

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

10/9/2020

CLERK OF THE COURT
Form V000

SPECIAL WATER MASTER
SUSAN WARD HARRIS

S. Ortega
Deputy

W-1, W-2, W-3, W-4 (Consolidated)
Contested Case No. W1-11-2709

FILED: 10/19/2020

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

Re: Order to Show Cause *In re Jack K. Hughes, et al.*

MINUTE ENTRY

Courtroom CCB - 301

2:30 p.m. This is the time set for a telephonic order to show cause hearing before Special Water Master Susan Ward Harris.

The following attorneys appear telephonically:

- Kimberly R. Parks on behalf of Arizona Department of Water Resources
- Bradley Pew on behalf of ASARCO
- John Burnside on behalf of BHP Copper
- R. Lee Leininger on behalf of U.S. Department of Justice, Environment and Natural Resources Division
- Joe P. Sparks on behalf of the San Carlos Apache Tribe
- Lucas Christian for the Tonto Apache Tribe
- Michael Foy on behalf of the Salt River Project

- Jay Tomkus on behalf of Yavapai-Apache Nation and observing for Pascua Yaqui Tribe

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

Mr. Leininger states that the Bureau of Land Management (BLM) intends to pursue water rights for Statement of Claimant 39-14487.

IT IS ORDERED dismissing Statements of Claimant 39-10797, 39-11599, and 39-12585 are dismissed.

Mr. Leininger gives a status on Statement of Claimant 39-14487, which is a claim for in-stream flow rights, associated with 33-96126 filed in 1991. He stated that ADWR prepared an assessment report. In June 2012, ADWR sent a notice to BLM. He states that ADWR should conduct an analysis regarding the issuance of a certificated instream flow right.

Ms. Parks states that some of ADWR's surface water records are not as easily searchable as others records. If a letter was sent back in 2012 that data was insufficient, then it may take some time to get data from BLM. Ms. Parks suggests that the best way to proceed is to review ADWR's file and work with the surface water division to see what information they have, meet with Mr. Leininger to determine what information is missing, and then Mr. Leininger can file a status report with the Court as to the remaining outstanding issues and what the next steps should be.

The Court asked Mr. Foy if ADWR issues a certificate of instream flow rights to BLM, whether an abstract can be issued based on the certificate or whether an abstract stipulated to by the parties will be required. Mr. Foy responded that the issue may need to be the subject of briefing.

Mr. Sparks agrees with the way this has been handled before was described by Mr. Leininger, but he is not sure of the right way to get it in the catalog of proposed adjudicated rights. He would be happy to work with the objectors and the claimant to try to recommend something to the Court either together or with the suggestion that the matter be briefed.

The Court states how she has seen it before and thought all the parties stipulated to the abstract.

Mr. Sparks believes that is correct.

Mr. Pew believes it makes sense for ADWR to confer with BLM and file a status report and then have a date for the parties to file another status report or stipulation. It may depend on the results of ADWR's investigation as to whether or not that second status report would be needed.

Mr. Christian agrees with the position that the other parties have stated.

The Court asks how long it will take to review the data and issue certificated instream flow rights.

Ms. Parks states that she is not clear about how long it will take but will check with the surface water division of ADWR and if additional information is needed, they can include the time frame for that in the status report.

Mr. Leininger believes 30 days should be enough time to work with ADWR on this matter.

IT IS ORDERED that ADWR and United States shall file a joint status report in thirty (30) days advising of the status of the data, the need for additional data, the timeline for the issuance of a certificated instream flow rights. A status conference will then be set at which time the parties can advise the Court as to their position regarding the abstracts.

Mr. Leininger requests that the court approved mailing list include his name as well as Mr. Barry especially for the BLM and Forest Service cases to make sure they have notice of future hearings.

IT IS ORDERED that the R. Lee Leininger shall be added to the Court approved mailing list for this contested case.

2:45 p.m. Matter concludes.

LATER:

The United States and ADWR will file a joint status report by **November 9, 2020**.

A copy of this order is mailed to all persons listed on the Court approved mailing list for Contested Case Number W1-11-2709.