

SUPREME COURT OF ARIZONA

IN RE) Arizona Supreme Court
) No. WC-07-0002-IR
THE GENERAL ADJUDICATION OF ALL)
RIGHTS TO USE WATER IN THE GILA) Maricopa County
RIVER SYSTEM AND SOURCE) Superior Court
) Nos. W-1, W-2, W-3, W-4
) (Consolidated)
))
) [Contested Case
) No. W1-208]
))
))
))

FILED
AUG - 8 2007
RACHELLE M. RESNICK CLERK SUPREME COURT
BY

O R D E R

The City of Tucson, Farmers Investment Company, and Farmers Water Company (collectively, "Petitioners") have filed a "Petition for Interlocutory Appeal of the Judgment and Decree of the Superior Court Approving the Tohono O'odham Settlement Agreement" and a "Motion for Expeditious Acceptance of Jurisdiction and Shortening of Time for Briefing on the Merits." The Tohono O'odham Nation and the United States of America have filed responses in support of the petition and motion, and the Pascua Yaqui Tribe has filed a response in opposition.

This case involves a judgment and decree of the superior court ("the Judgment"), entered on or about July 9, 2007, approving the Tohono O'odham Settlement Agreement ("the Agreement"). Under the Arizona Water Settlements Act ("the Act"), Pub. L. 108-541, 118 Stat. 3478, the Agreement cannot take effect unless the Judgment becomes "final and nonappealable" before December 31, 2007. *Id.*, §§ 302(b)(5), 303(c), 118 Stat. 3571-73. Neither the Petitioners, the Tohono O'odham Nation, nor the United States attack the Judgment, but each requests that this Court accept jurisdiction of an interlocutory appeal on an expedited basis so that the Judgment can become final and nonappealable before the statutory deadline.

The Pascua Yaqui Tribe opposed the approval of the Agreement in the superior court, and contends that the Petitioners, the Tohono O'odham Nation and the United States, none of whom seek to attack the Judgment, do not have standing to initiate an interlocutory appeal. The Pascua Yaqui Tribe indicates it will seek review of the Judgment, but intends to do so within the time limits provided in this Court's Special Procedural Order Providing for Interlocutory Appeals and

Certifications (the "Special Procedural Order"), filed on September 26, 1989. Under section C of the Special Procedural Order, a petition or certification seeking interlocutory review or appeal of a trial court order approving certain water settlement agreements must be filed within ninety days of the trial court's ruling. The Pascua Yaqui Tribe has also indicated its intent to file a motion for reconsideration in the superior court, which would arguably extend the time to file a petition or certification seeking interlocutory review or appeal of the Judgment.

Having considered the filings of the parties, IT IS HEREBY ORDERED THAT the Petitioners' applications be treated as a motion to suspend in part the Special Procedural Order. Because adherence to the normal time limits in the Procedural Order may prevent full consideration of any appeal from the Judgment prior to December 31, 2007, IT IS FURTHER ORDERED as follows:

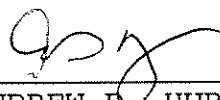
1. Any party seeking interlocutory review or appeal of the Judgment must file a petition seeking such review or appeal no later than September 14, 2007. The superior court may dispose of any pending motions for reconsideration prior to that date, but any order concerning such motions shall not extend the deadline to seek review of the Judgment. Any petition shall be combined with a brief on the merits, containing all arguments of the petitioning party as to why the judgment and decree of the superior court should not be affirmed. The combined petition and brief shall conform, except as expressly provided above, with ARCAP 14. No extension of time will be granted to file a petition and brief.

2. If any party files a petition and brief, any other party may respond to the petition and brief by October 15, 2007. The response shall conform with ARCAP 14.

3. Any reply brief must be filed no later than November 1, 2007.

4. This Court will determine by separate order whether to accept jurisdiction of any interlocutory appeal, and, if it accepts jurisdiction, thereafter expeditiously decide that appeal.

DATED this 8th day of August, 2007.



ANDREW D. HURWITZ
Duty Justice

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TO:

Court Approved Mailing List

Court Approved Mailing List
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W1-208 (68 Names)
Prepared by the Special Master
July 26, 2007

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