

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

10/24/2017

CLERK OF THE COURT  
FORM V000

SPECIAL WATER MASTER  
SUSAN HARRIS

A. Hatfield

Deputy

In Re: Lackner  
Contested Case No. W1-11-3326

FILED: 11/06/2017

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**

**Courtroom: CCB 301**

1:30 p.m. This is the time set for a status conference.

The following attorneys and parties appear in-person: Carrie J. Brennan on behalf of the Arizona State Land Department; David A. Brown on behalf of the successor trustee of the Lackner Trust; Bill Lackner, Kathy Lackner, and Norma Lackner on behalf of the Lackner Trust; Jeffrey R. Heilman on behalf of the Salt River Project; Laurel A. Hermann on behalf of the San Carlos Apache Tribe and the Tonto Apache Tribe; and Monique Coady on behalf of the City of Phoenix.

The following attorneys and parties appear telephonically: Robyn L. Interpreter appears on behalf of the Yavapai-Apache Nation;

Court reporter, Mike Benitez, is present and a record of these proceedings is made digitally.

Mr. Brown advises the Court about his meeting with the Arizona State Land Department. The two parties have come up with a proposed schedule concerning the determination of the ownership issues for stockponds, stock watering and irrigation uses. The Arizona State Land Department needs until April 1, 2018 to complete its analysis of the ownership issues.

Ms. Brennan indicates that the State Land Department is in agreement with the proposed schedule.

The Court directs the trustee of the Lackner Trust to file new or amended statements of claimants and any necessary assignments by July 1, 2018.

Discussion is held concerning Salt River Project (“SRP”) and Yavapai-Apache Nation’s objections to the irrigation claims.

SRP agrees to contact counsel for the Lackners to try and resolve the legal objections of SRP.

Ms. Interpreter states she needs more information from Mr. Brown and the Lackners. Her client’s objections may be resolved upon review of the Statement of Claimants re: irrigation claims.

Ms. Coody indicates that the City of Phoenix only objects to one Watershed File Report (WFR).

1:45 p.m. Matter concludes.

**LATER:**

This consolidated case will resolve the objections made to the potential water rights listed in the Watershed File Reports (WFR) for land owned or leased by the successor trustee of the Lackner Living Trust. The Arizona State Land Department confirmed by Notice dated October 20, 2017 (Notice) that the Lackner Living Trust is the lessee of the land identified in WFR Nos. 115-05-002, 115-05-004, and 115-05-022.

Mr. Brown indicated at the initial scheduling conference that there may be private land formerly owned by Margaret D. Haby adjacent to the land owned or leased by the Lackner Living Trust. The court raised the question whether additional WFRs that investigated Ms. Haby’s claims should be consolidated with this case. Ms. Haby filed Statements of Claimant 39-5255 through 39-5263 that were analyzed by WFR 115-05-002. At the time that Ms. Haby filed her Statements of Claimant, it appears from WFR 115-05-002 that she leased the state trust land. According to the Notice, the Lackner Living Trust is the current lessee of the state trust land described in WFR 115-05-002.

Based on ADWR’s public records, Ms. Haby also filed Statements of Claimant 39-5265 and 39-5266 that were the subject of WFR 115-05-029. The Haby Ranch Partnership is named as the owner of the land described in WFR 115-05-029. The Statements of Claimant 39-5265 and 39-5266 asserts claims for about one acre foot of water for stock watering and domestic use. Pursuant to A.R.S. §45-257, with limited exceptions not applicable here, such claims cannot be considered until all other claims in

the subwatershed have been determined. Mr. Brown did not indicate that the Lackner Living Trust has any interest in the land owned by the Haby Ranch Partnership. Thus, no grounds exist to consolidate an additional contested case with this case to consider WFR 115-05-029 as part of this proceeding. This consolidated case will adjudicate the claims to water rights made by the Lackner Living Trust.

**IT IS ORDERED** that Arizona Department of Water Resources shall file by **November 17, 2017**, its corrections to the descriptions of the place of use, point of diversion and name of the facility for the stockpond and stock watering potential water rights (PWR) identified in WFR Nos. 115-05-002, 115-05-004, 115-05-022, 115-05-038, 115-05-042, 115-05-DB-001 and 115-05-DB-002. It shall also specifically determine whether PWR 115-05-002-SW002 is located in NENWNE 15 7S 19E or in SWNWSE 10 7S 19E as reported by the Arizona State Land Department in the Notice.

**IT IS FURTHER ORDERED** that the Arizona State Land Department shall file a report by **April 2, 2018** setting forth its proposed ownership of the water rights at issue in this contested case.

**IT IS FURTHER ORDERED** that the successor trustee of the Lackner Trust shall file by **July 1, 2018**, an affidavit of successor trustee that identifies the current trustee of the Lackner Trust, assignments of the Statements of Claimant analyzed by the WFRs at issue in this contested case and any amendment to those Statements of Claimant.

**IT IS FURTHER ORDERED** that a status conference shall be held on **September 6, 2018**, at 3:30 p.m. in Maricopa County Superior Court, Central Court Building, Courtroom 301, 201 West Jefferson Street, Phoenix, AZ 85003-2202. At the status conference, the Objectors to the claims for water rights at issue in this contested case shall be prepared to discuss the objections that they believe can be resolved and dismissed and the objections they intend to pursue against the PWRs determined by the Arizona Department of Water Resources.

Instructions for telephonic participation:

Dial: 602-506-9695 (local)  
1-855-506-9695 (toll free long distance)  
Dial Participant Pass Code 357264#

A copy of this order is mailed to all persons listed on the Court approved mailing list for Contested Case No. W1-11-3326

