



THE UNIVERSITY OF ARIZONA  
JAMES E. ROGERS COLLEGE OF LAW

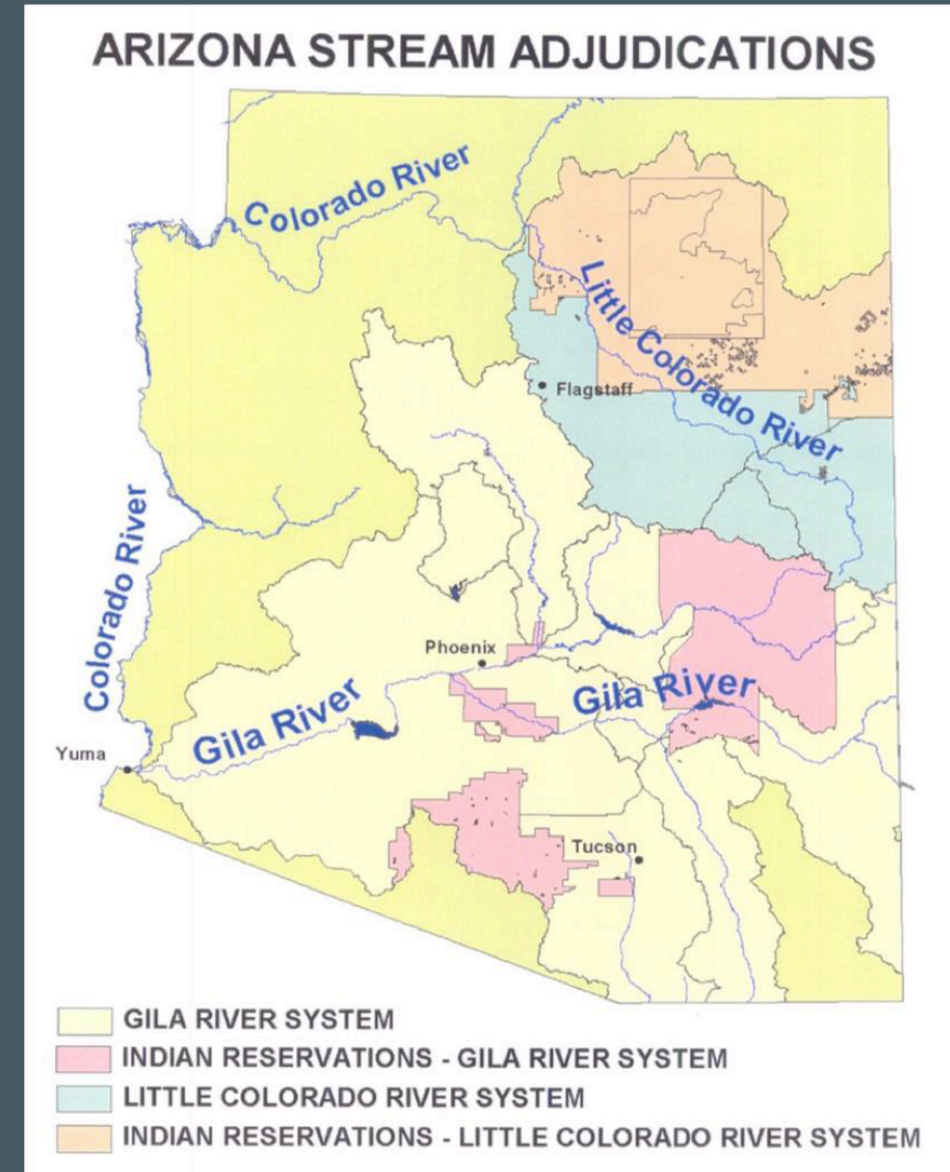
## Natural Resource Use & Management Clinic

# Overview of the Arizona General Stream Adjudication

\*This presentation is intended only to provide general information on the stream adjudication. The NRUM Clinic is not offering legal advice on specific individual water rights.

# History

- 1974-Salt River Valley Water Users Association filed a petition with the State Land Department
- 1979- legislature consolidated into *In re the General Adjudication of All Rights to Use Water in the Gila River System and Source*
- Maricopa Superior Court initiated the process for quantifying and prioritizing water rights claimed within the Gila River System.
- Initial Notification and listing of potential water claimants

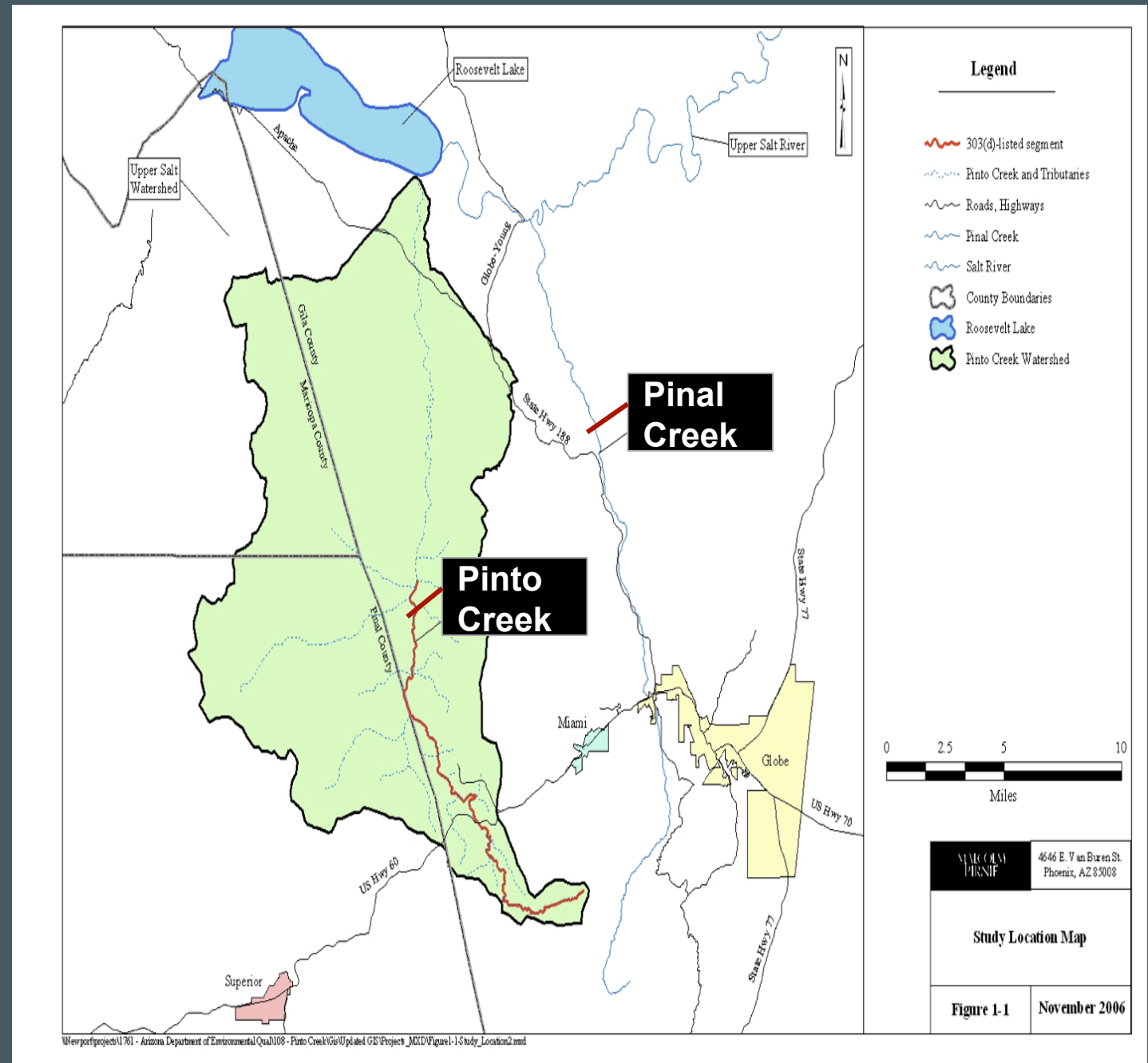


# History Continued

- Approximately: 40,000 claimants and 85,000 claims in the General Adjudication
- Delays- Legal issues
- Currently the Gila Adjudication is moving forward

# Cobre Valley Tributaries to the Salt River

- Cobre Valley surface waters include Pinal Creek and Pinto Creek
- The Creeks flow north to the Salt River
- Cobre Valley's surface water and stream subflow are part of the Court's process for quantifying and prioritizing water rights claimed in the Gila River System.
- The Special Master has not yet ordered quantification and prioritization process for the Pinal and Pinto Creeks but the process is moving forward.

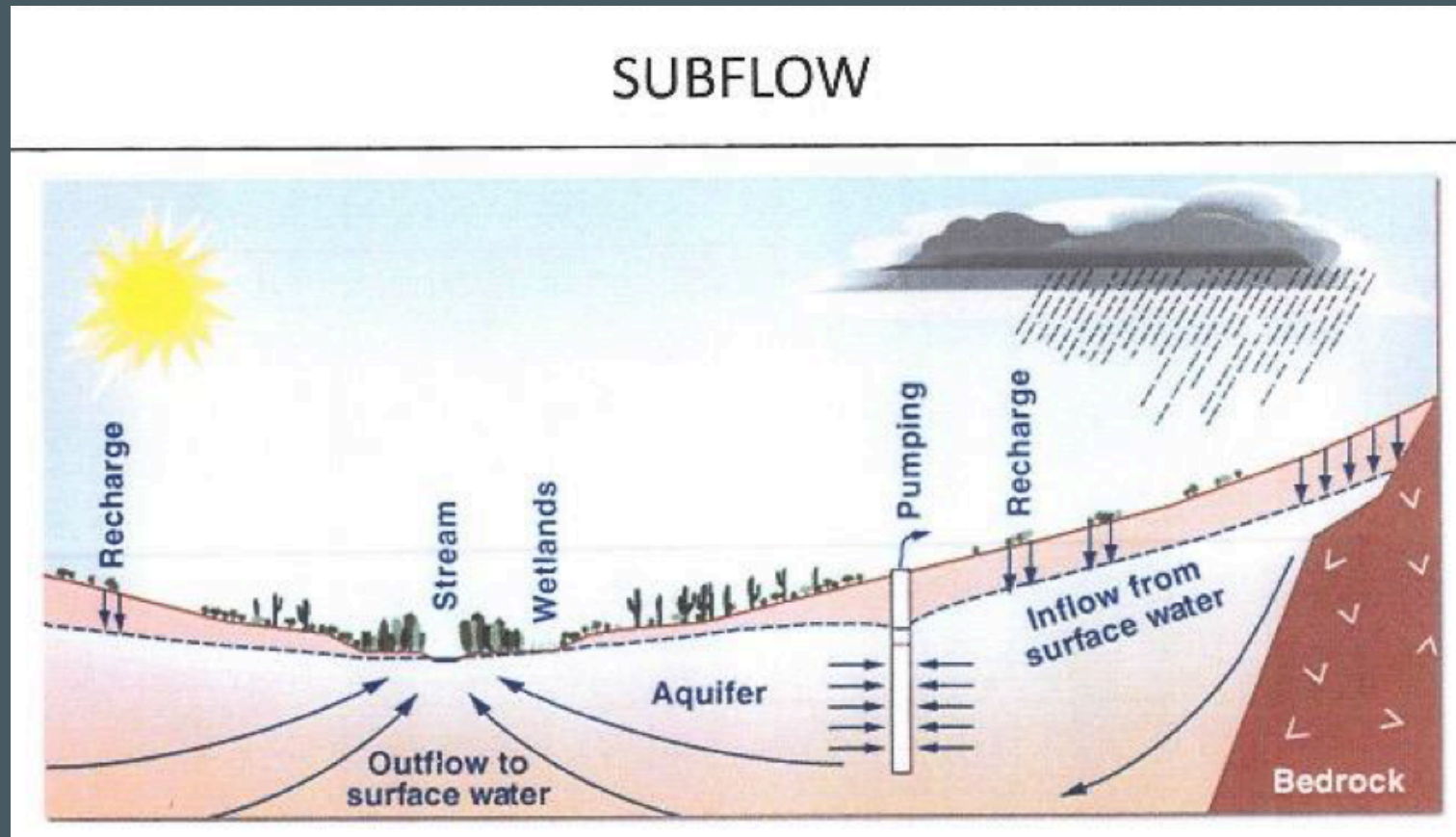


# Procedural Requirements for Filing a Claim

- Court summons were served when the Adjudication first began and continue to be served as ADWR submits the HSR's to the Court.
- Water users must file a water rights claim by submitting the proper Statement of Claim (SOC) forms to Arizona Department of Water Resources (ADWR) within 90 days of receipt of the summons, which ADWR will then process and file with the Gila Adjudication court.
- SOC's should be submitted prior to the conclusion of the watershed hearing and finalization of the Hydrographic Survey Report (ADWR) water.
- There is a process for filing an SOC after the conclusion of the hearing by filing a motion to intervene. The Court may approve the filing if there is no undue delay and prejudice to the rights of the original parties.

# Groundwater/ Surface Water Connection

- Bifurcated system: surface water & groundwater have different laws
  - In Arizona, not all water in the ground is “groundwater”
  - Wells outside of subflow zone
- Two main cases:
  - *Southwest Cotton Co. and Gila River IV*
- “Subflow” is found in the “saturated floodplain holocene alluvium”





# Forfeiture

- Forfeiture- A.R.S. § 45-141(C)
  - Fail to beneficially use water for 5 years (with some exceptions)
  - Fail to complete diversion
  - No intent requirement
  - Defenses- A.R.S. § 45-188, 189
    - Drought, unavailability, active service, legal proceedings, “any other reason”
- Applicable to Pre-1919 rights?
  - Unclear
    - *Globe Equity* case (9th Circuit, 2017) *San Carlos Apache Tribe v. Superior Court* (AZ 1999)
  - June 12, 1919

# Intended Outcome of the Adjudication

- Secure, clear, quantified paper water rights
- Process:
  1. Special Master Susan Harris will prepare a catalog of all rights in the system, including:
    - The relative priority date of rights
    - The hydrological survey reports (HSR) for the watershed prepared ADWR
  2. Special Master sends the full report to the Superior Court
  3. Superior Court will hear objections to the Special Master's report
  4. The Superior Court may adopt, modify, or reject the report, and will issue a final decision



# Thank you!

- For questions about the presentation, feel free to ask Joel, Jennifer, or Professor Sullivan at any time during the Small Town Forum.
- For general inquiries about the NRUM Clinic, please contact Professor Sullivan at [bcsull@email.arizona.edu](mailto:bcsull@email.arizona.edu).
- Clinic website:  
<https://law.arizona.edu/natural-resource-use-management-clinic>