

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

8/20/07

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: August 24, 2007

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

TRIAL/EVIDENTIARY HEARING

Northeast Courtroom 112

Prior to the commencement of these proceedings, exhibits 1 through 115 are marked for identification.

9:31 a.m. This is the time set for an Evidentiary Hearing on Remaining Issues Concerning Objections re Gila River Indian Community Proposed Settlement. Present are: Donald R. Pongrace, Rodney B. Lewis, Jennifer Giff, Vanessa L. Ray-Hodge, Ann Marie Chischilly, Ruth Koester, and John T. Hestand on behalf of the Gila River Indian Community; Cynthia M. Chandley on behalf of Phelps Dodge Corporation; John C. Lemaster and Sean Thomas Hood on behalf of Phelps Dodge Corporation and Roosevelt Water Conservation District; William Sullivan on behalf of the Town of Gilbert; William Anger on behalf of the Cities of Chandler, Glendale, Goodyear, Mesa, Peoria, and Scottsdale; Cynthia Haglin on behalf of the City of Chandler; Charlotte Benson on behalf of the City of Tempe; Douglas C. Nelson on behalf of several claimants who have designated themselves the Lower Gila Water Users; David A. Brown and L. Anthony Fines on behalf of Gila Valley Irrigation District and Franklin Irrigation District; Michael J. Pearce on behalf of ASARCO LLC; F. Patrick Barry on behalf of the United States; Steve Wene on behalf of the City of Safford; Patrick B. Sigl on behalf of the Arizona Attorney General's Office; Marilyn D. Cage on behalf of the City of Goodyear; Steven
Docket Code 000

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

8/20/07

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

Bennett on behalf of the City of Scottsdale; M. James Callahan on behalf of the City of Phoenix; Mark A. McGinnis on behalf of the Central Arizona Irrigation and Drainage District and Maricopa-Stanfield Irrigation and Drainage District; John B. Weldon on behalf of Salt River Project; Riney B. Salmon on behalf of the San Carlos Irrigation and Drainage; Janet Ronald and Richard Burtell on behalf of Arizona Department of Water Resources. Special Master George A. Schade, Jr. is also present.

Court Reporter, Melody O'Donnell, is present.

A recording of this proceeding is being made by CD (FTR).

Mr. Pearce advises the Court that the Settling Parties have reached a stipulation that allows ASARCO not to have to present evidence at today's hearing. ASARCO retains the right to continue to object to the matters that were raised by ASARCO that were summarily dismissed by the Court and wish to address those issues by appeal. They have not yet reached a full agreement that will cause ASARCO to withdraw all of ASARCO's objections to the proposed settlement.

Mr. Nelson, Mr. Pongrace, and the Court discuss which sources shall be considered in the final figures of quantity of water allowed based upon decreed rights.

Mr. Barry addresses the Court regarding whether the Lower Gila Water Users have a complaint under the Globe Equity Decree to which they are not a party.

Mr. Pongrace provides the Court with copies of decisions issued by the Ninth Circuit Court of Appeals.

10:40 a.m. Court stands at recess.

11:02 a.m. Court reconvenes with all parties and counsel stated above present. Special Master George A. Schade, Jr. is also present.

Court Reporter, Melody O'Donnell, is present.

A recording of this proceeding is being made by CD (FTR).

Mr. Nelson presents the Court with a Pre-hearing Memorandum that contains statements made in open court.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

8/20/07

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

Based upon the stipulation of facts, existence of prior decreed water rights in favor of the Gila River Indian Community, and applicable case law,

THE COURT FINDS that the settlement agreement provides the Gila River Indian Community water rights that are no more extensive than it would have been able to prove at trial.

IT IS ORDERED that counsel for the Gila River Indian Community shall submit a Form of Decree in Word form via electronic transmission.

IT IS FURTHER ORDERED releasing all exhibits not offered in evidence to the party causing them to be marked.

11:10 a.m. Matter concludes.

A copy of this order is mailed to all parties on the Court-approved mailing list for Contested Case No. W1-207 dated July 26, 2007.