

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

04/23/2009

CLERK OF THE COURT

HONORABLE GEORGE A. SCHADE, JR.

M.L. SMITH
DEPUTY

W1-11-232 (Consolidated)

FILED: April 28, 2009 8:00 a.m.

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

In Re San Pedro Riparian National Conservation Area

MINUTE ENTRY

9:00 a.m. This is the time set for a telephonic conference concerning potential issues for briefing. Present are: William P. Sullivan on behalf of Bella Vista Water Company, Inc., Pueblo Del Sol Water Company, and the City of Sierra Vista; Jenny J. Winkler on behalf of Freeport-McMoRan Corporation and Babacomari Ranch Company, LLLP; Lauren J. Caster on behalf of ASARCO LLC and Arizona Water Company; R. Lee Leininger on behalf of the United States; John B. Weldon, Jr. and Lisa M. McKnight on behalf of Salt River Project; Scott M. Deeny and Richard T. Burtell on behalf of the Arizona Department of Water Resources (“ADWR”); David A. Brown and Bradley J. Palmer on behalf of St. David Irrigation District and Pomerene Water Users Association. Barbara K. Brown, assistant to Special Master George A. Schade, Jr., is present.

Court reporter, Pamela Remus, is present.

The Special Master states the purpose of this conference is to identify issues that can be addressed next to move this case forward.

Mr. Leininger requests the status of the report due September 11, 2009 from ADWR.

Mr. Deeny and Mr. Burtell of ADWR advise that the report is on target.

The relationship between the State law certificated right held by the United States and a potential federal reserved water right is discussed.

Mr. Caster suggests ADWR determine as a technical issue if there was any water available following the establishment of the conservation area. If ADWR finds there was no unappropriated water in the system, the reserved right issue would become moot.

The Special Masters asks counsel if there are any issues that can be briefed and brought to a resolution. The Special Master would like to frame the legal issues to be briefed to move this case forward and asks the question, "Does the United States need a reserved water right since it has a certificated State law right?"

Mr. Leininger suggests the parties not try to make the issues too specific, but, rather, a briefing of the relationship of the state law water right and the potential reserved water right.

Mr. Caster believes these arguments were presented earlier and have been ruled on in the Special Master's previous order.

Ms. McKnight presents argument on behalf of Salt River Project that there are legal issues that can be briefed.

Mr. Weldon, Mr. Leininger, Ms. Winkler and the Special Master discuss possible issues for briefing.

Ms. Winkler requests clarification of the Special Master's order granting and denying the summary judgment motions that were filed. Mr. Weldon states that the order is clear.

The Special Master will take the request under advisement.

The Special Master informs the parties the report from ADWR will be a final, not a preliminary, report, and parties may object or comment on the report.

Messrs. Deeny and Burtell state that ADWR will review the documents disclosed, the available records in-house, meet with the Cochise County Assessor and meet with the Bureau of Land Management ("BLM") to assess their records.

Mr. Leininger states he will assist in setting up a meeting with the appropriate personnel at the BLM.

Mr. Caster informs of the provision in the Omnibus Public Land Management Act of 2009, title IX, subtitle (A), section 9002, authorizing further study for bringing alternative water supplies into the Upper Sierra Vista Basin. This provision is a cost-sharing authorization not an appropriation.

10:23 a.m. Conference concludes.

A copy of this order is mailed to all persons listed on the Court approved mailing list for Contested Case No. W1-11-232 dated January 23, 2009.