

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

July 23, 2024

CLERK OF THE COURT

SPECIAL WATER MASTER  
SHERRI ZENDRI

M. Pritchard  
Deputy

In re: Rancho Rio Vista Inc.  
Contested Case No. W1-11-1983

FILED: August 6, 2024

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**

10:01 a.m. This is the time set for a Status Conference before Special Water Master, Sherri Zendri.

The following attorneys and parties appear telephonically:

- Property owners William Roseberry, Annette Johansen, Marcus Tucker, Kimberly Skolkin, and Seth Anderson Wilson
- Property owner Tim Wilson on behalf of The Marm LLC
- Mark Widerschein on behalf of the United States Department
- Kaitlyn Smith on behalf of ASARCO LLC
- John Burnside on behalf of BHP Copper
- Laurel Herrmann and Alexander Ritchie on behalf of the San Carlos Apache Tribe
- Mark McGinnis on behalf of Salt River Project (SRP)
- Kimberly Parks on behalf of the Arizona Department of Water Resources (ADWR)
- Brian Heiserman on behalf of the St. David Irrigation District
- Katya M. Lancero observing on behalf of the Navajo Nation

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

The Court states that the purpose of today's hearing is for the property owners to ask any questions that they may have. The Court explains the process and the purpose of this litigation.

Mr. Wilson inquires what next steps are required.

The Court states that he will need to file or update a Statement of Claimant. Mr. Wilson will need to make sure this well is addressed by the SOC and that the well is registered. If an appropriate SOC has already been filed, then this will need to be re-assigned to the correct landowner(s). The Court will likely direct ADWR to schedule a meeting with the landowners. There was only one well located on the southern portion of the property and only one landowner at the time of the investigation. There are now thirteen landowners. The laws dictate that this process be followed to make sure that the water is distributed appropriately.

Mr. Wilson inquires what is meant by distributed appropriately? Is this just among the landowners? And what is the role of the tribes in this litigation?

The Court explains the law regarding the allocation of water use. The tribes are involved because they also have a claim for water use along the San Pedro and Gila River. The water use of users upstream affects all of those downstream.

Mr. Wilson inquires what constitutes higher priority.

The Court explains priority dates and the definition of beneficial use.

Mr. Wilson inquires how the tribes plan to use the water?

The Court explains that the water will be used for the tribes to live as they have historically done.

Mr. Wilson inquires if the tribes are not receiving the water that they should receive?

The Court affirms.

Mr. Wilson inquires what more the landowners need to do.

The Court states that they will need to understand where their water is coming from and appropriately update the SOCs and pre-adjudication documents.

Mr. Wilson inquires who he can contact for further assistance?

The Court explains that ADWR and the Court can provide general information, but not legal advice. The University of Arizona has a legal clinic that may be able to help with legal representation. Or an attorney can be hired.

Mr. Wilson inquires what is the basis of right documentation?

The Court explains.

Mr. Wilson inquires where forms can be found.

The Court states that forms can be found on the website. Additionally, there will be a meeting scheduled with ADWR.

Mr. Roseberry inquires why individuals who are only using water for domestic use need to be involved in this litigation.

The Court explains the law regarding domestic use and *de minimus* use. Regardless of the use of the water, there needs to be appropriate documentation and registration.

Mr. Roseberry inquires how the law applies if the wells were established before the law was passed?

The Court explains that there was a certain period of time for prior existing wells to be registered after the law was changed.

Mr. Roseberry inquires how notification was given as the ownership of the land changed and what could happen if the law were to change?

The Court explains that it can look into the notification process. The Court cannot change the laws, but only makes decisions based on the applicable laws.

Mr. Roseberry inquires if there is a plan to determine how much water each landowner is allocated based on how much water the tribes and other downstream need.

The Court explains that the tribes are also a party to this litigation and did not initiate this litigation.

Mr. Roseberry inquires who initiated the litigation?

The Court explains that there was an original case, but does not remember exactly by whom that case was initiated.

Mr. Roseberry inquires if a certificate from an engineer will need to be provided?

The Court inquires the answer of Ms. Parks.

Ms. Parks states that a certificate would not be required. This would only be needed in the case that someone would like to prove that they do not use subflow water.

Mr. Roseberry informs the other landowners that his water was recently tested and had high levels of arsenic and inquires if he should speak with users upstream?

The Court notes that high levels of arsenic is not unheard of in that area and may be naturally occurring and not necessarily from people upstream. ADWR is responsible for water quantity, but questions regarding water quality can be addressed by the Arizona Department of Environmental Quality (ADEQ).

Ms. Johansen inquires if the well is registered and the SOC is correct, are there any other steps that need to be completed?

The Court states that there appear to be two or three new wells on the properties, which ADWR would need to update on the map. The Court may then be able to dismiss some claims.

Ms. Johansen inquires what the allowable amount for domestic use for irrigation is.

Court inquires of Ms. Parks if she remembers the amount offhand.

Ms. Parks believes it is one half acre use for watering of lawns and gardens that are attached to a residence.

The Court will include the exact definitions in the minute entry.

Mr. Tucker has no questions.

Ms. Skolkin inquires if the SOC for her well was filed in 2001 by the person who first drilled the well, and the well is registered in her name, if the only thing she would need to file is a re-assignment of the SOC, or if there are other forms.

The Court affirms that yes, the SOC would need to be transferred to her name. An amended SOC would only be necessary if the current SOC does not reflect the current usage or the appropriate basis of right.

Ms. Skolkin inquires regarding the differences between groundwater and surface water on the forms. She has a 100 foot deep well.

The Court inquires when the well was drilled.

Ms. Skolkin indicates it was drilled in 1998.

The Court notes that this was after the original investigation. ADWR will need to add that well to the map.

Ms. Skolkin indicates a map was already given to ADWR in 1997.

The Court clarifies that ADWR will need to update the Court's map to reflect all the new wells.

Ms. Skolkin inquires if there is a deadline to file the re-assignment and amendment paperwork?

The Court will set a deadline of 30 days after the meeting with ADWR.

Ms. Skolkin clarifies if this is the deadline for filing, but not for ADWR to have processed the documents?

The Court affirms.

Ms. Skolkin addresses Ms. Johansen's question. She understand the domestic use would be less than 2 acres.

Mr. Anderson has no questions.

Mr. Wilson inquires which two wells are on the Court's map currently?

The Court indicates that there is a well in the southwest corner of the property that appears to be Marm LLC's, and a well in the southernmost parcel, that appears to be Ms. Skolkin's. Both wells were unregistered at the time the map was created.

Mr. Wilson inquires if ADWR can help to get his well registered if it was not already.

The Court will direct ADWR to confirm which wells are registered or not.

The Court inquires if there are any questions from the objectors.

Ms. Skolkin adds that her well was registered on July 17, 1997. The registration number is 55-562492. The registration was transferred into her name.

Ms. Johansen adds that her well was registered in 1998. The registration number is 55-563834.

Mr. Tucker adds that his well registration number is 55-563835. The registration was transferred into his name.

The Court inquires if Ms. Skolkin's well is on the southernmost parcel and if she owns four parcels of the original property.

Ms. Skolkin affirms.

The Court notes that the investigation was done in 1990, but must have been updated since that time.

Ms. Skolkin clarifies that the original driller of the well had had plans to drill the well years before it was actually drilled.

Mr. Tucker adds that his well was registered on March 7, 1998.

Ms. Parks inquires if the meeting is going to be between just ADWR and the landowners?

The Court inquires if there are any objections to ADWR meeting with just the landowners.

There are no objections.

**IT IS ORDERED** that ADWR shall schedule a meeting with the landowners in approximately 60 days. The meeting shall be regarding the forms needed for basis of right, transfers, amending SOCs, and filing new SOCs.

**IT IS FURTHER ORDERED** that ADWR shall distribute an updated map prior to the meeting. ADWR shall include which wells are registered and which well are not.

**IT IS FURTHER ORDERED** that all necessary documents shall be filed with ADWR no later than 30 days after the meeting with ADWR.

The Court inquires of Ms. Parks about a timeline for the next Status Conference.

Ms. Parks indicates that four months should be adequate, but it may depend on if any historical documents are needed.

The Court inquires if there are any concerns from the objectors.

There are no concerns.

The Court will set a further Status Conference in approximately four months.

10:56 a.m. Matter concludes.

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

**LATER:**

To clarify what the allowable amount of domestic water use for irrigation is, Arizona Revised Statutes § 45-251 defines "domestic use" as "a single appropriative water right serving a residence, or multiple residences up to a maximum of three residential connections, for household purposes with associated irrigation of lawns, gardens or landscape in an amount of not more than one-half acre per residence. Domestic use does not include the use of water delivered to a residence or multiple residences by a city, town, private water company, irrigation provider or special taxing district established pursuant to title 48."

A *de minimis* use is a use “found to be sufficiently small so that the costs of detailed adjudication of the use outweigh the benefits that would result.” (ADWR *De minimis* Domestic, Stockpond, and Stock and Wildlife Water use in the Verde River Watershed, August 2022, p 11). The quantity of water considered *de minimis* for domestic use in the San Pedro watershed is a “quantity not to exceed 1 ac-ft/yr of water supplied by the landowner or occupant from a well or surface water source providing water for a single-family household and associated outdoor activities on adjoining land not exceeding (<) 0.2 surface acres.” (Memorandum Decision, Findings of Fact, and Conclusions of Law or Group 1 Cases Involving Stockwatering, Stockponds, and Domestic Uses, Contested Case W1-11-19, November 19914, p 33).

Therefore, a *de minimis* domestic use in the San Pedro permits associated irrigation of < 0.2 acres. A domestic use not considered *de minimis* can include irrigation of up to 1/2 acre.

**IT IS ORDERED** that a status conference is scheduled for **Thursday, November 21, 2024, at 10:00 a.m.** Parties shall update the Court on submission of documents as required, as well as any updates regarding historical documents and SOC amendments and/or assignments.

The status conference shall be held via Court Connect. The parties shall join the virtual status conference remotely logging into Court Connect as stated below.

The status conference will be held using the Court Connect program. Instructions for Court Connect are attached. 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 Rancho Rio Vista Inc.

*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 Rancho Rio Vista Inc., Contested Case No. W1-11-1983

**Start Date/Time:** Thursday, November 21, 2024, at 10:00 am

**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](#)