

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

10/06/2009

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 TWO

9:32 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 present.

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

Jon R. Ford, P.E., having been previously sworn, continues to testify.

Defendant's exhibit 403 is received in evidence.

Defendant's exhibit 388 is received in evidence.

Discussion is held with respect to possible duplicative testimony of the parties' expert witnesses.

Plaintiff's exhibit 60 is received in evidence.

11:06 a.m. Court stands at recess.

11:22 a.m. Court reconvenes with respective parties and counsel present.

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

Mr. Ford continues to testify.

Plaintiff's exhibits 61 and 62 are received in evidence.

Plaintiff moves for the admittance of the depositions of Jennifer O'Callaghan dated March 3, 2009 and Justin Smith dated March 3, 2009 into evidence.

Argument is heard in that regard.

IT IS ORDERED granting the motion. The Court will review the deposition designations as set forth only in the parties' Joint Pretrial Statement.

Plaintiff rests.

Court and counsel confer with respect to the effect of an order, should SRP prevail in this matter, as well as to what an appropriate bond amount would be.

Defendant's case:

Defendant moves for judgment as a matter of law.

IT IS ORDERED denying the motion.

11:59 a.m. Court stands at recess.

1:33 p.m. Court reconvenes with respective parties and counsel present.

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

Justin Smith is sworn and testifies.

Eric J. Harmon, P.E. is sworn and testifies.

Plaintiff's exhibit 100 is received in evidence.

Plaintiff's exhibit 99 is received in evidence.

Plaintiff's exhibit 98 is received in evidence.

3:05 p.m. Court stands at recess.

3:26 p.m. Court reconvenes with respective parties and counsel present.

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

Mr. Harmon continues to testify.

Plaintiff's exhibit 335 is received in evidence.

Defendant's exhibit 412 is received in evidence.

Argument continues with respect to possible duplicative expert testimony.

4:09 p.m. Court stands at recess until October 7, 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.