

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

June 16, 2022

CLERK OF THE COURT

SPECIAL WATER MASTER
SUSAN HARRIS

S. Ortega
Deputy

In Re: Max J. and Donna L. Kartchner II
Contested Case No. W1-11-1680

FILED: 7/11/2022

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)

HSR involved: San Pedro River Watershed
Hydrographic Survey Report

MINUTE ENTRY

Central Court Building – Courtroom 301

1:40 p.m. This is the time set for a virtual/telephonic Status Conference. All parties and counsel appear virtually or telephonically. Appearances are as follows:

- Kimberly Parks for Arizona Department of Water Resources
- Charles W. Yokum and Carrie Maddox, landowners
- Robert C. Sachs and Janice Greutzke, landowners
- Thomas Murphy for the Gila River Indian Community
- Laurel Herrmann and Joseph Sparks for the San Carlos Apache Tribe
- Richard Palmer for the Tonto Apache Tribe
- Sue Montgomery for the Yavapai Apache Nation and observing for the Pasqua Yaqui Tribe
- Michael Foy observing for Salt River Project

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

Mr. Yokum reports that he has now filed a Statement of Claimant for appropriable water rights. Mr. Yokum states that his well is an artesian well and it is outside of the subflow zone.

After further discussion, the Court states that no action will be taken on Mr. Yokum's case at this time. The Court will revisit this case once ADWR has developed the test to determine if the water from the well is appropriable water. The Court directs Mr. Yokum to discuss the matter further with ADWR to find out what else is needed to establish an appropriable water right.

IT IS ORDERED staying the case with respect to the adjudication of a claim for any water right asserted by Mr. Yokum until ADWR completes the subflow depletion test.

Discussion is held regarding Mr. and Mrs. Sachs claims to appropriable water rights. Mr. Sachs reports that he has made three trips to Phoenix to the Arizona Department of Water Resources to research the matter and has found that the Statement of Claimants that have been filed have been updated with Mr. Sachs and Ms. Gruetzke's names. Mr. Sachs states that somebody up there made the decision that they use groundwater and not river water and, therefore should not have any other problems. Ms. Gruetzke stated they have filed Statements of Claimant on all three of their wells.

Based on the discussion as held on the record,

IT IS FURTHER ORDERED staying the case to determine appropriable water rights asserted in the Statements of Claimant as to Mr. Sachs and Ms. Gruetzke until ADWR completes the subflow depletion test.

Ms. Parks reports found that Mr. Sachs' filed two amendments to two different Statements of Claimant.

The Court explains that there are two types of water rights in Arizona. The Court further explains that if the Sachs' wells are outside of the subflow zone, they may still be pumping river water. If the wells are pumping river water, they may require appropriable water rights. By filing the Statement of Claimants, the Sachs are requesting an appropriable water right. Mr. Sachs explains to the Court what he has filed with Arizona Department of Water Resources.

The Court explains that the Sachs' wells are presumed to be pumping ground water. They will need to file additional paperwork with the Arizona Department of Water Rights to establish an appropriable water right, then come back to the Court and see whether or not they have appropriable water rights once the tests are completed.

2:03 p.m. Matter concludes.

LATER:

Arizona law treats appropriable water and percolating groundwater differently for purposes of establishing a water right. Appropriable water comes from places such as

rivers, streams, water flowing under the surface that is part of a stream or river (subflow), definite underground channels, lakes, ponds, and springs. The other source of water is that groundwater, known as percolating groundwater that is not considered appropriable water.

These court proceedings are to determine water rights for those people who claim appropriable water rights. These court proceedings do not determine water rights granted under Arizona law to people who pump percolating groundwater.

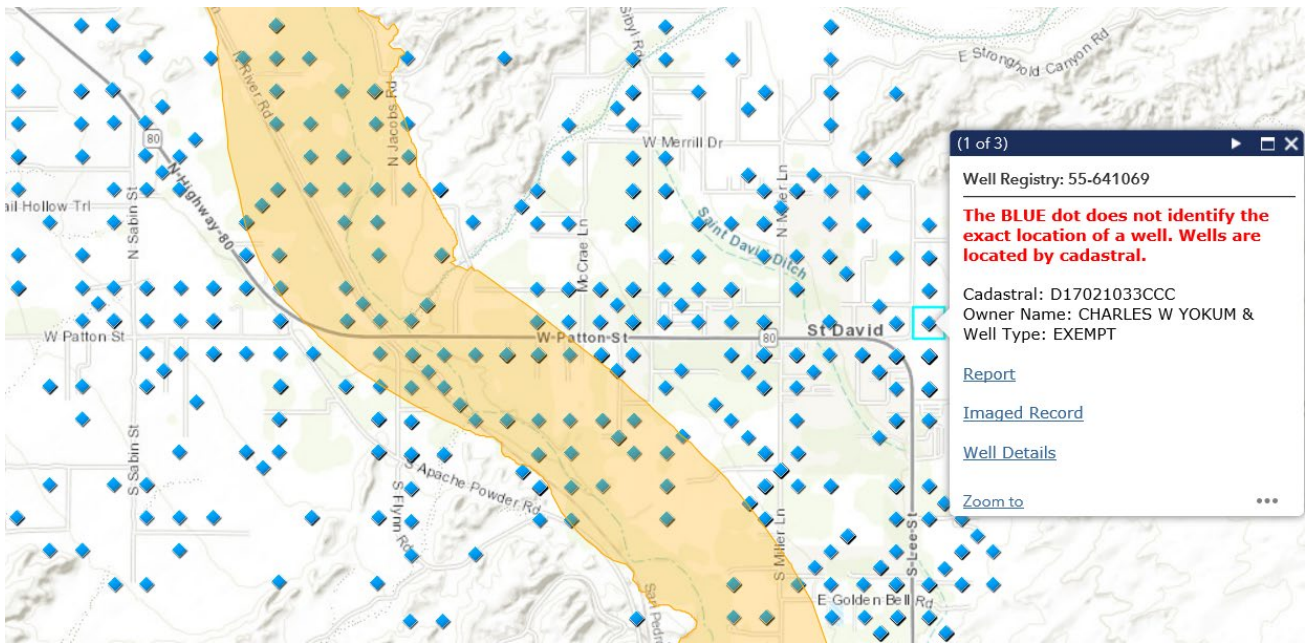
This case is in the initial stage. The first step in a case is determining if there is a landowner who intends to pursue a claim for a right to appropriable water. In this case, Kartchner Farms and Ranches, Inc. filed three Statements of Claimant. Kartchner Farms and Ranches, Inc. are no longer the landowners. As a result, the people who the county assessor identified as the current landowners were also notified of the case to determine if they intend to pursue a claim to take water from the land. Charles W. Yokum and Carrie J. Maddox and Robert C. Sachs and Janise J. Gruetzke appeared and stated that they intended to assert water rights. Richard H. Park, listed as the owner of tax parcel nos. 120-20-004A7 and 121-03-001K3, the Arizona Highway Department the named owner of tax parcel no. 121-03-00406, and St. David Water Association the named owner of tax parcel nos. 120-20-00903 and 120-20-004B6, did not appear.

IT IS ORDERED dismissing claims for water rights for tax parcels: 120-20-004A7, 121-03-001K3, 121-03-00406, 120-20-00903, and 120-20-004B6.

IT IS FURTHER ORDERED removing Richard H. Park, the Arizona Highway Department, and St. David Water Association from the court approved mailing list.

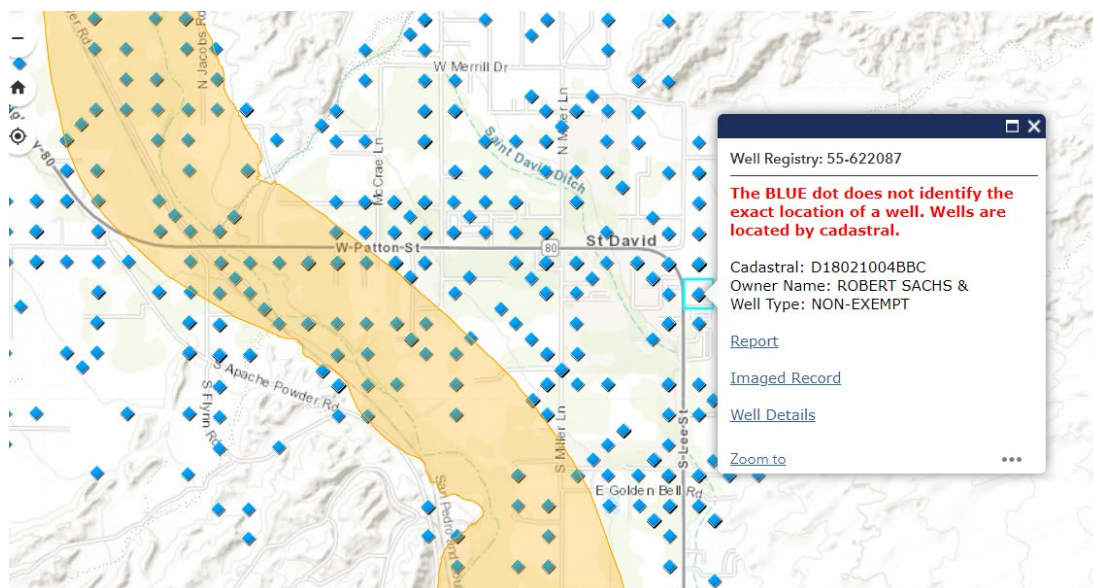
Charles W. Yokum and Carrie J. Maddox

Charles W. Yokum and Carrie J. Maddox filed Statement of Claimant 39-174615 on May 23, 2022, for domestic water from a well, registration no. 55-641069, located on tax parcel 120-20-007. As the legal basis, the claimants stated that the water is groundwater. The map prepared by ADWR shows that the well is located outside the subflow zone of the San Pedro River. *See* map below. The case is stayed pending an approved subflow depletion test. If, it is determined that the well is pumping subflow, then the claimants will have to establish a legal basis for an appropriable water right. The legal requirements to establish an appropriable water right first put to beneficial use after 1919 is set forth in the Arizona Revised Statutes under Article 5.

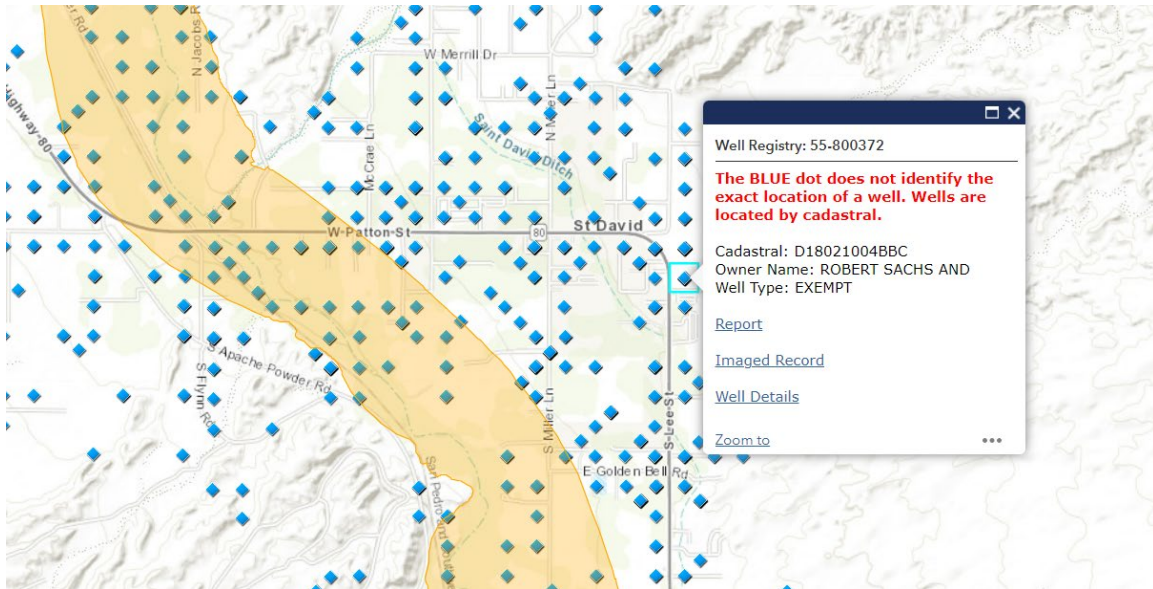


Robert C. Sachs and Janise J. Gruetzke

Robert C. Sachs filed a form of Assignment of Statement of Claimant 39-12253 on May 13, 2022 that identified the source of water as water from a well, registration no. 55-622087, located on tax parcel 121-03-005, and registered in the name of Robert Sachs and Janis Gruetzke. As the legal basis, the original claimants stated that the water for irrigation, domestic use, and stockwatering is groundwater. The map prepared by ADWR shows that the well is located outside the subflow zone of the San Pedro River. See map below. The case is stayed pending an approved subflow depletion test. If, it is determined that the well is pumping subflow, then the claimants will have to establish a legal basis for an appropriable water right.



Mr. Sachs also filed amendments to Statement of Claimant 39-3605 on May 25, 2022, for domestic and irrigation water as well as a form of assignment. The forms identified the source of water as water from two wells, registration nos. 55-800371 and 55-800372 located on tax parcel 121-03-002A, and registered in the name of Robert Sachs and Janis Gruetzke. As the legal basis, Mr. Sachs stated that the water is groundwater. The map prepared by ADWR shows that the wells are located outside the subflow zone of the San Pedro River. *See* map below. The case is stayed pending an approved subflow depletion test. If, it is determined that either well is pumping subflow, then the claimants will have to establish a legal basis for an appropriable water right to the water pumped from the well that is determined to be pumping appropriable water. The legal requirements to establish an appropriable water right first put to beneficial use after 1919 is set forth in the Arizona Revised Statutes under Article 5.



University of Arizona Law Clinic

The Natural Resource Use and Management Clinic ("Clinic") at the University of Arizona James E. Rogers College of Law is establishing a program to represent claimants in the General Stream Adjudication who need legal representation and meet certain criteria. Legal services, from case initiation through a settlement negotiation, will be provided by law students studying environmental and water law and will be overseen by a water law attorney. Legal services do not extend to representation at trial. The Clinic's website and contact information can be found using the following link: <https://law.arizona.edu/clinics/natural-resource-use-management-clinic>.