

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

12/02/2021

SPECIAL WATER MASTER SUSAN WARD HARRIS

In re: The General Adjudication of All Rights To Use Water in the Gila River System and Source
Contested Case No. W1-11-2805
Contested Case Name In Re SLD Paul Sale Investment Company

In Re: Status Conference

CLERK OF THE COURT

L. Brown

Deputy

FILED: 12/13/2021

MINUTE ENTRY

Central Court Building- Courtroom 301

1:30 p.m. This is the time set for a Status Conference In Re: SLD Paul Sale Investment Company before Special Master Susan Ward Harris.

The following attorneys and parties appear via Court Connect/ Microsoft Teams and via telephone:

- Mark McGinnis on behalf of Salt River Project (“SRP”)
- Kimberly Parks, on behalf of Arizona Department of Water Resources (“ADWR”)
- Richard Palmer on behalf of the Tonto Apache Tribe
- Joseph Sparks on behalf of San Carlos Apache Tribe
- Kevin Crestin on behalf of the Arizona State Land Department
- Rhett Billingsley on behalf of ASARCO, LLC
- Sue Montgomery on behalf of the Yavapai Apache Nation (observing on behalf of the

Pascua Yaqui Tribe)

- Thomas Murphy on behalf of Gila River Indian Community
- John Burnside on behalf of BHP Copper

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

The Court address the parties. At the last status conference we discussed what we would do after the parties have had a chance to file disclosure statements and the parties have had a chance to talk. State Land Department has moved for a stay and BHP Copper has proposed a stay in its disclosure statement.

Mr. McGinnis address the Court. We would support the Land Departments motion to stay pending the Superior Court's decision in the St. David case. First of all, the property is state trust land adjacent to SRP and the San Pedro River Preserve. We are the lessee and not the holder of the right, but it is part and parcel of the Preserve. We have been in settlement discussions with various parties in the Paul Sale case and we have until March 4, 2022 to get those done. With some of those parties the discussions are broader than just Paul Sale and with some of those parties it will include discussions about this particular claim by the Land Department. These actions favor a stay at least until March 4, 2022.

The broader question is what the Court will do with all these cases that are affected by the St. David ruling and the Huachuca City ruling while we are going through the process with Judge Brain. This case will not be like the Driggs case in that I assume the Land Department and I think SRP also will be raising other defenses to forfeiture, some will be factual and some will be legal. It makes since to stay this case pending the pre 1919 decision so that we don't waste a bunch of money dealing with facts about forfeiture. We did disclosure statements a month ago and did it with the understanding that the St. David case will resolve the pre-1919 issue. If the Court decides not to stay the case we will supplement our disclosure statement to deal with more specific defenses to forfeiture. We support the Land Departments motion for a stay at least until March 4, 2022.

The Court asks if the settlement would include this land.

Mr. McGinnis states the scope has been broader with some of the parties but not with all of them. He is not sure it will resolve this case in total, but will change who is at the table.

The Court asks why wouldn't it include all of the land.

Mr. McGinnis states some parties have a different view of this case than they do the Paul Sale case. All of the Paul Sale claims will be in-stream flows because SRP intends to file a separate transfer application and he doesn't think the Land Department intends to do that with this irrigation right.

Mr. Crestin states he believes Mr. McGinnis is correct in this case.

The Court states a willingness to stay the case until March 4, 2022, if the parties believe they can resolve part of it by that date.

Mr. McGinnis states that he thinks we will resolve all of it with some of the Objectors, but not other Objectors. The Objectors have different views about forfeiture and the Objectors have different views about in-stream flows and, depending on the Objector, one of those two issues predominates over the other one and it is not necessarily the same one for every Objector. My suggestion is to set a status conference in this case after March 4, 2022 and that will allow us time to see what objections we can resolve. It also allows us time to supplement our disclosure if the Court decides to not stay this matter after March 4, 2022.

Mr. Sparks states he has heard all of the discussion and agrees with Mr. McGinnis and that a substantial number of the objections can be resolved in that March timeframe.

Mr. Billingsley states that he supports Mr. McGinnis's comments and setting a status conference for March to follow up on the case to provide time for the parties to discuss settlement.

Mr. Crestin states we will accept Mr. McGinnis's proposal.

Mr. Murphy states the community does not oppose staying the matter and setting a status conference in March. Given that the State Land Department has admitted in its pleadings to the non- use and the underlying facts supporting forfeiture, there were no references in its initial disclosure to any defenses to forfeiture, so he is not certain if we get beyond that point what there would be to try in that case. The Community does not oppose setting a status conference in March to see what the parties may be able to do in terms of a settlement.

Mrs. Montgomery states we have no objection to Mr. McGinnis's proposal.

Mr. Palmer states we have no objection either.

IT IS ORDERED denying Mr. Crestin's request for a stay.

IT IS FURTHER ORDERED granting a stay until March 4, 2022.

1:43 p.m. Matter concludes.

LATER:

IT IS FURTHER ORDERED that a Status Conference shall be held on **March 17, 2022 at 1:30 p.m.** The Status Conference shall 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. You may also attend telephonically using the following numbers:

Instructions for telephonic participation:
Dial: 602-506-9695 (local)
1-855-506-9695 (toll free long distance)
Dial Collaboration (conference) Code 357264#

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



Court Connect Hearing Notice for In re SLD Paul Sale Investment Company

All participants must use the JOIN COURT CONNECT HEARING button or the dial in information below to participate.

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Remember to keep this email handy so you can use it to participate in the following proceeding.

Case Name: In re SLD Paul Sale Investment Company, Contested Case No. W1-11-2805

Start Date/Time: March 17, 2022 at 1:30 p.m.

JOIN COURT CONNECT HEARING

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