

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

06/25/2021

CLERK OF THE COURT

SPECIAL WATER MASTER
SUSAN HARRIS

L. Brown

Deputy

In re The General Adjudication of All Rights To
Use Water in The Gila River System and
Source
Contested Case No. W1-11-2709
Contested Case Name In re Jack Hughes, et al.

FILED: 07/06/2021

MINUTE ENTRY

Courtroom: CCB 301

3:30 p.m. This is the time set for a Status Conference regarding In re Jack Hughes, et al. before Special Master Susan Ward Harris.

All attorneys and parties appear telephonically.

Appearances are as follows:

- Kimberly Parks on behalf of the Arizona Department of Water Resources
- R. Lee Leininger on behalf of the United States
- Rhett Billingsley on behalf of ASARCO LLC
- Joseph Sparks on behalf of the San Carlos Apache Tribe
- Lauren Mulhearn on behalf of the Tonto Apache Tribe
- Sue Montgomery on behalf of the Yavapai Apache Nation and observing on behalf of the Pascua Yaqui Tribe
- Michael Foy on behalf of Salt River Project

A record of the proceedings is made digitally in lieu of a court reporter.

Mr. Leininger addressed the Court. He stated, as stated in the status report they have had communications from the technical personnel with BLM and ADWR and they

have submitted an updated entry flow report. The report addressed the 20 issues that ADWR identified. The BLM response was submitted to AWDR on June 4, 2021. He feels that the way they are proceeding is consistent with the information that was in the November 20, 2020 joint status report, which was that ADWR will process the application and if there are any questions they will address them right away. If no questions, then it will be re-noticed on the ADWR website for 60 days. If no protests are filed ADWR said it would take approximately 30 days to issue the permit.

The Court addressed Mr. Leininger asking if he has heard from AWDR since the filing of the June 4, 2021 report.

Mr. Leininger stated he has not heard from ADWR.

Mrs. Parks addressed the Court. She stated she is still reviewing the documentation that was received and she doesn't have an answer as to whether it needs to be re-noticed. It was noticed back in the 1990s and there was one protest that has since been resolved. She does not know whether the new information will require re-noticing. They have not received recent flow data.

The Court stated the HSR reports that the United States claimed 10,341.44 acre feet of water annually for instream flow.

Mr. Foy addressed the Court. He stated the next step is to wait for ADWR to issue the certificate of water rights and then determine how the U.S. wants to proceed from there.

Mr. Sparks addressed the Court. He stated he agrees with Mr. Foy. The parties need to wait for the certificate to be issued by ADWR. There are other pending applications for instream flow. This case may set some type of level of practice that the parties may want to observe in dealing with this narrow issue.

Mr. Sparks continued to address the Court. He stated they have developed entry flow claims, but this is a different target and he does not know what to anticipate in terms of total quantity that will be requested. It will be unique on its own facts. He feels that a status conference should be set once the certificate is issued.

Mr. Billingsley agrees that they should wait until ADWR issues a certificate and then move forward with the case once it is at the certificate stage.

Mrs. Mulhearn addressed the Court and stated she agrees with Mr. Billingsley.

Mrs. Montgomery addressed the Court and stated she agrees as well.

Mr. Leininger addressed the Court and stated that the entry flow application had two monitoring sites and there are two parcels that have a claim total acre foot per year

amount. One upper parcel is 2,449 acre feet and the lower it is 2,729 acre feet and the amounts are cumulative. Regarding moving forward, the agrees that best to wait for the certificate stage.

Mrs. Parks addressed the Court and stated the best approach is to allow ADWR to move forward with the certificate process.

Mr. Leininger stated he will provide a prompt notice once the certificate is issued.

The Court stated Mr. Leininger will give notice within 10 days of the issuance of the certificate and at that point the Court will set a status conference to discuss the next steps.

3:42 p.m. Matter concludes.

NOTE: All court proceedings are recorded digitally and not by a court reporter. The parties or counsel may request a CD of the proceedings. For copies of hearings or trial proceedings recorded previously, please call Electronic Records Services at 602-506-7100.

A copy of this order is mailed to all persons listed on the Court-approved mailing list.