

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

06/27/2018

CLERK OF THE COURT
Form V000

SPECIAL WATER MASTER
SUSAN WARD HARRIS

S. Ortega
Deputy

In re Arizona Chapter of the Nature
Conservancy-Instream Flow
Contested Case No. W-1-11-3301

FILED: 07/03/18

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

Re: Status Conference

MINUTE ENTRY

Courtroom CCB - 301

1:28 p.m. This is the time set for a Status Conference before Special Water Master Susan Ward Harris to ascertain The Nature Conservancy's Instream Flow Right.

The following attorneys appear in person: Stanley B. Lutz on behalf of the Arizona Chapter of The Nature Conservancy ("TNC"); Mark A. McGinnis on behalf of the Salt River Project ("SRP"); and Kimberly R. Parks on behalf of the Arizona Department of Water Resources ("ADWR").

The following attorneys appear telephonically: Jay Tomkus on behalf of the Pascua Yaqui Tribe and Yavapai-Apache Nation; and Laurel A. Herrmann on behalf of the San Carlos Apache Tribe and Tonto Apache Tribe.

Court Reporter Tara Kramer is present and a record of the proceedings is also made digitally.

Discussion is held regarding TNC's instream flow right based on permit 95771 and the inconsistency between TNC's scheduled abstracts and the instream flow permit. The Court prepared an abstract using the amount from the instream flow permit requested by TNC. The Court addresses counsel for TNC regarding the Watershed File Report 115-04-012 and the two Statements of Claimants associated with the Watershed File Report.

Stanley Lutz advises the Court that TNC agrees that the Proposed Water Right ("PWR") No. 115-04-012 is encompassed within PWR No. 115-04-011 and therefore is not requesting that PWR No. 115-04-012 be a separate water right. Mr. Lutz moves to have the associated Statements of Claimant dismissed.

IT IS ORDERED granting counsel's request and dismissing Statements of Claimant 39-2116 and 39-11371.

Kimberly Parks advises the Court regarding ADWR's report and the streamflow as it enters and exits the property owned by TNC. The legal description on the abstract describes the reach as one continuous reach even though it crosses lands owned by different landowners.

Stanley Lutz states that TNC is not concerned so much as how the reach is defined because the exact path is likely to change from day to day or from year to year. TNC has a certificated instream flow right that should be abstracted. The reach should be described in the abstract as wherever the permit indicates that reach is located.

Kimberly Parks agrees with Mr. Lutz. ADWR is looking for direction from the Court for the proper way to describe the reach as it enters and exits the property.

Mark McGinnis also agrees with Mr. Lutz. He states that what is in the certificate is specific enough. He recommends that the Court not attach the maps provided by ADWR but to copy the information from the permit. He believes that if the maps are attached, that additional language will need to be added regarding the dates the maps were prepared to avoid any confusion because of the likely change to the path of the stream. He is not concerned with the issue raised by Ms. Parks regarding portions of the reach entering and exiting on land not owned by TNC because TNC does own the land directly above and below the land over which it has a permitted instream flow right.

Stanley Lutz and Mark McGinnis recommend using just the language in the permit and not attaching the maps.

Kimberly Parks agrees with TNC and SRP's recommendation.

1:40 p.m. Matter concludes.

LATER:

IT IS FURTHER ORDERED that no water rights will be granted pursuant to Watershed File Report No. 115-04-012.

A copy of this order is mailed to all persons listed on the Court approved mailing list for Contested Case Number W1-11-3301.