

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

03/11/2021

CLERK OF THE COURT
Form V000

SPECIAL WATER MASTER
SUSAN WARD HARRIS

L. Stogsdill
Deputy

W-1, W-2, W-3, W-4 (Consolidated)
Contested Case No. W1-11-2789

FILED: 03/22/2021

In Re: The General Adjudication of
All Rights to Use Water in the Gila
River System and Source

Re: Status Conference *In re: H. Clifford and Carolyn Dobson*

MINUTE ENTRY

Courtroom CCB - 301

1:30 p.m. This is the time set for a telephonic Scheduling Conference before Special Water Master Susan Ward Harris.

The following attorneys telephonically appear: Carla A. Consoli on behalf of AZ Chapter of the Nature Conservancy; David A. Brown on behalf of Ted and Leslie Hall, H.C. Dobson Jr. Ranch Property, LLC, Ted Jarvey and Rocky and Evenette Greenfield; Joe P. Sparks and Laurel A. Herrmann on behalf of San Carlos Apache Tribe; Mark A. McGinnis on behalf of the Salt River Project ("SRP"); Rhett Billingsley on behalf of ASARCO; John D. Burnside on behalf of BHP Copper; Richard Palmer on behalf of Tonto Apache Tribe; and Kimberly R. Parks on behalf of the Arizona Department of Water Resources ("ADWR"). The following parties appear telephonically: Robert Mark Dell'Oliver appears on his own behalf.

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

Ms. Consoli advises the Court of the status of the abstracts in this matter and states that the abstracts are ready to be sent to parties. Ms. Consoli requests the Court to set a schedule to have suggested modifications from the parties sent to her for updating and completing the abstracts.

Ms. Consoli further advises the Court there were 3 Parcels (#1, 3 and 4) sold to landowners by the Nature Conservancy and some of those parcels have since been resold or subdivided. Abstracts have been prepared for Parcels 1, 3, and 4; abstracts have been prepared for Parcels 2 and 5 that Nature Conservancy still owns; and, abstracts have also been prepared relating to uses that are the subject of a sever and transfer application. ADWR has not acted on the sever and transfer application. The abstracts have been prepared so that the parties could move forward on them while ADWR is working on the sever and transfer application.

Ms. Consoli identifies Parcel 1 as the land sold by the Nature Conservancy to the Dewels and then the Dewels divided it. The abstract for Parcel 1 is not separated out for Parcel 1A versus 1B because her client was not privy to the separation of those parcels, the representations and warranties made about the separation and what water would go where. She prepared abstracts for Parcel 1 for stock watering, irrigation, and domestic use. She thinks that Dell'Oliver, Longley, and Three Bar K would need to look at the abstracts and determine who is supposed to have what water based on contracts with the Dewels.

Mr. Brown says that he not had any conversations with that Dell'Oliver or Longley. Mr. Brown says that the abstracts need to reflect current ownership. He would use information from Nature Conservancy, would obtain information from the National Archives, and prepare abstracts for the land that belongs to Three Bar K.

Mr. Dell'Oliver advises the Court that he has not had any discussions with anyone relative to the division of water between Parcel 1A and Parcel 1B.

Ms. Consoli stated that the Nature Conservancy has allocated the claims for domestic, irrigation, and stock use across the five parcels and done all of the amendments and assignments up to the point of the sale to the Dewels. She proposes that Dell'Oliver, Longley, and Three Bar K take the abstracts for Parcel 1 and determine who is supposed to receive what portion of the claims included in the abstract.

Ms. Consoli stated that she has abstracts for Parcels 2 and 5 which are owned by the Nature Conservancy.

Ms. Consoli said that abstracts have been prepared for Parcels 3 and 4. The Nature Conservancy sold Parcel 4 to Jarvi and Hall so that is a direct contract. Parcel 3 was sold by the Nature Conservancy to the Amaris but she does not know how many owners there were between the Amaris and the Greenfields.

Mr. Brown states that between TNC and Greenfield there were five conveyances.

Mr. Brown is not convinced that the priority date in the TNC filing is correct and that is the reason he needs the documents from the National Archives. He states that TNC may have amended the filings. He reported that the National Archives is not responding to requests for documents at this time.

Mr. Dell'Oliver said that when he bought the property from the Dewels they were told by TNC that they had rights to 6.5 acre feet of water per year and TNC has been monitoring water usage for the past five years.

Ms. Consoli said that she could send out the abstracts tomorrow and would like to hear from the parties within a month as to whether any modifications are necessary. She has asked the Conservancy to be prepared to put all of their documentation together for anyone who may request it. She had hoped to have stipulated abstracts on file by the end of May.

The Court suggested that Ms. Consoli send out all of the abstracts to the parties. Mr. Brown said that are willing to look at the abstracts but definitely needs the National Archives to be open to verify the information.

Mr. McGinnis responded to the Court's question about whether the review of the abstracts could be done in stages. He does not see a problem with reviewing the abstracts in steps but the parties may not be able to finalize the abstracts until all of the steps are completed. SRP's primary interest is the third set of abstracts referenced by Ms. Consoli. Mr. McGinnis said that the rights were all one common bucket of water rights.

Mr. Leininger said that it may be necessary to have sufficient time to submit abstracts as an entire package.

Mr. Sparks said it is very complicated and the parties can move it along by providing the comments that Ms. Consoli asked for but does not understand how the private owners could have any claims that are different from those transferred by the Nature Conservancy. He agrees with Mr. McGinnis that it will difficult to complete without all of the parts resolved.

Mr. Billingsley said that it sounds like there are a lot of changes potentially to the claims so he want the opportunity to review the claims and abstracts. He said that it will take 60-90 days to provide comments on the abstracts.

The Court further suggests that the parties offer their preliminary comments on the abstracts, acknowledging that the abstracts cannot be completed until the National Archives open.

Ms. Consoli offers to obtain any historical information from the Nature Conservancy and make it available.

The Court directs the abstracts be sent out by **March 12, 2021**. Comments on those abstracts should be provided to Ms. Consoli by **April 16, 2021**, Ms. Consoli will provide the organized supporting historical documents from Nature Conservancy by **April 16, 2021**.

Mr. Billingsley requests that Ms. Consoli provide the documentation that supports the claims because he wants supporting documents along with the abstracts. He will not be in a position to provide comments without that documentation.

Ms. Consoli said that if the parties are satisfied with the historical documents provided by Ms. Consoli, a stipulation can be provided to the Court 60 days thereafter. If the parties need to access the National Archives, then cannot create a time frame.

Mr. Sparks said the he has reviewed all of the documents available from ADWR.

Mr. Billingsley expressed concern about the availability of the documents from ADWR because of delays caused by COVID in the updating of the public records. Ms. Parks stated that she believes that documents are available and is willing to help the parties locate the documents.

Counsel have no objections to the proposed schedule.

For the reasons stated,

Ms. Consoli will provide a Status Report to the Court by **July 30, 2021**.

IT IS FURTHER ORDERED setting a telephonic conference on **August 6, 2021 at 1:30 p.m.**

The Court inquires if counsel have objections to Mr. Brown's proposal filed in December for potential water rights to be assigned to stock watering that would be resolved using the *de minimis* process.

Mr. Leininger not prepared to comment.

Mr. McGinnis says that he does not believe that there must be a PWR assigned in a WFR before a claim can be treated using the *de minimis* process.

Mr. Sparks inquires which parcels are the specific parcels involved in Mr. Brown's proposal and states that he needs to look at the land to which the right would be appurtenant.

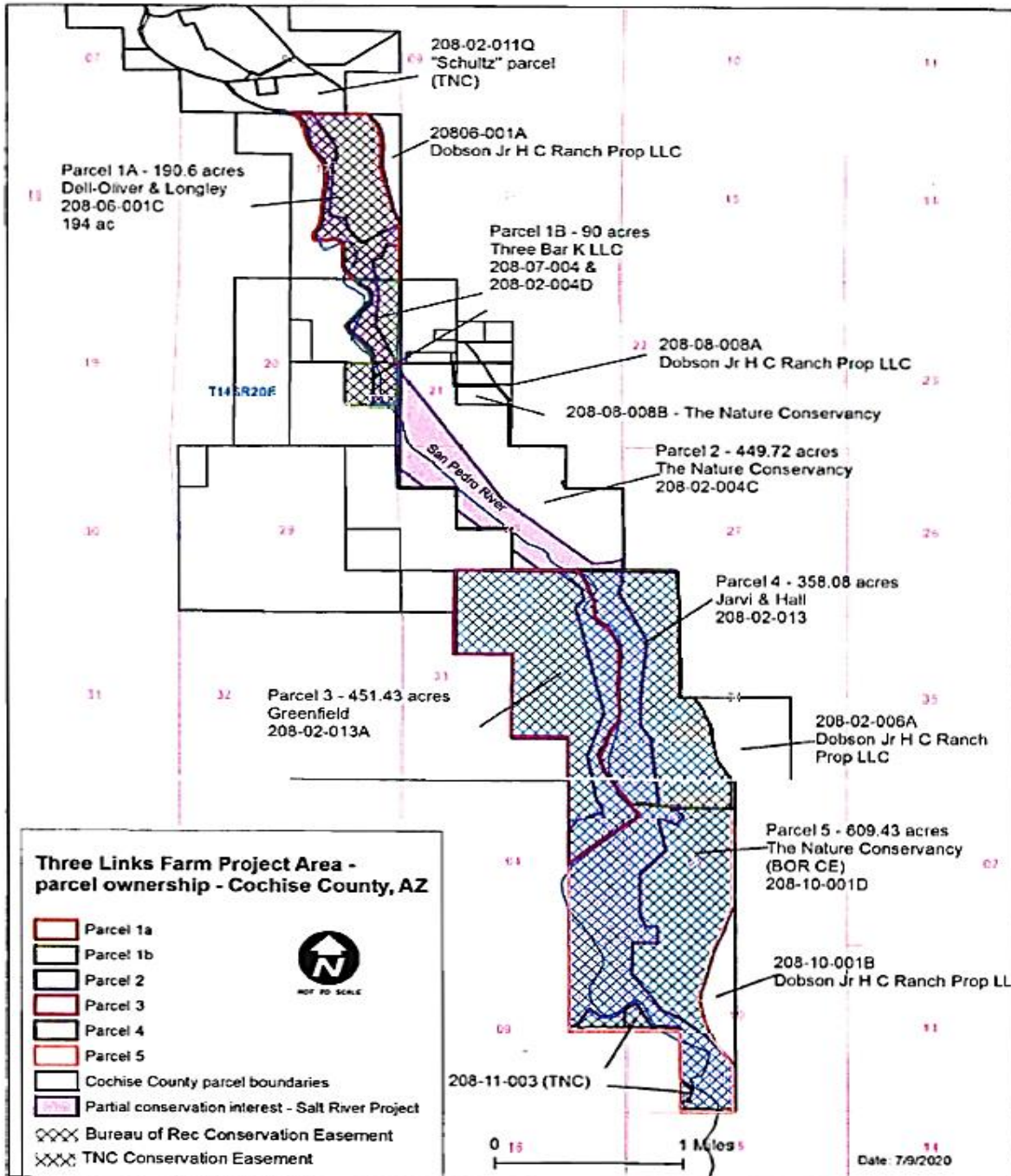
Discussion is held.

Remaining counsel has no objections to Mr. Brown's request.

Mr. Brown represents that the stock watering uses are not on any of Parcels 1-5, but are on a separate piece that was deeded to Dobson Jr. Ranch LLC.

2:32 p.m. Matter concludes.

LATER: So that the minute entry can be better understood, the Parcels referenced by Nature Conservancy are shown on the map below which the Nature Conservancy submitted as part of its filing on November 16, 2020:



A copy of this order is mailed to all persons listed on the Court approved mailing list for Contested Case Number W1-11-2789.