

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

No. W-1 (Salt)
No. W-2 (Verde)
No. W-3 (Upper Gila)
No. W-4 (San Pedro)

Contested Case No. W1-11-2696

ORDER GRANTING RENEWED
MOTION TO STAY

CONTESTED CASE NAME: *In re Bayless & Berkalew*
HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report.
DESCRIPTIVE SUMMARY: Arizona Department of Water Resources to file a map of irrigation wells by June 1, 2021. Stay granted until June 1, 2021.
NUMBER OF PAGES: 3
DATE OF FILING: October 28, 2019

The purpose of this case ss to resolve objections to Watershed File Report 113-12-BD-004 (“WFR”) and adjudicate the claims for water rights asserted by Bayless & Berkalew

1 Company. According to a pleading filed August 30, 2018, Bayless & Berklaw Company
2 assigned its interests in water for irrigation use to Markham Irrigation District. On August 10,
3 2018, Markham Irrigation District filed Statement of Claimant 39-19746 claiming 7,000 acre-
4 feet of water per year for irrigation use based on seven Statements of Claim filed by Bayless &
5 Berkalew Company and referenced in the WFR. On August 30, 2019, Markham Irrigation
6 District filed an amendment to Statement of Claimant 39-17946 and attached an amended
7 assignment of Bayless & Berkalew Company's adjudication claims.
8

9 Markham Irrigation District has now moved to stay the contested case on several
10 grounds. It represents that two of its wells are located outside of the subflow zone and,
11 therefor, the case should be stayed until the completion of the proceedings in *In re Subflow*
12 *Technical Report* (Contested Case no. W1-103). While it is correct that cases involving wells
13 located outside of the subflow zone have been stayed, it is also correct that when the cases
14 involve multiple wells, the case is stayed only with respect to the wells located outside the
15 subflow zone.
16

17 Markham Irrigation District also contends that the major issues that will be raised in this
18 case are currently in litigation in *In re St. David Irrigation District*, contested case no. W1-11-
19 1675. Essentially the argument being made is that due to Markham Irrigation District's
20 knowledge of the issues in the two cases, it would be either wasteful or duplicative to litigate
21 the two cases in parallel and, implicit in the argument is a possibility that the resolution of the
22 issues in *In re St. David Irrigation District*, Contested case No. W1-11-1675 could narrow or
23 resolve the issues in this contested case.
24

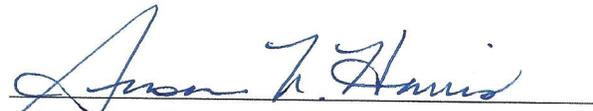
25 Salt River Project filed a response to the motion requesting that a status conference be
26 set to discuss the future proceedings in this case. Based on the Statement of Claimant filed by
27 Markham Irrigation District and attached assignment, it appears that there may be potential
28

1 procedural issues that will need to be addressed along with a schedule of future proceedings at a
2 status conference to be scheduled once proceedings actively begin.

3 Due to the unique circumstances in this case,

4 **IT IS ORDERED** granting a stay of the case until after a decision is issued in the first
5 phase of *In re St. David Irrigation District*, Contested case No. W1-11-1675 scheduled to begin
6 January 19, 2021. If the trial in *In re St. David Irrigation District*, Contested Case No. W1-11-
7 1675 is delayed, then reconsideration will be given to the continuation of the stay in this case.
8 In any event, the stay will not expire prior to June 1, 2021.

9 **IT IS FURTHER ORDERED** that Arizona Department of Water Resources will file a
10 map of the locations of the wells listed in Statement of Claimant 39-19746 as source of water
11 for irrigation use by June 1, 2021.
12
13

14
15 

16 Susan Ward Harris
17 Special Master

18
19 The original of the foregoing was delivered to
20 the Clerk of the Maricopa County Superior
21 Court on October 28, 2019 for filing and
22 distributing a copy to all persons listed on the
23 Court approved mailing list for Contested Case
24 No. W1-11-2696.
25
26
27
28