

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

07/01/2005

CLERK OF THE COURT
FORM V000

HONORABLE EDDWARD BALLINGER, JR.

R. Luiszer
Deputy

W-1, W-2, W-3, W-4(Consolidated)

FILED: JULY 8, 2005

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

In re Verde Valley Ranch, LLC's
Motion to Deny and Salt River
Project's Request for Injunction

MINUTE ENTRY

The Court has reviewed and considered the materials filed in connection with both Verde Valley Ranch LLC's ("Verde Valley") "Motion to Deny" and Salt River Project's ("SRP") "Motion to Strike" the Verde Valley request. Review of the memoranda establishes that there is a dispute as to whether sufficient admissible evidence exists to find that Verde Valley possesses a colorable claim to irrigate the portion of the one hundred twenty-five acre parcel that is the subject of SRP's application for a provisional remedy. Despite its title, Verde Valley's motion is a request for summary disposition of SRP's application for injunctive relief. The Court agrees with SRP that Verde Valley has not complied with all the procedural requisites set forth in Arizona Rule of Civil Procedure 56. More importantly, the materials filed by the parties convince the Court that the most expeditious way to resolve their dispute is to conduct a hearing at which the relevant evidence can be presented, and the Court can determine if a provisional remedy should be granted.

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If SRP is correct in its claim that it can establish that there is no evidence permitting the Court to conclude that Verde Valley possesses a colorable claim with respect to water rights covering a portion of the subject realty because Verde Valley did not take any steps to comply with statutory requirements enacted in 1919 (and there is no credible evidence of pre-1919 beneficial water use) SRP will prevail at the hearing. If SRP fails to carry its burden, Verde Valley may be entitled to relief in light of the fact that the Court has always made it clear that the pending proceeding is not an adjudication of water rights. This proceeding is intended only to consider SRP's claim that those without arguable claims to the resources being depleted are irreparably injuring SRP due to illegal water diversions.

Based upon the foregoing,

IT IS ORDERED,

1. Deeming Verde Valley's Motion to Deny to be a motion for summary disposition.
2. Denying Verde Valley's request for relief in light of the Court's finding that there is at least one genuine dispute as to a material factual issue present in this proceeding.
3. Deeming SRP's Motion to Strike as moot in light of the foregoing rulings by the Court.
4. Setting a hearing in this case on August 19, 2005, at 3:00 p.m. to determine the status of ongoing discovery, and any impediments to setting a evidentiary hearing date. Either party may appear telephonically at this hearing, if they desire, by calling 602-506-0091 at the scheduled date and time.

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A copy of this minute entry is mailed to all parties on the Court-approved W-1, W-2, W-3 and W-4 mailing list dated June 15, 2005.