

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

03/22/2021

CLERK OF THE COURT
Form V000

SPECIAL WATER MASTER
SUSAN WARD HARRIS

L. Stogsdill
Deputy

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

FILED: 3/30/2021

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: Status Conference

MINUTE ENTRY

Courtroom CCB - 301

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

The following attorneys telephonically appear:

Thomas Murphy for Gila River Indian Community;
Susan B. Montgomery for Yavapai-Apache Nation and observing for Pascua Yaqui
Tribe;
R. Lee Leininger for United States Department of Justice, Environment and Natural
Resources Division;
Mark McGinnis for Salt River Project (“SRP”);
Kimberly R. Parks for Arizona Department of Water Resources (“ADWR”);
Sean Hood for Freeport Minerals Corporation;
John D. Burnside and William Staudenmaier on behalf of BHP Copper and Arizona
Public Service (“APS”);

David A. Brown and J. Allen Brown for Michael and Susan Cavender, Gila Valley Irrigation District, Franklin Irrigation District, and City of Cottonwood;
Rhett Billingsley for ASARCO;
Carrie J. Brennan and Kevin P. Crestin for Arizona State Land Department;
Joe P. Sparks and Laurel A. Herrmann on behalf of San Carlos Apache Tribe;
Joshua Greer for the Town of Huachuca;
Charles L. Cahoy for City of Phoenix;
William H. Anger for City of Mesa;
Richard Palmer for Tonto Apache Tribe;
Alexandra Arboleda observing for City of Tempe; and
Jenny Winkler for the City of Chandler;

Court Reporter, Wendy Ricard is present and a record of the proceedings is made digitally.

The Court advises counsel that the TEAMS platform will be utilized from this point forward during the pendency of this matter.

Discussion is held regarding the deadline dates provided by the Court.

Counsel does not voice any objections with those dates.

Mr. Hood advises the Court that experts presenting and testifying relative to their respective reports should take approximately an hour per expert.

He further advises the Court that the parties have not discussed the admission of the expert witness reports.

Discussion is held.

Counsel has no objections to admission of expert witness reports.

Mr. Murphy advises the Court that he will be filing a Motion in Limine.

For the reasons stated on the record,

IT IS ORDERED all Motions in Limine are to be filed by **March 24, 2021**.

IT IS FURTHER ORDERED that all Responses to Motions in Limine shall be filed by **April 12, 2021**.

IT IS FURTHER ORDERED that the Joint Pre-Trial Statement shall be filed by **April 12, 2021**.

Discussion is held regarding Rule 16(f), its subsections and its impact in this matter.

Mr. McGinnis states the he wishes to preserve any objections regarding the relevance of the facts at issue and confirms that he is not waiving any relevance objection by not filing a Motion in Limine. He states that the joint pre-trial statement rules do not apply well in this case because SRP believes that the issues are legal issues and that the facts that may be presented are not material. As a result, the joint pre-trial statement will not contain any stipulated facts. He suggests that the parties agree to a list of stipulated facts that the parties agree are true but dispute as to whether they are material.

Mr. Hood believes Mr. McGinnis suggestion would impede counsel's ability to present evidence at trial. Mr. Burnside, Mr. Brown and Mr. Billingsley join with Mr. Hood's position.

Mr. Greer agrees with Mr. McGinnis' suggestion as long as the presentation of evidence is not hampered.

Ms. Brennan questions what Mr. McGinnis proposes i.e., that the facts at issue are true, but not necessarily relevant or material to the case?

Further discussion is held.

McGinnis reiterates his position that he does not necessarily disagree with the facts at issue, but just whether or not those facts are relevant or material to the case.

Remaining counsel generally agree with Mr. McGinnis.

Mr. Hood advises the Court that he has prepared a preliminary witness list and exhibit list with objections thereon.

The Court asks the parties whether the parties can agree to only listing objections in the pretrial statement to the exhibits that go to authenticity and foundation and preserve any other objections at trial.

Mr. Leininger suggests this issue may be addressed at the time of the Trial Readiness Conference.

Counsel agree to making authenticity and foundation objections in the joint pretrial statement and preserving any remaining objections.

Mr. Brown questioned the Court regarding opening statements. Counsel agree opening statements will not be necessary.

Carrie Brennan states that she does not understand why there should be a deviation from normal process during a civil trial because there are facts and they should go through the process to see if the other parties will stipulate to the facts.

The Court will consider the suggestions made by counsel regarding the joint pretrial statement made during this hearing.

Mr. Sparks objects to attachments to a pleading filed by Freeport Minerals and the Court notes the objection.

With regard to potential testimony of Mr. Cavender, Mr. Brown, Mr. Burnside, Mr. Cahoy, Mr. Anger and Ms. Arboleda agree that the Court should hear from Mr. Cavender, and that his testimony should be relatively short.

Mr. Brown questioned the Court regarding opening statements.

Counsel agree opening statements will not be necessary.

The City of Chandler's Motion to Intervene filed March 11, 2021 is discussed. Counsel has no objections to the motion.

The Court states it will sign the accompanying order.

Ms. Brennan requests guidance from the Court re: the Court's earlier Order that the only issue to be tried will be the second issue. Ms. Brennan feels that Pam Muse's testimony is geared mostly toward issue #1.

The Court reiterates the main focus should be on the second issue.

The Court advises counsel that it will issue an Order relative to the Joint Pre-Trial Statement.

2:51 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.