

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

03/19/2015

CLERK OF THE COURT
Form V000

JUDGE MARK H. BRAIN

T. Springston
Deputy

W-1, W-2, W-3, W-4(Consolidated)

FILED: March 30, 2015

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

W-1, W-2, W-3, W-4(Consolidated)

In re Redfield Canyon Wilderness Area

W1-11-2664

In re Status Conference

MINUTE ENTRY

East Court Building – Courtroom 413

9:02 a.m. This is the time set for a status conference before Judge Mark H. Brain, to discuss the case status and scheduling.

The following attorneys appear telephonically: R. Lee Leininger on behalf of the United States; and J. Albert Brown on behalf of Bayless & Berkalew Company. The following attorneys appear in-person: Scott M. Deeny on behalf of Salt River Project; William P. Sullivan on behalf of City of Sierra Vista; Sean T. Hood, L. William Staudenmaier, and Shilpa Hunter-Patel on behalf of Freeport Minerals Corporation; Susan B. Montgomery on behalf of the Yavapai-Apache Nation; Joe P. Sparks on behalf of the San Carlos Apache Tribe and the Tonto Apache Tribe; Janet L. Miller and Nicole D. Klobas on behalf of the Arizona Department of Water Resources; and Theresa M. Craig and Carrie J. Brennan on behalf of the State of Arizona.

Court reporter Helene Paustian is present and a record of the proceedings is also made by audio and/or videotape.

Discussion is held regarding case status, scheduling and the proper scope of the case.

10:01 a.m. Court stands at recess.

10:08 a.m. Court reconvenes with respective counsel present.

Court reporter Helene Paustian is present and a record of the proceedings is also made by audio and/or videotape.

Discussion continues regarding case status, scheduling and the proper scope of the case.

The court sets deadlines (as set forth below).

10:17 a.m. Matter concludes.

LATER:

This was the time set for a status conference regarding the Redfield Canyon Wilderness Area's contested case. A discussion ensued regarding the proper scope of this case, with the United States suggesting that it should encompass the entire area set forth in the February 1990 Wilderness Area Map (a copy of which was attached to the United States' Status Report dated March 11, 2015). In fact, that area contains numerous pieces of land owned by Arizona, and the Act which created the Area dedicated "public lands" (i.e., land owned by the United States) consisting of "approximately 6600 acres," all as noted in the Order Determining the Initial Issues, Initiating the Second Phase, and Requesting a Status Report on Land Ownership (authored by Special Master Schade, dated July 9, 2014). Accordingly, the court determined that the quantification questions presented were limited to the needs of the 6,600 or so acres actually owned by the United States.¹ Having so framed the dispute, the court set forth deadlines for resolution of the following issues: (a) How much, if any, unappropriated water was available on November 28, 1990?; and (b) If unappropriated water was available on November 28, 1990, what is the quantity of water sufficient to fulfill the purposes of the Redfield Canyon Wilderness Area? Those deadlines are as follows:

- The United States shall disclose its experts and the basis and substance of their opinions no later than **June 30, 2015**.²
- The other parties shall disclose their experts and the basis and substance of their opinions no later than **November 30, 2015**.
- The deadline to issue written discovery is **February 4, 2016**.

¹ There is some indication that the United States actually owns roughly 6,700 acres in the Area.

² The United States indicated that this deadline might be a problem, as its experts have focused their work several miles downstream of the land currently owned by the United States. The court indicated that it was willing to adjust the deadlines as appropriate.

- The discovery-cutoff is **May 16, 2016**.
- Dispositive motions shall be filed no later than **August 1, 2016**.

IT IS FURTHER ORDERED setting a status conference on **April 7, 2016 at 1:30 p.m.** Out-of-town parties may appear telephonically. Judge Brain will hold the status conference. Because Judge Brain's courtroom will likely change between now and then, the parties are encouraged to inquire about his current location a few days before the hearing.

If you wish to appear telephonically, please follow these instructions:

1. Dial 1-877-820-7831.
2. Dial Participant Pass Code 2743132#.
3. For assistance, if needed, dial 1-800-485-0844 / option 2.

**Judge Mark H. Brain
Maricopa County Superior Court
East Court Building
101 West Jefferson Street
4th Floor, Courtroom 413
Phoenix, AZ 85003
Tel: 602.372.1141**

Please Note: Judge Brain's division is now an FTR division. Any requests for a court reporter will need to be made three (3) days prior to a hearing.

A copy of this order is mailed to all persons listed on the Court approved mailing list for Contested Case Number W1-11-2664 dated March 12, 2015.