

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

05/21/2019

CLERK OF THE COURT
FORM V000

SPECIAL WATER MASTER
SUSAN HARRIS

A. Hatfield

Deputy

In re: Asarco-Irrigation
Contested Case No. W1-11-2801

FILED: 05/23/2019

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

2:13 p.m. This is the time set for a Status Conference before Special Master Susan Ward Harris.

Court reporter, Jennifer Sullivan, is present and a record of these proceedings is made digitally.

The following attorneys and parties appear in-person: Sean Hood and Robin Barnes on behalf of ASARCO; Mark McGinnis on behalf of Salt River Project (“SRP”); and Joe Sparks on behalf the San Carlos Apache Tribe and the Tonto Apache Tribe.

The following attorneys appear telephonically: John Burnside on behalf of BHP Copper f.k.a. Magma Copper; Charles Cahoy on behalf of the City of Phoenix; Kimberly Parks on behalf of the Arizona Department of Water Resources (“ADWR”); and Jay Tomkus on behalf of the Pascua Yaqui Tribe and the Yavapai-Apache Nation

LET THE RECORD REFLECT that ASARCO’s position regarding amending the WFRs in this contested case is the same as its position stated in ASARCO – Diversion Contested Case No. W1-11-2798.

ASARCO is withdrawing the following Statements of Claimant (“SOCs”): 39-2481, 39-2485, and 39-2486.

Mr. Hood states that SOC 39-2478 may also be withdrawn but he would like to double check. He will file a motion setting forth ASARCO's position within five (5) days.

IT IS ORDERED dismissing SOC 39-2481, 39-2485, and 39-2486.

The Court states that in one of ASARCO's claims, there is a well that is outside the subflow zone. It assumes that its claim for water rights with respect to that well will need to be stayed pending the approval of the subflow depletion test.

Mr. Hood confirms that there is one well that is outside the subflow zone, however, ASARCO is making a surface water claim to the well. He is not sure that it is necessary to stay the claim associated with that well.

The Court will not stay any claim in ASARCO- Irrigation because the parties intend to assert a withdrawal from the well as a surface water diversion.

Ms. Parks states that ADWR can complete the amendments to the WFR within 18 months. She requests specific instructions from the Court in regards to notice of the new WFR.

Discussion is held regarding to whom to provide notice.

The Court is not inclined to delay the issuance of an amended WFR until the San Pedro II HSR has been prepared for the reasons set forth on the record.

2:22 p.m. Matter concludes.

LATER:

IT IS FURTHER ORDERED that Arizona Department of Water Resources shall file a report by **June 7, 2019**, that includes a brief technical statement about the materiality of the changes to claimed water rights asserted by ASARCO in its amended Statements of Claimant filed in this case. The report shall also set forth ADWR's legal position regarding notice requirements applicable to a WFR amended due to material changes made in an amended Statement of Claimant and shall specifically address the applicability of the procedures adopted by Judge Ballinger for supplemental WFRs in his order dated February 10, 2004 in Contested Case No. W1-11-1174 to the revised WFRs proposed to be prepared in this case. The report shall include the approximate cost of providing the notice that ADWR determines is legally required. If a party desires to file a response to ADWR's report, the response shall be filed by **June 17, 2019**.

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