

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

10/9/2020

CLERK OF THE COURT
FORM V000

SPECIAL WATER MASTER
SUSAN HARRIS

S. Ortega
Deputy

In re: City of Tombstone
Contested Case No. W1-11-0473

FILED: 10/15/2020

In Re: The General Adjudication
of All Rights to Use Water in the
Gila River System and Source
W-1, W-2, W-3 and W-4 (Consolidated)

In re: Status Conference

MINUTE ENTRY

Courtroom: CCB 301

1:30 p.m. This is the time set for a Status Conference.

The following attorneys and parties appear telephonically: Charles L. Cahoy on behalf of City of Phoenix; Alexandra Arboleda on behalf of City of Tombstone; R. Lee Leininger for U.S. Department of Justice, Environment and Natural Resources Division; Mark McGinnis on behalf of Salt River Project (“SRP”); Joe P. Sparks and Laurel Herrmann on behalf of San Carlos Apache Tribe; Kimberly Parks for Arizona Department of Water Resources (ADWR); Bradley Pew on behalf of ASARCO; Lucas Christian and Jeremiah D. Weiner on behalf of Tonto Apache Tribe; Jay Tomkus on behalf of the Yavapai-Apache Nation and observing for the Pascua Yaqui Tribe; William H. Anger on behalf of the City of Mesa; and William P. Sullivan on behalf of Pueblo Del Sol Water Company.

A record of the proceedings is made digitally in lieu of a court reporter.

For the reasons stated on the record,

IT IS ORDERED removing Goldwater Institute, F. Patrick Barry, Emmi Blades, and Yosef Negose from the Court-appointed mailing list.

The Court has received the request for a 3-year stay filed by the City of Tombstone.

Ms. Arboleda states that the United States and the City of Tombstone are working well together and the parties agree that it would be helpful to have three years to obtain funding, collect data and resolve the subflow zone issues in order to settle this matter. Quantity is not the only issue here.

Mr. Leininger states that the matter is tied together with the collection of data and that the data collection will help identify points of diversion. The collection of the data will relate only to the claims in this matter. He is not aware of any other claims that encompass that collection area for purposes of Tombstone's beneficial use claim and the water it is seeking.

Ms. Arboleda states that progress is being made on priority date issues and issues related to point of diversion. The sticking point is the quantity issue.

Mr. Sparks agrees the case would be enhanced by the time allowed to collect data and that a factual foundation could be established in helping resolve the issues in the case. He understands the federal process for installing data collections and gauges on a number of springs in wilderness areas and states that the 3-year stay is reasonable. The City of Tombstone needs a quantified amount of water and there may be several sources available to supply that water. He does not see how a piecemeal approach to the case would be very helpful.

Mr. Cahoy agrees with Mr. Sparks and has no objection to the requested continuance.

Mr. McGinnis states that SRP has worked with Ms. Arboleda on the abstract issues back in January of this year. He believes that the three-year stay in this case is reasonable because the other half of the case is stayed anyway.

Mr. Pew states that ASARCO does not oppose the request for a three-year stay given the representations today.

Mr. Christian states that the Tonto Apache Tribe is in favor of the stay.

Mr. Anger states that the City of Mesa is in support of the stay.

Mr. Sullivan states that the City of Mesa is in support of the stay and that their position is the same as Salt River Project.

IT IS FURTHER ORDERED granting the City of Tombstone's request for stay.

IT IS FURTHER ORDERED that a joint status report shall be filed by the City of Tombstone and United States no later than **October 1, 2021** regarding the funding and installation of meters to collect data.

IT IS FURTHER ORDERED that a second status report shall be filed by the City of Tombstone no later than **October 3, 2022**, advising about the collection of data.

IT IS FURTHER ORDERED that a scheduling conference shall be held on **October 23, 2023 at 1:30 p.m.** in the Superior Court of Arizona, Central Court Building, Courtroom 301, 201 West Jefferson Street, Phoenix, AZ 85003-2202.

Instructions for telephonic participation:

Dial: 602-506-9695 (local)

1-855-506-9695 (toll free long distance)

Dial Collaboration (conference) Code 357264#

1:47 p.m. Matter concludes.

A copy of this order is mailed to all persons listed on the Court-approved mailing list for Contested Case No. W1-11-0473.