

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

08/06/2021

CLERK OF THE COURT

SPECIAL WATER MASTER
SUSAN WARD HARRIS

L. Stogsdill
Deputy

FILED: 08/23/2021

In re: State Land Department – Paul L. Sale Investment Co.
Contested Case No. W1-11-2805

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

3:07 p.m. This is the time set for a Status Conference before Special Water Master Susan Ward Harris to determine the water rights the Claimant intends to pursue and whether the objections to the Watershed File Report can be settled.

The following attorneys and parties appear telephonically:

- John Burnside on behalf of BHP Copper
- Joe Sparks and Laurel Herrmann on behalf of San Carlos Apache Tribe
- Jay Tomkus on behalf of Yavapai Apache Nation and observing on behalf of the Pascua Yaqui Tribe
- Mark McGinnis and Michael K. Foy observing on behalf of Salt River Project (“SRP”)
- Kimberly Parks observing on behalf of Arizona Department of Water Resources (“ADWR”)
- Richard Palmer on behalf of the Tonto Apache Tribe
- Thomas L. Murphy on behalf of the Gila River Indian Community
- Bradley Pew and Christina Jovanovic on behalf of ASARCO
- David A. Brown for Stephen Brown

- Carla Consoli on behalf of the Nature Conservancy.
- Lauren Mulhern on behalf of the Tonto Apache Tribe
- Carrie Brennan on behalf of Arizona State Land Department

Mr. McGinnis states that SRP now owns the property. He says there is an irrigation and stock and wildlife claim and he suggests that uses the summary adjudication process for the stock and wildlife claim. Mr. McGinnis inquires how the Court wishes to proceed in this matter based on the Court's rulings in the St. David Irrigation and Town Huachuca matters.

Ms. Brennan believes this matter is tied into the pre-1919 forfeiture issue, so need to decide whether to proceed or whether to stay the case. She states that she would like to complete the stock and wildlife watering claims at this time now that there is an amended WFR.

Mr. Sparks that a single stock watering claim could be adjudicated using the *de minimis* process if the State still has the land next to the river.

Ms. Mulhern and Mr. Murphy agreed with Mr. Sparks.

Mr. Tomkus has no objection to the *de minimis* process.

Mr. McGinnis discusses proceeding with a short trial to prove up the right but he would like to confer with the State Land Department. Ms. Brennan questions whether it is possible to have a trial to prove up the pre-1919 right or, alternatively to request that the matter be brought before Judge Brain.

Mr. McGinnis suggests the Court set date for exchange of disclosure statements, then file summary judgment motions. He does not make sense to have a full trial if the pre-1919 ruling is applied.

Mr. Burnside advises the Court that he will be filing a motion in the St. David matter in order to put the St. David decision before Judge Brain and appeal. He suggests that it may make sense to set s discovery schedule and get the facts disclosed and then when the time comes to file motions in this case on the forfeiture issue, look at the status of St. David case and considered whether that is an appropriate time to wait in this case to avoid a lot of briefing.

Ms. Brennan agrees with the provision of disclosure statements, and then the possibility of filing summary judgment motions.

Mr. McGinnis suggests setting a date for disclosure statements in 60-90 days, then another status conference will be set prior to the filing of summary judgment motions 30 days later.

The Court will draft an abstract for the stock watering for suggested corrections.

Mr. Burnside would like to join with ASARCO's objections filed on July 12, 2021 and requests leave from the Court to file the joinder out of time. The request is deemed a motion for an extension of time to file

IT IS ORDERED the requested leave is granted.

IT IS FURTHER ORDERED the objections shall be filed within 5 business days.

Counsel has no objections to the foregoing, but Mr. Sparks objects to the procedure of making a request rather than making a standing motion.

3:38 p.m. Matter concludes.

LATER:

IT IS ORDERED that the parties shall file Disclosure Statements by **November 5, 2021**. A discovery deadline is not set at this time.

IT IS FURTHER ORDERED setting a status conference on **December 2, 2021 at 1:30 p.m.** The primary purpose of the status conference will be to determine the procedure that will be followed with respect to pre-1919 claims. The status conference shall be held on Court Connect using the instructions on the attached page. Parties may also appear telephonically using the following instructions:

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



Court Connect Hearing Notice for In re State Land Department –Paul L Sale Investment Co

This hearing will be conducted through the new Court Connect program offered by the Superior Court of Arizona in Maricopa County. This new and innovative program allows Court participants to appear online, rather than in a physical courtroom. Hearings are

preferably conducted by videoconference but can also be conducted by phone. Lawyers (and self-representing litigants) are responsible for distributing this notice to anyone who will be appearing on their behalf.

All participants must use the JOIN COURT CONNECT HEARING button or the dial in information below to participate.

Participants: Please follow the steps below to participate in the remote proceeding.

1. Click the JOIN COURT CONNECT HEARING button below.
2. Enter your full name and role in name field.
3. Wait for the facilitator to admit you to the proceeding.

Remember to keep this email handy so you can use it to participate in the following proceeding.

Case Name: In re State Land Department – Paul L. Sale Investment Co., Contested Case No. W1-11-2805

Start Date/Time: December 2, 2021 at 1:30 p.m.

JOIN COURT CONNECT HEARING

Dial-in Information: +1 917-781-4590

Private Dial-in Information: for privacy purposes, you can block your phone number by dialing *67 +1 917-781-4590

Dial-in Access Code: 688 970 203#

Tiny URL: <https://tinyurl.com/specialwatermaster>

To ensure an optimal experience, please review the brief Court Connect training prior to the hearing: [Here](#)

