

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

6/09/2022

CLERK OF THE COURT

SPECIAL WATER MASTER
SUSAN WARD HARRIS

T. DeRaddo
Deputy

In re: St. David Irrigation District
Contested Case No. W1-11-1675

FILED: 7/20/2022

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

Central Court Building – Courtroom 301

2:30 p.m. This is the time set for a telephonic Status Conference. All parties appear virtually/telephonically. Appearances are as follows:

- Brad Pew on behalf of ASARCO
- Thomas Murphy on behalf of the Gila River Indian Community
- John Burnside on behalf of BHP Copper and the St. David Irrigation District
- Michael Foy on behalf of Salt River Project (SRP)
- Joe Sparks on behalf of the San Carlos Apache Tribe
- Sean Hood on behalf of Freeport Minerals
- David Brown and William L. Staudenmaier on behalf of St. David Irrigation District, Gila Valley, Franklin Irrigation Districts and the City of Cottonwood.
- Kimberly Parks on behalf of Arizona Department of Water Resources (ADWR).
- Richard Palmer on behalf of the Tonto Apache Tribe
- Sue Montgomery on behalf of the Yavapai Apache Nation and observing on behalf of the Pasqua Yaqui Tribe
- Charles Cahoy on behalf of City of Phoenix.
- William H. Anger on behalf of City of Mesa
- Lee Leininger on behalf of the United States

Discussion is held regarding the Court's minute entry from January of 2022 which addressed a list of 5 WFRs that the Court was unsure if they should be consolidated with this case.

Mr. Brown addresses the Court and states that he filed a Status Report on June 1, 2022, addressing the 5 WFRs in detail. Mr. Brown states that in his Status Report he recommended that all but one of the WFRs be consolidated with this case.

Mr. Brown advises the Court that the well owner/registrant is entitled "Enclave St. David, LLC." Mr. Brown was unable to determine if there was a WFR associated with this well owner who has a significant number of acres in the St. David Irrigation District. Mr. Brown reports that this particular tract was not ever petitioned to be joined into St. David Irrigation District.

The Court states that it will create a spreadsheet and distribute it to all parties which will detail all of the cases consolidated with this matter. This will ensure that all counsel and parties have the same information going forward. The Court states that once the spreadsheet is finished, it will also be available on the General Adjudication website.

Discussion is held regarding the case management order. Mr. Sparks has a list of items that he has requested to be put into the Case Management Order. Mr. Sparks states that he does not have a map so he is not able to view all of the locations of all of the wells in the area. Mr. Sparks states that a consolidated map of the applicants would be of help.

Mr. Brown states that the maps prepared by ADWR's are helpful, but they contain mapping errors and are not digitized. They were done in approximately 1991. Mr. Brown is working with ADWR to get the "underlying basis" for the maps so he can verify the information in the 1991 maps. Mr. Brown reports that they will be able to produce the maps for the irrigated acreage moving forward. It is estimated that this endeavor will take 6-8 months to finish. Mr. Brown states that he believes that he needs to move forward with the 7 cases as stated on the proposed Case Management Order, and not wait for the new digitized maps to be completed. He is in favor of producing the draft abstracts 60 days after the Court signs the management order.

Mr. Sparks requests information regarding locations of ditches and pipelines. Mr. Brown states that there may only be a couple of ditches; the canal goes to each parcel and the internal ditches are hard to map.

Mr. Sparks also requests legal descriptions showing the location of the parcels of land together with documents that shows ownership of each parcel. Mr. Brown states

that the stipulated draft abstracts contain field coordinates for field boundaries, and they contain information for stipulated water rights. Mr. Sparks would like legal descriptions to demonstrate ownership of the property. Mr. Sparks requests that the map has recognizable parcels with tax parcels number. Mr. Brown states that he intends to do this.

Discussion is held regarding “proof of good standing” of the St. David Irrigation District. Mr. Brown states that he represents an irrigation district under Title 48 that was created in 1938. Mr. Sparks requests to see a legal document from the Arizona Corporation Commission or the appropriate state agency that shows that the irrigation district exists. Mr. Brown states that he believes that there is no state agency that controls or keeps track of irrigation districts, due to the fact that they are created by counties.

Mr. Brown said this particular irrigation district was set forth on page 334 of the Hydrographic Survey Report, Vol. 1, which states that the petition for the organization of the SDID was filed by the Cochise County Board of Supervisors on October 20, 1936. The Petition was accepted, filed and recorded with the Records Office on January 28, 1937. Mr. Brown asserts that if anyone objected to this record, objections should have been asserted in 1991.

Mr. Sparks states that if Mr. Brown can produce a copy of the above-stated document, this would be satisfactory as long as there has not been an expiration or termination of the district. Mr. Brown may also produce a Minute Book from that time period.

For the reasons stated on the record,

IT IS ORDERED that Mr. Brown shall obtain the documents that the HSR references and review the minute book that he has. He shall confer with Mr. Sparks. If the information is not acceptable to Mr. Sparks, the matter shall be taken up at the next Status Conference.

Discussion is held regarding choice of WFRs. Mr. Brown made a determination to begin with the original St. David Irrigation District community. He states that there are a number of wells outside of the subflow zone. Mr. Brown does not want cases with wells outside of the subflow zone in the first group of cases. Instead, he has chosen cases that are on the same canal, the same geographic location, and cases that share the same points of diversion.

Mr. Sparks requests that the decree be comprehensive from the beginning.

Mr. Brown states that most of the wells are within ¼ mile of each other and the decree will contain information on each property owner and every WFR that ends up with a water right, and will be approximately 200 pages, making it fully comprehensive.

Mr. Sparks states that he believes that this is not an “orderly approach.” Mr. Brown states his position on the record. Further discussion is held.

The Court states that Mr. Sparks has concerns that a new group is not designated until the older group is completed so as not to overwhelm the objectors. Cases can stall and the Court shall not be bound to not initiate new cases until the older cases are finished.

Mr. Sparks states that he believes that the parties should follow Rule 26.1 disclosure rules. (The disclosure statement would contain the factual basis, the legal theory, the witnesses, subjects of expert testimony among other information.) Mr. Brown disagrees and elaborates his position on the record, especially as related to settlement agreements. Discussion is held. Mr. Sparks states that he is entitled to full disclosure under the law.

Mr. Murphy states his position on the record and agrees with Mr. Sparks regarding following the disclosure and discovery rules. Mr. Pew states his position on the record and agrees with Mr. Brown.

Mr. Sparks states that he has provided a request and proposed order for the Court’s review pertaining to Rule 7.1.

IT IS ORDERED that Rule 7.1 shall be followed in the future.

IT IS FURTHER ORDERED that Mr. Brown is not required to file a response to Mr. Sparks’ motion.

The Court will sign a Case Management Order and publish it on the Maricopa County website.

3:23 p.m. Matter concludes.

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