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

**IN RE THE GENERAL
ADJUDICATION OF ALL RIGHTS
TO USE WATER IN THE GILA
RIVER SYSTEM AND SOURCE**

W-1, W-2, W-3, W-4 (Consolidated)

Contested Case No. **W1-106**

**CASE MANAGEMENT ORDER AND
ORDER AMENDING THE COURT
APPROVED MAILING LIST**

AND

**INSTRUCTIONS FOR INDIVIDUAL
WELL OWNER OBJECTIONS**

CONTESTED CASE NAME: *In re Subflow Technical Report, Verde River Watershed*

TECHNICAL REPORTS INVOLVED: Arizona Department of Water Resources, *Technical Report Concerning De Minimis Domestic, Stockpond, and Stock and Wildlife Watering Uses in The Verde River Watershed, August 2022; Subflow Zone Delineation Report for Verde River Mainstem & Sycamore Canyon, December 2021; and Subflow Zone Delineation Report for the Remainder of the Verde River Watershed, April 2023.*

DESCRIPTIVE SUMMARY: Case management order regarding notice and amending the court approved mailing list to remove parties not meeting the statutory requirements. Including instructions for individual well owners who would like to object to the inclusion of wells in the subflow zone.

NUMBER OF PAGES: 14

I. Instructions For Individual Well Owner Objections

As this case moves through the adjudication process, a review of the case file revealed that many objections filed with respect to the technical reports were not valid

1 technical objections to the reports they were filed against. However, some of the
2 objections relating to the determination of individual wells either drawing subflow or
3 being of a de minimis use may be appropriately filed at a later date. The Court provides
4 the following guidance to claimants to assist with properly addressing their wells as part
5 of this adjudication:

6 A. The technical reports are not final rulings. There are three **proposed** technical
7 reports currently being evaluated by the Court:

- 8 • *ADWR Technical Report on de minimis Claims in the Verde River*
9 *Watershed* (published August 2022) which proposes a methodology to
10 expedite the evaluation of rights claimed for appropriable water for
11 domestic uses, stockponds, and stock and wildlife watering within
12 certain minimal amounts.
- 13 • *Subflow Zone Delineation Report for Verde River Mainstem &*
14 *Sycamore Canyon* (published December 2021) which delineates the
15 proposed subflow zone for the for Verde River Mainstem & Sycamore
16 Canyon
- 17 • *Subflow Zone Delineation Report for the Remainder of the Verde River*
18 *Watershed* (published April 2023) which delineates the proposed
19 subflow zone for the for Remainder of the Verde River Watershed not
20 part of the Mainstem or Sycamore Canyon

21 None of these reports have yet been recommended to the Adjudication Judge
22 for approval. Prior to such a recommendation, each report will go through a
23 short proceeding where parties will present evidence either for or against the
24 technical recommendations of the report. Currently under review are potential
25 **procedures only. No individual water rights will be adjudicated as part of**
26 **these report proceedings.** Final recommendations on any of the reports are
27 not expected until late in 2024.
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- B.** You may get notice of the report even if your well is not within the subzone delineation based upon the geographical area ADWR is required to send notice.
- C.** Subflow is a legal term and the subflow zone must be delineated according to specific legal and technical (geologic) criteria. The delineation takes no rights and is not a “rezoning.” Wells that are within the final subflow zone will have an opportunity to demonstrate to the Court the depth at where the well is pumping water.
- D.** All wells that could potentially be pumping surface water through the subflow are subject to the adjudication process. Having documentation does not exempt you from the process. Reviewing such documentation, along with other historical information and legal claims, is precisely the responsibility of the Adjudication Court when determining the extent and priority of the rights of all persons to use water in any river system and source.
- E.** If you want to object to a specific well pumping from the subflow, or that a well should be included in a de minimis proceeding, the appropriate time to make those objections are when your specific well or Statement of Claimant (“SOC”) is listed in the Hydrographic Survey Report (“HSR”) for your area. The estimated publication dates for the preliminary HSRs for the Verde Watershed are as follows:

 - Sycamore Subwatershed March 6, 2026
 - Lower Verde Valley subwatershed September 3, 2027
 - Little Chino subwatershed March 9, 2029
 - Big Chino subwatershed March 9, 2029
- F.** Arizona law requires objections include specificity regarding the recommendations in the report you are objecting to. Simply stating you “object to the science” does not supply sufficient detail or specificity. Any

1 documentation provided must also address the specific issue under objection.

2 **G.** There are multiple technical reports for the Verde River Watershed. When
3 reviewing deadlines for reports or court actions, please be sure you are
4 looking at the correct report's proceedings schedule.

5
6 To ensure due process is met while also controlling the complexity of the filings,
7 the Court is providing the following Case Management Orders:

8
9 **II. Updates to the Court Approved Mail List**

10 Under Arizona law, any person or entity who has filed a Statement of Claimant in
11 an adjudication may file an objection to a report prepared by Arizona Department of
12 Water Resources for that adjudication. Based on their earlier representations, the parties
13 listed below were added to the Court-approved mailing list for this proceeding pending
14 the appropriate filing of a Statement of Claimant. A review of the public records of
15 Arizona Department of Water Resources conducted on January 23, 2024, did not show
16 that a Statement of Claimant has been filed for any of the three named parties.

17 **THEREFORE, IT IS ORDERED** the objections filed by these individuals will
18 be dismissed and their names removed from the CAML.

19 Harold Cowles
20 Carl Hendrickson
21 Brian Murphy

22 Additionally, the objections filed by the parties listed below did not meet the
23 statutory requirement of **specifically** addressing a recommendation included in any of
24 the three reports listed above.

25 **THEREFORE, IT IS FURTHER ORDERED** that in accordance with Arizona
26 Revised Statutes Section 45-256(B), the following objections are dismissed with
27 prejudice for failure to address with specificity any recommendations from ADWR
28

1 regarding the *Technical Report Concerning De Minimis Domestic, Stockpond, and Stock*
2 *and Wildlife Watering Uses in The Verde River Watershed*, August 2022; *Subflow Zone*
3 *Delineation Report for Verde River Mainstem & Sycamore Canyon* December 2021; or
4 *Subflow Zone Delineation Report for the Remainder of the Verde River Watershed*, April
5 2023:

6	Starr Bennett	Kamille Mulcaire
7	John Brink	Yolanda Moneglia
8	Toni M. Brown	Owens Trust/ David J. Owens
9	Larry Bullard	Marcus & Twyla Petropoulos
10	Rita M. Cantu	Resolution Copper Mining
11	Henry D. And Barbara A. Cuomo	Randall L. Russell
12	Cuomo Kelsch Ranch LLC	William Sasser
13	Michele Guy	Todd V. Scantlebury
14	Wolfgang Koehler	Justine Schaible
15	Kathleen Henkel	Fran Scurei
16	Maria Gibson	Nancy Shiew
17	Irving John Goulette	Greg Stowe
18	Marjorie Kish	Robert G. Sumner
19	Kristie L. Kreutzfeld	The 7's Ranch LLC
20	Morgan Joseph Langan	Town of Prescott Valley
21	Johnnie L. Martin	Terrence Sullivan & Sheila Victorino
22	Maryland S. McKinney	
23	Vito T. Greco & Colleen Corrigan Greco	
24	Kathy Masters-Jaeckel & Lawrence J. Jaeckel	
25	Lewallen Family Trust – Gary W. and Katharine S. Lewallen	

26 All parties listed above shall receive a copy of this Order and will then be removed from
27 the Court-Approved Mailing List. Parties who have continued interested in the
28 proceedings may review all Court documents at the General Stream Adjudication
website:

www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication

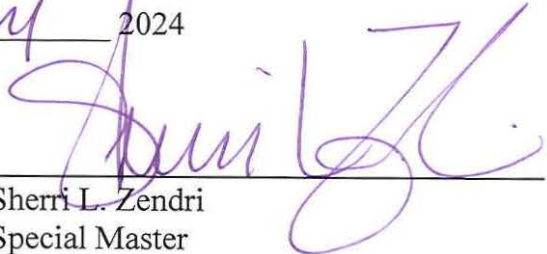
Alternatively, parties may contact Emily Natale, Judicial Assistant for the General
Stream Adjudication, at emily.natale@jbazmc.maricopa.gov, and request to be added to
a courtesy email list and receive courtesy copies of Court orders via email.

1 **III. Filing of Discovery Documents Under the Rules for Proceedings Before the**
2 **Special Master**

3 The Court recognizes that since the Court promulgated the current Rules for
4 Proceedings Before the Special Master (“Rules”), Rule 5 of the Arizona Rules of Civil
5 Procedure was amended to eliminate the requirement that parties file with the Clerk of
6 Court “all papers . . . required to be served upon a party.” As a result, Section 18.01 of
7 the Rules shall not apply to contested case W1-106.

8 **THEREFORE, IT IS ORDERED THAT** the parties to this contested case are
9 not required to file with the Clerk of Court the original of every paper otherwise filed in
10 this contested case per Section 18.01.

11
12
13 Signed this 31st day of January 2024

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16 
17 _____
18 Sherri L. Zendri
19 Special Master
20
21

22 The original of the foregoing was delivered
23 to the Clerk of the Maricopa County Superior
24 Court on January 31, 2024 for
25 filing and distributing a copy to all persons
26 listed on the Court approved mailing list for
27 this contested case.

28 

Court Approved Mailing List
In re Subflow Technical Report, Verde River Watershed, Case No. W1-106
W1-106 (96 Names)
Prepared by the Special Master
1/31/2024

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