

## ADWR's Prescott ruling elicits appeals

By Cindy Barks

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PRESCOTT - With the deadline for appeal now lapsed, the Arizona Department of Water Resources' recent ruling on Prescott's assured water supply ended up generating a number of requests for a hearing.

"We received about a half-dozen appeals from the parties with legal standing," Sandy Fabritz-Whitney, ADWR assistant director for water management, said this past week.

She added that several of the appeals came from groups of individuals and organizations that initially filed objections to the city's application to modify its assured water supply.

For instance, the 49-page appeal from the Center for Biological Diversity came on behalf of the Center, the Sierra Club, and 11 people who live in the Prescott Active Management Area.

The appeal, which expressed concerns that Prescott and Prescott Valley's planned pumping from the Paulden-area Big Chino Sub-basin would "eventually reduce the base flow of the upper Verde River..." listed local residents Doris Cellarius, Audrey Clark, Edith Dillon, Thomas Fleischner, Santiago Galvis, Leslie Hoy, Harry Hollack, Charles A. Johnson, Jo Ann Johnson, Joanne Oellers, and Chris Rigby.

In addition to the appeals from groups and organizations with "legal standing," ADWR also received a number of requests for hearing from organizations that the department earlier determined did not have legal standing.

One such appeal came from the Salt River Project, which disputes ADWR's determination that it does not have legal standing.

"ADWR wrongly excluded SRP from participating as an objector in the administrative proceedings on Prescott's application," the appeal states. "While not a resident of the AMA, SRP has interests that would be actually and irreparably impaired by a decision of ADWR granting Prescott's application."

According to SRP's appeal, those interests include: senior downstream rights to Verde River water; and its interest in implementing the terms of an incidental take permit "issued to SRP by the U.S. Fish and Wildlife Service" regarding the federal Endangered Species Act.

While Fabritz-Whitney maintained that state statute "says very clearly" that objectors to the city's application must be residents of the AMA, she noted that a hearing officer from the Arizona Office of Administrative Hearings would review that finding.

"We just set the hearing date, and we're a party to the hearing," Fabritz-Whitney said of ADWR's involvement.

The hearing officer will be responsible for evaluating the information, conducting the hearing, and making a recommendation to ADWR Director Herb Guenther on the matter.

Fabritz-Whitney said the hearing would take place in Prescott - probably in February, although she noted that the location and exact date have yet to be determined.

The hearing will review the decision that ADWR released in November, finding that the City of Prescott is entitled to pump 8,067 acre-feet of water per year from the Big Chino Sub-basin.

The city applied to ADWR more than a year ago to modify its assured water supply to reflect the water it intends to import, along with its partner Prescott Valley, from the Big Chino.

Prescott, which originally requested 9,500 acre-feet per year from the Big Chino, was one of the entities to request an administrative appeal of the ADWR decision.

Since 2004, when Prescott bought land northwest of Paulden for its Big Chino Water Ranch, the city and the

Town of Prescott Valley have been planning for a 30-mile pipeline to transport Big Chino water to the tri-city area.

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