

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

02/26/2021

CLERK OF THE COURT
Form V000

SPECIAL WATER MASTER
SUSAN WARD HARRIS

A. Parmar
Deputy

FILED: March 18, 2021

In re: Town of Huachuca City and
Whiting Ranches
Contested Case No. W1-11-0245

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)

Re: Oral Argument

MINUTE ENTRY

Courtroom CCB - 301

1:30 p.m. This is the time set for telephonic Oral Argument on Issues of Broad Legal Importance designated under §12.03 Rules for Proceedings Before the Special Master.

The following attorneys appear telephonically:

- William L. Staudenmaier on behalf of Arizona Public Service (“APS”)
- John Burnside on behalf of BHP Copper and APS
- David Brown and J. Albert Brown on behalf of Michael J. and Susan S. Cavender, Gila River Irrigation District, Franklin Irrigation District and City of Cottonwood
- Sean Hood on behalf of Freeport Minerals Corporation
- Rhett Billingsley on behalf of American Smelting and Refining Company (“ASARCO”)

- Carrie Brennan and Kevin Crestin on behalf of Arizona State Land Department (“ASLD”)
- Michael J. Pearce on behalf of Mercer Claimants
- Josh Greer on behalf of Town of Huachuca City
- Mark McGinnis and John Weldon on behalf of Salt River Project (“SRP”)
- Tom Murphy on behalf of the Gila River Indian Community
- J Weiner on behalf of the Tonto Apache Tribe
- Joe Sparks and Laurel Hermann on behalf of the San Carlos Apache Tribe
- Clyde Halstead on behalf of the City of Prescott
- William H. Anger on behalf of the City of Mesa
- Alexandra Arboleda and Lee Storey on behalf of the City of Flagstaff
- R. Lee Leininger, David Gehlert, and Patrick F. Barry on behalf of the United States Department of Justice
- Sue Montgomery on behalf of Yavapai Apache Nation (and observing on behalf of Pascua Yaquai Tribe)
- Charles Cahoy on behalf of the City of Phoenix
- Kimberly Park observing on behalf of the Arizona Department of Water Resources (“ADWR”)
- Paisley Bowman observing on behalf of the Hopi Tribe

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

Discussion is held regarding the joint brief filed by APS, BHP Copper, Michael J. and Susan S. Cavender, Freeport Minerals Corporation, ASARCO, ASLD and the Mercer Claimants.

Mr. Hood addresses the Court. He does not believe trial is needed in April.

Ms. Brennan agrees with Mr. Hood.

Mr. Brown and Mr. Greer agree and adopt the position of Mr. Hood.

Mr. McGinnis believes this is a purely legal issue and that this Court has equitable authority. Mr. McGinnis does not believe a trial is necessary.

Mr. Murphy agrees with Mr. McGinnis.

Mr. Sparks presents argument regarding equity.

Mr. Leininger concurs with Mr. McGinnis, Mr. Murphy and Mr. Sparks. He does not believe the Court has equitable powers on this issue, should the Court find that it does have equitable powers, he believes a trial would be necessary.

Mr. Sparks presents further argument.

Mr. Hood presents argument.

Mr. Sparks addresses the Court regarding witnesses and depositions.

Mr. Staudenmaier presents argument regarding whether subflow applies to the amended 1919 code.

Mr. Hood joins in Mr. Staudenmaier's position and presents further argument.

Mr. Brown joins in Mr. Staudenmaier, Mr. Hood, Mr. Halstead and Ms. Brennan's positions and presents further argument on equity.

Ms. Brennan presents further argument.

Mr. Billingsley joins in the comments of Mr. Staudenmaier, Mr. Hood, Mr. Brown and Ms. Brennan and presents further argument.

Mr. Pierce presents argument.

Mr. Greer incorporates the comments of those who came before him.

Mr. Burnside presents argument.

Mr. Halstead joins in the arguments of the jointly responding parties and presents further argument.

Mr. McGinnis presents argument regarding appropriative rights during 1919 through 1931.

Mr. Murphy presents argument.

Mr. Leininger agrees with Mr. McGinnis and presents further argument.

Ms. Arboleda generally agrees with Mr. McGinnis on the first issue and presents further argument on the second issue.

Mr. Sparks joins in the comments of Mr. Leininger, Mr. McGinnis and Mr. Murphy and presents further argument.

Mr. Cahoy and Mr. Anger joins in the comments of Mr. McGinnis.

Based on the matters presented,

IT IS ORDERED taking this matter under advisement.

4:12 p.m. Matter concludes.

A copy of this order is mailed to all persons listed on the Court approved mailing list for Contested Case Number W1-11-0245, the Court-approved mailing list for W-1, W-2, W-3 and W-4 and the Court-approved mailing list for CV 6417.