

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

4/26/07

CLERK OF THE COURT  
FORM V000

HONORABLE EDDWARD BALLINGER, JR.

L. NEVENHOVEN  
Deputy

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

COPY

Contested Case No. W1-207

FILED: JUNE 25, 2007

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

In Re Proposed Gila River Indian  
Community Settlement Proceedings

MINUTE ENTRY

Northeast Courtroom 112

11:34 a.m. This is the time set for a Telephonic Scheduling Conference for Evidentiary Hearing on Remaining Issues Concerning Objections re Gila River Indian Community Proposed Settlement. Present are: John C. Lemaster on behalf of Phelps Dodge Corporation and Roosevelt Water Conservation District; William Anger on behalf of the Cities of Chandler, Glendale, Goodyear, Mesa, Peoria, and Scottsdale; M. James Callahan on behalf of the City of Phoenix; Charlotte Benson on behalf of the City of Tempe; Donald R. Pongrace, John T. Hestand, Ann Marie Chischilly, Timothy L. Pierson, and Rodney B. Lewis on behalf of the Gila River Indian Community; Cynthia Haglin on behalf of the City of Chandler; Michael J. Pearce on behalf of ASARCO LLC ("ASARCO"); Douglas C. Nelson on behalf of several claimants who have designated themselves the Lower Gila Water Users; Riney B. Salmon on behalf of the San Carlos Irrigation and Drainage; F. Patrick Barry on behalf of the United States; John B. Weldon, Jr., Fredric Beeson, and Lisa McKnight on behalf of Salt River Project; Mark A. McGinnis on behalf of Central Arizona Water Conservation District, Central Arizona Irrigation and Drainage District, and Maricopa-Stanfield Irrigation and Drainage District; telephonically present are: Joe Sparks and Susan B. Montgomery on behalf of San Carlos Apache Tribe, Yavapai-Apache Nation, and Tonto Apache Tribe (collectively "the Apache Tribes"); David A. Brown and L. Anthony Fines on behalf of Gila Valley Irrigation District and Franklin Irrigation District; Janet Ronald on behalf of Arizona Department of Water Resources; Steve Wene on behalf of the City of Safford; Gregg Houtz on behalf of the State of Arizona; Scott B. McElroy on behalf of the Navajo Nation; Patrick B. Sigl on behalf of the Arizona Attorney General's Office; William Sullivan on behalf of the Town of Gilbert; Stan Lutz on behalf of BHP Copper and Jack Campbell of the Ash Fork Cattle Company.

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Special Master George A. Schade, Jr. and his assistant Dana M. Slatalla are also telephonically present.

Court Reporter, Denise Couvaras, is present.

A recording of this proceeding is being made by CD (FTR).

The Court, Mr. Pearce, and Mr. Pongrace discuss ASARCO's Motion for Clarification or Reconsideration of the February 26, 2007 Minute Entry.

IT IS ORDERED denying ASARCO's Motion for Clarification or Reconsideration of the February 26, 2007 Minute Entry, except to the extent that, should the proposed settlement be approved, the Court intends to provide objectors with the opportunity to comment regarding the appropriateness of the language of any Order the Court is requested to enter, including the question of whether any proposed Order should reflect clearly the limit of the Court's review in this proceeding.

The Court, Mr. Pongrace, Mr. Pearce, Mr. Nelson, Mr. Sparks, and Mr. Barry discuss the issues to be set for an evidentiary hearing and a schedule of deadlines.

IT IS FURTHER ORDERED setting an Evidentiary Hearing on the portions of ASARCO's and the Lower Gila Water Users' objections that relate to the quantity of water originating from sources subject to this adjudication that Gila River Indian Community would receive should the Court approve the Community's proposed settlement agreement on **August 20, 2007 at 8:30 a.m. (4 days allotted)** in this Division at:

Northeast Regional Court Center  
18380 North 40th Street  
Courtroom 112  
Phoenix, Arizona 85032.

The schedule of deadlines for the above-set hearing is as follows:

Monday, May 7, 2007 – Gila River Indian Community shall provide its remainder of expert witness reports to Lower Gila Water Users and ASARCO.

Tuesday, May 29, 2007 - Lower Gila Water Users and ASARCO shall disclose their expert witnesses.

Friday, June 22, 2007 - Conclusion of depositions of expert witnesses.

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Friday, July 20, 2007 - Close of all discovery.

Monday, July 30, 2007 - Joint Pre-Hearing Statements and Motions in Limine are due.

Wednesday, August 15, 2007 - Responses to the Motions in Limine are due. There will be no replies.

Monday, August 20-23, 2007 - Evidentiary Hearing; Lower Gila Water Users - 1 day; ASARCO - 1 day; Settling Parties - 1.5 days.

Mr. Fines requested that the Court allow service of discovery materials and documents by fax, e-mail, or overnight delivery.

IT IS FURTHER ORDERED that service of all discovery materials or memoranda filed in connection with this matter shall be served electronically (e-mail/facsimile) or by overnight delivery.

Ms. Ronald and Mr. Nelson discuss Mr. Nelson's plan to depose Mr. Richard Burtell of the Arizona Department of Water Resources. The Court states that the request should be formally presented to the Court by motion.

Mr. Pongrace and Mr. Barry discuss discovery regarding ASARCO's objections.

12:54 p.m. Matter concludes.

IT IS ORDERED signing this minute entry as an order of the Court.

/s/ Eddward P. Ballinger, Jr.  
JUDICIAL OFFICER OF THE SUPERIOR COURT

A copy of this order is mailed to all parties on the Court-approved mailing list for Contested Case No. W1-207 dated January 26, 2007 (revised June 12, 2007).