

SUPERIOR COURT OF ARIZONA
APACHE COUNTY

05/28/2020

CLERK OF THE COURT

SPECIAL WATER MASTER
SUSAN WARD HARRIS

S. Ortega
Deputy

FILED: 6/9/2020

In re: the General Adjudication
of All Rights to Use Water in the
Little Colorado River System and Source

CV 6417-400

In Re: Lower Little Colorado River
Sub-Watershed
In re: Status Conference

MINUTE ENTRY

Courtroom: CCB 301

3:00 p.m. This is the time set for a Status Conference before Special Master
Susan Ward Harris

The following attorneys appear telephonically: Lee A. Storey on behalf of City of Flagstaff; David Brown and Bradley Pew on behalf of LCR Coalition; Carrie Brennan and Kevin Crestin on behalf of Arizona State Land Department; Joe Sparks and Laurel Herrmann observing on behalf of San Carlos Apache Tribe; Kimberly Parks on behalf of AZ Department of Water Resources (“ADWR”); William Staudenmaier on behalf of APS; Vanessa Willard on behalf of United States; Mark McGinnis and John Weldon, Jr. on behalf of Salt River Project (“SRP”); Kate Hoover and Jeff Leonard on behalf of Navajo Nation; Charles Cahoy on behalf of City of Phoenix; Robyn Interpreter observing on behalf of San Juan Southern Piute Tribe; and Grace Rebling on behalf of Hopi Tribe.

Donald J. Bawden is present observing on his own behalf.

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

Discussion is held regarding objections to ADWR’s technical report.

Ms. Hoover states that the Navajo Nation supports the idea of *de minimis* summary adjudication and believes stock watering from streams, surface water and wild life watering

should be considered *de minimis* and supports ADWR's position that stock ponds of less than four acre feet should be summarily adjudicated as *de minimis* uses. Ms. Hoover suggests the Court consider design an abbreviated adjudication of stock ponds between four acre feet but less than fifteen acre feet.

The Court gives Mr. Bawden a summary of the discussions held.

Mr. McGinnis states that SRP has always strongly supported the summary adjudication process for *de minimis* uses and believes ADWR did a good job in its report. SRP filed their comments as objections. SRP objects to the reason given by ADWR for not including stock ponds supplied by wells. For the reasons stated, SRP does not see the need for further discovery, disclosure, hearing, or briefing with respect to SRP's objections to ADWR's report.

Ms. Parks addresses the Navajo Nation's comments on ADWR's report and concludes that it would apply *de minimis* rules to stock ponds of less than or equal to four acre feet. Ms. Parks states that if the Court wants ADWR to look at a broader group of stock ponds, it can do that but is not sure how long that could take.

The Court states that after hearing comments from the Navajo Nation and SRP relating to ADWR's report, it appears it would be appropriate for the Court to write a report similar to the ones in Silver Creek and San Pedro which would be submitted to Judge Brain for review.

Ms. Storey does not object to the Court's proposal and asks the Court if there would be an opportunity to include claimants who have small surface water stock ponds that may not have been listed on ADWR's report. The Court states that the anticipated process is that claimants who file claims in time for ADWR to consider those claims before the issuance of the final HSR would have their claims included in the final HSR as part of a watershed file report and also as an abstract prepared in accordance with the approved summary adjudication procedures.

Mr. Brown agrees with the Court's process. He understands the need for the abstracts in the Gila River proceeding because the finding was not a cumulative *de minimis* finding. Mr. Brown points out that abstracts are not needed for every stock pond and stock watering use that's under four acre feet and that they only need to be included in a catalog that can be objected to globally. Mr. Brown believes the catalog would suffice for all of his ranching clients.

Ms. Rebling agrees with the process that the Court has outlined and thinks it will be efficient.

Mr. Cahoy has no objection.

Ms. Willard has no objection and expresses her concern about one of her colleagues representing the United States Forest Service who advised that the Forest Service may need

to update some of its claims which could include stock watering rights. Ms. Willard is concerned whether or not there would be time allowed in this process for the submission of the claims.

Ms. Parks responds to Ms. Willard's concern and states that ADWR is currently in the investigation stage and has communicated recently with the Forest Service about the forms they need for this ongoing process, and states there will be time to update their claims.

Ms. Brennan approves the process as outlined by the Court and the streamlined process of sending out proposed abstracts. She also states that she may be supportive of Mr. Brown's suggestion of a super streamlined process.

Mr. Staudenmaier has no objections or comments.

Mr. Bawden states his concerns regarding his water rights. The Court states that his stock watering claim if timely filed with ADWR would be eligible for the summary *de minimis* procedure.

Further discussion is held between the Court, Mr. Brown, Mr. McGinnis, and Ms. Parks regarding Mr. Brown's proposal for abstracts.

With no objections, the Court will move forward on the preparation of a report with findings of fact and conclusions of law. Thereafter, parties may file their objections to the report with Judge Brain. Assuming the *de minimis* procedure is approved, then ADWR can incorporate this process either using Mr. Brown's format or something that involves a separate abstract.

Discussion is held regarding stock ponds and stock watering uses and how they would be reflected in the catalog. The Court will talk to ADWR to get their thoughts and suggestions regarding this issues.

Mr. Brown states that he does not object to the abstract methodology if ADWR prepares all of the abstracts, and if it is a more effective and efficient process.

3:35 p.m. Hearing concludes.

A copy of this order is mailed to all persons listed on the Court approved mailing list.