

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

11/05/2008

CLERK OF THE COURT

HONORABLE GEORGE A. SCHADE, JR.

M.L. SMITH
DEPUTY

W1-11-232 (Consolidated)

FILED 11/18/2008 8:00 a.m.

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

In Re San Pedro Riparian National Conservation Area

MINUTE ENTRY

Courtroom 613 - East Court Building

9:00 a.m. This is the time set for oral argument on the six issues designated for briefing concerning the water rights claims of the United States for the San Pedro Riparian National Conservation Area. Present are: William P. Sullivan on behalf of Bella Vista Water Company, Inc., Pueblo Del Sol Water Company, and the City of Sierra Vista; Rhett A. Billingsley and Jenny J. Pelton on behalf of Freeport-McMoRan Corporation and Babacomari Ranch Company LLLP, respectively; M. James Callahan on behalf of the City of Phoenix; William H. Anger on behalf of the Cities of Tempe, Glendale, Mesa, and Scottsdale; Lauren J. Caster and Gregory L. Adams on behalf of ASARCO LLC; R. Lee Leininger on behalf of the United States; Nate Dieterich on behalf of the Bureau of Land Management; John B. Weldon Jr., Lisa M. McKnight, Patrick B. Sigl, Greg Kornrumpf, and Rebecca Davidson on behalf of Salt River Project; Janet L. Ronald and Richard T. Burtell on behalf of the Arizona Department of Water Resources; and Kristina Fredericksen, paralegal for the Arizona Attorney General's Office.

Barbara K. Brown, assistant to Special Master George A. Schade, Jr., is present.

Court reporter, Karen Bolton, is present.

Mr. Weldon informs the Special Master that Ms. McKnight has been delayed due to an emergency, and counsels have agreed to change the order of presentation until Ms. McKnight arrives.

Mr. Leininger presents argument on behalf of the United States.

Mr. Billingsley presents argument on behalf of Freeport-McMoRan Corporation.

Mr. Sullivan presents argument on behalf of Bella Vista Water Company, Inc., Pueblo Del Sol Water Company, and the City of Sierra Vista.

Mr. Caster presents argument on behalf of ASARCO LLC. He offers a copy of a pleading entitled United States' Notice of Filing of Second Amended Statement of Claimant for the San Pedro Riparian National Conservation Area filed on February 3, 2006. The notice is accepted and filed.

Mr. Leininger presents responsive argument.

10:37 a.m. Hearing stands at recess.

10:48 a.m. Hearing reconvenes with counsel and parties present.

Messrs. Billingsley, Sullivan, and Caster present responsive arguments.

Discussion is held regarding the acres of land comprising the San Pedro Riparian National Conservation Area, including those owned by the United States at various times. The United States claims that it owned approximately 51,234 acres of land on November 18, 1988, when the conservation area was established.

IT IS ORDERED that on or before Friday, December 5, 2008, the United States shall supplement its statement of facts in support of its motion for summary judgment to provide evidence of how many acres of public lands comprising the San Pedro Riparian National Conservation Area the United States owned on November 18, 1988.

Ms. McKnight arrives and presents argument on behalf of Salt River Project.

Mr. Caster requests supplemental disclosure of any documents that support the United States' claim of ownership of 51,234 acres within the San Pedro Riparian National Conservation Area.

IT IS FURTHER ORDERED that the United States shall disclose and distribute copies of the documents that support the supplemental statement of facts due on December 5, 2008.

Mr. Billingsley requests that an opportunity be provided to respond to the filings made by the United States on December 5, 2008. Discussion is held regarding the possible reopening of discovery concerning the number of acres owned by the United States on November 18, 1988.

The Special Master states he will not grant the request, but will reconsider it after reviewing the filings made by the United States on December 5, 2008.

The form of the Special Master's decision is discussed. ASARCO LLC has requested that the decision be in the form of a minute entry. The Special Master states that he is inclined to consider favorably this request, and that a decision should be expected in early 2009.

The Special Masters thanks the parties for their professionalism in both their pleadings and arguments.

11:56 a.m. Hearing concludes.

A copy of this order is mailed to all persons listed on the Court approved mailing list for Contested Case No. W1-11-232 dated July 25, 2008.