

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

05/09/2008

CLERK OF THE COURT
FORM V000

HONORABLE EDDWARD BALLINGER, JR.

R. Tomlinson
Deputy

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

COPY

FILED: June 6, 2008

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

In Re Scheduling Conference re
Salt River Project's 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 a Scheduling Conference re Salt River Project's 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: M. Byron Lewis and Mark A. McGinnis on behalf of Salt River Project; Jenny J. Pelton and Roy W. Fuller on behalf of Freeport McMoRan Copper and Gold fka Phelps Dodge Corporation, Roosevelt Water Conservation District, and Arizona Public Service; M. James Callahan on behalf of the City of Phoenix; and paralegal, Kristina Fredericksen on behalf of the State of Arizona. Appearing telephonically are: L. Richard Mabery on behalf of Kovacovich Investment Limited Partnership and the Wiertzema Family Trust; Michael B. Whiting on behalf of NBJ Ranch Limited Partnership; Joe P. Sparks on behalf of the Yavapai Apache Nation, Tonto Apache Tribe, San Carlos Apache Tribe, and Pascua Yaqui Tribe and Janet L. Ronald on behalf of the Arizona Department of Water Resources.

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

Discussion is held regarding the proposed scheduling order as provided to the Court by Mr. McGinnis. Based thereon and pursuant to the parties' agreements as set forth on the record this date,

IT IS ORDERED adopting the following changes to the proposed scheduling order:

1. Expert witness rebuttal reports on modeling shall be disclosed not later than **July 31, 2008**.
2. Expert witness reply reports on modeling shall be disclosed not later than **August 29, 2008**.
3. Supplemental expert witness depositions on modeling shall be due not later than **September 19, 2008**.
4. Expert witness affidavits that will serve as direct expert testimony shall be filed and served and filed not later than **October 17, 2008**. Direct testimony that is inconsistent with previously disclosed opinions shall be subject to exclusion under the Rules of Evidence. Parties shall file a joint pre-hearing statement consistent with Rule 16(d) of the Arizona Rules of Civil Procedure.
5. Motions in *Limine* shall be filed and served not later than **October 21, 2008**.
6. Responses to Motions in *Limine* shall be filed and served not later than **October 31, 2008**. No replies shall be allowed absent subsequent order by the Court.

IT IS FURTHER ORDERED that the aforementioned dates shall be incorporated in a revised scheduling order to be submitted for the Court's consideration not later than **5:00 p.m., May 19, 2008**.

IT IS FURTHER ORDERED setting a three-day Evidentiary Hearing re Salt River Project's Orders to Show Cause and Requests for Injunctions Against Kovacovich Investment Limited Partnership, Wiertzema Family Trust, and NBJ Ranch Limited Partnership for **November 19, 2008 at 9:30 a.m.**

Ms. Pelton advises the Court that she intends to retain an expert to review Mr. Jon R. Ford's subflow report present evidence at the Evidentiary Hearing. She further intends to renew their Motion to Designate Issues of Broad Legal Importance.

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Discussion ensues between Ms. Pelton, Mr. McGinnis, Mr. Sparks, and the Court concerning intervention by other claimants in this proceeding.

Based upon the foregoing, the Court will permit a Motion to Intervene to be filed. If the Court grants the Motion to Intervene, the intervenor/s will be deemed bound by the revised scheduling order.

4:14 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.