

SUPERIOR COURT OF ARIZONA
APACHE COUNTY

2/8/2024

CLERK OF THE COURT

SPECIAL WATER MASTER
SHERRI ZENDRI

S. Ortega
Deputy

FILED: 2/14/2024

In re: the General Adjudication
Of All Rights to Use Water in the
Little Colorado River System and Source

CV6417-33-5678

In Re: *Louis A. Petersen*

MINUTE ENTRY

Central Court Building – Courtroom 301

10:31 a.m. This is the time set for an Initial Status Conference before Special Water Master Sherri Zendri to determine if parties associated with the land are interested in pursuing potential water rights.

The following parties/counsel appear virtually and/or telephonically:

- Property owners Raymond Speakman, Debra Barnes of CJM Ranch Properties, and Raymond and Laura Shumway
- Katrina Wilkinson for the Salt River Project (SRP)
- Maggie Woodward for the United States Department of Justice (USDOJ)
- Katya M. Lancero for the Navajo Nation
- Phillip Londen for the Hopi Tribe
- Karen Neilson and Kimberly Parks for the Arizona Department of Water Resources (ADWR)
- Bradley Pew observing for the Little Colorado River Coalition (LCR)

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

The hearing today was set to determine if the parties associated with the land are interested in pursuing their potential water rights. Mr. Speakman, Ms. Barnes, and Mr. Shumway confirm that they are interested in moving forward with their potential water rights.

SRP objects as to the apparent date of first use and the methods that ADWR used to assign an apparent first date of use for some of the PWRs, the lack of specificity for the quantity of the small reservoir, the quantities of use assigned to the other irrigation PWR and the methods that ADWR used to assign that quantity, failure to assign a quantity for the domestic use, and a failure to calculate a diversion right for the other irrigation.

USDOJ objects that the Statement of Claimant (SOC) filings did not pertain to this property. As to Small Reservoir 1 and Stock Pond 1, there is a lack of legal foundation as there was not a water right permit obtained for the Storage Right and the Stock Pond wasn't registered under the Stock Pond Registration Act. Also, the Place of Use for (filing number) 10-0091168 is not on this property.

Hopi and Navajo Tribes join with the USDOJ objections.

The Court informs the property owners that this minute entry will contain a summary of what is discussed here today. The Court further explains to the property owners what ADWR's role is as it relates to the water rights and how ADWR can assist the Williams' family in the process of filing the appropriate water use documents. The Court will include a deadline in this minute entry for the owners to contact ADWR and get all of their forms filed and suggests that any historical or current documents that the property owners have with respect to crops, watering of livestock, log books, and the use of water will be helpful in moving forward. Once the documents are filed with ADWR, the property owners shall send a letter to the Court and the Court will reconvene to discuss this matter further.

Raymond Shumway asks the Court if they will receive any investigative reports done by ADWR. The Court informs Mr. Shumway that all of ADWR's investigations and documents can be found online. The Court will provide the property owners with a link to ADWR's website. The Court notes the case number and case name for the property owners. All correspondence shall be copied to all parties in this case. Further instructions for the property owners will be included in this minute entry.

Karen Nielsen of SRP responds to the Court's original order from December 7, 2023, clarifying that the northern portion of tax parcel 409-13-004C was investigated for the purposes of the Silver Creek HSR. The Court's records show that parcel being owned by Mr. and Mrs. Shumway and notes that the Watershed File Report was included in the case initiation order.

10:52 a.m. Matter concludes.

LATER:

Parties wishing to move forward with historical water rights claims on their property must ensure Statement of Claimants 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.

IT IS ORDERED that the Claimants must file notice with the Court by **May 31, 2024**, that the appropriate documentation needed to move forward with this contested case has been filed/initiated with the Arizona Department of Water Resources (“ADWR”). Once the Court receives this notice, a status conference will be scheduled in accordance with the time needed for ADWR to complete whatever application review process is necessary.

The Court provides the following general information to assist Claimants with any potential filings.

1) Statement of Claimants (SOCs)

A 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’s do not list current property owners or lessees. To update an SOC, one may obtain a SOC assignment, make an SOC amendment, or file a new SOC. Forms may be found on ADWR’s website at:

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

2) Basis of Right

To obtain a water right, a claimant must 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 that was filed prior to September 1, 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 can help the current property owners determine if former Claimants properly registered the potential water rights claimed on the SOCs 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 September 1, 1990, 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, 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 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://gloreCORDS.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>.

3) Additional Information

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

<https://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/docs/CV6417-33-5678-objections.pdf>

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

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

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.](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.](mailto:law-azadjudicationsproject@arizona.edu)

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

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