

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

09/27/2001

CLERK OF THE COURT
FORM V000

HONORABLE EDDWARD BALLINGER, JR.

R. Luiszer
Deputy

W-1, W-2, W-3, W-4(Consolidated)
W1-11-19 (Consolidated)

FILED: Oct 25 2001

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

MINUTE ENTRY

1:32 p.m. This is the time set for Oral Arguments and a Status Conference. Present are the following: Robert Hoffman representing BHP Copper, Carlos Ronstadt representing Sands Investment, Frederic Beeson representing Salt River Project, Anthony Fines representing Gila Valley Irrigation District, Lauren J. Caster representing ASARCO, Inc. and Arizona Water Co., Rod Lewis, John Hestand and Tim Pierson representing Gila River Indian Community, Marilyn D. Cage representing City of Goodyear, Charlotte Benson representing City of Tempe, Cynthia Haglin representing City of Chandler, Joe P. Sparks and John Ryley representing San Carlos Apache Tribe, Tonto Apache Tribe, and Yavapai-Apache Nation, Graham M. Clark, Jr. representing Arizona Attorney Agency/Claimants, William P. Sullivan representing Bella Vista Water Co., Steve Wene representing City of Safford, Rio Rico Properties and Paloma, Janet Ronald from Arizona Department of Water Resources, Lee Leininger from the U.S. Department of Justice, Riney Salmon representing San Carlos Irrigation District, M. James Callahan representing City of Phoenix, Sally Worthington representing Maricopa County, Bill

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Staudenmaier representing Arizona Public Service Co., Phelps Dodge Corp. and Roosevelt Water Conservation District, Steven L. Hernandez Bayless & Berkelew, et al., and John Weldon representing Salt River Project. Special Master, George A. Schade, Jr. and his assistant, Kathy Dolge, are present.

Court Reporter, Jean Villmer, is present.

ORAL ARGUMENT ON OBJECTIONS TO FORMER SPECIAL MASTER THORSON'S DE MINIMUS REPORT:

The following arguments are addressed:

Graham Clark re: flood flow and mean and median measurements techniques; John Hestand re: impact on water supply during shortages and mean and median statistical measurements; John Weldon re: mean and median statistical measurements; Joe Sparks re: the possible effect of accumulative impacts of water usage; and Graham Clark re: exclusion of flood flows amount.

ORAL RESPONSES ON RECOMMENDED RESOLUTIONS AND OTHER OBJECTIONS:

The following arguments are addressed:

Larry Caster re: adjudication of groundwater for domestic uses; John Hestand re: land owner division of diversions and enforcement of summarily adjudicated water rights; Graham Clark re: exclusion of small uses; Steven Hernandez re: stockponds; Carlos Ronstadt re: stockponds and Court's continuing statutory jurisdiction over enforcement; John Weldon re: a) jurisdiction over groundwater and need for subflow criteria, b) Court's continuing jurisdiction over severance and transfers applications, and c) Court's statutory continuing jurisdiction over enforcement matters; Joe Sparks re: enforcement of summarily adjudicated water rights and severance and transfer

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applications; and Lee Leininger re: severance and transfer applications and ownership of water rights on federal lands.

3:20 p.m. Court stands at recess.

3:35 p.m. Court reconvenes with all present.

Court Reporter, Jean Villmer, is present.

COMMENTS IN SUPPORT OF THE REPORT:

Joe Sparks, John Hestand Graham Clark, Steven Hernandez, Bill Sullivan and John Weldon make comments in support of the report. Counsel supported portions of the report and noted concerns with and previously argued objections to other portions of the report.

STATUS CONFERENCE:

Jim Callahan reports on the meeting of the Steering Committee held earlier in the morning. Special Master Schade attended the meeting and informed the Committee of his activities.

Jim Callahan states that he wrote a letter to a staff attorney of the Arizona Supreme Court responding to an email received regarding the status of Interlocutory Appeal Issue No. 6. A copy of the email is attached to this minute entry.

Jim Callahan states that the Committee discussed motions that have been pending and the need for a ruling on these motions. The Court states that if a party has any motions that are pending, that party can request the Court to hear the motions.

Discussion follows regarding scheduling oral argument on the pending motions for summary judgment re: the Preclusive

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Effect of the Globe Equity No. 59 Decree on Specified Parties
(Contested Case No. W1-206). Oral argument will be set in April
2002.

Jim Callahan states that there has been no response to the
City of Phoenix's comments filed on May 18, 2001, regarding
ADWR's settlement activities. Janet Ronald representing ADWR
states that ADWR is no longer seeking comments or holding
meetings to discuss subflow criteria. The activities that had
prompted the City of Phoenix's comments have been terminated.

Janet Ronald reports on ADWR's mailing of new use
summonses. ADWR plans to mail the new use summonses on a
monthly basis at a rate of 1,500 to 2,000 summonses and to
complete the mailing of the summonses by July 2002.

Janet Ronald updates the Court on the status of the Final
Hydrographic Survey Report (HSR) for the Gila River Indian
Community. The HSR will be published during the first quarter
of 2002.

John Weldon, Jim Callahan, and Robert Hoffman inquired as
to ADWR's efforts and plan to propose criteria for determining
the subflow zone. Janet Ronald states that ADWR has internally
been discussing the issues related to developing subflow
criteria.

The Court enters the following orders:

IT IS ORDERED directing ADWR to file by Tuesday, December
18, 2001, a report describing its proposals for determining the
subflow criteria for purposes of this adjudication.

IT IS FURTHER ORDERED that parties wishing to respond to
the report shall file their responses by Friday, December 28,
2001.

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IT IS FURTHER ORDERED setting hearing on ADWR's report and the responses to the report on Tuesday, January 8, 2002 at 2:00 p.m. in this division.

IT IS FURTHER ORDERED setting oral argument on the motions for summary judgment filed in Contested Case No. W1-206, in re: the Preclusive Effect of the Globe Equity No. 59 Decree on Specified Parties, on Tuesday, April 23, 2002 at 10:00 a.m. in this division.

4:45 p.m. Hearing concludes.

Encl: (1) Copy of email from Dee Ann Rogers

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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 July 13, 2001 and to all parties on the W1-11-19 Court-approved mailing list dated July 13, 2001.