

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

12/4/2020

CLERK OF THE COURT

SPECIAL WATER MASTER
SUSAN WARD HARRIS

S. Motzer
Deputy

In re: St. David Irrigation District
Contested Case No. W1-11-1675

FILED: 12/18/2020

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

Central Court Building – Courtroom 301

2:38 p.m. This is the time set for a telephonic Pretrial Conference. All parties appeared either on the GTM platform or telephonically.

The following attorneys and parties appeared:

- John B. Weldon, Jr., Mark McGinnis and Hannah Woner on behalf of Salt River Project (SRP).
- Sean Hood on behalf of Freeport Minerals.
- David Brown and William L. Staudenmaier on behalf of St. David Irrigation District.
- Kimberly Parks on behalf of Arizona Department of Water Resources (ADWR).
- Joe Sparks and Laurel Herrmann on behalf of the San Carlos Apache Tribe.
- Luke Christian on behalf of the Tonto Apache Tribe.
- John Burnside on behalf of BHP Copper and St. David Irrigation District.
- Charles Cahoy on behalf of City of Phoenix.
- Thomas Murphy on behalf of Gila River Indian Community.
- William H. Anger on behalf of City of Mesa.

- Patrick F. Barry, Rebecca Ross, and JoAnn Kintz on behalf of the U.S. Department of Justice, Indian Resources Section.
- Bradley Pew on behalf of ASARCO, LLC.
- Sue Montgomery representing the Pascua Yaqui Tribe and observing on behalf of the San Juan Southern Paiute Tribe.

Discussion is held regarding the status of the case.

David Brown on behalf of the St. David Irrigation District addresses the Court regarding Issue No. 3, which concerns wells as points of diversion. A draft settlement has been distributed among a small group of the objectors and Mr. Brown states that he believes there is a basis for a settlement but there are still issues that need to be resolved among all of the parties. He proposes that the parties be allowed until the middle of February 2021 to submit either a settlement agreement or a proposed schedule with respect to Issue No. 3 of the first phase of the case.

Mr. Brown addresses the Court regarding Issue No. 1, which involves forfeiture of pre-1919 water rights. He proposes that a specific case and factual context should be attached to the issue before the case proceeds to Judge Brain. He described a case, which was included in the original set of contested cases listed by SRP in its motion for summary judgment, that involves Watershed File Report 112-17-DBA-122.

Mark McGinnis for SRP agrees with Mr. Brown that if the parties are allowed until the middle of February 2021 they may be able to settle Issue No. 3. He also agrees with Mr. Brown with respect to the need to pursue the resolution of Issue No. 1 in a more specific factual context. A discussion is held about the procedures to develop the set of facts in the designated case.

Sean Hood for Freeport Minerals addresses the Court. Mr. Hood also agrees with Mr. Brown's proposal.

Laurel Herrmann for San Carlos Apache Tribe addresses the Court. She states that she would like to review the particular facts of the matter.

Luke Christian for the Tonto Apache Tribe addresses the Court and states that he supports the position of the San Carlos Apache Tribe.

John Burnside for BHP Copper addresses the Court and states that he supports the proposal set forth by Mr. Brown and Mr. McGinnis.

Charles Cahoy for City of Phoenix addresses the Court and states that he supports the proposal outlined by Mr. Brown and Mr. McGinnis.

Thomas Murphy for the Gila River Indian Community addresses the Court about the proposal to resolve Issue No. 1. He states that when SRP filed its motion for partial summary judgment it identified a number of specific claims on which it was moving. It is the position of the Community that the denial of the motion for summary judgment is essentially tantamount to a decision on the identified claims. So, as to those claims, the decision is dispositive. Discussion is held about Mr. Brown's proposal.

Counsel for the City of Mesa addresses the Court and states that he supports the proposal set forth by Mr. Brown and Mr. McGinnis.

Sue Montgomery for the Pascua Yaqui Tribe addresses the Court.

Rebecca Ross for the United States addresses the Court and states that the U.S. supports the proposal set forth by Mr. Brown and Mr. McGinnis as it pertains to Issue No. 3. As to Issue No. 1, the United States defers to Mr. Murphy's position and supports scheduling a status conference before the issue proceeds.

Bradley Pew for ASARCO addresses the Court and states that he supports the proposal set forth by Mr. Brown and joins in the comments of Mr. McGinnis and Mr. Hood.

LET THE RECORD REFLECT that the Court states that it will set a status conference for the beginning of March before any briefing is scheduled or filed.

Further discussion is held.

Mr. Brown states that he wants to put a statement of facts before the Court and then a party would file a motion for summary judgment based on the set of facts and prior ruling, then the opposing parties would file a response.

Mr. McGinnis questions the timing of a status conference in March and suggests that it should be held in February. He explains that the purpose of a disclosure statement would be to provide a proposed set of facts from the Claimant St. David Irrigation District.

Based on the foregoing,

IT IS ORDERED that counsel for the St. David Irrigation District shall submit an initial disclosure statement **no later than January 15, 2021**. No other party shall file a disclosure statement.

IT IS FURTHER ORDERED that counsel for the St. David Irrigation District shall submit a stipulation or proposed schedule with respect to Issue No. 3 **no later than February 12, 2021**.

Patrick Barry addresses the Court and states that he wishes to revisit what the process will be moving forward on Issue No. 1 with respect to the specific case at the upcoming Status Conference.

Mr. Hood addresses the Court to dispute Mr. Murphy's conclusions about the consequences of the ruling on the status of the claims that were the subject of SRP's motion for summary judgment.

3:11 p.m. Matter concludes.

LATER:

A telephonic Status Conference is set for **February 19, 2021** at **1:30 p.m.**

Instructions for telephonic participation:

Dial: 602-506-9695 (local)

1-855-506-9695 (toll free long distance)

Dial Collaboration (conference) Code 357264#

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