

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

03/28/2012

CLERK OF THE COURT
FORM V000

SPECIAL MASTER GEORGE A. SCHADE,
JR.

K. Gilmet

Deputy

Civil No. W1-11-3342

FILED: April 2, 2012

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

In Re Aravaipa Canyon Wilderness Area

MINUTE ENTRY

Central Court Building, Suite 5B

9:31 a.m. In chambers. This is the time set for Telephonic Conference pursuant to the Special Master's Order of February 23, 2012. Appearances in this case: Scott M. Deeny, Lisa M. McKnight, and Patrick B. Sigl (Salt River Project); L. William Staudenmaier and Shilpa Hunter-Patel (Freeport-McMoRan Corporation); Robyn L. Interpreter (Yavapai-Apache Nation); R. Lee Leininger (United States Department of Justice, Environment and Natural Resources Division); Janet L. Ronald (Arizona Department of Water Resources); Joe P. Sparks (San Carlos Apache Tribe; Tonto Apache Tribe); and William P. Sullivan (City of Sierra Vista). Also present is the assistant to Special Master George A. Schade, Jr., Barbara K. Brown.

Court Reporter, Debbie Croci, is present.

Mr. Leininger presents argument on the issues of the United States filing the required maps of the Aravaipa Canyon Wilderness Area with the Congress and the true acreage size of the wilderness area.

Mr. Leininger states he spoke with the Bureau of Land Management (BLM) and believes he needs an additional ninety days to get this information. It is unknown at this time if this is a new map being created or the original map from 1990 as Mr. Leininger is waiting to hear from the BLM.

The Special Master will allow ninety days for the United States to provide the information. A separate order will be issued.

Messrs. Leininger, Deeny, and Staudenmaier present their positions concerning whether the filing of a Rule 53(g) Report or proceeding with an evidentiary hearing would be more effective.

The Special Master is inclined to believe that if a Rule 53(g) Report is sent to Judge Ballinger, the Special Master's entire November 2, 2011, order should be submitted so the Court is fully informed.

Messrs. Leininger, Deeny, Staudenmaier, and Sullivan present argument. Messrs. Leininger and Deeny argue in favor of a Rule 53(g) Report because guidance from the Court will result in a more efficient use of resources. Messrs. Staudenmaier and Sullivan argue in favor of an evidentiary hearing because the issues not decided by the Special Master in November 2011, cannot be resolved without a factual record, and a report will delay this case.

Mr. Leininger reminds all parties that an Amended Claim has been filed in this matter.

The Special Master states that an evidentiary hearing could be limited to the first four issues suggested by Mr. Staudenmaier and the issue whether Congress intended to reserve all the unappropriated waters.

Discussion is held regarding these questions and the Arizona Department of Water Resources (ADWR) making recommendations to identify the minimal amount of water versus the total amount of water in the stream system, the amount of time it will take ADWR to make its report, and if the Rule 53(g) Report should be submitted while waiting for ADWR's report.

The Special Master states that an evidentiary hearing could proceed with the parties' evidence rather than wait for a report from ADWR.

Mr. Staudenmaier states that this approach would expedite an evidentiary hearing.

Mr. Sparks states that ADWR should be requested to prepare a technical report to safeguard the due process rights of other water right holders who might be affected.

Ms. Ronald states that ADWR is working on a San Pedro Riparian National Conservation Area (SPRNCA) report at this time. She estimates that ADWR could prepare a report for this case in about one year.

Mr. Staudenmaier suggests discovery and disclosure could be completed while ADWR prepares the report.

In regards to the Redfield Canyon Wilderness Area, the Special Master inquires if a briefing schedule similar to the one recently held in this case should be set.

Discussion is held between Messrs. Leininger, Deeny, Staudenmaier, Ms. McKnight, and the Special Master.

Mr. Leininger argues in support of the BLM's request to stay the amendment of the BLM's reserved water right claims to the Redfield Canyon Wilderness Area. The BLM has been unable to complete the necessary work.

The Special Master states that this request will be addressed in his forthcoming order.

The Special Master states that another Telephonic Conference may be held to give all parties the opportunity to further discuss an Evidentiary Hearing if one is set, and advises his order will be sent out at a later date.

10:50 a.m. Matter concludes.

A copy of this order is mailed to all parties on the Court approved mailing list for Contested Case No. W1-11-3342 dated January 31, 2012.