IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

IN RE THE GENERAL ADJUDICATION
OF ALL RIGHTS TO USE WATER IN
THE GILA RIVER SYSTEM AND
SOURCE

W-1 (Salt)
W-2 (Verde)
W-3 (Upper Gila)
W-4 (San Pedro)
(Consolidated)

Contested Case No. W1-11-3318

ARIZONA DEPARTMENT OF WATER
RESOURCES’ STATUS REPORT

(Special Master Susan Ward-Harris)

CONTESTED CASE NAME: *In re Bowers*

**HSR INVOLVED:** San Pedro River Watershed Hydrographic Survey Report

**DESCRIPTIVE SUMMARY:** The Arizona Department of Water Resources (“ADWR”) hereby reports on efforts made to resolve objections after ADWR’s Meeting Report was filed on May 8, 2018.

**NUMBER OF PAGES:** Three and

**DATE OF FILING:** June 29, 2018
Pursuant to the Special Master’s Case Management Order filed February 22, 2018 and the Supplemental Case Management Order filed April 12, 2018, ADWR facilitated a meeting between the claimant and objectors in this contested case on May 1, 2018. During the meeting, Counsel Joe Sparks for the San Carlos Apache Tribe (“SCAT”) and Tonto Apache Tribe (“TAT”) requested 1) chain of title information, 2) GPS coordinates of the locations of the well and instream pump, and 3) a survey describing the subject parcel, irrigated lands, and the domestic use. On May 3, 2018, Mr. Sparks filed a statement of position regarding the chain of title pursuant to the Order filed by the Special Master on April 12, 2018. As a courtesy, Mr. Sparks agreed to search certain files and provide copies of any documents relevant to the chain of title to ADWR. ADWR conducted a site visit of the subject parcel and collected GPS coordinates for the well and instream pump and provided the legal descriptions for those coordinates to the court as Attachment D to our Meeting Report, filed May 8, 2018.

Within thirty (30) days of the meeting, the objectors were to provide ADWR with a statement indicating whether or not they believe sufficient data has been provided to resolve their objections. ADWR received only two responses. By email dated May 13, 2018, counsel for the Salt River Project (“SRP”) indicated that SRP’s position has not changed since the May 1, 2018 meeting. SRP is willing to stipulate for settlement purposes to quantity and priority date as listed in the WFR. ADWR also received a letter from Mr. Sparks (Attachment), stating that there is still a gap in the documented chain of title and that the 1921 survey of the land is not sufficient. Mr. Sparks indicated that he has requested files from storage but has not yet been able to search those files for relevant chain of title information.

Mr. Sparks also requested that ADWR provide GPS coordinates for the well and instream pump. The GPS coordinates for well registry No. 55-597968 (active domestic
well) were confirmed as 32.861019 degrees North and 110.601570 degrees West. The GPS coordinates for the instream pump (P01 listed in the WFR) were confirmed as 32.861008 degrees North and 110.601265 degrees West.

ADWR believes that until the chain of title and land survey issues are resolved in this contested case, settlement does not appear to be possible.

DATED this 29th day of June, 2018.

ARIZONA DEPARTMENT OF WATER RESOURCES

______________________________
Kimberly R. Parks, Deputy Counsel
Janet L. Miller, Deputy Counsel

ORIGINAL of the foregoing sent by first-class mail on June 29, 2018, to:

Clerk of the Maricopa Superior Court
Attn: Water Case
601 W. Jackson Street
Phoenix, Arizona 85003

COPIES of the foregoing sent by first-class mail on June 29, 2018, to:

Special Master Susan Ward-Harris
Maricopa County Superior Court
Central Court Building
201 West Jefferson Street, Suite 3A
Phoenix, AZ 85003-2205

COPIES of the foregoing sent by first-class mail on June 29, 2018 to all parties on the court-approved mailing list for Contested Case No. W1-11-3318.
ATTACHMENT
June 7, 2018

Via U.S. Mail and email

Kimberly R. Parks, Deputy Counsel
Janet L. Miller, Deputy Counsel
Arizona Department of Water Resources
Legal Division
P.O. Box 36020
Phoenix, AZ 85067

Re: Data Required to Resolve Objections related to In re Bowers (W1-11-3318)

Dear Ms. Parks and Ms. Miller:

In ADWR’s Meeting Report filed on May 8, 2018 in Contested Case W1-11-3318 (In re Bowers), ADWR stated that “objectors should provide ADWR with a statement indicating whether or not they believe sufficient data has been provided to resolve their objections” by June 7, 2018, and that “[i]f the objectors believe additional data is needed, they should identify this data.”

This Firm represents the San Carlos Apache Tribe and the Tonto Apache Tribe (“Tribes”) in Contested Case No. W1-11-3318. On behalf of the Tribes, we have previously made known our requests for data in this case. Below is a list of the data we have requested, and our understanding of the status of these requests:

1. Documentation demonstrating a complete chain of title for the property to which the claimed water right is appurtenant.

As far as we are aware, there is a gap in the documented chain of title from the original patent holder, Mr. William Row, to succeeding property owner, Mr. Anthon G. Richardson. If any documentation has been produced to fill this gap in the title records, we have not been made aware of it.

During the May 1, 2018, meeting, I offered as a courtesy to search files available to me for information regarding the chain of title in this matter. While I have ordered certain files from storage, I have not yet been able to search the files for this information.

At this time, it is still our position that the claimant has the burden to provide a complete chain of title for the property to which the claimed water right is appurtenant.
2. GPS coordinates for the locations of the well and the instream pump.

Page 4 of your May 8, 2018, Meeting Report, states that ADWR conducted a site visit and collected GPS coordinates for the well and instream pump. We now request that you provide the parties to this contested case with those coordinates.

3. A survey describing the subject parcel, irrigated lands, and the domestic use.

While ADWR has provided a 1921 survey of irrigated lands on Aravaipa Creek, it is our position that this does not constitute a sufficiently specific description or survey of the parcel which is the subject of this contested case. Information provided from the County Assessor has also not been sufficient.

It is our position that a survey and metes and bounds legal description of the land to which the claimed water right is appurtenant is still required.

Yours truly,

THE SPARKS LAW FIRM, P.C.

Joe P. Sparks

Cc: Edward C. and Ruth C. Bowers
    Russell L. and Sheila C. Richardson
    R. Lee Leininger
    S. Montgomery, R. Interpreter, and J. Tomkus
    John B. Weldon, Jr. and Mark A. McGinnis
    Linus Everling and Thomas L. Murphy