

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

3/11/08

CLERK OF THE COURT
FORM V000

HONORABLE EDDWARD BALLINGER, JR.

L. NEVENHOVEN
Deputy

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

COPY

Contested Case No. W1-207

FILED: March 11, 2008

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

In Re Proposed Gila River Indian
Community Settlement Proceedings

MINUTE ENTRY

The Court has reviewed the requests for relief related to the Gila River Indian Community's (the "Community") demand for an award in its favor and against the entities referred to as the "Lower Gila Water Users" ("LGWUs") for costs incurred in connection with obtaining approval of the proposed settlement of the Community's water rights in this adjudication and the parties' cross-motions for sanctions in the form of an award of attorney's fees.

The Court agrees with the Community that the history of this adjudication demonstrates that while certain statutes and procedural orders have modified the manner in which issues presented are resolved, both Arizona litigation cost statutes and general procedural rules apply to these proceedings. The Court agrees with the LGWUs that the Community seeks an award in this instance that exceeds that envisioned by fair application of applicable law.

Rule 54 of the Arizona Rules of Civil Procedure and A.R.S. §12-331 et. seq. provide wide, but not unlimited, discretion to courts considering requests to award taxable costs. This Court finds that many of the expenditures arising when a party requests extraordinary, expedited relief, such as approval of the Community's settlement agreement, which required compliance with the Arizona Supreme Court's Special Procedural Order Providing for the Approval of Federal Water Rights Settlements, Including Those of Indian Tribes (May 16, 1991), are not

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generally included in "taxable" costs. In this case, it would not be equitable to charge the LGWUs with the Community's publication costs or \$24,123.16 in mailing and service expenses. However, the requests for reimbursement of deposition costs and hearing transcripts are appropriate. There has been no claim that the amount of these expenditures was unreasonable. Accordingly,

IT IS ORDERED:

1. Denying the motions of the LGWUs to strike the Community's request for an award of taxable costs, and for Rule 11 sanctions.
2. Denying the Community's request for an award of attorney's fees.
3. Awarding judgment in the sum of \$4,912.25 in favor of the Gila River Indian Community and against the following entitles, as a joint and severable obligation of each entity: Town of Gila Bend, Arlington Canal Company, Enterprise Ranch, Paloma Irrigation and Drainage District, Gila Growers Gin, Delmar John, Marvin John, John Farms Partnership, John Farms LLP, Gary Gable, and Warren Carter Gable.

IT IS FURTHER ORDERED signing this minute entry as a formal 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 Contested Case No. W1-207 dated January 28, 2008.