

SUPERIOR COURT OF ARIZONA
APACHE COUNTY

April 9, 2024

CLERK OF THE COURT

SPECIAL WATER MASTER
SHERRI ZENDRI

A. Parmar
Deputy

FILED: April 17, 2024

In re: the General Adjudication
Of All Rights to Use Water in the
Little Colorado River System and Source
Contested Case No. CV6417-33-6957

In Re: Norma Larson Elliot

MINUTE ENTRY

Central Court Building – Courtroom 301

10:00 a.m. This is the time set for Status Conference to determine if the landowners are interested in pursuing potential water rights before Special Water Master Sherri Zendri.

The following attorneys and parties appear virtually through Court Connect:

- Property owner, Marty Byrne of Plano de Retiro LLC and Lynx 559 LLC, is present on his own behalf
- Mark Widerschein on behalf of the United States Department of Justice, Environment and Natural Resources Division
- Katya Lancero on behalf of the Navajo Nation
- Brandon Delgado on behalf of the Hopi Tribe
- Mark McGinnis on behalf of Salt River Project (“SRP”)
- Karen Nielsen on behalf of Arizona Department of Water Resources (“ADWR”)
- Garrett Perkins observing on behalf of the LCR Coalition
- Property owner, Lester G. Gaines, is present on his own behalf

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

Discussion is held regarding the basis of right. The Court notes that the WFR references an application but the Court is not able to find it on ADWR's site. Ms. Nielsen will inquire as to the status of the missing application. In addition to the missing application, there is also an issue of with respect to the actual amount of water calculated by ADWR.

The Court proposes 30 days to allow ADWR to research the application. There are no objections to the proposal.

Mr. Byrne addresses the Court. He requests additional time to retain an attorney.

IT IS ORDERED that ADWR shall file (and provide to the other parties) a report by **May 9, 2024** regarding pre-adjudication filings associated with the properties in this case.

IT IS FURTHER ORDERED setting a Status Conference to discuss how to proceed on **Tuesday, June 11, 2024 at 9:30 a.m.** before Special Water Master Zendri.

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.

10:12 a.m. Matter concludes.

A copy of this minute entry is provided to all parties on the Court approved mailing list.

LATER:

To pursue water rights, a property owner must file a Statement of Claimant and present to the Court evidence of the existence of a water right on their property. This evidence may include the WFR. If the property owner proves to the Court the existence of a water right on their property, the Court will recognize enforceable water rights in a "Final Decree." ARS § 45-257(B).

Objections for this contested case can be found on the General Stream Adjudication website under "Active Cases" at:

<http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/docs/CV6417-33-6957-Combined-Objs-for-web.pdf>

Documents prepared by the Arizona Department of Water Resources (ADWR) as part of the November 1990 Hydrographic Survey Report (“HSR”) can be found on the ADWR website at:

<https://www.azwater.gov/adjudications>

Parties wishing to move forward with historical water rights claims on their property must ensure Statements of Claimant are current and that documentation of the reason the claim to the water is legally valid, also known as the “basis of right,” is presented to the Court.

Statement of Claimants (SOCs)

An SOC is a landowner’s or lessee’s (“claimant’s”) written statement to the Court that provides details about their water right claim. This claim to use public water is filed with the Arizona Department of Water Resources (“ADWR”). Although a water right generally remains attached to the land, the SOC must reflect the current claimant’s name and contact information as well as any changes to the original claim. The SOC as filed does not list current property owners or lessees. To update an SOC, parties may make an SOC amendment, obtain an SOC assignment from the original claimant, or file a new SOC for their use. See Ariz. Rev. Stat. §§ 45-254. Forms may be found on ADWR’s website at:

<https://www.azwater.gov/adjudications/statement-claimant-new-use-summons-forms>

1) Basis of Right

To obtain a water right, a claimant must also provide a “basis of right.” A basis of right is a document filed with ADWR either registering a water right, applying for a permit to appropriate water, or applying for a stockpond claim of right. See Arizona Revised Statutes (“Ariz. Rev. Stat.”) §§ 45-182(A), 45-152(A), 45-273.

If a claimant proves that the water right claimed was initiated prior to June 12, 1919, they do not need to file an “application for a permit to appropriate,” but must present a statement of claim registering their claimed water right filed prior to September 2, 1990 (90 days before the publication of the Silver Creek HSR). See Ariz. Rev. Stat. §§ 45-171, 45-182(A). ***Note that a statement of claim is a different document than a statement of claimant.***

ADWR has been ordered to review the application and determine if former Claimants properly registered the potential water rights claimed on the SOC’s for this contested case. If a claimant either cannot prove that the water right claimed was initiated prior to June 12, 1919, or cannot present a statement of *claim* filed prior to August 22, 1991, the claimant must file either an “application for a permit to appropriate public water” or an “application for a stockpond claim of right.” Ariz. Rev. Stat. §§ 45-152(A), 45-272(C).

If the claimed water right is for a pond constructed before 1977 that is less than 15 acre-feet and used solely for watering livestock or wildlife (but not primarily for fishing or culturing of fish), the claimant should file an “application for a stockpond claim of right.” Ariz. Rev. Stat. §§ 45-271, 45-272. If the claimed water right is for any other use, the claimant must file an “application for a permit to appropriate public water.” Blank forms for either application may be found on the ADWR website at: <https://www.azwater.gov/surface-water/surface-water-forms-and-documents>.

Because of the time and cost involved in pursuing an “application for a permit to appropriate public water” or an “application for a stockpond claim of right,” claimants should first gather as much evidence as possible to determine which, if any, of their water rights claims are for water uses that were initiated prior to June 12, 1919, and described in a timely filed statement of *claim*.

Federal land entry case files (e.g. homestead proofs and affidavits) may be useful for proving historical farming and grazing activity on your land. Resources for finding land entry filings are listed below:

- Federal land patents may be found here: <https://glorerecords.blm.gov/search/default.aspx>
- Pre-1908 homestead proofs may be accessed from a physical FamilySearch location. See <https://locations.familysearch.org/en/search> for more information.
- Any other land entry case files can be ordered using the following form: <https://www.archives.gov/forms/pdf/natf-84.pdf>.

While it is not necessary, Claimants are free to seek their own legal counsel at any time should they decide to do so. In addition, the Arizona Adjudications Project is taking applications to provide free, limited legal representation in the adjudication. The team can help claimants who are not already represented by an attorney. You can apply for assistance here:

<https://law.arizona.edu/academics/clinical-programs/natural-resource-use-management-clinic/arizona-adjudications-clinic>.

To contact the University of Arizona Adjudications Project call (520) 621 6722 or via email at: law-azadjudicationsproject@arizona.edu.

To contact ADWR regarding application forms and processing procedures please call 1-866-246-1414, email smitchell@azwater.gov, or visit <https://www.azwater.gov/adjudications>.

To contact the Office of the Special Water Master please call (602) 372-4115.

Attachment A



Court Connect Hearing Notice for In re Norma Larson Elliot

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 Norma Larson Elliot, Contested Case No. CV6417-33-6957

Start Date/Time: June 11, 2024 at 9:30 a.m.

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](#)