

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

8/18/22

CLERK OF THE COURT

SPECIAL WATER MASTER
SUSAN WARD HARRIS

T. DeRaddo
Deputy

In re: St. David Irrigation District
Contested Case No: W1-11-1675

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: 8/30/22

In re: Status Conference

MINUTE ENTRY

Courtroom CCB - 301

2:30 p.m. This is the time set for a Status Conference before Special Water Master, Susan Ward Harris re: St. David Irrigation District.

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

- Christina Jovonovich on behalf of ASARCO
- Tom Murphy on behalf of the Gila River Indian Community
- Mark McGinnis and Katrina Wilkinson on behalf of Salt River Project (“SRP”)
- John Burnside of BHP Copper, and observing on behalf of the St. David Irrigation District
- David Brown on behalf of the St. David Irrigation District
- Joe Sparks and Laurel Herrmann on behalf of the San Carlos Apache Tribe
- Steve Titla observing on behalf of the San Carlos Apache Tribe
- Kimberly Parks on behalf of the Arizona Department of Water Resources (“ADWR”)
- Candace Begody on behalf of the Tonto Apache Tribe
- Michael Roland for the City of Mesa

- Robin Interpreter of behalf of the Yavapai Apache Nation
- Jenny Winkler on behalf of the City of Chandler

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

The Court intends to discuss (1) which cases should be joined in this case and (2) the two procedural issues raised by St. David Irrigation District.

With respect to Rose Guisti and Jason and Cynthia Martin, Mr. Brown states that in the past the particular well at issue may have been used as a municipal well, but is not currently being used. Mr. Brown states that the well has nothing to do with the District; and does not believe that this matter should be included in the St. David Irrigation District case.

With respect to the *St. David Domestic Water Improvement District* WFR, Mr. Brown states that this matter should not be joined/included in the St. David Irrigation District case.

As a matter of clarification, Mr. Brown states that he may have inadvertently misled the Court with respect to the Martin case. Mr. Brown states that with respect to the Martin property, the applicable WFR is 112-17-DBA-070. The “70” parcel of land was irrigated in the HSR map and denotes three wells on the property. These are the same three wells that are indicated by the well registration numbers that the Court has in its order. Mr. Brown states that WFR is and should be part of the St. David Irrigation District case: they are members of the St. David Irrigation District. The Court informs counsel that she will review WFR 12-17-DBA-070.

With respect to *Cochise County Investments, LLC*, Mr. Brown affirms that this matter currently does not need attention.

With respect to *Jacob and Jennifer Kartchner*, Mr. Brown states that reported GPS location for the well was incorrect. The W1-11-1986 Kartchner case was correctly consolidated with the St. David Irrigation District matter. The W1-11-1983 case is further to the north and does not involve the Kartchners. Mr. Brown states that he earlier incorrectly requested that the Court consolidate this case with St. David Irrigation case. Mr. Brown now requests that the Court not consolidate it because it does not involve the Kartchners.

With respect to *Enclave St. David*, Mr. Brown reports that nothing needs to be done with respect to W1-11-2186. Claims made on behalf of Enclave St. David by the St. David Irrigation District are already consolidated in this matter.

With respect to *Least Agriculture, LLC*, Mr. Brown reports that a municipal well is located on the property. Mr. Brown does not know if this well is in use. If it is being it may have been converted to a “Domestic Water Improvement District,” or it may be a private water company that provides drinking water to the Pomerene residents. Mr.

Brown states that he does not believe that this matter should be consolidated with the St. David Irrigation District case.

Discussion is held regarding a Request for Clarification. A request was made to send the abstracts separately and by email. This request would be amenable to the Court.

The Court suggests that once the Notice is sent out perhaps the Court can deconsolidate the five cases. Using this procedural approach, each selected case would have its own unique mailing list; thus those cases would not use the entire St. David Irrigation District mailing list. Mr. Brown believes this is a helpful idea.

The Court inquires of the parties and counsel if they have any objections to the procedure that once a case is designated, the Court will issue an order that deconsolidates those cases from the St. David Irrigation District case; creates a Court-approved mailing list that consists of the landowner, the claimants, the objectors, and any party who moves to be added to the mailing list.

Mr. Brown offers a clarification that the cases may be deconsolidated for the purpose of logistics, but those cases are still a part of the St. David Irrigation District case because that is the Statement of Claim and Statement of Claimant under which those cases are operating.

Mr. Sparks states that St. David may make the claim on behalf of the claimant, but that St. David is not the actual owner of the claimed water right. Given that distinction, Mr. Sparks is in agreement that the Court should break the cases apart by deconsolidating them and give each case its own mailing list but all of the original objectors should remain on the mailing list.

Ms. Winkler asks if she will need to file motions to request to remain on each mailing list. The Court will grant any requests made to continue on the mailing list for each case.

Mr. Brown states that once he designates a case he will need time to issue the abstracts. (Sixty days from the date of the case management order.) There are 6-8 properties in WFR-112-17-DBB-21. Mr. Brown states that he is working diligently to mail out the abstracts to the objectors. Mr. Brown requests that for efficiency, and only in the first “tranche” of cases, the Court allow him to send out the papers now and in the future he will follow the procedures set in place.

Mr. Sparks prefers that the files be complete prior to Mr. Brown sending out incomplete documents.

2:51 a.m. Matter concludes.

LATER:

Rose Guisti

A copy of the order was sent to Ms. Guisti at the last known address provided by the Cochise County Treasurer. Ms. Guisti did not appear at the status conference. Ms. Guisti has not filed a Statement of Claimant with the Arizona Department of Water Resources. Arizona Department of Water Resources did not include a watershed file report in the San Pedro Hydrographic Survey Report about water use on tax parcel 121-06-018. St. David Irrigation District does not move to include any claims for water use on tax parcel 121-06-018 in this case. Accordingly, no action will be taken in this case to adjudicate any water rights for tax parcel 121-06-018.

Jason and Cynthia Martin

A copy of the order was sent to Mr. and Mrs. Martin at the last known address provided by the Cochise County Treasurer. Mr. and Mrs. Martin did not appear at the status conference. The St. David Irrigation District asserts that the land owned by Mr. and Mrs. Martin was included in the investigation of water uses in the Zone 2 Well Report 112-17-DBA-070, contested case W1-11-2084. Arizona Department of Water Resources named Garvan and Carol Bowman as the landowners in the Zone 2 Well Report 112-17-DBA-070 and described the place of use as on Section 5 Township 18E Range 21E. *Figure 1* shows the location of the land, which is labelled as “(70),” investigated by the Zone 2 Well Report. The Zone 2 Well Report found 7.4 acres of irrigated land.

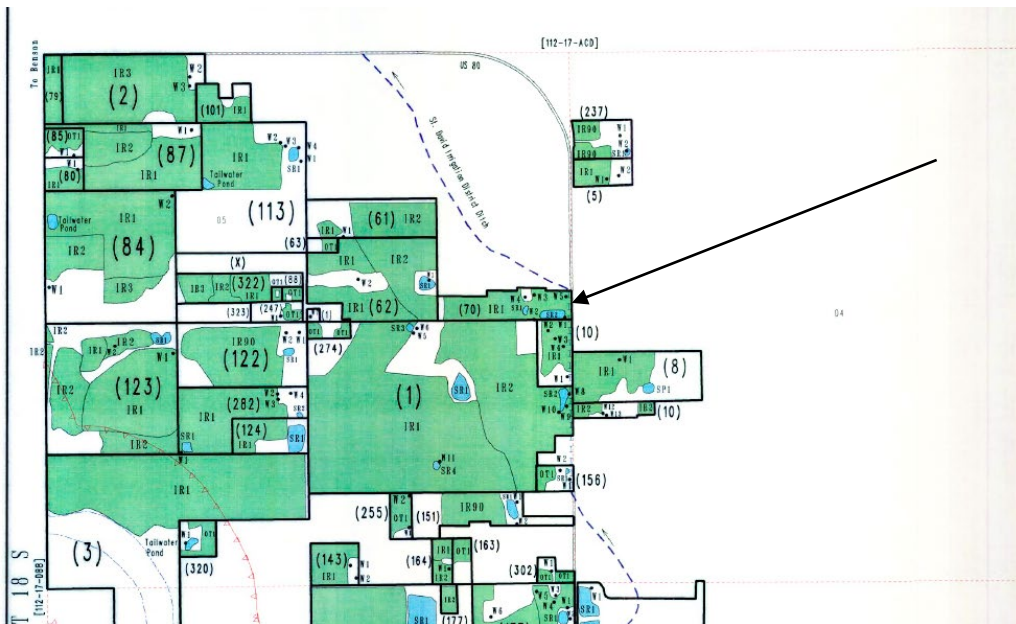


Figure 1. Map of water uses prepared by ADWR in Section 5, Township 18S Range 21E. The boundaries of the investigated land are outlined in black and identified by a number in parenthesis.

Source: Vol 9 San Pedro HSR at 103.

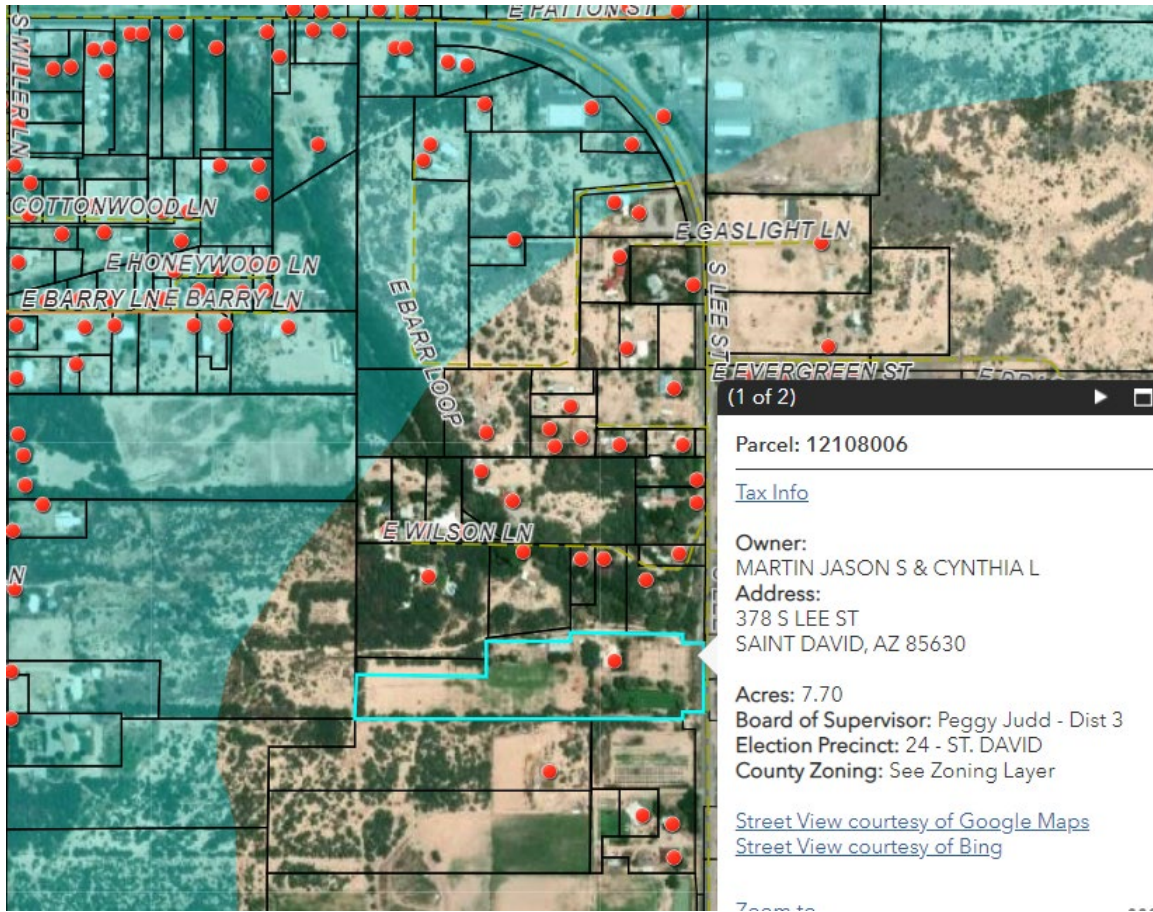


Figure 2. Cochise County Treasurer map showing tax parcel 121-08-006.

According to the Cochise County Recorder's office, Garvan and Carol Bowman owned tax parcel 121-08-006 in Section 5 Township 18E Range 21E until they transferred it into trust. Deed recorded at Fee # 021137224 with the Cochise County Recorder on November 20, 2002. In 2013, a Special Warranty Deed was recorded that named the Bowman Trust – A Portion as the Grantor and Jason and Cynthia Martin as the Grantees. Deed recorded at 2013-25601 with the Cochise County Recorder on November 12, 2013. The Order Setting Status Conference dated July 27, 2022, included the map shown in *figure 1* and erroneously marked the area north of the land labelled as "(70)" as the land included in tax parcel 121-08-006. Counsel for the St. David Irrigation District is correct that tax parcel 121-08-006 is the land labelled as "(70)" and the subject of the Zone 2 Well Report 112-17-DBA-070. See *figures 1* and 2. Contested case W1-11-2084 is consolidated with *In re St. David Irrigation District*, W1-11-1675.

St. David Domestic Water Improvement District

Contested case W1-11-1642 associated with the Zone 2 Well Report 112-17-044 shall not be consolidated with this contested case.

Pomerene Water Users Association

Contested case W1-11-1635 associated with the Zone 2 Well Report 112-17-037 shall not be consolidated with this contested 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.

A copy of this order is mailed to all parties on the Court-approved mailing list for this contested case.