

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

10/25/2017

CLERK OF THE COURT

SPECIAL WATER MASTER  
SUSAN WARD HARRIS

T. DeRaddo  
Deputy

W1-11-232

FILED: 10/27/2017  
Case No. W1-11-232

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

In Re: San Pedro Riparian National Conservation  
Area Contested Case No. W-1-11-232

Re: Pre-trial Readiness Conference

MINUTE ENTRY

Central Court Building - Courtroom 301

1:30 p.m. This is the time set for a Readiness Conference prior to Trial.

The following attorneys appear in person:

- Carrie Brennan on behalf of the Arizona State Land Department
- William Sullivan on behalf of Pueblo del Sol Water Company and the City of Sierra Vista
- Joseph P. Sparks on behalf of the San Carlos Apache Tribe and Tonto Apache Tribe
- Michael Foy and Jeff Heilman on behalf of Salt River Project
- Lee Leininger and David Gehlert on behalf of the United States
- Edwin Slade III on behalf of the Arizona State Land Department
- Sean Hood on behalf of Freeport Minerals Corporation
- James Meza on behalf of Arizona State Parks and Trails
- Ken Mahoney on behalf of the Bureau of Land Management
- William Anger on behalf of the Cities of Avondale, Chandler, Glendale, Mesa and Scottsdale
- John Gaudio on behalf of U.S. Dept. of the Interior, Office of the Solicitor

The following attorneys appear telephonically:

- Sara Ransom on behalf of the City of Flagstaff and Cochise County
- Kim Parks for Arizona Department of Water Resources
- Robert Anderson on behalf of Liberty Utilities

Court Reporter, Crystal Hereford is present. A record of the proceedings is also made digitally.

Lee Leininger addresses the Court regarding matters addressed in the Joint Pretrial Statement (page 3), submitted by the United States, concerning issues identified by Special Master George Schade as to the boundaries of conservation area: (1) Which lands were acquired after November 18, 1988; and (2) When were they formally incorporated into the SPRNCA? Mr. Leininger states that the United States has no factual disputes regarding the date of acquisition. The United States agrees with the dates in Table 5.2 of the 2012 ADWR Report. The dates of recordation are the dates of formal acquisition and incorporation into SPRNCA.

Sean Hood addresses the Court regarding the ADWR Report and states that he does not contest the ADWR Report; however, if there is any variation in the information included in the report(s), or additional evidence that has not been disclosed, Freeport Minerals reserves all rights to address any issues which may arise.

Mr. Leininger states that he will have a follow up conversation with Jan Miller regarding outstanding issues. Mr. Leininger shall file a Notice regarding the United States' concurrence with ADWR acquisition dates by **November 1, 2017**.

Carrie Brennan addresses the Court regarding priority dates. Ms. Brennan states that the Arizona State Land Department has no issue with the dates in ADWR's report. She requests that she be given a status report regarding the boundaries and the acreage.

William Sullivan addresses the Court and avows that Pueblo del Sol and the City of Sierra Vista have no objections to the ADWR report. He further stated that while there may be no factual issues with the dates, legal issues remain concerning the significance of the dates.

Robert Anderson states that he has no issues with the ADWR Report and joins with the position of Freeport Minerals and Mr. Sullivan.

Joseph Sparks addresses the Court and states that because this matter is being tried under federal law, the tribes have concerns regarding the boundaries as a matter of law as confirmed by Congress in its final enactment ratifying the boundaries of SPRNCA. Mr. Sparks requests that if there are issues regarding the boundaries, he be given notice.

Mr. Leininger addresses the Court regarding boundary issues raised by the other parties and the use of the legal descriptions regarding the 280 acres. He further discusses Mr. Bodenchuk's anticipated testimony and the quarter, quarter legal descriptions.

Carrie Brennan states that the Arizona State Land Department is in agreement with the legal descriptions in ADWR's 2012 Report. She states that if the United States is willing to stipulate that the information in the ADWR's 2012 Report is correct, then the ASLD has no issues with the boundary description.

Mr. Leininger states that when the United States files its Notice of concurrence with the ADWR Report regarding the dates, it will address this issue with specificity.

Discussion is held regarding the final exhibit list. Mr. Leininger reports the various parties have provided their exhibits by flash drive or CDs, and the United States is willing to combine of the information from the parties, but the active parties must each provide the United States with a 64 gigabyte flash drive so the exhibits can be loaded on one flash drive. The Court directed that the United States provide Judge Brain with a single flash drive that contains all exhibits.

Mr. Leininger states that the United States has identified an additional 34 exhibits that were disclosed years ago and were inadvertently omitted from the current exhibit list. The exhibits consist of 34 field investigation forms for the point sources. The United States reports that it intends to reduce the number of point source claims that it shall proceed with at trial. Currently there are 94 point source claims. Mr. Leininger states that on or before **November 3, 2017**, he will amend the list and prepare a spreadsheet with the new point source claims that the United States intends to proceed with for the purpose of the federal reserve water rights.

Mr. Hood addresses the Court and states that Freeport Minerals reserves the right to object to the exhibits after review. He requests that the witnesses and evidence be disclosed in support of those claims.

Mr. Leininger intends to add the additional 34 exhibits to the flash drive by **October 27, 2017**. He requests flexibility in scheduling the testimony of witnesses that he intends to call at trial including Melissa Warren and William Childress, and work with their availability and the travel needs of those witnesses who live out of state.

Additional discussion is held regarding identifying the additional 34 exhibits.

Mr. Hood states that several parties have witnesses from out of state and everyone must work together to accommodate these schedules. Additional scheduling issues are discussed related to oral argument (the parties have agreed that each side will have 45 minutes) and trial timeframes.

2:04 p.m. Matter concludes.

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