



## ADWR hearing wraps up without resolution

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PRESCOTT - Three days of hearings barely scratched the surface this week in the administrative appeal of the state's earlier ruling on Prescott's use of Big Chino water.

By the Wednesday afternoon end of what was to be a three-day hearing, only the City of Prescott had concluded its case - during arguments all day Monday and half of the day Tuesday.

Throughout Tuesday afternoon, and for most of the day on Wednesday, the hearing focused on the case that three local appellants filed.

That leaves among those still to make their cases: the remaining 11 local appellants; the Center for Biological Diversity and Sierra Club; and the Arizona Department of Water Resources.

As the hearing concluded Wednesday afternoon, Thomas Shedden, administrative law judge for the Arizona Department of Administrative Hearings, conceded that the review likely would take at least three more days to complete.

### **Timeline of Prescott water-related actions leading up to this week's hearing**

- 1993-94 - Prescott's sale to the City of Scottsdale of its rights to Central Arizona Project water.
- 1998 - Prescott's purchase of Willow and Watson lakes and associated water rights from the Chino Valley Irrigation district.
- 1999 - Arizona Department of Water Resources declaration of groundwater mining in the Prescott Active Management area.
- 1999 - ADWR's designation of assured water supply to the [City of Prescott](#).
- 2003-2004 - Prescott's exploration of purchase of the CV/CF Ranch northwest



Courtesy

"An order (on the date and time of the continuation) will be forthcoming," Shedden said as he closed the hearing.

The proceedings centered on ADWR's ruling in November 2008 that Prescott was entitled to annually pump 8,067 acre-feet of water from the Paulden-area Big Chino sub-basin.

The city earlier had applied for a modification in its assured water supply designation to reflect the water that it plans to import, along with its partner Prescott Valley, through a 30-mile pipeline.

On Monday and Tuesday, experts for the city had testified that the pumping would not affect the flow of the Verde River, which originates about 20 miles southeast of the Big Chino Water Ranch.

But on Wednesday, the case for local appellants Gary Beverly, Tom Atkins, and Anthony Krzysik, maintained just the opposite.

The appellants' expert witness Jon Ford, a geological engineer with a Denver-based firm, was on the stand all day Wednesday.

Ford based much of his testimony on a groundwater model study he is conducting on a 720-square-mile section of the Big Chino sub-basin.

of Paulden

- December 2004 - Prescott's purchase of a portion of the JWK Ranch (later the Big Chino Water Ranch) northwest of Paulden.

- 2004 - Prescott's application to ADWR for modification in its assured water supply to reflect Granite Creek water rights associated with Willow and Watson lakes.

- 2005 - ADWR's modification of Prescott's assured water supply.

- October 2007 - Prescott's application to ADWR for modification of its assured water supply to reflect water in the Paulden-area Big Chino sub-basin.

- November 2008 - ADWR's ruling on Prescott's assured water supply modification request, entitling Prescott to pump 8,067 acre-feet of Big Chino water.

- February 2009 - three-day administrative hearing in Prescott to review ADWR ruling on Prescott's modified assured water supply.

Through his questioning, Mark McGinnis, attorney for the three local appellants, emphasized that the model takes in far more of the sub-basin area than does the one that a consultant conducted for the [City of Prescott](#). (City consultant William Greenslade earlier estimated that his groundwater model involved about 220 square miles of the Big Chino, including the city's ranchland).

Ford reported that his model indicates that Prescott's pumping over the next 100 years would draw down the aquifer by between 600 and 700 feet - a scenario that he said would affect the springs that feed the Upper Verde River.

Comparing the situation to the Little Chino Basin, from which Prescott and other local municipalities pump their water, Ford noted that "draw-down" has occurred at Del Rio Springs, and he predicted a similar result in the Big Chino sub-basin.

Ford's testimony also disputed information Greenslade had provided about a deep layer of low-permeability "playa" consisting of silts and clays near the center of the sub-basin. City officials have long contended that presence of the playa would restrict some of the flow of water within the Big Chino

sub-basin, helping to limit the pumping impacts to the Verde River.

But Ford maintained that studies have concluded that the playa would not completely block the flow of groundwater, and that 80 to 85 percent of the water for the Upper Verde River comes from the Big Chino sub-basin.

Throughout the hearing, attorneys representing the city and ADWR objected to much of the information that attorneys for the appellants brought forward.

Repeatedly, however, Shedden allowed the inclusion of virtually every piece of evidence, maintaining that he would rather "err on being over-inclusive, not under-inclusive."

On Wednesday, attorney Paul Eckstein, representing the city, strongly objected to the admission of Ford's groundwater model study, maintaining that the consultant had prepared it for the [Salt River Project](#). Eckstein added that SRP had earlier denied the city's request for information on the data for the study.

When Shedden noted that SRP was not a party to this week's hearing, and was therefore not subject to the request for information, Eckstein responded, "Isn't that nice? They're here, but they're not here. The data is being hidden by SRP."

While a Maricopa County Superior Court judge previously rejected SRP's bid to be a full party to this week's hearing, city and ADWR attorneys have emphasized that SRP and the three local appellants share the same law firm, Salmon, Lewis & Weldon, and that much of the information in the appellants' case mirrored SRP's own objections to the state ruling.

Indeed, ADWR attorney Janet Ronald pointed out that many of the pages of Ford's groundwater study included the SRP logo.

After the admission of Ford's groundwater model study, Eckstein spent several hours on cross-examination. Among the points he emphasized: The ADWR ruling on assured water supply requires that the city must demonstrate that after 100 years of pumping, the depth to groundwater in the aquifer would be less than 1,000 feet.

Ford acknowledged that his study projects that the depth to groundwater - factoring in city pumping and that of other expected growth in the area - would be between 600 and 700 feet after 100 years.