

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

01/10/2022

CLERK OF THE COURT

SPECIAL WATER MASTER
SUSAN WARD HARRIS

A Parmar
Deputy

FILED: January 21, 2022

In re: David T. & Marilyn Lee et. al
Contested Case No. W1-11-3422

In Re: The General Adjudication
of all Rights to Use Water in the
Gila River System and Source
W-1, W-2, W-3 and W-4 (Consolidated)

In re: Status Conference

MINUTE ENTRY

Central Court Building – Courtroom 301

2:00 p.m. This is the time set for a Status Conference before Special Water Master Susan Ward Harris for purpose of setting dates for discovery deadlines, dispositive motions, and trial to adjudicate the claimed water rights and the objections to the watershed file report.

The following attorneys and parties appear virtually through Court Connect:

- Bradley Pew on behalf of American Smelting and Refining Company (“ASARCO”)
- Tom Murphy on behalf of the Gila River Indian Community
- David Brown on behalf of Roy G. and Yvonne Haught and Allison Randle and Clayton Randle
- Mark McGinnis and Mike Foy on behalf of Salt River Project (“SRP”)
- Richard Holcomb is present on his own behalf
- Joe Sparks and Laurel Herrmann on behalf of San Carlos Apache Tribe
- John Burnside on behalf of BHP Copper
- Kimberly Parks observing on behalf of Arizona Department of Water Resources (“ADWR”)
- Richard Palmer on behalf of Tonto Apache Tribe
- Sue Montgomery on behalf of Yavapai Apache Nation and observing on behalf of the Pascua Yaqui Tribe

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

Mr. Brown advises the Court that until he receives the documents from the National Archives and determines the extent of the original homestead water rights would be with a much earlier priority date, he cannot determine whether his clients will assert water rights based on the homestead rights or on the 1980 water certificates. He states that there is no question that his clients have a surface water right, the question is the appropriate priority date. So, his clients' water rights may or may not rely on the water certificates depending upon the documents received from the National Archives. Mr. Brown stated that he wants to correct that the record that he was not foregoing the possibility that the 1980 certificates would be used for the surface water rights.

The Court and Mr. Brown discussed the existing stay with respect to claims by Roy G. and Yvonne Haught and Allison Randle and Clayton Randle. The stay remains in effect.

Mr. Holcomb informs the Court that he intends to pursue a water right. He requested records from the National Archives and received a patent and a receipt but did not request the full patent file or homestead affidavit.

The Court will set a schedule for this case and include the information for the University of Arizona's water program. If the parties are unable to reach a stipulation, the Court will set a trial for this matter. If at any time the parties require Court assistance, they may request a Status Conference in this matter.

IT IS ORDERED as follows:

- Disclosure Statement shall be filed by April 11, 2022
- Discovery shall be completed by May 27, 2022
- Dispositive Motions due by July 29, 2022
- Readiness Conference on January 9, 2023 at 1:30 p.m.
- Trial shall be set for January 16, 2023 at 9:00 a.m. in the Maricopa County Superior Court, Courtroom 301, 201 West Jefferson, Phoenix Arizona 85002

Mr. McGinnis states that there are two 1980 certificates that may overlap the two properties involved in this case. He is concerned about litigating the certificate at two different times. Mr. McGinnis states that there may be disputes between the parties about the acreage irrigated with water in the certificated right.

Mr. Brown states that he is not clear about the extent of Mr. Holcomb's claim.

Discussion is held regarding the certificates. Ms. Parks states a current map can be prepared in 60 days. After the map is issued, the Court will set a Status Conference to see

if any of the pending issues can be resolved including an agreement about how much land each party claims is being irrigated pursuant to the certificated water right.

The Court advised the parties that they may request a status conference with the Court at any time.

2:18 p.m. Matter concludes.

LATER:

Arizona Department of Water Resources prepared the Zone 2 Well Report 115-06-CCA-001 that identified a domestic use and two irrigation uses on land in Section 7 Township 8S Range 21E. After the issuance of the Report, Richard B. and Karen C. Holcomb, as trustees purchased tax parcel 111-08-001E and Roy and Yvonne Haught purchased tax parcel 111-08-00B. At this point, a determination needs to be made about the number of irrigated acres each party is claiming in this contested case.

Arizona Department of Water Resources shall prepare and file a map by **March 14, 2022** that includes:

- a) the borders of tax parcels 111-08-001B, 111-08-001D, and 111-08-001E;
- b) the boundaries of the land investigated for the Zone 2 Well Report 115-06-CCA-001;
- c) the boundaries of the irrigated land referenced in Certificates of Water Right 85239 and 85240;
- d) the boundaries of the irrigated land found by ADWR in its map that was attached as Attachment B to the Order dated April 30, 2021 (the ‘Original Map’).

The map shall state the number of acres of irrigated land shown on the Original Map for each of the three tax parcels: 111-08-001B, 111-08-001D, and 111-08-001E.

The Natural Resource Use and Management Clinic, a law clinic at the University of Arizona, may be able to aid unrepresented claimants at the initial stages of proceedings to adjudicate claims. The director of the law clinic is Priya Sundareshan. Email: priyaz@email.arizona.edu

A copy of this order is mailed to all persons listed on the Court-approved mailing list.