

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

11/20/2007

CLERK OF THE COURT
FORM V000

GEORGE A. SCHADE, JR.
SPECIAL MASTER

M.L. Smith
Deputy

W1-11-605

FILED: 11/27/07 8:00 a.m.

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

In re Fort Huachuca

In Re Oral Argument on
Motions for Summary Judgment

ORAL ARGUMENT

OCH Courtroom 309

9:00 a.m. This is the time set for hearing oral argument on pending motions for summary judgment.

Present are: William P. Sullivan on behalf of Bella Vista Water Co., Inc., Pueblo Del Sol Water Company, and the City of Sierra Vista (collectively the "Sierra Vista Parties"); Cynthia M. Chandley and Rhett A. Billingsley on behalf of Phelps Dodge Corporation; Lauren J. Caster and Gregory L. Adams on behalf of ASARCO LLC and Arizona Water Company; R. Lee Leininger on behalf of the United States Department of Justice assisted by Michael M. Shaughnessey, David Miller and Dan Haws, Maxine M. Becker, Mark A. McGinnis, Lisa M. McKnight and John B. Weldon, Jr. on behalf of Salt River Project; Cynthia J. Haglin on behalf of City of Chandler; Janet L. Ronald on behalf of Arizona Department of Water Resources ("ADWR"); and Patrick B. Sigl on behalf of State of Arizona parties.

Court Reporter, Patti Connolly, is present.

R. Lee Leininger presents oral argument on behalf of the United States Department of Justice.

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Cynthia M. Chandley presents oral argument on behalf of Phelps Dodge Corporation.

William P. Sullivan presents oral argument on behalf of the Sierra Vista Parties.

Maxine M. Becker presents oral argument on behalf of Salt River Project.

Lauren J. Caster waives opening argument and reserves his time for a response.

10:28 a.m. The court stands at recess.

10:38 a.m. Hearing reconvenes with respective counsel present.

Court Reporter, Patti Connolly, is present.

Mr. Leininger responds on behalf of the United States Department of Justice.

Ms. Chandley responds on behalf of Phelps Dodge Corporation.

Mr. Sullivan responds on behalf of the Sierra Vista Parties.

Ms. Becker responds on behalf of Salt River Project.

Mr. Caster having reserved his time argues on behalf of ASARCO LLC and Arizona Water Company.

Ms. Chandley replies on behalf of Phelps Dodge Corporation.

Mr. Sullivan replies on behalf of the Sierra Vista Parties.

Ms. Becker replies on behalf of Salt River Project.

Mr. Caster replies on behalf of ASARCO LLC and Arizona Water Company.

Mr. Leininger replies on behalf of the United States Department of Justice.

The Special Master invites the arguing parties to supplement their arguments.

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Discussion is held regarding the amount of time allotted to file objections and comments to the Special Master's report. Mr. Caster suggests that sixty (60) days is adequate. In order to avoid any collateral attack, Ms. Chandley would like to follow A.R.S. § 45-257(A)(2) which provides six (6) months. The Special Master expresses the opinion that the six-month period applies to reports determining water right attributes and is not mandatory when a report applies to a limited focus of issues.

The recommendation is that if the Special Master finds that Fort Huachuca does not have a reserved water right, the parties would like six months to submit their objections and comments. Otherwise, the Special Master should determine a reasonable period which should not be less than sixty (60) days.

The Special Master estimates his report will be issued between February and March 2008.

The Special Master states that a recent report filed by ADWR reported that the settlement discussions concerning Fort Huachuca had broken down. Mr. Caster and Mr. Leininger address the Special Master. The Special Master encourages the parties to continue settlement negotiations while litigation is in process in an attempt to resolve some of the issues.

The Special Master expresses his appreciation to counsel for their research and analysis.

11:54 a.m. Hearing concludes.

A copy of this order is mailed to all parties on the Court approved mailing list for W1-11-605 dated July 26, 2007.