

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

April 6, 2023

CLERK OF THE COURT
A.Parmar
Deputy

SPECIAL WATER MASTER
SHERRI ZENDRI

FILED: April 12, 2023

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

In re: David & Fay Gard
Contested Case No. W1-11-2726

MINUTE ENTRY

Courtroom 301 – Central Court Building

1:30 p.m. This is the time set for a Status Conference to obtain an update from the parties before Special Water Master Sherri Zendri.

The following parties/attorneys appear virtually through Court Connect:

- Kimberly Parks on behalf of Arizona Department of Water Resources (“ADWR”)
- Brad Pew on behalf of American Smelting and Refining Company (“ASARCO”)
- Mike Foy on behalf of Salt River Project (“SRP”)
- Joe Sparks and Laurel Herrmann on behalf of the San Carlos Apache Tribe
- Sue Montgomery on behalf of the Yavapai Apache Nation (and observing on behalf of Pascua Yaqui Tribe)

- Yosef Negose on behalf of the United States Department of Justice, Bureau of Indian Affairs
- Maggie Woodward on behalf of the United States Proprietary Agencies

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

The Court notes that the landowners, Joel and Donna Quisenberry, have failed to appear. The Court inquires if the parties have received anything from the landowners since the last Status Conference.

Discussion is held regarding the progress since the last hearing. The parties report that they have not received anything or heard from the landowners since the last hearing.

The Court inquires as to the parties' positions regarding proceeding under the *de minimis* procedures as to the domestic use claim.

Mr. Foy does not see a reason why the claim cannot proceed under the *de minimis* procedures.

Mr. Sparks believes the claimants' rights should be adjudicated together and does not believe it is appropriate to proceed with the domestic use claim separately.

Mr. Pew does not have an objection to proceeding under the *de minimis* procedures.

Mr. Sparks requests the Court hold an Order to Show Cause Hearing to allow the parties another chance to appear before the Court before dismissing the claims.

Mr. Pew addresses the Court. He does not oppose giving the landowners more time before dismissing the claims.

Ms. Montgomery concurs with Mr. Pew and Mr. Sparks.

Mr. Negose joins in Mr. Spark's request and believes it may help the landowners in getting reinvested in the case.

Mr. Foy does not oppose Mr. Spark's proposal.

The Court will set either an Order to Show Cause Hearing or Status Conference later in today's Minute Entry.

1:41 p.m. Matter concludes.

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

LATER:

It is understood that contested case proceedings can be complicated and challenging; however, the Court reminds all parties that self-represented litigants are held to the same law and rules as attorneys and are expected to timely comply with all Court instructions and attend all scheduled hearings unless otherwise excused by the Court. This case cannot move forward without additional information and participation by the landowners, Joel and Donna Quisenberry.

IT IS ORDERED that the Quisenberrys remain obligated to present to the Court and all parties to this proceeding historical records to document a legal basis for any potential water right. This means documentation of the sale of the property through time in addition to evidence that the land that the Quisenberrys now own is the same land where people had been living and using water for irrigation since before 1919.

IT IS FURTHER ORDERED setting a telephonic Status Conference on **May 5, 2023, at 11:00 a.m.** for the Quisenberrys to explain to the Court the reason for their failure to attend the April 6, 2023 Status Conference as well as their progress in collecting, and distributing to all the other parties, the documentation requested by the Court.

IT IS FURTHER ORDERED that as the landowners claiming a potential water right, should the Quisenberrys fail to appear at the Status Conference on **May 5, 2023 at 11:00 a.m.** this case will be dismissed.



Court Connect Hearing Notice for In re David & Fay Gard

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 David & Fay Gard, Contested Case No. W1-11-2726

Start Date/Time: May 5, 2023, at 11:00 a.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](#)

