

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

10/05/2009

CLERK OF THE COURT
FORM V000

HONORABLE EDDWARD BALLINGER, JR.

R. Tomlinson
Deputy

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

COPY

FILED: 10/19/2009

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

In Re: Salt River Project's Application
for Order to Show Cause and Request
for Injunction Against NBJ Ranch Limited
Partnership

In Re: Evidentiary Hearing

EVIDENTIARY HEARING MINUTE ENTRY
DAY ONE

Prior to the commencement of today's proceeding, Plaintiff's exhibits 1-340 and 437, and Defendant's exhibits 341-436 inclusive were marked for identification.

FILED: Deposition of R. Douglas Bartlett, R. G. dated January 28, 2009; Deposition of Philip C. Briggs dated March 17, 2008 and the exhibits thereto; Deposition of Philip C. Briggs dated January 28, 2009; Deposition of Jennifer O'Callaghan dated March 3, 2009; Deposition of Eric J. Harmon, P.E. dated March 6, 2008; Deposition of Eric J. Harmon, P.E. dated January 28, 2009 and the exhibits thereto; Deposition of Justin Smith dated March 3, 2009; Deposition of Jon R. Ford, P.E., C.P.G. Volume 2 dated January 27, 2009.

9:34 a.m. This is the time set for an Evidentiary Hearing regarding Salt River Project's Application for Order to Show Cause and Request for Injunction Against NBJ Ranch Limited Partnership. Present on behalf of Salt River Project are M. Byron Lewis, Maxine M. Becker and Mark A. McGinnis. Present on behalf of NBJ Ranch Limited Partnership are Douglas E. Brown and David A. Brown. Present on behalf of Intervenor Arizona Public Service, Freeport-McMoRan Copper and Gold, Inc., and Roosevelt Water

Conservation District is Jenny J. Winkler. Special Master, George A. Schade, Jr. is also present.

Court reporter, Kim Hannan, is present as well as a record of the proceedings being made by audio and/or videotape.

The Court confirms the issues to be addressed.

Plaintiff's case:

David Roberts is sworn and testifies.

Plaintiff's exhibit 68 is received in evidence.

Plaintiff's exhibit 69 is received in evidence.

Plaintiff's exhibit 70 is received in evidence.

Pursuant to stipulation, all objections to exhibits have been waived.

Plaintiff's exhibits 5, 6, 9, 10, 14, 19, 22, 23, 24, 25, 26, 27, 29, 31, 32, 33, 34, 37, 38, 52, 53, 56, 57, 71, 73, 74, 75, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 90, 95, 96, and 97 are received in evidence.

Plaintiff's exhibit 340 is received in evidence for demonstrative purposes only.

Plaintiff's exhibit 12 is received in evidence.

Plaintiff's exhibit 17 is received in evidence.

Plaintiff's exhibit 39 is received in evidence.

Plaintiff's exhibit 40 is received in evidence.

Plaintiff's exhibit 41 is received in evidence.

Plaintiff's exhibit 42 is received in evidence.

Plaintiff's exhibit 43 is received in evidence.

Plaintiff's exhibit 46 is received in evidence.

Plaintiff's exhibit 47 is received in evidence.

Plaintiff's exhibits 48 and 50 are received in evidence.

Plaintiff's exhibit 76 is received in evidence.

Plaintiff's exhibit 437 is received in evidence.

10:57 a.m. Court stands at recess.

11:13 a.m. Court reconvenes with respective counsel present.

Court reporter, Kim Hannan, is present as well as a record of the proceedings being made by audio and/or videotape.

Plaintiff's exhibit 97 is received in evidence.

Plaintiff's exhibit 75 is received in evidence.

Mr. McGinnis seeks clarification as to whether the Intervenors are parties to this matter. The Court defers ruling at this time.

Pursuant to stipulation,

IT IS ORDERED deeming Jon Ford's affidavit(s) filed as part of the record in this matter, as having been received in evidence.

Jon R. Ford, P.E. is sworn and testifies.

Defendant's exhibit 431 is received in evidence.

Defendant's exhibit 386 is received in evidence.

12:01 p.m. Court stands at recess.

1:32 p.m. Court reconvenes with respective counsel present.

Court reporter, Kim Hannan, is present as well a record of the proceedings being made by audio and/or videotape.

Mr. Ford continues to testify.

Defendant's exhibit 377 is received in evidence.

Defendant's exhibit 426 is received in evidence.

Defendant's exhibit 395 is received in evidence.

Defendant's exhibit 396 is received in evidence.

Defendant's exhibit 430 is received in evidence.

3:02 p.m. Court stands at recess.

3:24 p.m. Court reconvenes with respective counsel present.

Court reporter, Kim Hannan, is present as well as a record of the proceedings being made by audio and/or videotape.

Mr. Ford continues to testify.

Defendant's exhibit 384 is received in evidence.

Clarification of the requested relief is provided for the Court.

4:35 p.m. Court stands at recess until October 6, 2009 at 9:30 a.m.

A copy of this order is mailed to all parties on the Court approved mailing list for the Gila River Adjudication, W-1, W-2, W-3, W-4 (Consolidated) dated July 27, 2009.