

SUPERIOR COURT OF ARIZONA  
APACHE COUNTY

2/8/2024

CLERK OF THE COURT

SPECIAL WATER MASTER  
SHERRI ZENDRI

S. Ortega  
Deputy

FILED: 2/14/2024

In re: the General Adjudication  
Of All Rights to Use Water in the  
Little Colorado River System and Source

CV6417-33-5597

In Re: *Lester J. and Marie Petersen*

**MINUTE ENTRY**

Central Court Building – Courtroom 301

9:30 a.m. This is the time set for an Initial Status Conference before Special Water Master Sherri Zendri to determine if parties associated with the land are interested in pursuing potential water rights.

The following parties/counsel appear virtually and/or telephonically:

- Property owners Jake Petersen, Donna Dewitt and Della Dewitt
- Katrina Wilkinson for the Salt River Project (SRP)
- Maggie Woodward for the United States Department of Justice (USDOJ)
- Phillip Londen for the Hopi Tribe;
- Katya M. Lancero for the Navajo Nation
- Bradley Pew observing for the Little Colorado River Coalition (LCR)
- Karen Neilson for the Arizona Department of Water Resources (ADWR)

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

The hearing today was set to determine if the parties associated with the land are interested in pursuing their potential water rights. Ms. Dewitt confirms that the family is interested in moving forward with their potential water rights.

The Court states that there are no *de minimis* uses for these water rights, and they will have to go through the regular process.

Donna Dewitt states that the water tanks are in place as a protection from flooding the home. The water is also used for drinking purposes for the cattle. The property owners confirm that they have been using the water since 1953 based upon aerial photos.

SRP objects as to the lack of quantification of irrigation in the WFR; and not sure if the claimants are still claiming irrigation use. There is also no basis of right provided. A basis of right will need to be filed.

USDOJ agrees with SRP's objection as to the lack of quantification of irrigation.

Donna Dewitt states that they no longer use the water for irrigation.

Hopi Tribe and Navajo Nation join in with USDOJ's objections.

The Court informs the property owners' that their claim will need to be updated/amended. The property owners will also need to file a Basis of Right for the claim. The Court informs the property owners that ADWR can help them file the appropriate paperwork. Further information will be included in this minute entry explaining the process of updating claim documentation.

9:48 a.m. Matter concludes.

#### **LATER:**

Parties wishing to move forward with historical water rights claims on their property must ensure Statement of Claimants are current and that documentation of the reason the claim to the water is legally valid, also known as the "basis of right," is presented to the Court.

**IT IS ORDERED** that the Claimants must file notice with the Court by **May 31, 2024**, that the appropriate documentation needed to move forward with this contested case has been filed/initiated with the Arizona Department of Water Resources ("ADWR"). Once the Court receives this notice, a status conference will be scheduled in accordance with the time needed for ADWR to complete whatever application review process is necessary.

The Court provides the following general information to assist Claimants with any potential filings.

#### **1) Statement of Claimants (SOCs)**

A SOC is a landowner's or lessee's ("claimant's") written statement to the Court that provides details about their water right claim. This claim to use public water is filed with the Arizona Department of Water Resources ("ADWR"). Although a water

right generally remains attached to the land, the SOC must reflect the current claimant's name and contact information as well as any changes to the original claim. The SOCs do not list current property owners or lessees. To update an SOC, one may obtain a SOC assignment, make an SOC amendment, or file a new SOC. Forms may be found on ADWR's website at:

<https://www.azwater.gov/adjudications/statement-claimant-new-use-summons-forms>

## 2) Basis of Right

To obtain a water right, a claimant must provide a "basis of right." A basis of right is a document filed with ADWR either registering a water right, applying for a permit to appropriate water, or applying for a stockpond claim of right. See Arizona Revised Statutes ("Ariz. Rev. Stat.") §§ 45-182(A), 45-152(A), 45-273.

If a claimant proves that the water right claimed was initiated prior to June 12, 1919, they do not need to file an "application for a permit to appropriate," but must present a statement of claim registering their claimed water right that was filed prior to September 1, 1990 (90 days before the publication of the Silver Creek HSR). See Ariz. Rev. Stat. §§ 45-171, 45-182(A). Note that a statement of claim is a different document than a statement of claimant.

ADWR can help the current property owners determine if former Claimants properly registered the potential water rights claimed on the SOCs for this contested case. If a claimant either cannot prove that the water right claimed was initiated prior to June 12, 1919, or cannot present a statement of *claim* filed prior to September 1, 1990, the claimant must file either an "application for a permit to appropriate public water" or an "application for a stockpond claim of right." Ariz. Rev. Stat. §§ 45-152(A), 45-272(C). If the claimed water right is for a pond constructed before 1977, less than 15 acre-feet, and used solely for watering livestock or wildlife (but not primarily for fishing or culturing of fish), the claimant should file an "application for a stockpond claim of right." Ariz. Rev. Stat. §§ 45-271, 45-272. If the claimed water right is for any other use, the claimant must file an "application for a permit to appropriate public water." Blank forms for either application may be found on the ADWR website at:

<https://www.azwater.gov/surface-water/surface-water-forms-and-documents>.

Because of the time and cost involved in pursuing an "application for a permit to appropriate public water" or an "application for a stockpond claim of right," claimants should first gather as much evidence as possible to determine which, if any, of their water rights claims are for water uses initiated prior to June 12, 1919, and described in a timely filed statement of *claim*.

Federal land entry case files (e.g. homestead proofs and affidavits) may be useful for proving historical farming and grazing activity on your land. Resources for finding land entry filings are listed below:

- Federal land patents may be found here:  
<https://gloreCORDS.blm.gov/search/default.aspx>
- Pre-1908 homestead proofs may be accessed from a physical FamilySearch location. See <https://locations.familysearch.org/en/search> for more information.
- Any other land entry case files can be ordered using the following form:  
<https://www.archives.gov/forms/pdf/natf-84.pdf>.

### 3) Additional Information

Objections for this contested case can be found on the General Stream Adjudication website under “Active Cases” at:

<https://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/docs/CV6417-33-5597-objections.pdf>

Documents prepared by the Arizona Department of Water Resources (ADWR) as part of the Hydrographic Survey Report (“HSR”) for Silver Creek can be found on the ADWR website at:

<https://www.azwater.gov/adjudications>

While it is not necessary, Claimants are free to seek their own legal counsel at any time should they decide to do so. In addition, The Arizona Adjudications Project is taking applications to provide free, limited legal representation in the adjudication. The team can help claimants who are not already represented by an attorney. You can apply for assistance here:

<https://law.arizona.edu/academics/clinical-programs/natural-resource-use-management-clinic/arizona-adjudications-clinic>.

To contact the University of Arizona Adjudications Project call (520) 621 6722 or via email at: [law-azadjudicationsproject@arizona.edu](mailto:law-azadjudicationsproject@arizona.edu).

To contact ADWR regarding application forms and processing procedures please call 1-866-246-1414, email [smitchell@azwater.gov](mailto:smitchell@azwater.gov), or visit <https://www.azwater.gov/adjudications>.

To contact the Office of the Special Water Master please call (602) 372-4115.