

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

July 14, 2023

CLERK OF THE COURT
A. Parmar
Deputy

SPECIAL WATER MASTER
SHERRI ZENDRI

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)

FILED: July 20, 2023

In re: Jimmie & Gwendolyn Mayberry
Contested Case No. W1-11-2127

MINUTE ENTRY

Courtroom 301 – Central Court Building

10:00 a.m. This is the time set for Status Conference before Special Water Master Sherri Zendri.

The following parties/attorneys appear virtually:

- David Brown, J. Albert Brown and Garrett Perkins on behalf of St. David Irrigation District (“SDID”)
- John Burnside on behalf of BHP Copper and St. David Irrigation District (co-counsel)
- Mark McGinnis and Katrina Wilkinson on behalf of Salt River Project (“SRP”)
- Joe Sparks, Alexander Ritchie and Laurel Hermann on behalf of the San Carlos Apache Tribe
- John LeMaster on behalf of City of Chandler
- Sue Montgomery observing on behalf of the Yavapai Apache Nation and Pascua Yaqui Tribe

- Maggie Woodward and R. Lee Leininger on behalf of the United States proprietary agencies
- Vanessa Willard and Dan McCarl on behalf of the United States (in its trust capacity on behalf of tribes)
- Brian Heiserman on behalf of American Smelting and Refining Company (“ASARCO”)
- Charles Cahoy observing on behalf of the City of Phoenix
- Kimberly Parks and Karen Nielsen on behalf of Arizona Department of Water Resources (“ADWR”)
- Anthony Proano on behalf of the Tonto Apache Tribe

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

LET THE RECORD REFLECT that all participants appear virtually through Court Connect.

LET THE RECORD FURTHER REFLECT that this hearing is being held in conjunction with W1-11-2081, W1-11-2089, W1-11-2090, W1-11-2111, W1-11-2119, W1-11-2128 and W1-11-2131.

Mr. Brown provides historical context of the related cases for the Court. He further adds that he has been working with objectors and anticipate the cases will settle but understands a schedule must be set.

Mr. Brown addresses the Court regarding SDID’s proposed litigation schedule.

Mr. Sparks addresses the Court. Before responding for San Carlos Apache Tribe, they will defer to the United States.

Ms. Willard states no objection to the Court adopting the general dates of the schedule but agrees with Mr. Sparks that more time may be needed to respond to some of the specific proposals, such as expert witness reports being admitted without hearsay objections.

Mr. Leininger agrees with Mr. Brown’s comments regarding courtesy copies being distributed by email.

Ms. Herrmann asks for clarification regarding the claims in the WFRs. Mr. Brown will send out a new set of abstracts that show only the WFRs proposed to be a part of this trial. He notes WFRs 112-17-DBB-055 and 112-17-DBB-021 will be excluded. Ms. Herrmann expresses concern with the schedule for depositions in the summer given travel schedules. Mr. Brown agrees with Ms. Herrmann’s concerns and will work with the parties and their vacation schedules.

Ms. Willard requests that Mr. Brown file a Motion for Clarification once the amended abstracts with proposed WFRs are sent out, so the Court may adopt SDID's proposal as a Court order.

Mr. Brown agrees with Ms. Willard's proposal and will send a Motion to the Court for its approval.

Mr. Sparks notes that the parties did not and San Carlos Apache Tribe still does not agree to parties being removed and asks the Court for clarification on Mr. Brown's proposal.

Mr. Brown addresses the Court regarding Mr. Spark's concerns.

IT IS ORDERED that Mr. Brown shall detail in his Motion for Clarification which cases are being addressed.

Mr. Sparks requests time to respond to Mr. Brown's proposal pursuant to Rule 7.1. The Court will review Rule 7.1 and will address Mr. Spark's request in its order clarifying which WFRs/cases are being heard in this matter.

Mr. McGinnis believes Mr. Brown's schedule to be well thought out and agrees with taking care of the case between Phase 1 and Phase 2 of the Navajo Nation's case. He believes a scheduling conference will be needed to address the details of specific proposals such as the admission of expert reports.

Discussion is held regarding electronic service. The Court notes that it agrees with the parties on electronic service, but the process is difficult and it is working with the Court's staff to implement it as soon as possible.

Mr. Heiserman agrees with Mr. McGinnis' comments and has no objection to Mr. Brown's proposed schedule.

Mr. Sparks believes the Rule 7.1 issue was addressed in the first pretrial order and will review the order after today's hearing.

IT IS ORDERED adopting SDID's proposed schedule below. The parties are encouraged to be reasonable with the deposition schedules in the Summer. The Court will set a Status Conference a few months out at a later date.

| | |
|-----------------------|------------------------------------|
| 10/16/2023 | Initial Disclosure |
| 1/16/2024 | Claimant's expert reports |
| 3/18/2024 | Objector's expert rebuttal reports |
| 5/17/2024 | Claimant's rebuttal expert reports |
| 6/17/2024 – 7/31/2024 | Expert Depositions |

| | |
|------------|----------------------------------|
| 9/15/2024 | Completion of discovery |
| 10/2/2024 | Dispositive motions |
| 11/1/2024 | Responses to dispositive motions |
| 11/15/2024 | Replies to dispositive motions |
| 1/8/2025 | Motions in Limine |
| 1/17/2025 | Responses to Motions in Limine |
| 1/17/2025 | Pre-Trial Statement |
| 1/27/2025 | Trial begins |

10:58 a.m. Matter concludes.

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

LATER:

Below is a list of the WFRs currently understood as part of these contested cases. To the extent claimants wish to remove particular WFRs from this collection of contested cases and dismiss the claims entirely, a simple motion for dismissal will suffice with no need for responses and replies. If instead, claimants are proposing removal of certain WFRs for adjudication at a later time, as part of another contested case, any motion to the Court will need to fully explain the rationale for such a request. Objecting parties will have 30 days to respond to such a motion, with another 10 days for claimants to reply.

| Contested Case # | WFR # |
|-------------------------|----------------|
| W1-11-2081 | 112-17-DBA-061 |
| W1-11-2089 | 112-17-DBA-087 |
| W1-11-2090 | 112-17-DBA-088 |
| W1-11-2111 | 112-17-DBA-247 |
| W1-11-2119 | 112-17-DBA-322 |
| W1-11-2127 | 112-17-DBB-21 |
| W1-11-2128 | 112-17-DBB-23 |
| W1-11-2131 | 112-17-DBB-37 |

IT IS ORDERED that any such motions to modify the list of WFRs in Attachment I must be submitted to the Court no later than **August 18, 2023**.

IT IS FURTHER ORDERED scheduling a status conference for **October 5, 2023, at 1:30 p.m.** to discuss any potential revisions to Attachment I, if necessary, as well as any early trial preparation issues such as expert reports.

The status conference will be held using the Court Connect program. Instructions for Court Connect are attached below. If you receive this Order by email, click on the red box “Join Court Connect Hearing” on the attached instructions to make an appearance. If

you do not receive this Order by email, log into the Court Connect program on the internet by typing <https://tinyurl.com/specialwatermaster>. If you do not have access to the internet, you may attend telephonically using the telephone number and access code included in the instructions for Court Connect.



Court Connect Hearing Notice for St. David Related Cases

This hearing will be conducted through the new Court Connect program offered by the Superior Court of Arizona in Maricopa County. This new and innovative program allows Court participants to appear online, rather than in a physical courtroom. Hearings are preferably conducted by videoconference but can also be conducted by phone. Lawyers (and self-representing litigants) are responsible for distributing this notice to anyone who will be appearing on their behalf.

All participants must use the JOIN COURT CONNECT HEARING button or the dial in information below to participate.

Participants: Please follow the steps below to participate in the remote proceeding.

1. Click the JOIN COURT CONNECT HEARING button below.
2. Enter your full name and role in name field.
3. Wait for the facilitator to admit you to the proceeding.

Remember to keep this email handy so you can use it to participate in the following proceeding.

Case Nos. W1-11-2081, W1-11-2089, W1-11-2090, W1-11-2111, W1-11-2119, W1-11-2127, W1-11-2128, W1-11-2131

Start Date/Time: October 5, 2023 at 1:30 p.m.

JOIN COURT CONNECT HEARING

Dial-in Information: +1 917-781-4590

Private Dial-in Information: for privacy purposes, you can block your phone number by dialing *67 +1 917-781-4590

Dial-in Access Code: 688 970 203#

Tiny URL: <https://tinyurl.com/specialwatermaster>

To ensure an optimal experience, please review the brief Court Connect training prior to the hearing: [Here](#)

