

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

10/9/2020

CLERK OF THE COURT

SPECIAL WATER MASTER
SUSAN WARD HARRIS

S. Ortega
Deputy

In re: Albert S. Duff III
Contested Case No. W1-11-2731

FILED: 10/28/2020

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: Order to Show Cause

MINUTE ENTRY

CCB – Courtroom 301

3:00 p.m. This is the time set for a telephonic Order to Show Cause Hearing before Special Water Master Susan Ward Harris.

The following attorneys appear telephonically: Kimberly R. Parks on behalf of ADWR; Bradley Pew on behalf of ASARCO; John Burnside on behalf of BHP Copper; Joe P. Sparks on behalf of San Carlos Apache Tribe; Michael Foy on behalf of Salt River Project; Jay Tomkus on behalf of the Yavapai Apache Nation and observing for Pascua Yaquai Tribe; and Lucas Christian on behalf of Tonto Apache Tribe.

The following claimant/landowner appears telephonically: Sybil Isolde Erden, on her own behalf and on behalf of Jeffrey T. Robbins.

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

The Court addresses Ms. Erden about the previous owner's Statement of Claimant filed with the Arizona Department of Water Resources for water rights for domestic use and irrigation. Ms. Erden states that she desires to pursue water rights with respect to the well on her property for domestic use only. The Court informs Ms. Erden that she either needs to obtain an assignment of an existing claim from Albert Duff or file her own Statement of Claimant with the Arizona Department of Water Resources.

Ms. Erden states further that she has approximately 50 farm and domestic animals that she feeds and waters.

Mr. Sparks states that a domestic claim would be adequate and it would proceed under the *de minimus* approach to the case.

Mr. Pew has no objection to proceeding under the *de minimus* procedures depending on what the Statement of Claimant will say.

Mr. Christian states that the Tonto Apache Tribe is fine with proceeding under the *de minimus* procedures.

Mr. Tomkus has no objection.

Mr. Foy has no objection to the claimant filing a Statement of Claimant and would be happy to review the statement. He states that the case could possibly raise the issue of a post-1919 water right withdrawing subflow without compliance with the statutory permitting process and reserves all rights on that issue.

The history of the ownership of the property is discussed, and the Court explains the 1919 water right issue to Ms. Erden advising her to file a Statement of Claimant if she cannot obtain an assignment of the existing Statement of Claimant.

Ms. Parks describes reviews the process of filing a Statement of Claimant and directs Ms. Erden to call the Adjudication Division at the Arizona Department of Water Resources at **866-246-1414** in order to obtain the form.

The Court will set another hearing after it receives the Statement of Claimant filed by Ms. Erden.

Ms. Erden questions how much water she should be using to qualify for a domestic use claim. The Court advises claimant to use her best estimate in order to determine the total amount of water she uses.

Counsel have no further comments.

3:20 p.m. Matter concludes.

LATER: As of October 28, 2020, the public records of the Arizona Department of Water Resources do not contain a Statement of Claimant filed by either Sybil Isolde Erden or Jeffrey T. Robbins or an assignment of Statements of Claimant 39-1089 or 39-1090.

A copy of this order is mailed to all parties listed on the Court approved mailing list for Contested Case Number W1-11-2731.