

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

5/29/07

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. W1-208

FILED: June 4, 2007

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

In re Proposed Tohono O'odham  
Nation Water Rights Settlement  
Special Proceeding

MINUTE ENTRY

On April 27, 2007, the Court heard argument on various motions for summary disposition of objections to approval of the proposed settlement agreement of the Tohono O'odham Nation's claimed water rights in the Gila River Adjudication (the "Proposed Settlement Agreement"). Set forth below are the findings of facts, conclusions of law, and rulings resulting from the City of Tucson's motions for summary disposition with respect to objections filed by the following parties (collectively referred to as the "Individual Objectors"):

1. J. J. and Judy Cocke
2. Harry W. Hagen
3. Marshall S. Marinakis
4. Irvin C. and Nancy J. Pearce
5. Kenneth and Carrie Power
6. Cindy J. Ramey
7. Gay Riba
8. Sharlene Sammeli
9. Eva J. Young, Ph.D.

In addition, the parties involved in the Proposed Settlement Agreement sought summary disposition with respect to the objection filed by the Pascua Yaqui Tribe.

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A. Marshall S. Marinakis

Mr. Marinakis appeared telephonically at the hearing on the motion directed at his objection. After discussion with the Court and counsel for the City of Tucson, Mr. Marinakis agreed that the Proposed Settlement Agreement would not adversely affect his claimed water rights in this adjudication. Accordingly,

IT IS ORDERED granting summary disposition in favor of movants on the objection filed by Marshall S. Marinakis.

B. The Remaining Individual Objectors

None of the remaining Individual Objectors filed responses to the motions for summary disposition or appeared at the April 27, 2007 hearing. After review of the materials filed evidencing the Individual Objectors' claims and the memoranda requesting summary disposition, the Court finds that these objectors have neither supplied an adequate description of their claimed water rights nor shown that approval of the Proposed Settlement Agreement would cause material injury to their claimed water rights. Therefore,

IT IS ORDERED granting summary disposition in favor of movants and against objectors J. J. and Judy Cocke, Harry W. Hagen, Irvin C. and Nancy J. Pearce, Kenneth and Carrie Power, Cindy J. Ramey, Gay Riba, Sharlene Sammeli, and Eva J. Young, Ph.D.

C. Objection of the Pascua Yaqui Tribe

As noted during the hearing, the Court has serious doubt as to whether the Pascua Yaqui Tribe can be properly considered a claimant entitled to file an objection in this special proceeding. Even if the Pascua Yaqui Tribe is viewed as having standing to object, the Court must grant summary disposition in this instance because the Proposed Settlement Agreement and proposed judgment cannot be used to affect the Pascua Yaqui Tribe's water rights, claims, or entitlements to water. The Pascua Yaqui Tribe stands in the same position whether or not the Proposed Settlement Agreement is approved and cannot craft an objection that can withstand summary disposition in light of the narrow scope of this Court's review of the Proposed Settlement Agreement that is mandated by 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).

IT IS ORDERED granting summary disposition in favor of movants and against the Pascua Yaqui Tribe's objection.

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IT IS FURTHER ORDERED denying the Pascua Yaqui Tribe's Cross-Motion for Summary Disposition.

IT IS FURTHER ORDERED denying the Pascua Yaqui Tribe's Motion for Stay of Proceedings Pending Revisions to the Technical Report of the Arizona Department of Water Resources.

IT IS FURTHER ORDERED signing this minute entry as a formal order of this 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. W1-208.