

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

01/10/2013

CLERK OF THE COURT  
FORM V000

HONORABLE MARK H. BRAIN

A. Melchert  
Deputy  
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W-1, W-2, W-3, W-4 (Consolidated)

Contested Case No. W1-103

FILED: 01/15/2013

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

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

In Re Subflow Zone Delineation  
Methodology for the San Pedro River  
Watershed Report (April, 2012) Prepared by  
The Arizona Department of Water Resources

W1-103

MINUTE ENTRY

1:30 p.m. This is the time set for Oral Argument set for January 10, 2013 at 1:30 p.m. (MST) regarding ADWR's April 2012 report. Appearing telephonically are: R. Lee Leininger on behalf of U. S. Department of Justice, Environment and Natural Resources Division; Stephen C. Cann on behalf of The Nature Conservancy; and Lucas Shaw on behalf of Salt River Project ("SRP"); and Laurel A. Herrmann on behalf of the San Carlos Apache Tribe and Tonto Apache Tribe. In the courtroom are: Thomas L. Murphy on behalf of the Gila River Indian Community; Joe P. Sparks and Julia M. R. Kolsrud on behalf of the San Carlos Apache Tribe and Tonto Apache Tribe; Mark A. McGinnis, John B. Weldon, Jr., Steve Westwood and Patrick B. Sigl on behalf of SRP; Rhett A. Billingsley, Sean T. Hood, Shilpa Hunter-Patel, and John C. Lemaster on behalf of Freeport McMoRan Corporation; F. Patrick Barry on behalf of the U. S. Department of Justice; L. William Staudenmaier and L. Anthony Fines on behalf of Arizona Public Service Company; Gregory L. Adams and Lauren J. Caster on behalf of ASARCO LLC; Janet L. Ronald, Ayesha Vohra, Michael Johnson, and David Kendle on behalf of the

Arizona Department of Water Resources (“ADWR”); Theresa M. Craig on behalf of the Arizona Attorney General’s Office, Natural Resources Section; David A. Brown and Douglas E. Brown on behalf of various Little Colorado River claimants; Lee A. Storey on behalf of the City of Flagstaff; Cynthia S. Campbell on behalf of the City of Phoenix; Harlan C. Agnew on behalf of Pima County; Cynthia J. Haglin on behalf of the City of Chandler; Michael J. Pearce on behalf of Buckeye Irrigation Company and Buckeye Water Conservation and Drainage District; Sally Worthington on behalf of Maricopa County; Margaret LaBianca on behalf of BHP Cooper, Inc.; William P. Sullivan on behalf of Bella Vista Water Company, Inc., Pueblo Del Sol Water Company, and the City of Sierra Vista; William H. Anger on behalf of Cities of Avondale, Chandler, Glendale, Mesa, and Scottsdale; Douglas C. Nelson on behalf of Paloma Irrigation and Drainage District and Gila Bend-Dendora Valley Water Users’ Association; Charles L. Cahoy on behalf of the City of Tempe; and Robert Harding and Cynthia Stefanovic on behalf of Arizona State Land Department. Observers Vincent Yazzie and Annie Walker are present. Also present are Special Master, George A. Schade, Jr., and assistant Barbara K. Brown.

Court reporter, Kim Hannan, is present, and a record of the proceedings is also being made by FTR.

The parties discuss the objections and comments.

IT IS ORDERED taking this matter under advisement.

2:29 p.m. Matter concludes.

**LATER:**

This matter came before the Court for a discussion of the various objections to and comments on the April 2012 report by ADWR titled, Subflow Zone Delineation Methodology for the San Pedro River Watershed. Essentially, the parties are divided into two camps. One group believes that the Department should respond to the objections and comments in writing, after which the Court can hold further hearings to discuss the methodology to be used by the Department in completing its mapping of the subflow zone. The other group (including the Department) believes that the Court has adequately instructed the Department on how to proceed, particularly given Judge Ballinger’s Minute Entry of October 12, 2012, and that the Department should be instructed to proceed without further preliminary hearings regarding its methodology. Although there is something to be said for both positions, the Court concludes that the latter group’s position is preferable. Accordingly,

IT IS ORDERED that the Department prepare a revised Subflow Zone Delineation Report for the San Pedro River Watershed on or before April 1, 2014, consistent with Judge Ballinger's Minute Entry of October 12, 2012.

The Department raised one potential stumbling block presented by the October 12, 2012 minute entry; specifically, Judge Ballinger's finding in paragraph 23 that it may not universally exclude mountain front streams. The problem is not that the Department disagrees with this finding; it is that the Department may not have sufficient information to include those streams in the report in the time allotted. The Court requests that the Department do its best to prepare a complete report, but it will understand if the report comes with a caveat that this work is continuing.

IT IS FURTHER ORDERED signing this minute entry as a formal written Order of the Court.

/ s / Mark H. Brain

HONORABLE MARK H. BRAIN  
JUDICIAL OFFICER OF THE SUPERIOR COURT

A copy of this order is mailed to all persons listed on the Court approved mailing list (Court) for Contested Case No. W1-103 dated January 10, 2013.