

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

8/13/2007

CLERK OF THE COURT

FORM V000

HONORABLE EDDWARD BALLINGER, JR.

L. NEVENHOVEN  
Deputy

W-1, W-2, W-3, W-4 (Consolidated)  
Contested Case No. W1-208

FILED: August 13, 2007

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

In re Proposed Tohono O'odham  
Nation Water Rights Settlement  
Special Proceeding

MINUTE ENTRY

The Court has reviewed the Pascua Yaqui Tribe's (the "Tribe") Motion for Reconsideration of the Judgment and Decree Approving the Tohono O'odham Settlement (the "Settlement").

The Tribe asserts that reconsideration is required because the Court exceeded its jurisdiction by adjudicating rights to water not within the Gila River system and source. Without deciding whether the Tribe has standing to seek relief in this special proceeding, the Court notes that it has previously discussed the consequence of the approval of the Settlement.

Entry of the July 9, 2007 Judgment and Decree (the "Decree") signified the Court's finding, based upon the evidence, memoranda and other materials submitted, that the parties to the Settlement had satisfied the requisites for approval set forth in the Arizona Supreme Court's Special Procedural Order Providing for the Approval of Federal Water Rights Settlements, Including Those of Indian Tribes (May 16, 1991) (the "Procedural Order"). The Decree recites terms of the Settlement describing rights to water not subject to this Court's jurisdiction, but that reference is intended to make clear the extent of the rights to water within the Gila River system and source granted to the Tohono O'odham Nation. If the Tribe believes that the Settlement illegally allocates water from sources not subject to this Court's jurisdiction (e.g. Central Arizona Project water), it can seek relief in an appropriate forum.

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The Tribe also claims that the Decree is defective because the Court did not conduct an evidentiary hearing specifically dedicated to receiving evidence on the issue of whether the Procedural Order's requisites for approval of the settlement had been met. As of the date the Decree was entered, all objections to the Settlement had been overruled, and no viable allegation of material injury or other impediment to approval based upon section (D)(6)(b) of the Procedural Order was pending. No claimant had alleged the Settlement was being proposed in bad faith, and the filed statements of claimant describing the Tohono O'odham Nation's asserted water rights in this adjudication coupled with the Arizona Department of Water Resources' Technical Assessment of the Tohono O'odham Nation Water Rights Settlement (Southern Arizona Water Rights Settlement) constituted uncontroverted evidence that the water rights granted under the Settlement were no more extensive than would be approved should a trial be held. For these reasons, the Court determined that approval of the Settlement and entry of the Decree was appropriate. Accordingly,

IT IS ORDERED denying the Tribe's Motion for Reconsideration.

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

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

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A copy of this minute entry is sent to all persons on the Court-approved mailing list for Contested Case No. W1-208 dated July 26, 2007.