

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

January 15, 2020

CLERK OF THE COURT
FORM V000

SPECIAL WATER MASTER
SUSAN HARRIS

L. Stogsdill

Deputy

In re: Whiting Ranches
Contested Case No. W1-11-3397

FILED: February 20, 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: Status Conference

MINUTE ENTRY

Courtroom: CCB 301

11:45 a.m. This is the time set for a Status Conference.

The following attorneys and parties appear in person:

Carrie J. Brennan for Arizona State Land Department
David A. Brown for Mr. and Mrs. Cavendar who are also present
John D. Burnside for BHP Copper
Kevin P Crestin for Arizona State Land Department
Mark A. McGinnis for Salt River Project
Sean Hood for Freeport Minerals

The following attorneys and parties appear telephonically:

Rhett Billingsley for ASARCO
Lucas Christian for the Tonto Apache Tribe
Robyn Interpreter for the Pascua Yaqui Tribe and Yavapai-Apache Nation
Kimberly R. Parks for the Arizona Department of Water Resources
Joe Sparks for the San Carlos Apache Tribe
Thomas J. Murphy for the Gila River Indian Community

A record of the proceedings is made digitally.

David Brown advises the Court of the status of his meeting with Mr. and Mrs. Cavender.

Mr. Crestin believes that the issues with the four *de minimis* stockponds can be resolved. Mr. McGinnis advises that one of the four wells was hand dug in 1908 and the rest are post 1919. During the intervening time and 2010, he states that some wells were replaced as they were no longer operable.

The Court notes that there are two additional watershed reports. One involves State Trust land and the other is on federal Forest Service land.

Generally, the Court allows objectors to file suggested corrections to the abstracts if they involve clerical errors and questions if the objectors should be allowed to file objections regarding more substantive issues with the abstracts.

Further discussion is held regarding the *de minimis* stockponds and determining the basis of claimed water rights.

The Court questions if it should make the determination without substantive objections to the abstract, or review material recently received from Mr. and Mrs. Cavendar and then make the determination. Mr. McGinnis believes that it is a decision that is up to the Court. He does agree that the objectors should have the opportunity to review and comment on the basis of their rights to the water.

Counsel generally agrees with Mr. McGinnis and feels it will be a clerical correction.

David Brown states the subject wells were drilled in 1951, 1960 and 1959. Mr. Brown notes that they fall into the category with wells inside the subflow zone and questions if it is equitable to tell Mr. and Mrs. Cavender that they can't use the wells. Mr. Brown suggests a possible consolidation with the Town of Huachuca case, contested case no. W1-11-0245. That will be explored at this afternoon's hearing in contested case W1-11-0245.

Discussion is held regarding the most economical way to address the issues of the subject wells.

Mark McGinnis states he is in agreement with a consolidation with W-1-11-0245. Mr. Sparks questions the Court's ability regarding addressing the issue of equity, which he feels may create an exception to the law under certain circumstances.

Counsel generally agree with the suggested consolidation.

12:15 p.m. Matter concludes.

LATER:

IT IS ORDERED consolidating this matter with *In re Town of Huachuca*, contested case no. W1-11-0245. All subsequent pleadings in this case shall be filed under contested case no. W1-11-0245.

IT IS FURTHER ORDERED that:

Initial 26.1 Disclosure Statements Disclosure Statements shall be due on **May 1, 2020**. As required by Ariz. R. Civ. P. 26.1(a)(2), the parties must state the legal theory on which the parties' claim or defense is based. Each party shall include in this portion of the Disclosure Statement, a statement of the issue which the party believes should be designated as an Issue of Broad Legal Importance under §12.00 Rules for Proceedings Before the Special Master.

All discovery shall be completed by **October 30, 2020**.

A status conference shall be held on **November 5, 2020 at 1:30 p.m.** in the Superior Court of Arizona, Central Court Building, Courtroom 301, 201 West Jefferson Street, Phoenix, AZ 85003-2202. At the status conference, a trial date will be set. If there are factual issues that can be tried in common with the issues in *In re Town of Huachuca*, contested case no. W1-11-0245, then those will be tried tentatively beginning April 26, 2021. Otherwise, this case will be separated for trial purposes, and a trial date will be set after May 17, 2021.

Instructions for telephonic participation:

Dial: 602-506-9695 (local)

1-855-506-9695 (toll free long distance)

Dial Collaboration (conference) Code 357264#

Motions shall be due by **January 11, 2021**. Ariz. R. Civ. P. 7(a) shall apply to all pleadings except that the time periods set forth in Pretrial Order No. 1 shall apply to pleadings filed in response to a Notice of an Issue of Broad Legal Importance.

A copy of this order is mailed to all persons listed on the Court approved mailing list.