

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

January 15, 2020

CLERK OF THE COURT
FORM V000

SPECIAL WATER MASTER
SUSAN HARRIS

L. Stogsdill

Deputy

In re: Karen C. LeCount
Contested Case No. W1-11-3395

FILED: March 2, 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

11:26 p.m. This is the time set for a Status Conference.

The following attorneys and parties appear in person:

Carrie J. Brennan for Arizona State Land Department
David A. Brown for Mr. and Mrs. Cavendar
John D. Burnside for BHP Copper
Mark A. McGinnis for Salt River Project
Kevin P. Crestin on behalf of the Arizona State Land Department

The following attorneys and parties appear telephonically:

Anna Magoffin appears on behalf of the Magoffin Family Trust
Rhett Billingsley for ASARCO
Lucas Christian for the Tonto Apache Tribe
Robyn Interpreter for the Yavapai-Apache Nation
Kimberly R. Parks for the Arizona Department of Water Resources
Joe Sparks for the San Carlos Apache Tribe

A record of the proceedings is made digitally.

The Court notes this matter involves irrigation claims in Sections 27 and 28 T7S R20E.
The report prepared by ADWR lists Statement of Claimants (SOCs) 39-6486 and 39-12022.

The Court further noted that ADWR has reported that SOCs 39-6486 and 39-12022 have been transferred to the Magoffin Family Trust.

Ms. Magoffin has not had a discussion with any of the objectors regarding her irrigation claims.

Mark McGinnis advises the Court that a settlement meeting was held with ADWR without much success, not due to any substantive disagreements, but rather the parties are not sure what the claims are, but they believe that there are ASLD issues. Mr. McGinnis further advises the Court that the deadline for Mrs. Magoffin to file her claims had not yet passed.

Kevin Crestin confirmed that the Arizona State Land Department (ASLD) does not claim ownership to any land included in this proceeding.

For the reasons stated on the record,

IT IS ORDERED that the ASLD is removed from the Court approved mailing list in this matter and is not a litigant in this case.

Ms. Magoffin agrees to a meeting with the Objectors to discuss resolution of the objections to claims for rights to water for irrigation use.

The Court notes that the Zone 2 Well Report prepared by ADWR identifies three parcels of irrigated land with the following acreages: 25.1 acres, 1.9 acres, and 0.7 acres. ADWR assigned the following water use numbers to the three parcels of irrigated land: IR001, IR002, and IR003. It listed a different date of "Apparent First Use" to each parcel of irrigated land.

Ms. Magoffin advises that the original Statement of Claimant was for 25 acres. She further stated that they had purchased another parcel and were trying to get rights for three acres for native grasses. Discussion is held regarding the additional 3 acres mentioned by Ms. Magoffin which she said is in section 27, north of the creek.

The Court notes that land, tax parcel #110-45-036, is not included in this matter and that a separate case will be initiated regarding that parcel. Ms. Magoffin confirmed that the claim for three acres is located in tax parcel #110-45-036. The Court stated that a separate case would be initiated for claims for water use on tax parcel #110-45-036.

Mr. McGinnis stated that the Zone 2 Well Report does not show pre-1919 filings or a Statement of Claim. There was a 1921 survey prepared by the State Water Commission that shows the irrigated 25-acre parcel. He suggested that a meeting date be delayed to allow Ms. Magoffin time to find documentation to show use prior to 1921.

Joe Sparks addresses the Court regarding the subject 25 acres, the run off rights and whether or not more water than necessary is being diverted.

Kimberly Parks addresses the Court noting that two meetings have already been conducted and suggests that the Magoffins need additional time to sort out their claims and find the documents to support those claims. She will schedule another meeting at the end of May 2020 to address the irrigation claims and run off rights raised by Mr. Sparks.

The Court addresses the issue of the additional claims for water rights made by the Magoffin Family Trust and the need to initiate additional cases to address all of those claims. Based upon the Statements of Claim filed with ADWR, it appears that 4 cases need to be initiated and that 3 of those cases involve State Trust Land.

Mr. Crestin addresses the Court regarding a list watershed file reports that also involve SOC 39-12022. He does not have a list of watershed file reports, but states that he believes that SOCs 39-17861 and 39-17821 may also involve state trust land.

The Court believes that to address all of the claims made by the Magoffin Family Trust new cases need to be initiated for watershed file reports 115-06-001, 115-06-005, 115-05-001, and 115-05-040.

The Court confirmed with Ms. Magoffin that no action needed at this time with respect to SOC 39-7478.

Once the cases are initiated that involve state trust land, Mr. Crestin and Ms. Magoffin will need to meet and confer to determine who will own the water rights and will file a Joint Report of their meeting with the Court. A Status Conference will be scheduled thereafter.

11:44 a.m. Matter concludes

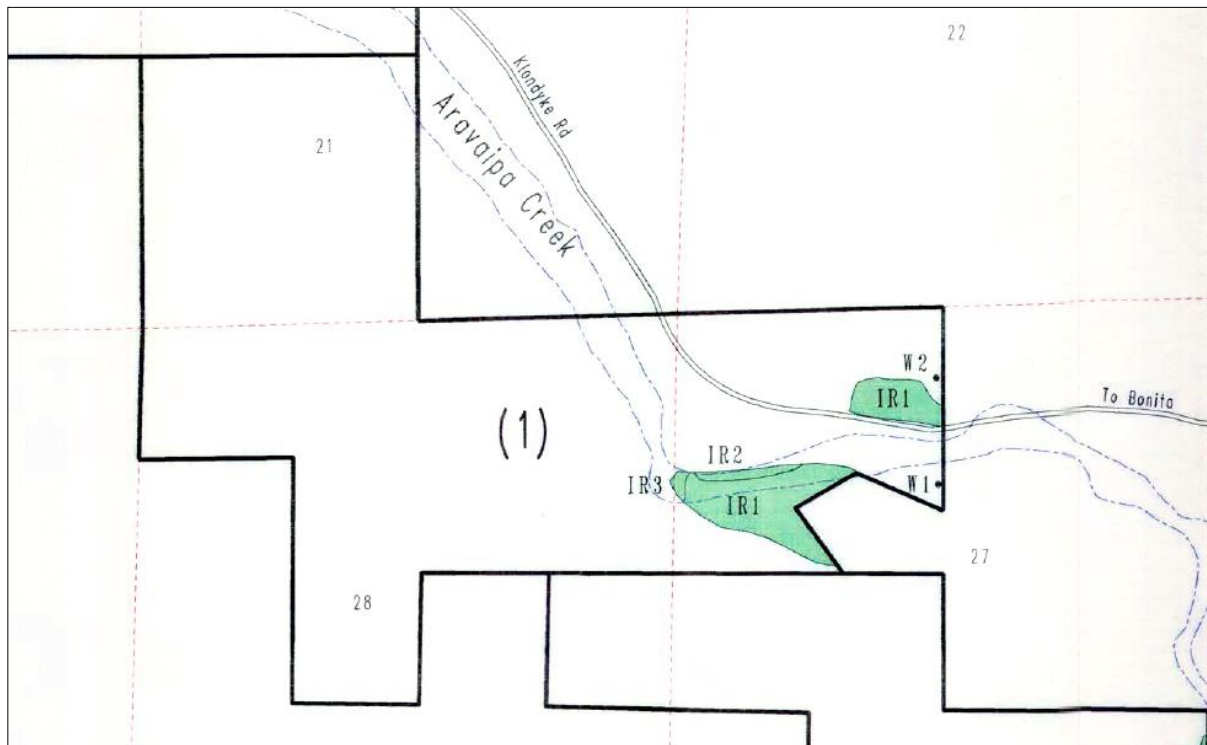
LATER:

A. Procedure

The trustees of the Magoffin Trust own and lease a large amount of land. They have made claims for different types of water uses on the land. As a result, a number of contested cases must be initiated to deal with all of the claims. The cases will remain separate to minimize confusion at this time. The cases may, however, be consolidated into a single case at a later date if the parties determine that the consolidation of the cases would facilitate an efficient resolution of the claims.

B. Claim for Water for Irrigation Use

This contested case concerns claims to use water for irrigation on land primarily located in section 27 T7S R20E that is supplied by a well. A map of the land included in this case, labelled as “(1),” is shown below:



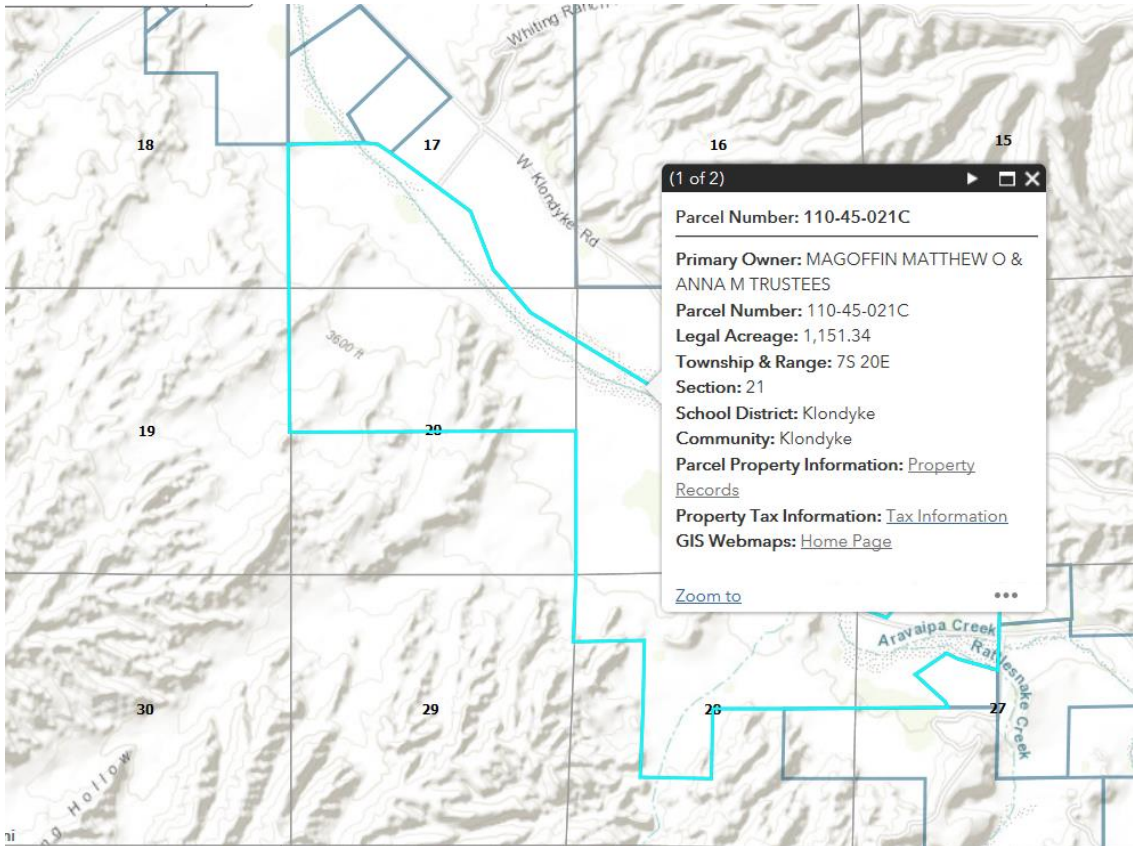
A claim for water for irrigation use was made in Statements of Claimant 39-6486 and 39-12022. In the original Statement of Claimant 39-6486, the claimant claimed 100 acre feet of water for 25 acres in section 27 T7S R20E. No amount of water for irrigation use was specified in the original Statement of Claimant 39-12022. Arizona Department of Water Resources investigated the use of water on the land designated on the map above as (1) and determined that a well, W1, provided water for irrigation use. Arizona Department of Water Resources found that a total of 27.7 acres were irrigated using 149.6 acre feet of water per year. The map above shows the location of the irrigated land found by Arizona Department of Water Resources of the irrigated land.

On October 3, 2019, the trustees of the Magoffin Trust amended Statement of Claimant 39-6486 and identified the well by well registration number and claimed 150 acre feet of water to irrigate 25 acres of land in NENW section 27 T7S R20E. On the same date, an amendment was filed to Statement of Claimant 39-12022 to claim water from a well, well registration no. 55-604311, for 150 acre feet of water annually for irrigation use on tax parcel

110-45-021C. According to the records of the Graham County Assessor, tax parcel 110-45-021C includes 1,151.34 acres of land in:

- Section: 21, Township: 07S, Range: 20E
- Section: 20, Township: 07S, Range: 20E
- Section: 17, Township: 07S, Range: 20E
- Section: 28, Township: 07S, Range: 20E
- Section: 27, Township: 07S, Range: 20E

As shown by the map from the Graham County Assessor, tax parcel 110-45-021C appears to include the land labelled as (1) by ADWR on the map duplicated above plus additional land in sections 17, 20, and 21 as shown below:



C. Elements of a Right to Use Water

A right to use water must be defined by specific information which includes: the beneficial use, the amount of water, the date when the water was put to use, the source of the water, the location of the use of the water and the legal basis for the right. Based on the discussion at the status conference, it appears that in advance of the next meeting among the parties, the trustees of the Magoffin Trust need to focus on gathering documentation about the last two elements.

1. Location

In order for the parties to agree to a right to water for irrigation use or for the court to adjudicate a right, the location of the irrigated land must be clearly defined. To further discussions, it is suggested that the trustees of the Magoffin Trust map the location of their irrigated fields. The map must show township, range and section lines, the outlines of the irrigated fields, and the gps coordinates of the corners of the fields.

2. Basis of Legal Right

A right to use water must have a legal basis. In other words, a claimant has to show that the claimant has complied with the law that governs the appropriation of water for a beneficial use. As stated in the status conference, a meeting among the parties will not be scheduled until May 2020 to allow the trustees of the Magoffin Trust time to locate documentation that demonstrates that the land was irrigated prior to 1919 or that they have otherwise complied with appropriable water law.

D. Court Approved Mailing List

Based upon the Report from Arizona Department of Water Resources that Statement of Claimant 39-12022 has been assigned to the trustees of the Magoffin Family Trust.

IT IS FURTHER ORDERED that Richard B. Holcomb is removed from the court-approved mailing list.

11:44 a.m. Matter concludes

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