

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

1/22/2021

CLERK OF THE COURT  
Form V000

SPECIAL WATER MASTER  
SUSAN WARD HARRIS

S. Motzer  
Deputy

W-1, W-2, W-3, W-4 (Consolidated)  
Contested Case No. W1-11-2726

FILED: 01/27/2021

In re the General Adjudication of  
All Rights to Use Water in the Gila  
River System and Source

Re: Status Conference *In re David and Fay Gard*

**MINUTE ENTRY**

Courtroom CCB - 301

1:30 p.m. This is the time set for a telephonic Status Conference before Special Water Master Susan Ward Harris.

The following attorneys telephonically appear: Kimberly R. Parks Arizona Department of Water Resources (“ADWR”); Bradley Pew on behalf of ASARCO; John D. Burnside on behalf of BHP Copper; Luke Christian on behalf of Tonto Apache Tribe; Sue Montgomery on behalf of Yavapai-Apache Nation and observing for the Pascua Yaqui Tribe; Joe Sparks and Laurel Herrmann for the San Carlos Apache; and Mark A. McGinnis and Michael Foy on behalf of Salt River Project (“SRP”). Joel Quisenberry, Donna Quisenberry, Robert Hammett, and Phyllis Tharp are present on their own behalf.

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

Discussion is held regarding the Statement of Claimant regarding domestic and irrigation uses filed by Mr. Quisenberry.

The Court and Counsel address whether the *de minimis* procedure may be used to expedite the determination of domestic water right included in the report prepared by ADWR and claimed by Mr. Quisenberry. Mr. Sparks stated that an original document needs to be obtained from the United States or the State of Arizona to confirm the pre-1919 date. Mr. Christian agreed with the position stated by Mr. Sparks.

Discussion is held thereon.

The Court explained that expedited procedures, also known as *de minimis* procedures, can be used to determine a proposed water right for domestic use for one-acre foot or 325,851 gallons of water per year. A domestic use includes water used for a residence for household purposes including outdoor watering for lawns, a garden, or landscaping. A claim for more than one-acre foot of water for domestic use cannot be determined using the expedited procedures. The expedited procedures do not apply to the irrigation use and more evidence of the water use for irrigation will be required.

The Court states that Mr. Quisenberry should obtain a patent and homestead documents for the property to support claims for a water right that was first put to beneficial use prior to 1919. The Court identified the National Archive as a possible source of the documents. Mr. Sparks stated that the patent and the homestead records may be found in the county recorder's office for the county in which the land is located. He also said that the documents may be identified in the title policy. Mrs. Quisenberry states that she believes she has a copy of the title report.

Discussion is held regarding the issue of irrigation and the need for a map that shows the land for which water rights for irrigation use are being claimed. The map needs to identify the corners of the irrigated areas by GPS coordinates. The Court advises Mr. and Mrs. Quisenberry to work with the parties who objected to the report filed by ADWR to see if the objections can be resolved.

Based on the discussion held,

**IT IS ORDERED** setting a telephonic Status Conference on **July 23, 2021 at 1:30 p.m.**

Instructions for telephonic participation:  
Dial: 602-506-9695 (local)  
1-855-506-9695 (toll free long distance)  
Dial Collaboration (conference) Code 357264#

The Court turns to a discussion with Ms. Tharp, who states that she has filed a notice of claim, and Mr. Hammett.

Based on the number stamped on the filing reported by Mr. Hammett, the Court states that the number (55-) indicates that said filing concerns a well, and points out that Ms. Tharp will need to ask ADWR for a form of Statement of Claimant to complete and file with ADWR to claim water rights.

1:47 p.m. Matter concludes.

LATER: The purpose of the Status Conference set for **July 23, 2021** is to determine the whether the objections have been resolved and whether proposed abstracts for water rights can be approved. If the Mr. and Mrs. Quisenberry and the other parties are unable to resolve the objections with respect to the claimed water rights, then a Scheduling Conference will be held to discuss pre-trial procedures and set a trial date.

The names and addresses of the objecting parties are listed below.

F. Patrick Barry and Emmi Blades  
U.S. Department of Justice  
P. O. Box 7611  
Washington, DC 20044-7611

L. J. Caster, Brian J. Heiserman,  
Bradley J. Pew  
Fennemore Craig, P.C.  
2394 East Camelback Road, Ste 600  
Phoenix, AZ 85016-3429

John B. Weldon, Mark A. McGinnis,  
M. K. Foy  
Salmon, Lewis & Weldon  
2850 E. Camelback Rd. Suite 200  
Phoenix, AZ 85016

Linus Everling and Thomas L. Murphy  
Gila River Indian Community  
Office of the General Counsel  
P. O. Box 97  
Sacaton, AZ 85147

Joe P. Sparks and Laurel A. Herrmann  
The Sparks Law Firm, P.C.  
7503 First Street  
Scottsdale, AZ 85251-4573

Lucas T. Christian, Richard Palmer, Jr  
And Jeremiah Weiner  
Rosette, LLP  
565 W. Chandler Blvd. Suite  
212  
Chandler, AZ 85225

John D. Burnside  
Snell & Wilmer, L.L.P.  
400 E. Van Buren Street, Ste. 1900  
Phoenix, AZ 85004

Sue Montgomery, Robin Interpreter,  
Jay Tomkus,  
Montgomery & Interpreter PLC  
3301 E. Thunderbird Road  
Phoenix, AZ 85032

A copy of this order is mailed to all persons listed on the Court approved mailing list for Contested Case Number W1-11-2726.