

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

October 27, 2022,

CLERK OF THE COURT

SPECIAL WATER MASTER
SUSAN WARD HARRIS

T. DeRaddo
Deputy

In re: Craig McDowell and Craig Manufacturing
Contested Case No: W1-11-1344

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: 11/4/2022

In re: Status Conference

MINUTE ENTRY

Courtroom CCB - 301

2:03 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.

- Kome Akpolo and Kimberly Parks on behalf of ADWR
- Brad Pew and Christina Jovanovic on behalf of ASARCO
- John Burnside on behalf of BHP Copper
- Tom Murphy on behalf of the Gila River Indian Community
- David Brown on behalf of Echoing Hope Ranch
- Laurel Herrmann and Joseph Sparks on behalf of the San Carlos Apache Tribe
- Richard Palmer on behalf of the Tonto Apache Tribe
- Sarah Ransom on behalf of the successors of the Colby Family Living Trust
- Sue Montgomery on behalf of the Yavapai Apache Nation and observing on behalf of the Pasqua Yaqui Tribe
- Lee Leininger on behalf of the United States Dept. of Justice
- Mark McGinnis on behalf of Salt River Project (SRP)

- Bella Vista Ranches Limited Partnership is not represented
- Liberty Utilities / Bella Vista Water Corp is not represented

Sarah Ransom informs the Court that she does not represent the Colby Family Living Trust, but she does represent the successors, Susan Colby and Becky Davis and their respective trusts.

Sarah Ransom states that she represents Pueblo Del Sol Water Company, but it has withdrawn its objection in this case.

The Court notes that Mr. Leininger provided a very comprehensive report regarding the issues in this case. The issues are still under discussion. Several parties attended a meeting, and there are ongoing questions about the locations of the wells.

Mr. Leininger states that he proposed to draft abstracts to correctly identify the locations of the wells, identify the ownership of the wells, and circulate the information. He states that once certain information is compiled, he intends to draft abstracts.

Mr. Brown states that this week he had a lengthy meeting between his team and the United States. Mr. Brown states that he submitted draft abstracts to all of the parties a while ago. He received comments from SRP and from the United States. Mr. Brown states that he resolved all of the comments with SRP. There are still issues with the United States. He states that Mr. Brown's team and counsel from the United States concluded that they would like to request additional time to work on the issues.

Mr. Brown states that he needs time to work on resolving the remaining issues and to research information.

Mr. Brown requests that the time be extended to January 15, 2023, to submit another states report.

Sarah Ransom states that her clients have a newer well drilled in 2000 that appears to be outside of the sub flow zone. Based upon certain claims by Echoing Hope, the Colby and Davis parties had believed they may be able to utilize an earlier claim date. However, the parties have now abandoned that idea.

Ms. Ransom moves to stay this matter until the determination of the subflow depletion test based on the depiction of the well located outside the subflow zone on ADWR's website. She does not believe that this well is included in the WFR. Earlier on there was the potential to claim a transition in use, but as the case developed further, and due to having discussions with Mr. Brown, her clients elected to forego any of those types of claims and will remain with the year 2000 drill date.

Discussion is held with the Court regarding the best way to proceed with the case.

Ms. Ransom states that she was not aware of the discussions between Mr. Brown and the United States and would like to talk with Mr. Brown and her clients to decide the best way to proceed.

The Court read and considered Ms. Ransom's Motion to Stay the Case.

Ms. Ransome requests that the Court order ADWR to make a map and with the location of the wells relative to the boundaries of the subflow zone so that her clients can make an informed decision about how they would like to proceed.

Joseph Sparks states that he filed objections originally and has been following the case closely. He states his position on the record regarding the meetings taking place with Mr. Brown and the United States. He requests to be included in those discussions. He states that the abstracts that would have been created/filed would not be correct and they would need to be edited before they are accurately depicted on a map.

Mr. Sparks states that he has not received abstracts yet; therefore the date that Mr. Brown proposes – January 15, 2023 – may not be enough time to review the documents.

Mr. Brown and Mr. Leininger are still in discussions. The Court states that Mr. Sparks believes that the information may need to be edited to be correct.

Mr. Leininger will be suggesting changes but believes that the issues will be resolved. Mr. Leininger believes that he will be able to distribute abstracts to all objectors by the third week in December.

Mr. Sparks advises the Court of his thoughts on the record. Mr. Sparks would not be required to respond to the abstracts until after the status report is filed.

Sarah Ransom states that ADWR advised her that they need an Order from the Court to create a map and report for her clients.

LET THE RECORD REFLECT that the Court is not inclined to ask ADWR to work on this matter if this claim will not be included in this adjudication.

Ms. Ransom states that she has submitted abstracts on behalf of her clients (Colby and Davis) to the United States that does not claim a priority date of 2000.

IT IS ORDERED granting Mr. Brown's request to extend the time to January 17, 2023, to submit a status report or file stipulated abstracts.

2:22 p.m. Matter concludes.

LATER:

IT IS FURTHER ORDERED Denying the Motion to Stay Case as to Claimants Susan R. Kolbe Living Trust and Rebecca S. Davis Revocable Living Trust Pending Approval of Subflow Depletion Test.

IT IS FURTHER ORDERED that Arizona Department of Water Resources shall determine the exact location of that well with the registration number 55-580455 and map it relative to the boundaries of the subflow zone and file a report which states whether the well is inside or outside the boundaries of the subflow zone. The map and report shall be filed by **December 9, 2022**.

IT IS FURTHER ORDERED that the trustees of Susan R. Kolbe Living Trust and Rebecca S. Davis Revocable Living Trust shall file a notice no later than **December 23, 2022**, which states whether they are renewing their Motion to Stay based on the information provided by ADWR. The notice shall also advise whether they are claiming a priority date of 2000, in which case the claim will be dismissed from this case and will be the subject for further investigation by ADWR as part of the San Pedro II HSR.

IT IS FURTHER ORDERED that Mr. Brown and Mr. Leininger shall distribute a complete set of proposed forms of abstract to all Objectors by **December 23, 2022**. The Objectors shall deliver comments, if any, to the proposed forms of abstracts to Mr. Brown and Mr. Leininger by **January 10, 2023**.

A copy of this minute entry will be sent to all people on the court-approved mailing list for this matter.

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.