

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

01/22/08

CLERK OF THE COURT
FORM V000

HONORABLE EDDWARD BALLINGER, JR.

L. NEVENHOVEN
Deputy

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

COPY

FILED: **January 25, 2008**

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

In Re Belsher Investments' and
Salt River Project's
Application for Order to Show
Cause and Request for Injunction
Against Michael L. Golder

MINUTE ENTRY

Prior to the commencement of these proceedings, exhibits 1 through 129 are marked for identification.

9:00 a.m. This is the time set for Evidentiary Hearing regarding Belsher Investments' and Salt River Project's Application for Order to Show Cause and Request for Injunction Against Michael L. Golder. Present are: Mark A. McGinnis and Maxine M. Becker on behalf of Belsher Investments, L. P. and Salt River Project; Kirsten L. Copeland and Andrea L. Gonzales on behalf of Michael L. Golder; Jim Cooper, David Roberts, and Jeff Ehlers on behalf of Salt River Project; Michael L. Golder; and Brian and Carol Belsher.

Court Reporter, Hilda Lopez, is present .

A recording of this proceeding is being made by CD (FTR) in addition to a court reporter.

Dave Roberts is sworn and testifies.

Exhibits 1, 3, 5, 6, 8, 9A, 11, 12, 14, 15, 21, 22, 24, 25, 27, 29, 31, 80, and 81 are received in evidence.

10:31 a.m. Court stands at recess.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

01/22/08

CLERK OF THE COURT
FORM V000

HONORABLE EDDWARD BALLINGER, JR.

L. NEVENHOVEN
Deputy

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

COPY

10:46 a.m. Court reconvenes.

Dave Roberts resumes the stand and testifies further.

Exhibits 49 and 91 are received in evidence.

Brian Belsher is sworn and testifies.

Exhibits 7, 85, and 87 are received in evidence.

12:03 p.m. Court stands at recess.

2:07 p.m. Court reconvenes.

Jack Buchanan is sworn and testifies.

3:11 p.m. Court stands at recess.

3:24 p.m. Court reconvenes.

Jack Buchanan resumes the stand and testifies further.

Michael Golder is sworn and testifies.

Page 1 of Exhibit 121 is received in evidence for demonstrative purposes.

Exhibit 130 is marked for identification and received in evidence.

IT IS ORDERED releasing all exhibits not offered in evidence to the party causing them to be marked.

4:50 p.m. Matter concludes.

LATER:

On January 22, 2008, the Court received evidence and heard argument of counsel in connection with Belsher Investments' and Salt River Project's request for injunctive relief against Michael L. Golder.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

01/22/08

CLERK OF THE COURT
FORM V000

HONORABLE EDDWARD BALLINGER, JR.

L. NEVENHOVEN
Deputy

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

COPY

Mr. Golder testified that there are two methods used to irrigate his property: 1. use of ditch “overflows” and 2. water diversions used to fill and replenish a reservoir on his property.* The evidence established that Mr. Golder’s water uses are inconsistent with the uses purportedly authorized by water claims held by the person who originally held title to his property, as well as each pre-1980 successor in interest to the original claims. And there has never been an effective severance and transfer of water rights to Mr. Golder that would authorize his current water uses. For these reasons, the Court finds that the movants have satisfied the burden placed upon them to demonstrate that Mr. Golder lacks a colorable claim to a water right such as to prevent relief being granted against him.

IT IS ORDERED granting the application for injunctive relief and directing counsel for movants to lodge and serve, prior to February 11, 2008, a form of Order consistent with the findings set forth above. Counsel for Mr. Golder may file objections to the lodged form prior to February 21, 2008.

IT IS FURTHER ORDERED signing this minute entry as an Order of the Court.

/s/ Eddward P. Ballinger, Jr.
JUDICIAL OFFICER OF THE SUPERIOR COURT

A copy of this order is mailed to all parties on the Court-approved W-1, W-2, W-3 and W-4 (Consolidated) mailing list dated July 26, 2007, Kirsten L. Copeland, Lewis and Roca, L.L.P., 40 North Central Avenue, Phoenix, Arizona 85004-4429, and to Michael L. Golder at both 3077 East Greenback Creek Road, Tonto Basin, Arizona 85553 and P. O. Box 956, Tonto Basin, Arizona 85533.

* Subsequent testimony by Mr. Golder referred to a contingent “right” to divert water by use of a canal if his reservoir use was held to be improper. However, there was no assertion that any evidence existed supporting this claim, which would have to have been established prior to the time Mr. Golder took title to the real property that is relevant to the parties’ current dispute. Had there been evidence of even a colorable claim to a ditch diversion right held by Mr. Golder or his predecessors in interest, the Court’s ruling might well have been partially in Mr. Golder’s favor.