

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

07/13/2015

CLERK OF THE COURT  
Form V000

JUDGE MARK H. BRAIN

T. Springston  
Deputy

W1-11-3342

FILED: July 20, 2015

In re Aravaipa Canyon  
Wilderness Area

W1-11-3342

In re Trial

TRIAL MINUTE ENTRY  
DAY 1

Prior to commencement of trial, claimant 1 / US's exhibits 1 through 65, 676 through 685; claimant 2 / SRP's 66 through 143; and claimant 3 / FMC's exhibits 144 through 675, 686 through 687 are marked for identification.

FILED: Deposition of Scott A. Bonar, Ph.D., dated October 28, 2014  
Deposition of James Fogg, dated September 23, 2014  
Deposition of Steven Moore, Ph.D., dated September 24, 2014  
Deposition of Robert A. Mussetter, Ph.D., dated October 16, 2014  
Deposition of Duncan Patten, Ph.D., dated October 2, 2014  
Deposition of Peter Reinthal, Ph.D. dated October 15, 2014  
Deposition of Steve Swanson, dated September 25, 2014  
Deposition of Bill Wells, dated November 25, 2014

Central Court Building – Courtroom 1201

10:44 a.m. This is the time set for a trial to the court before Judge Mark H. Brain.

The following attorneys appear in-person:

- Sean T. Hood, Shilpa Hunter-Patel, and Brian J. Heiserman on behalf of Freeport Minerals Corporation;
- David Gehlert and R. Lee Leininger on behalf of the United States;

- Scott M. Deeny and Jeffrey R. Heilman, and Patrick B. Sigl on behalf of Salt River Project;
- Joe P. Sparks and Julia M. R. Kolsrud on behalf of the San Carlos Apache Tribe and the Tonto Apache Tribe;
- Janet L. Miller on behalf of the Arizona Department of Water Resources;
- William P. Sullivan on behalf of the City of Sierra Vista;
- Carrie J. Brennan on behalf of State of Arizona;
- Susan B. Montgomery on behalf of the Yavapai-Apache Nation and Pascua Yaqui Tribe; and
- David A. Brown on behalf of Bayless & Berkalew Company.

Court Reporter, Christine Coaly, is present.

Trial matters are discussed.

THE COURT ADVISES counsel that pro per, Kathy Sergent, may set up a specific date to appear.

The parties indicate that they would like Dr. Johnson to testify and he is unavailable due to confidential circumstances.

THE COURT DIRECTS Janet L. Miller, of ADWR, to notify the court and parties if Dr. Johnson becomes available to testify at trial.

The parties stipulate to exhibits.

Claimant 1 / US's exhibits 2 through 21, 23, 24, 25 through 37, 38, 40 through 44, 676, 677 and 684 are received in evidence.

Claimant 2 / SRP's exhibits 66 through 131 are received in evidence.

Claimant 3 / FMC's exhibits 144 through 148, 202 through 205, 215 through 219, 555 through 581, 583, 588, 594, 597 through 618, 623, 624, 633, 640, 643, 644, 686, and 687 are received in evidence.

The court inquires if any parties are invoking the Rule of Exclusion of witnesses. The parties respond that they are not invoking the Rule of Exclusion of witnesses.

10:54 a.m. Court stands at recess to allow counsel to continue setting up technology.

10:56 a.m. Court reconvenes with respective counsel and parties present.

Court Reporter, Christine Coaly, is present.

Mr. Gehlert inquires about the deposition policies. The court confirms that sealed, original depositions are required for filing. Mr. Gehlert agrees to have depositions sent next week.

10:57 a.m. Court stands at recess to allow counsel to continue setting up technology.

11:01 a.m. Court reconvenes with respective counsel and parties present.

Court Reporter, Christine Coaly, is present.

Mr. Leininger presents opening statements.

Mr. Deeny presents opening statements.

Mr. Hood presents opening statements.

12:04 p.m. Court stands at recess.

1:32 p.m. Court reconvenes with respective counsel and parties present.

Court Reporter, Christine Coaly, is present.

Mr. Hood continues opening statements.

Ms. Brennan presents opening statements.

Mr. Brown presents opening statements.

Mr. Sparks presents opening statements.

Claimant 1 / US's case:

Steve Swanson is sworn and testifies.

2:35 p.m. Court stands at recess.

2:46 p.m. Court reconvenes with respective counsel and parties present.

Court Reporter, Christine Coaly, is present.

Steve Swanson continues to testify.

Claimant 3 / FMC's exhibits 490, 294, 489, and 491 are received in evidence.

4:28 p.m. Court stands at recess until 10:30 a.m. July 14, 2015.

A copy of this order is mailed to all persons listed on the court approved mailing list for Contested Case No. W1-11-3342 dated July 20, 2015.