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SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY
—

CLERK OF THE COURT
FORM R000A

March 26, 1999

HON. SUSAN R. BOLTON

P. Woods
Deputy

— W-1, W-2, W-3, W-4 (Consolidated)
Contested Case No. W1-203; W1-11-19 (Consolidated)

In re The General Adjudication of all Rights to Use Water in the
Gila River System and Source

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2:05 p.m. This is the time set for a Status Hearing. Present are: Patrick Barry, Bob Hoffman, Kevin Tehan, John Ryley, Rod Lewis, Thomas Walcott for Sally Worthington, Joe Clifford, Jim O'Denkirk, Lauren Caster, Bill Staudenmaier, John Weldon, David Brown, Frederic Beeson, James Hill, William Sullivan, Jan Ronald, Gregg Houtz, Paul Norman, John Schaper, Jim Callahan, Marilyn Cage, Bill Anger, Riney Salmon, Steve Hernandez, Carlos Ronstadt, Cynthia Haglin, John Hegland, Anthony Fines, Alfred Cox, Lee Storey, Special Master John Thorson, Kathy Dolge and Oscar Garcia.

Court Reporter Kim Myrick is present.

As to the Steering Committee Report:

Alfred Cox advises the Court of the three issues which were raised during the Steering Committee Meeting held on 3-25-99, which are as follows:

1) A proposed 90-day stay for the response period to the Motion for Summary Judgment to accommodate the settlement negotiations with the Gila River Indian Community. Objections to the stay were also discussed.

2) The Court's order by minute entry dated 9-11-98 instructing the parties to address logical procedures concerning the other decrees and agreements.

3) A proposal that the final HSR for the Gila River

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Indian Community not be published until the Motions for Summary Judgment are all filed.

As to the Proposed Settlement for the Gila River Indian Community:

Rodney Lewis, representing the Gila River Indian Community, advises the Court that over 25 meetings have recently been held and the parties are close to a settlement. He stated that the objective of the Secretary of the Interior Bruce Babbitt and Senator Jon Kyl is to submit legislation to Congress during the next 90 days. He stated that he supports the stay period for the responses to the Motion for Summary Judgment.

Mr. Lewis stated that the primary parties in the Gila River Indian Community settlement include: the Gila River Indian Community; Arizona Department of Water Resources (DWR) as Coordinator; the federal government; Salt River Project; Phelps Dodge; Roosevelt Water Conservation District; several Irrigation Districts; and, the Cities of Phoenix, Mesa, Tempe and Gilbert.

Bill Staudenmaier, representing Arizona Public Service and Roosevelt Water Conservation District, concurred with the proposed 90-day stay period.

John Weldon, representing the Salt River Project claimants, urged the Court to adhere to the current briefing schedule. He stated that it would be unfair to the moving parties to extend the response time. He did not object to the argument on the motions being held in abeyance.

Mr. Weldon also stated that the settlement of the Gila River Indian claim does not include some of the upper Gila Valley entities, only the downstream parties.

Patrick Barry, representing the United States, suggested that a stay be granted for only 30 days, rather than

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90 days, to allow the parties to devote their efforts to the settlement negotiations.

Anthony Fines, representing the Gila Valley Irrigation District (GVID) and David Brown of the Franklin Irrigation District (FID) stated that they are parties in the Motion for Summary Judgment and oppose a continuance. They also requested that the GVID/FID be added to the Steering Committee.

IT IS ORDERED that Anthony Fines and David Brown shall both be added as members of the Steering Committee and be notified of all future meetings.

**As to Scheduling Dates Re Motion for Summary Judgment
Re Preclusive Effect of Globe Equity:**

IT IS ORDERED extending the time for responses in opposition to the Motions for Summary Judgment for 30 days, until **6-1-99** (rather than 5-1-99).

IT IS FURTHER ORDERED extending the time for any replies thereto for 30 days thereafter, until **7-1-99** (rather than 6-1-99).

IT IS FURTHER ORDERED affirming that the Expert Reports Re Purposes of the Reservation be filed by **4-1-99**.

**As to the Joint Motion Re Schedule for Consideration
of Threshold Issues:**

There being no objections,

IT IS ORDERED extending the time for filing the Motions for Summary Judgment detailed in the Joint Motion for 30 days, until **6-1-99** (rather than 5-1-99).

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IT IS FURTHER ORDERED extending the time for any responses thereto until **8-30-99** (rather than 7-30-99).

IT IS FURTHER ORDERED extending the time for any replies thereto until **10-28-99** (rather than 9-28-99).

As to the Proposed San Carlos, Tonto, Yavapai and Apache Tribe Settlement:

Kevin Tehan, representing the San Carlos, Tonto, Yavapai and Apache Tribes, advises the Court that a settlement agreement will be signed by Secretary of the Interior Bruce Babbitt by 3-31-99. Prior to the Secretary's signing, an ex parte application will be submitted to the general adjudication court pursuant to the Supreme Court's 1991 special order. The settling parties include the San Carlos Tribes, Salt River Project and the Federal government.

Mr. Tehan discussed the requirements of the Supreme Court's 1991 special order. He also stated that the federal deadline for the completion of the process has been set at 12-31-99. He requested a hearing on the proposed form of order approving the ex parte application and also requested that the Court not order a DWR report.

The Court suggested that Mr. Tehan address his request that the court not order of DWR report in the ex parte application. The Court can then decide whether a DWR report should or should not be ordered.

Robert Hoffman, representing BHP Copper and Sands Investments, stated that a DWR report should be ordered.

The Court notes that the 1991 special order includes the provision that the general adjudication court may request a

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DWR report to be completed within 45 days of acceptance of the ex parte application. Whether such a report is ordered is in the Court's discretion.

David Brown, representing the Black River parties, stated that a report by DWR would be helpful to the smaller parties.

Jan Ronald, representing DWR, discussed the timing and resources that are required to meet the deadline of the publishing of the final Gila River HSR. Comments are to be received by 4-20-99. The final Gila River HSR is to be completed by 7-21-99.

The Court notes that the 45-day time limit imposed by the Supreme Court for the issuance of a report would take priority over the preparation of the final Gila River HSR. The 7-21-99 date for the final Gila River HSR is the earliest date for its publication and not a Court ordered or statutory deadline.

Lee Storey, representing the City of Safford, stated that the City of Safford has been written out of this complex settlement and discussions are underway to resolve this matter with the Tribe. She requested that a DWR technical report be ordered.

The Court notes that the issuance of a DWR report may help all parties to better understand the elements of the settlement and to obviate any unnecessary objections. Special Master Thorson suggested that public hearings be held in both Phoenix and Globe. Greg Houtz, the liaison between DWR and the parties, advises that DWR has recently updated the DWR mailing list with over 1,000 revisions.

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As to the Next Hearing Date Set:

IT IS ORDERED setting a **Status Hearing on May 14, 1999**
at 2:00 p.m. to discuss the following:

- 1) Updates on proposed settlement matters.
- 2) Argument to be held on GVID/FID'S Motion to set discovery and briefing schedule Re Effect of Globe Equity 59 Decree on the San Carlos Apache Tribe.

After discussion with counsel,

Responses to the above motion shall be filed by
4-23-99.

The reply, if any, shall be filed by **5-7-99.**

3) Procedures on Exceptions to the Special Master's Report on Group I cases involving stock-watering, stockponds, domestic uses, W1-11-19 dated 11-14-94, modified 2-23-95.

4) A report from the Steering Committee proposing future proceedings in the adjudication in light of the Supreme Court's decision resolving statutory issues.

5) A report from DWR Re Updating the San Pedro HSR.

As to Exceptions to the Special Master's Report on Group I Cases Involving Stock-Watering, Stock Ponds, Domestic Uses, W1-11-19 dated 11-14-94, Modified 2-23-95:

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The Court suggests that a schedule be set for resolving the issues raised by objections filed to the Special Master's report on Group I cases.

James Callahan, representing the City of Phoenix, suggests a 30-day reopening of the objection period.

IT IS ORDERED reopening the objection period on the Special Master's Report. Exceptions shall be filed by **4-30-99**.

IT IS FURTHER ORDERED that during the Status Hearing set on 5-14-99, hearing dates will be set to resolve these objections.

As to Updating the Existing HSR for San Pedro:

Mr. Barry asks if there are any current plans to update the existing San Pedro HSR. The Court noted that DWR had previously suggested that it be brought into compliance and that it would take at least 18-months to accomplish. Jan Ronald of DWR concurred that the San Pedro HSR needs to be revisited.

As to W1-11-19 (Consolidated)

Steve Hernandez, representing seven of the eight stock watering clients in the W1-11-19 (Consol.) matter requests that the mailing list in W1-11-19 (Consol.) be included for notice in the matters discussed today.

3:25 p.m. Court adjourns.

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A copy of this minute entry is mailed to all parties on the Court-approved W-1, W-2, W-3 and W-4 mailing list dated 3-5-99.

Also, a copy of this minute entry is mailed to all parties on the Court-approved W1-11-19 (Consol.) mailing list dated 3-17-99.