

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

November 6, 2020

CLERK OF THE COURT

SPECIAL WATER MASTER
SUSAN HARRIS

T. DeRaddo

Deputy

In re: El Potrero
Contested Case No. W1-11-2710

FILED: 11/10/2020

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

In re: Status Conference

MINUTE ENTRY

Courtroom: CCB 301

2:00 p.m. This is the time set for a status conference before Special Master Susan Ward Harris.

The following attorneys and parties appear telephonically:

- Bradley Pew on behalf of ASARCO
- Michael K. Foy on behalf of Salt River Project
- Kimberly Parks on behalf of Arizona Department of Water Resources (“ADWR”)
- Joe Sparks and Laurel A. Herrmann on behalf of the San Carlos Apache Tribe
- Jay Tomkus on behalf of the Yavapai-Apache Nation, and observing for the Pascua Yaqui Tribe.
- John D. Burnside on behalf of BHP Copper
- Richard Palmer on behalf of the Tonto Apache Tribe
- Tom Orum, representative of The Sweetwater Center.
- Fred Weiner appears as the Trustee of the Frederick Lloyd Weiner Revocable Trust (“Trust”)

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

The purpose of the Status Conference is to address the actions listed in the Sweetwater Center's Status Report. Discussion is held regarding The Sweetwater Center's claims for domestic and irrigation water rights.

Mr. Weiner states that he believes that he has a claim for water rights on his 4-acre property. Mr. Weiner states that he has not seen any maps that were prepared by ADWR. He plans to make a claim for water rights.

Mr. Orum advises the Court that he believes that Mr. Weiner should file a claim because The Sweetwater Center shares a well with Mr. Weiner. Mr. Orum is uncertain if The Sweetwater Center should partially assign its existing claims to Mr. Weiner, or if Sweetwater and Mr. Weiner should file separate claims for water from the well. Discussion is held.

Mr. Orum states that the well in question is on Mr. Weiner's property, which was formerly owned by El Potrero. Mr. Orum advises the Court that the well was built in 1997 and a well-sharing agreement has been entered into between the property owners.

The Court advises the parties that the Watershed File Report was created prior to 1997. The well that ADWR included in its report is located on the southeastern corner of the property. The well discussed by Mr. Orum that is the subject of the well-sharing agreement is located in a different part of the land.

Counsel make their positions known. Mr. Sparks states that since a claim is being made with respect to the northern part of the property, there is no WFR. He believes a claim should be made in the form of an application to ADWR to appropriate sub-flow for the second well.

Mr. Pew requests clarification as to whether a portion of the 4-acre parcel was included in the WFR. He said that his position is that Mr. Orum needs some additional time to sort out the land issue, provide clarification about his claim, and collect historical documentation identified in the motion.

Mr. Foy requests that after all of the proper filings with ADWR have been submitted by Mr. Weiner, the Court set another hearing.

The parties agree that more clarification regarding claims and the land involved in the WFR is necessary in this matter.

The Court advises the parties and counsel that it will only adjudicate water rights for water that is used on property within the boundaries of the WFR and was the subject of the WFR.

Mr. Burnside makes the proposal that the case move forward with the well outside the WFR on the grounds that it is just a change in point of diversion as long as the use is within the WFR.

For the reasons stated on the record,

IT IS ORDERED that ADWR shall prepare a map that:

1. Identifies the portion of the land owned by The Sweetwater Center, Cochise County Tax Parcel no. 209-31-009A, and the Trust, Cochise County Tax Parcel no. 209-31-009B, included in the boundaries of the land investigated by WFR 113-12-DBC-014.

2. Determines the portion of the IR002 field that it is on The Sweetwater Center property and how much is on Mr. Weiner's property.

IT IS FURTHER ORDERED the above-mentioned map is due by **December 7, 2020.**

IT IS FURTHER ORDERED granting the extension requested by Mr. Orum on behalf of The Sweetwater Center until **February 1, 2021** at which time The Sweetwater Center will either file a Status Report or Stipulated Abstracts.

IT IS FURTHER ORDERED that Frederick Weiner as trustee of the Frederick Lloyd Weiner Revocable Trust is added to the Court-approved mailing list.

2:39 p.m. Matter concludes.

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