

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF APACHE**

THE HONORABLE MICHAEL C. NELSON, PRESIDING JUDGE

IN CHAMBERS

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IN OPEN COURT

THE HONORABLE EDWARD L. DAWSON
Visiting Judge

SUE HALL, Clerk

By: C. Morrow, Deput,

IN RE THE GENERAL ADJUDICATION
OF ALL RIGHTS TO USE WATER IN THE
LITTLE COLORADO RIVER SYSTEM
AND SOURCE

DATE: January 28, 2000

TIME: 9:35 a.m.

STATUS CONFERENCE

CIVIL NO. 6417

DESCRIPTIVE SUMMARY:	Status Conference held in the Apache County Superior Courtroom, St. Johns, Arizona.
NUMBER OF PAGES:	4
DATE OF FILING:	February 11, 2000

MINUTE ENTRY

This is the date and time set for a Status Conference in Civil No. 6417.

Courtroom Reporter: Susan Humphrey.

The Court welcomes those in attendance for the Status Conference, and expresses hope for progress reports, and time lines for action hereafter.

APPEARANCES

The Court calls for appearances and they include the following: Mr. David A. Brown, representing various claimants; Mr. Scott McElroy and Mr. Stanley Pollack, representing the Navajo Nation; Mr. Frederic Beeson, Mr. John B. Weldon Jr., Ms. Brenda Burman, and Mr. David C. Roberts, representing Salt River Project;. Ms. Jane M. Farris, representing the BIA - Navajo Region Regional Hydrologist; Mr. John Cawley, Department of the Interior/Bureau of Indian Affairs; Mr. Charles Jakosa, U. S. Department of Justice; Ms. Alexandra Arboleda representing the Arizona Department of Water Resources; Mr. Pete Shumway, representing LCR counties; Mr. Andrew F. Walch, representing the National Park Service, Forest Service and Bureau of Land Management; Ms. Lee Storey, representing the City of Flagstaff; Ms. Mary Grier, representing the Arizona Attorney General's Office; Mr. Mitchel D. Platt, representing various claimants; Mr. Michael Elures, representing the Hopi Tribe; Ms. Rosemary Panteah, representing the Zuni Tribe Water Rights; Mr. Wilfred Eriacho representing the Pueblo of Zuni; Ms. Raquel Montoya-

Lewis, Zuni Tribe Attorney; Ms. Joan Cheama, representing the Pueblo of Zuni; Mr. William Staudenmaier, representing Arizona Public Service, Phelps Dodge and Aztec Land and Cattle Company; Ms. Karilee Ramaley, representing Pinnacle West Capital Corporation for Arizona Public Service; Mr. Robert Sejkora and Mr. Jerry Sako, representing Arizona State Parks; Mr. Lauren J. Caster, representing the Stone Container Corporation, Abitibi Consolidated Sales Corporation, the Arizona Water Company, Santa Fe Pacific Railroad Company and the Burlington Northern Santa Fe Railroad Company; Mr. Harry R. Sachse and Mr. Scott Canty representing the Hopi Tribe; Ms. Esther Talayumtewa, Mr. Lyman W. Polacca, and Mr. Todd Honyaoma, Sr., representing the Hopi Tribe; Mr. Edward L. Sullivan, representing Peabody Coal Company; Mr. William Darling, representing the Cameron Trading Post and Atkinson Trading Company; Mr. Richard Bertholf and Mr. Robert Hoffman, representing Southern California Edison; Mr. R. W. Barris, representing the City of Winslow and Mr. Jim Boles, Mayor of the City of Winslow.

Also in attendance: Special Master John E. Thorson; Ms. Kathy Dolge, assistant to the Special Master; Judge Michael C. Nelson, Presiding Judge of Apache County Superior Court and Settlement Judge in the Little Colorado Stream Adjudication.

REPORTS

The Court invites representatives from the Settlement Committee to report on any progress made since the previous Status Conference was held and suggests that Mr. Harry Sachse is the appropriate person to begin.

Mr. Sachse states that there have been both progresses and setbacks, then reviews the issues. Mr. Sachse further reviews the proposal made to Senator Kyl, and the subsequent request made by Senator Kyl concerning a cost analysis of the proposed project. Mr. Sachse advises that Southern California Edison and Peabody Coal Company have recently presented a new proposal, and two pipeline proposals are now before the committee. Mr. Sachse further advises that there has been no opportunity as yet for the new pipeline proposal to be presented to the Hopi Tribe and Hopi Committee. Mr. Sachse then states that it would be appropriate to allow another three months to elapse before another hearing. Mr. Sachse references the recent settlement between the Hopi and Navajo Tribes, and the promise of Senator Kyl to support a settlement in congress.

The Court welcomes any progress, and states a willingness to allow additional time. The Court inquires if there is anyone with additional information, concerns, or tribal reports.

Mr. Pollack, representing the Navajo Nation, advises that he is not certain how much there is to add to the previous report given by Mr. Sachse. Mr. Pollack also references conferences with Senator Kyl, and reviews the difficulty in putting together the Three Canyon Project proposal. Mr. Pollack refers to the map on the Courtroom wall, explaining that the Navajo Nation has made clear from the beginning the need for the Three Canyon Project.

The Court calls for comments from Mr. Weldon, representing the Salt River Project.

Mr. Weldon states his belief that progress of the negotiations may be beyond the control of the participants. Mr. Weldon questions whether this is a water settlement or a public works program. Mr.

Weldon reviews conversations with Senator McCain; the concern Senator McCain has regarding the magnitude of this project and the costs involved with the combined proposals of the Three Canyon Project and the Lake Powell pipeline. Mr. Weldon states his understanding that Senator Kyl is equally concerned about the costs, and advises further that definite figures have never been submitted from the United States. Mr. Weldon states that Salt River Project is unwilling to support the proposed pipeline at this time, adding that Central Arizona Project allocations are being reviewed and examined, those issues of concern being more threatening to Salt River Project currently. Mr. Weldon reviews other efforts being made in the settlement process, stating that great strides have been made in eastern Arizona.

Mr. Charles Jakosa, representing the United States Department of Justice, addresses the Court. Mr. Jakosa reports that the United States does not have any particular disagreement with what the previous parties have said, but that the United States is committed to achieving a settlement with the involved parties and continuing negotiations. Mr. Jakosa states his concerns regarding the ability of the United States to protect the water rights of some of the other beneficiaries.

Andrew Walch, representing the National Parks Service as well as other public lands owned by the United States, addresses the Court. Mr. Walch references settlement discussions, including the ongoing settlement concept with the City of Flagstaff. Mr. Walsh advises that there is only one minor issue remaining in the settlement with the City of Flagstaff. Mr. Walch states his intention of submitting a memo in February recommending settlements with SRP, APS, TEP and other major water users.

Ms. Lee Storey responds to the comments made by Mr. Walch, and advises that the last remaining issue is a matter of language and not concept. Ms. Storey states her belief that this issue may be resolved later today.

Ms. Mary Grier, representing the Arizona Attorney General's office, encourages the parties to work toward settlement. Ms. Grier states that the proposed three months time may be too short, again suggesting more time for negotiations in trying to reach a resolution.

Ms. Raquel Montoya-Lewis, representing the Zuni Tribe and appearing in behalf of Susan Williams, references upcoming negotiations, and states her belief that settlement is close. Ms. Montoya-Lewis advises that there are some issues remaining to be resolved, but that there is hope that these issues may be resolved.

Mr. Staudenmaier, representing Arizona Public Service, comments that although he does not have a lot to add, believes three months may be an ambitious expectation. Mr. Staudenmaier supports setting another Status Conference in a time frame of three months, since most progress seems to be made just before the conferences.

Mr. Ed Sullivan, representing Peabody Western Coal Company, states that he wants to clarify the record. Mr. Sullivan advises that Peabody Western Coal Company did not withdraw the offer, but modified it and it was deemed unacceptable by the Navajo Nation. Mr. Sullivan further advises that the alternative puts the settlement back where it was months ago. Mr. Sullivan further states concern over the costs involved, and the ability to obtain federal funding, but that they will continue to strive toward settlement.

Mr. Robert Hoffman, representing Southern California Edison, comments that the issues involved are not public works issues, but water issues.

The Court finds the overall reports optimistic, and encourages the parties to continue in the negotiations toward settlement. The Court warns the parties, however, that they need to prepare for litigation, piecemeal or total, at the same time hoping that the settlement will go through. The Court explains the need for progress, and the process that is necessary for litigation and hopefully for settlement.

IT IS ORDERED that the Arizona Department of Water Resources shall submit by **March 31, 2000**, a report outlining the necessary steps to complete the Indian Lands Hydrographic Survey Report, including a time line of what needs to be done and when it can be accomplished.

IT IS FURTHER ORDERED that parties planning to engage actively in litigation over this hydrographic survey report shall file notices of intent to participate by **September 1, 2000**.

IT IS FURTHER ORDERED that parties filing notices of intent to participate shall also submit their initial disclosure statements by **January 31, 2001**. Supplemental disclosures shall be made no later than **May 30, 2001**.

IT IS FURTHER ORDERED that an additional Status Conference be set for **Thursday, April 27, 2000** at **9:30 a.m.** in the Apache County Superior Court.

10:25 a.m. Status Conference is adjourned.

ADDENDUM

The Court is aware that the data base of claimants in the Little Colorado River adjudication is becoming inaccurate as names and addresses have changed. The Court is also aware of steps the Gila River adjudication has taken to improve the accuracy of claimant records.

IT IS ORDERED that the Special Master submit to the Court, on or before **March 31, 2000**, a report recommending steps that should be taken to improve the accuracy of the Little Colorado River claimant records.



EDWARD L. DAWSON
JUDGE OF THE SUPERIOR COURT

The original of the foregoing filed with the Superior Court Clerk of Apache County.

On this 11th day of February, 2000 a copy of the foregoing is mailed to those parties who appear on the Court-approved mailing list for Civil No. 6417 dated November 16, 1999.



Carolyn Morrow, Deputy