

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

09/08/2016

CLERK OF THE COURT
Form V000

SPECIAL MASTER
SUSAN WARD HARRIS

S. Brown
Deputy

W1-11-19

FILED: 10/3/16

In Re The General Adjudication of All Rights
In the Gila River System and Source

W1-11-19

In re: Sands Group of Cases

MINUTE ENTRY

Courtroom – 1201 Central Court Building

10:29 a.m. This is the time set for a Status Conference before Special Master Susan Ward Harris to address the most expedient manner of adjudicating the *de minimis* San Pedro River watershed claims.

The following attorneys appear in person:

- Theresa Craig on behalf of the Arizona State Land Department;
- David Brown and Basilio Aja on behalf of Bayless and Berkalew and the Arizona Cattle Grower's Association;
- Michael Pearce on behalf of the Mercer Claimants;
- Lee Leininger and David Negri on behalf of the U.S. Department of Justice, Environment and Natural Resources Division;
- Mark McGinnis on behalf of Salt River Project;
- Stanley Lutz on behalf of Goff & Goff Ltd. Partnership and Charles C. Goff;
- Carlos Ronstadt on behalf of Sands Properties, LLC;
- Susan Montgomery on behalf of Pascua Yaqui Tribe and Yavapai-Apache Nation;
- Janet L. Miller and Nicole Klobas on behalf of the Arizona Department of Water Resources;
- Shilpa Hunter-Patel, Brian Heiserman, and Sean Hood, on behalf of Freeport Minerals Corporation;

- Joe Sparks and Laurel Herrmann on behalf of the San Carlos Apache Tribe and Tonto Apache Tribe;

The following attorneys appear telephonically:

- Sanja Overholser on behalf of the Department of Interior Solicitor's Office;
- Sharon Morris on behalf of Salt River Project;
- Randall Bramer on behalf of the Department of Agriculture, Forest Service;
- Yosef Negose on behalf of the Department of Justice, Indian Resources Section;
- Maria Woodard, on behalf of the Department of Agriculture; and
- Michael LeBlanc on behalf of Pima County

Court reporter, April Escobedo, is present and a record of the proceedings is also made digitally.

Special Master Harris addresses the parties regarding how to proceed with adjudicating these *de minimis* claims with minimal cost. The claims will be adjudicated in accordance with the Memorandum Decision of the Special Master, dated November 14, 1994, as amended and approved by Judge Ballinger's order dated September 26, 2002.

It is noted that of all the federal reserve rights asserted in the San Pedro Hydrographic Survey Report (HSR), have either been or are currently being addressed. It appears that the only claim for a federal reserve right filed post-HSR involves 1/10 the of an acre foot of water.

For the reasons stated on the record,

IT IS ORDERED that the Arizona State Land Department shall file a report by **November 11, 2016**, regarding priority dates for those water rights for which the Arizona State Land Department had filed a claim asserting a federal reserved water right.

IT IS FURTHER ORDERED denying Bayless and Berkalew's Motion to Stay.

The Court notes that while the Arizona Cattle Grower's Association's request to participate has been granted, it is to restrict its actions to assisting the Court by way of briefing issues and assisting in settlement.

Counsel for Bayless and Berkalew proposed a process by which it would take the lead in this matter and choose ten claims for water rights on state trust land and ten claims for water rights on private land and meet with the State Land Department and any other parties who chose to participate to develop proposed abstracts.

IT IS FURTHER ORDERED granting the Motions for Extensions filed by Bayless and Berkalew, Sands, and Mercer. The new due date is **March 1, 2017**. Each

party shall file a brief status report concerning their respective efforts and progress on **February 1, 2017**.

The Special Master discloses that her husband works at the firm of Lewis Rocca Rothgerber & Christie which represents Goff and Goff, one of the claimants in this matter. No party objected during the hearing. Any objection to the Goff claims being included with the set of claims currently being adjudicated shall be filed within five (5) days.

IT IS FURTHER ORDERED granting Goff and Goff's Motions to be added to the court-approved mailing list and granting their request for extensions. The new due date is **March 1, 2017**, and counsel shall file a brief status report concerning their efforts and progress on **February 1, 2017**.

IT IS FURTHER ORDERED that the parties will be in compliance with Pre-Trial Order No. 4 by **March 1, 2017**.

IT IS FURTHER ORDERED granting the Motion to Intervene filed by Freeport Minerals Corporation. However, any discovery requests must first be approved by the Court. Discovery will be limited to the least amount necessary.

The Court created a list on the second page of its notice filed August 5, 2016, of the water rights proposed by ADWR for which there is no associated statement of claimant. Parties who believe they have filed a Statement of Claimant that is associated with a proposed water right shall meet with ADWR to demonstrate that a Statement of Claim has been filed to support their water right. A water right cannot be awarded if there is no Statement of Claimant filed. The Court has also prepared a proposed form of abstracts which is available for the parties to reference.

The following parties present proposals on how to go forward to allow the State Land Commission the opportunity to determine ownership issues and move these claims forward.: Theresa Craig, David Brown, Michael Pearce, Lee Leininger, Carlos Ronstadt, Joe Sparks, Brian Heiserman, and Mark McGinnis.

IT IS ORDERED taking this matter under advisement.

11:50 a.m. Matter concludes.

LATER:

Bayless and Berkalew shall file a report and/or proposed abstracts concerning the 20 selected claims for water rights that it has addressed with the Arizona State Land Department by **March 10, 2017**. Any other party that desires to file a proposal for resolution of the claims shall file its proposal by **March 10, 2017**. If a party desires to file a response, such response shall be filed by **March 27, 2017**.

A hearing on the report and proposals shall be held on **April 5, 2017**, at 1:30 p.m. in Courtroom 1201, Central Court Building, 201 W. Jefferson, Phoenix, AZ 85003.
Instructions for telephonic participation:

1. Dial 1 602-506-9695 (toll free number)
2. Dial Participant Pass Code 163622# (pound)

A copy of this order is mailed to all persons listed on the Court approved mailing list for Contested Case In Re Sands Group of Cases No. W1-11-19.