

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

October 20, 2022

CLERK OF THE COURT
FORM V000

SPECIAL WATER MASTER
SUSAN HARRIS

M. Pritchard

Deputy

FILED: November 1, 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: Karen C. LeCount
Contested Case No. W1-11-3395

MINUTE ENTRY

Courtroom: CCB 301

2:00 p.m. This is the time set for a telephonic Status Conference before Special Water Master Susan Ward Harris.

The following attorneys and parties appear in-person:

- Joseph Sparks and Alex Ritchie for the San Carlos Apache Tribe
- Mark McGinnis and Michael Foy for Salt River Project (“SRP”)
- Bradley J. Pew and Christina Jovanvic for ASARCO
- Richard Palmer for the Tonto Apache Tribe
- Sue Montgomery for the Yavapai Apache Nation (and observing for the Pascua Yaquai Tribe)
- Matthew and Anna Magoffin
- Kimberly Parks and Kome Akpolo for the Arizona Department of Water Resources (“ADWR”)

The United States did not make an appearance.

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

This hearing is in regard to a water right for which the Long Hollow Well, 55-604314 is the source of water.

The Court inquires of Ms. Magoffin whether this is her last water right being litigated.

Ms. Magoffin states that there are rights that are claimed in one other case.

The Court inquires of Mr. Pew if his objection to the amended Watershed File Report (“WFR”) is regarding a typographical error in the well registration number for the Long Hollow Well.

Mr. Pew affirms.

The Court inquires of Mr. Sparks regarding his objection.

Mr. Sparks supports the amended report limited to the land recognized as being served by water by ADWR. He also has the same typographical objection and objects to the land being serviced by water not recognized by ADWR. Mr. Sparks does not object to the reasonable use measurement, although in this case a more accurate measurement could be taken based on the size of the cisterns.

The Court is inclined to follow *de minimis* procedure if there are no objections.

Mr. Sparks has no objection to this.

Mr. McGinnis objects to the lack of diversion rate and to the priority date of first use as determined by aerial photos. He believes the priority date should be 1913. He does not object to the *de minimis* use procedure.

The Court inquires of Mr. Sparks regarding his position as to the priority date. The date claimed by the claimant is different than that used by ADWR in its report.

Mr. Sparks agrees to the date used by ADWR. He believes aerial photos are the best proof available. He does not believe that the patent attached to the Statement of Claim is sufficient documentation of water use.

Mr. McGinnis asserts the priority date in the report is wrong and ambiguous in that a 1982 date is not possible with a Statement of Claim.

Mr. Sparks believes that the ADWR report should be followed unless there is evidence to the contrary, which he does not believe is the case here.

Mr. Pew agrees to the *de minimis* procedure and reasonable use, although they did raise a number of objections. He agrees that 1913 is correct.

Mr. Palmer has no objection to the *de minimis* procedure and reasonable use and agrees with Mr. McGinnis regarding the priority date.

Ms. Montgomery agrees to the same.

The Court inquires of Ms. Magoffin whether she has more back-up information for the patent.

Ms. Magoffin states that she has oral history only that states there was water rights litigation in 1917 for the property. She does not have a copy of that case nor of the homestead affidavits.

The Court inquires of Ms. Magoffin regarding her position on reasonable use and on confining the place of use to the land within the boundaries of the WFR.

Ms. Magoffin has no objection.

Based on the discussion and for reasons stated on the record,

IT IS ORDERED that the *de minimis* procedures shall be followed in this matter.

2:12 p.m. Matter concludes.

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