesday, October 4, 2023, at 9:00 am to 4:30 pm.**

Given the more than generous amount of time to prepare for and argue the, albeit complex, issues in this case, it is the expectation of the Court that the parties keep focus of the salient points.

“A fat brief often indicates a thin argument.” State Comp. Ins. Fund v. Drobot, 2016 WL 6661338, at \*1 (C.D. Cal. Aug. 10, 2016). The parties will have more than sufficient time to provide detailed commentary as needed during the oral argument.

**IT IS FURTHER ORDERED** denying the request to extend the briefing limitations. The parties will adhere to the page limits of Ariz. R. Civ. P. 7.1(a)(3) and Maricopa Super. Ct. Rule 3.29(f) that a responsive memorandum may not exceed 17 pages, exclusive of attachment and any required statement of facts, and reply memorandum may not exceed 11 pages, exclusive of attachments.

**IT IS FURTHER ORDERED** scheduling Oral Arguments for the SRP, ASLD and Freeport Mineral’s *Motion for Summary Judgment Re: Objection to Subflow Zone Delineation Report for Verde Mainstem and Sycamore Canyon Subwatershed* filed June 15, 2023, for **Wednesday, September 6, 2023, at 9:00 am to 12:00 pm.**

The two oral arguments scheduled above will be held using the Court Connect program. Instructions for Court Connect are attached below. 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.



## Court Connect Hearing Notice for In re Subflow Technical Report

### Verde River Watershed

*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 Subflow Technical Report Verde River Watershed Contested Case No. W1-106**

**Wednesday, September 6, 2023, at 9:00 am to 12:00 pm.** Oral argument re: Motion for Summary Judgment - Objection to Subflow Zone Delineation Report for Verde Mainstem and Sycamore Canyon Subwatershed

**Wednesday, October 4, 2023, at 9:00 am to 4:30 pm.** Oral argument re: Motion for Summary Judgment of the United States' Federal Reserved Right Claims as a Matter of Law to All Unappropriated Flow Within Wilderness Areas

**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](#)

