

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

8/22/2022

CLERK OF THE COURT

SPECIAL WATER MASTER
SUSAN WARD HARRIS

T. DeRaddo
Deputy

In re: San Pedro Riparian National Conservation Area
Contested Case No: W1-11-0232

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

FILED: 9/7/22

In re: Status Conference

MINUTE ENTRY

Courtroom CCB - 301

1:30 p.m. This is the time set for a virtual/telephonic Status Conference before
Special Water Master, Susan W. Harris.

The following attorneys appear virtually/telephonically via Court Connect/Teams.

- Brian Heiserman on behalf of Liberty Utilities, Bella Vista Water Company
- Sara Ransom on behalf of the City of Sierra Vista; Pueblo Del Sol Water Co;
Susan R. Colby Living Trust and Rebecca R. Davis Living and Revocable Trust
- David Brown on behalf of Echoing Hope Ranch
- Carrie Brennan and Kevin Crestin on behalf of the Arizona State Land
Department
- Lee Leininger on behalf of the U.S. Department of Justice
- Mike Foy on behalf of Salt River Project
- Laurel Herrmann and Joseph Sparks on behalf of the San Carlos Apache Tribe
- Robin Interpreter on behalf of the Yavapai-Apache Nation
- Kome Akpolo and Kimberly Parks on behalf of Arizona Department of Water
Resources (“ADWR”)

- Chris Carlson on behalf of Cochise County
- Richard Palmer on behalf of the Tonto Apache Tribe
- Christina Jovanovich on behalf of ASARCO

The Court notes that Mr. Leininger has done a lot of work and addressed many issues in this matter. Discussion is held regarding the claims that will be pursued and those that will not be pursued.

Discussion is held regarding the contents of Attachments A and B to the United States' Report. The Court notes that in **Attachment A** to the Report, there are approximately 23 Statements of Claimant that need to be dismissed.

STATEMENTS OF CLAIMANT LISTED BY U.S. TO BE DISMISSED		
39-14488	39-373	39-4301
39-13996	39-13626	39-14508
39-974	39-5372	39-964
39-5372	39-5373	39-11936
39-12709	39-977	39-979
39-14491	39-4283	39-12692
39-13994	39-14489	39-14490
39-14501	39-14502	39-5471
39-5472		

Discussion is held regarding certain Watershed File Reports (“WFRs”).

Regarding Watershed File Report #111-24-CCB-011, Case No. W1-11-1374, the Court inquires if this case has concluded. Mr. Leininger reports that there needs to be more investigation of Statement of Claimant 39-370.

Regarding Watershed File Report #111-24-082, Case No. W1-11-1211, the Court inquires if this case has concluded. Mr. Leininger reports that this case is finished.

Regarding Watershed File Report #111-20-065, Case No. W1-11-252, the Court inquires if this case has concluded. Mr. Leininger reports that this case is finished.

With respect to **Attachment B**: the Court notes that there are a number of claims being asserted, but they are not tied to a WFR. Since ADWR has not investigated them, and there is no SOC, the Court feels that this case cannot move forward on these claims.

Mr. Leininger states that these claims had originally been claimed as a part of a water right and then withdrawn. He reports that for purposes of identifying the surface water rights, they are *de minimis* claims around the San Pedro Riparian National

Conservation Area (“SPRNCA”) and they are used primarily for natural resource and wildlife purposes.

Ms. Brennan does not believe that this case can proceed without an investigation from ADWR. She defers to ADWR. She has no strong opinion today if the matter should be included in San Pedro I or II.

Mr. Foy reports that he prefers to address the SPRNCA claims now; and states that perhaps ADWR can investigate amended WFRs. Because there are certificates pending, this may not be possible.

Mr. Leininger is unsure if the land in which the claims in Attachment B are being made are included in any other WFR.

Mr. Heiserman is in agreement with Ms. Brennan. He prefers to wait to hear from ADWR about what it feels is the most effective way of addressing these claims.

Mr. Sparks states that each claim needs its own WFR to proceed. He has no opinion about amending a WFR which may be pertinent to a previous landowner. He believes that a WFR is required no matter how nominal the claim is. He feels that if the WFRs are amended, the mailing list should be under the SPRNCA case. If the WFR is under San Pedro II, then need a comprehensive mailing list.

Mr. Palmer states that the Tonto Apache Tribe agrees with the San Carlos Apache Tribe (Mr. Sparks’ statements).

Ms. Interpreter agrees with Ms. Brennan and would like input from ADWR regarding the best way to move forward. She is leaning toward placing the claims in San Pedro II.

Ms. Jovanovich is in agreement with Ms. Brennan and Mr. Heiserman.

Mr. Akpolo states that due to the number of claims involved in Attachment B to the United States’ Report, he believes ADWR should investigate these claims as part of San Pedro II HSR.

No objections having been made by counsel,

IT IS ORDERED that the claims in Attachment B for which there are no existing WFRs will be investigated as part of the San Pedro II HSR provided that the claims are submitted to Arizona Department of Water Resources on the Statement of Claimant forms. Mr. Leininger shall file the necessary Statements of Claimants.

Discussion is held regarding the remaining issues in Attachment B.

Regarding WFR 111-23-AAA-01 referenced in the U.S. Report on Attachment B, the Court believes that the correct number for this WFR is: WFR 111-23-AAA-001 which is associated with W1-11-0629. Contested case no. W1-11-0629 has been consolidated with this matter. Mr. Leininger states that he needs to cross-check the SOCs with the above-mentioned WFR.

The Court notes that Statements of Claimant No. 39-0371 and 39-4275 are already included in SPRNCA.

Statement of Claimant 39-12707 was dismissed on December 3, 2021. Mr. Leininger will double check these concerns. The Court will consider reinstating Statement of Claimant 39-12707 if required by BLM. (See Minute Entry dated: 12/3/2021).

Statement of Claimant 39-12686 was filed by Tennaco, and is included in WFR 111-24-CCB-011, contested case no W1-11-1374, and not by BLM. Contested case no. W1-11-1374 was consolidated with this matter (SPRNCA). The Court notes that many of the SOCs in this case were not filed by BLM; they were filed by the Victorio Company.

Regarding WFR 111-20-032, Case No. W1-11-232, neither of the SOCs listed in Attachment B, 39-2616 and 39-2612, were filed by BLM. Discussion is held. Mr. Leininger will review this file.

In Contested Case No. W1-11-1344, there is a Status Conference scheduled on October 27, 2022. This matter has not been consolidated with SPRNCA. For the reasons stated on the record, W1-11-1344 will not be consolidated with SPRNCA. Discussion on the matter raised in the U.S. Report will be held at the Status Conference scheduled in Contested Case No. W1-11-1344.

Ms. Ransom states that she has had discussions with Mr. Brown on this case. She would like for Mr. Leininger to join her and Mr. Brown on a site visit. Mr. Brown believes that this case can be resolved.

Discussion is held regarding Louis Springs South. Mr. Leininger will inform the Court at the next status conference which WFR is associated with this case.

Regarding State Law In-Stream Flow claims: the Court notes that each claim is associated with a WFR. There are pending applications for water rights in this matter. The Court inquires of Mr. Leininger if he has had discussions with the parties and asks if this case can be resolved by a stipulated abstract. Mr. Leininger states that he will draft a stipulated abstract and circulate it among the parties.

Mr. Akpolo reports that ADWR cannot give a projected timeline for a decision on the outstanding instream flow claims because ADWR is waiting for documents from BLM regarding their in-stream flow applications. Discussion is held.

Discussion is held regarding federal reserved water right claims for SPRNCA. Mr. Leininger states his explanation on the record.

The Court notes that draft abstracts for *de minimis* water rights were prepared some time ago in this matter, and the Court is homing in on the claims that the United States intends to pursue. Discussion is held.

The Court will begin the process by preparing draft abstracts for review by ADWR.

2:23 p.m. Matter concludes.

LATER:

IT IS ORDERED that the following Statement of Claimants are dismissed:

39-974	39-12709
39-977	39-13626
39-979	39-13994
39-4283	39-13996
39-4301	39-14488
39-5372	39-14489
39-5373	39-14490
39-5471	39-14491
39-5472	39-14501
39-11936	39-14502
39-12692	39-14508

IT IS FURTHER ORDERED that contested cases W1-11-0252, W1-11-1211, and W1-11-2187 are severed from this case.

IT IS FURTHER ORDERED setting a status conference on **September 29, 2022, at 4:00 p.m.**

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. Alternatively, you may attend telephonically using the following instructions:

Instructions for telephonic appearance:
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 parties on the Court-approved mailing list for this case.

NOTE: All court proceedings are recorded digitally and not by a court reporter. *The parties or counsel may request a CD of the proceedings.* For copies of hearings or trial proceedings recorded previously, please call Electronic Records Services at 602-506-7100.



Court Connect Hearing Notice for In re SPRNCA

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 SPRNCA, Contested Case No. W1-11-0232

Start Date/Time: September 29, 2022, at 4:00 p.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](#)

