

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

05/21/2019

CLERK OF THE COURT
FORM V000

SPECIAL WATER MASTER
SUSAN HARRIS

A. Hatfield

Deputy

In re: Asarco-Diversion
Contested Case No. W1-11-2798

FILED: 05/23/2019

In Re: The General Adjudication
of All Rights to Use Water in the
Gila River System and Source
W-1, W-2, W-3 and W-4 (Consolidated)

In re: Status Conference

MINUTE ENTRY

Courtroom: CCB 301

1:59 p.m. This is the time set for a Status Conference before Special Master Susan Ward Harris.

Court reporter, Jennifer Sullivan, is present and a record of these proceedings is made digitally.

The following attorneys and parties appear in-person: Sean Hood and Robin Barnes on behalf of ASARCO; Mark McGinnis on behalf of Salt River Project (“SRP”); and Joe Sparks on behalf the San Carlos Apache Tribe and the Tonto Apache Tribe.

The following attorneys appear telephonically: John Burnside on behalf of BHP Copper f.k.a. Magma Copper; Charles Cahoy on behalf of the City of Phoenix; Kimberly Parks on behalf of the Arizona Department of Water Resources (“ADWR”); and Jay Tomkus on behalf of the Pascua Yaqui Tribe and the Yavapai-Apache Nation.

The Court states that based on the Amended Statements of Claimant (SOCs) it appears that water rights for Robinson Ranch are involved in this case and in Asarco – Irrigation, Contested Case No. W1-11-2801. The Court asks if it is Asarco’s position that the Court should consolidate this case with the Asarco-Irrigation case.

Mr. Hood states that he has thought about the cases being consolidated and that there isn't a good reason not to consolidate the two cases. He doesn't think the Court needs to make a decision today about consolidating the two cases. However, he has no objections to the cases being consolidated.

The Court states that notice in this contested case was provided to RLD Irrevocable Trust. The notice has been returned to the Court because the address is no longer valid. Nobody in the Courtroom has any information regarding RLD Irrevocable Trust.

As the last known address of RLD Irrevocable Trust is no longer valid,

IT IS ORDERED removing the Trust from the Court-Approved mailing list.

Mr. Hood states that the changes to the amended SOCs are significant enough that in his opinion ADWR should issue updated WFRs. Notice of those updates should be given at a minimum to the general adjudication mailing list for the Gila Adjudication. He further states that his understanding of the general consensus is that people should have some form of notice of updates when the WFRs have material changes to priority date and volume.

Ms. Parks states ADWR's legal position is that when parties make significant changes to the original claim, that an amended WFR should be prepared and be included with the San Pedro II HSR.

Mr. Hood does not have a strong opinion about whether to just issue notice of the amended WFR or wait and include the WFR with the San Pedro HSR II. ASARCO will defer to ADWR and the Court.

Mr. McGinnis agrees with ASARCO that the WFRs should be amended. SRP does not have a position regarding the need to delay issuance until the issuance of the San Pedro II HSR.

Ms. Parks states that it is her understanding that work on the San Pedro II HSR is currently on hold and does not have an anticipated issuance date.

Mr. Sparks agrees that the WFRs needs to be amended when there are material and comprehensive changes. He will defer to ADWR and ASARCO for timing.

Mr. Cahoy, Mr. Burnside and Mr. Tomkus agree that the WFRs should be amended. They have no position in regard to the need to delay issuance until the San Pedro II HSR is issued

Mr. Hood further addresses the Court.

The Court is not inclined to delay the issuance of an amended WFR until the San Pedro II HSR has been prepared for the reasons set forth on the record.

2:13 p.m. Matter concludes.

LATER:

IT IS ORDERED that Arizona Department of Water Resources shall file a report by **June 7, 2019**, that includes a brief technical statement about the materiality of the changes to claimed water rights asserted by ASARCO in its amended Statements of Claimant filed in this case. The report shall also set forth ADWR's legal position regarding notice requirements applicable to a WFR amended due to material changes made in an amended Statement of Claimant and shall specifically address the applicability of the procedures adopted by Judge Ballinger for supplemental WFRs in his order dated February 10, 2004 in Contested Case No. W1-11-1174 to the revised WFRs proposed to be prepared in this case. The report shall include the approximate cost of providing the notice that ADWR determines is legally required. If a party desires to file a response to ADWR's report, the response shall be filed by **June 17, 2019**.

A copy of this order is mailed to all persons listed on the Court approved mailing list.