

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

03/25/2008

CLERK OF THE COURT
FORM V000

HONORABLE EDDWARD BALLINGER, JR.

R.Tomlinson/L. NEVENHOVEN
Deputy

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

COPY

FILED: April 9, 2008

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

In Re SRP's Motion for Partial
Summary Judgment re Applications
for Orders to Show Cause and
Applications for Injunctive Relief
Against:

Kovacovich Investment Limited
Partnership, Wiertzema Family
Trust, and NBJ Ranch Limited
Partnership

MINUTE ENTRY

Courtroom 112 – Northeast Regional Court Center

2:14 p.m. This is the time set for Oral Argument re Salt River Project's Motion for Partial Summary Judgment relating to its Applications for Orders to Show Cause and Requests for Injunctions Against Kovacovich Investment Limited Partnership, Wiertzema Family Trust, and NBJ Ranch Limited Partnership. Present are: Jenny J. Pelton on behalf of Phelps Dodge Corporation, Roosevelt Water Conservation District, and Arizona Public Service; M. Byron Lewis, Maxine M. Becker, Mark A. McGinnis, Jeff Ehlers, and Jim Cooper on behalf of Salt River Project; L. Richard Mabery on behalf of Kovacovich Investment Limited Partnership and the Wiertzema Family Trust; Michael B. Whiting and David A. Brown on behalf of NBJ Ranch Limited Partnership; Janet L. Ronald on behalf of the Arizona Department of Water Resources; Charlotte Benson on behalf of the City of Tempe; Douglas C. Nelson on behalf of the Lower Gila Water Users; and Joe P. Sparks on behalf of the Yavapai Apache Nation, Tonto Apache Tribe, San Carlos Apache Tribe, and Pascua Yaqui Tribe.

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Court reporter, Lisa Vitoff, is present as well as a record of the proceedings being made by CD/videotape.

Messrs. Lewis, Whiting, and Mabery address the Court with regard to the location of the wells in the subflow zone as well as with respect to the Kovacovich, Wiertzema and NBJ Ranch lateral limits within the Holocene alluvium.

Messrs. Lewis, Whiting, and Mabery address the Court with respect to the expert opinions of Messrs. Harmon, Ford and Briggs regarding the diversion of water from the subflow zone.

The Court having determined that there are genuine disputes regarding material facts,

IT IS ORDERED denying SRP's Motion for Partial Summary Judgment relating to its Applications for Orders to Show Cause and Requests for Injunctions against Kovacovich Investment Limited Partnership, Wiertzema Family Trust, and NBJ Ranch Limited Partnership.

3:37 p.m. Matter concludes.

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 mailing list for W-1, W-2, W-3, W-4 (Consolidated) dated January 28, 2008.