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SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CLERK OF THE COURT
FORM R000A

September 11, 1998

HON. SUSAN R. BOLTON

P. Woods
Deputy

Nº W-1, W-2, W-3, W-4 (Consolidated)
Contested Case No. W1-203

In re the General Adjudication
of all Rights to Use Water in
the Gila River System and
Source

2:05 p.m. This is the time set for a Status Hearing. Present are: Barry Sanders, Bill Staudenmaier, John Hestand, Burt Apker, Kevin Tehan, John Ryley, Lauren Caster, Steve Were, Sheila Schmidt, Bob Hoffman, Carlos Ronstadt, Marilyn Cage, John Schaper, William Sullivan, Rod Lewis, Michael Pearce, Steven Heeley, Jennele O'Hair, Patrick Barry, John Weldon, Alfred Cox, Lee Storey, Sally Worthington, Bill Anger, Anthony Fines, Jim Johnson, Special Master John Thorson, Kathy Dolge, Oscar Garcia and Alma Cano.

Court Reporter Kim Myrick is present.

AS TO THE GLOBE EQUITY DECREE:

The Court suggested that the parties proceed with a Motion for Summary Judgment to determine if Globe Equity has a preclusive effect on the Gila River Indian Community's claims.

Anthony Fines, representing the Gila Valley Irrigation District/Franklin Irrigation District (GVID/FID), agreed that the matter should proceed on Motion for Summary Judgment. He stated that the Motion for Summary Judgment can proceed on the existing documents. He suggested that the Motion for Summary Judgment be filed by 4-1-99.

John Weldon, representing the Salt River Project claimants, agreed that the matter should proceed on Motion for Summary Judgment.

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IN RE THE ADJUDICATION OF:

Continued

Patrick Barry, representing the United States, expressed his concern that there are gaps in the historical record. He stated that affidavits documenting the historical record would aid the Court in understanding the decree. He also stated that another alternative would be to wait until the HSR is prepared.

Rod Lewis, representing the Gila River Indian Community, agreed that the matter should proceed on Motion for Summary Judgment. He suggested that the Motion for Summary Judgment be filed by 2-15-99.

The Court reminded the parties to focus exclusively on the preclusive effect of the Globe Equity decree in the Motion for Summary Judgment. The other decrees and agreements will be addressed at a later time. The parties were directed to refer to the documents as numbered by the Special Master. No previously submitted documents shall be attached to the motions, responses or replies.

IT IS THEREFORE ORDERED that any party who has filed a disclosure and believes that the Globe Equity Decree has a preclusive effect on the Gila River Indian Community's water right claims must file a Motion for Summary Judgment not later than **March 1, 1999**.

IT IS FURTHER ORDERED that any responses in opposition thereto shall be filed within 60 days thereafter.

IT IS FURTHER ORDERED that any replies shall be filed within 30 days thereafter.

LET THE RECORD REFLECT that the parties are encouraged to

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IN RE THE ADJUDICATION OF:

Continued

attempt to file joint motions and responses to the extent possible.

After discussion with the parties,

IT IS FURTHER ORDERED that the Motion for Summary Judgment be limited to 50 pages; the Response be limited to 50 pages; and, the Reply be limited to 25 pages.

John Ryley, representing the San Carlos, Tonto, Yavapai and Apache Tribes, expressed his concern as to the potential effects on the San Carlos Apache Tribes and whether this matter should be proceeding.

Mr. Barry also expressed his concern that the outcome of the Motion for Summary Judgment may significantly impact the San Carlos Apache Tribes and not just the Gila River Indian Community.

The Court stated that the San Carlos Apache Tribe is not precluded from filing a response. John Schaper, representing the Buckeye Irrigation District, suggested that the parties be able to file a joinder to adopt the position of any party in the motion or response, within 10 days of the filing of the motion or response. The Court agreed that any party may join in a motion or response within 10 days of filing but shall not file any additional statement of facts or memorandum of points and authorities.

AS TO THE PURPOSES OF THE GILA RIVER INDIAN RESERVATION:

The Court noted that this will be a factual matter requiring discovery, expert witnesses and reports.

Mr. Lewis advised the Court that their experts will be finished during the first part of 1999 and are contemplating filing

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IN RE THE ADJUDICATION OF:

Continued

a Motion for Summary Judgment in July of 1999.

Mr. Barry requested that there be a simultaneous exchange of the expert witness reports. He stated that the United States has met its burden by filing the claim and the burden of proof should be upon the opponents to the claim.

Mr. Weldon argued that this is the Gila River Indian Community's claim and the burden of establishing the purposes of the reservation falls on them. He also expressed his concern that the other decrees and agreements be determined before the parties proceed too far on the purposes.

After discussion with the parties,

IT IS ORDERED that the expert witness reports relating to the purposes of the reservation be prepared and exchanged by **April 1, 1999**.

IT IS FURTHER ORDERED setting a Status Conference on **December 21, 1998 at 2:00 p.m.** to discuss further proceedings on the other decrees and agreements, and discovery and hearing dates on the purposes of the reservation.

LET THE RECORD REFLECT that the Court instructed the parties to propose a logical procedure concerning the other decrees and agreements and whether they should proceed simultaneously with the purposes.

Mr. Barry expressed his concern that not all of the disclosures comply with the Order. He then requested 30 days within which to file Motions to Strike certain documents.

IT IS ORDERED granting the parties 30 days to file any Motions to Strike.

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Continued

ADDITIONAL MATTERS:

Mr. Lewis requested a status report concerning the additional volumes of the preliminary HSR being prepared.

Mike Pearce, representing the Arizona Department of Water Resources (ADWR), stated that the additional chapters are being drafted and will be completed by the end of this year. He will advise the parties on 12-21-98 as to when the chapters will be available.

The Court advised the parties that Mr. Cox has been elected as Chairman of the Steering Committee.

Pursuant to the parties' request,

IT IS ORDERED that James M. Flenner be relieved from serving on the Steering Committee and that William H. Anger be appointed to the Steering Committee.

The Court publicly thanked Special Master John Thorson, Kathy Dolge, Oscar Garcia and Alma Cano for numbering and indexing the set of documents provided by the parties.

3:10 p.m. Court adjourns.

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A copy of this minute entry is mailed to all parties on the Court-approved W-1, W-2, W-3 and W-4 mailing list dated 1-15-98.