

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

November 4, 2022

CLERK OF THE COURT

SPECIAL WATER MASTER
SUSAN WARD HARRIS

T. DeRaddo
Deputy

In re: ASARCO Irrigation
Contested Case No: W1-11-2798

In re: ASARCO Diversion
Contested Case No: W1-11-2801

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

FILED: 11/15/2022

In re: Status Conference

MINUTE ENTRY

Courtroom CCB - 301

1:30 p.m. This is the time set for a virtual/telephonic Status Conference before Special Water Master, Susan W. Harris.

The following attorneys appear virtually/telephonically via Court Connect/Teams.

- Mark McGinnis on behalf of SRP
- Sean Hood on behalf of ASARCO, LLC. Also present is Manuel Hallivus Perez, who is ASARCO's legal director and Head of Compliance.
- Kome Akpolo and Kimberly Parks on behalf of ADWR
- Laurel Herrmann and Joseph Sparks on behalf of the San Carlos Apache Tribe
- Alexander Ritchie with the Office of the Attorney General for the San Carlos Apache Tribe is observing on behalf of the San Carlos Apache Tribe
- Richard Palmer on behalf of the Tonto Apache Tribe
- Tom Murphy on behalf of the Gila River Indian Community

- Richard Gehlert on behalf of United States Department of Justice in the Natural Resources Division
- Vanessa Willard on behalf of the United States Department of Justice
- Charmayne Staloff on behalf of the United States Department of Justice
- Stanley B. Lutz is present

Today's Status Conference involves two cases:

W1-11-2798: In re: ASARCO Irrigation

W1-11-2801: In re: ASARCO Diversion

Vanessa Willard informs the Court that she usually appears for the United States in the Little Colorado River adjudication; but she is appearing in the Gila Adjudication today. Also, Charmayne Staloff (who will be filing a notice of appearance soon) appears in the capacity of the United States Department of Justice in the Gila Adjudication.

Ms. Willard reports that the United States Justice Department represents the United States as a "whole," but there are two divisions/sections who appear in this adjudication. Richard Gehlert appears on behalf of the United States Department of Justice in the Natural Resources Division, representing federal interests on behalf of the non-Indian federal agencies. Ms. Staloff and Ms. Willard represent the United States Justice Department in its capacity on behalf of Indian tribes, primarily on behalf of the Bureau of Indian Affairs.

Mr. Hood informs the Court that he has been working diligently on this case from May of 2022, to try to work out settlements. Although progress has been made, Mr. Hood states that he needs more time.

He reports that the settlement with Salt River Project is finished. He states that he has had several productive discussions with the San Carlos Apache Tribe, and he is in the infancy of discussions with the Gila River Indian Community. Those processes have taken separate tracks. He is working on getting the schedule back on track. There have been several scheduling issues.

Mr. Hood requests that the Court allow an additional 6 months to work on this case, and after 4 months, he will file a Status Report. Mr. Hood believes that a settlement in principle with the Gila River Indian Community will be accomplished. If not, he will proceed in another manner. Mr. Hood reports that ASARCO has been very open to including the United States in any settlement discussions.

Ms. Willard informs the Court regarding the United States' involvement in these matters. She reports that the United States is available to participate in these discussions. She states that it is important for the tribes to have discussions with ASARCO first. The United States will play a role in reviewing any settlement agreements.

Mr. Sparks reports that he has a series of proposed dates with ASARCO, through January to discuss the cases. Mr. Sparks has requested the representatives of the United States to be present and participate in the discussions.

Mr. Sparks discusses the Globe Equity N0. 59 Decree. Mr. Sparks states that he wants to be sure that everything works properly between this decree and under the proposed Catalog of Rights that would be worked out with ASARCO.

Discussion is held regarding the differences between the ASARCO Irrigation case and the ASARCO Diversion matter. Mr. Sparks states that the two matters are inextricably intertwined. Mr. Sparks requests clarification regarding the amended claims. He inquires: will they be a part of the San Pedro HSR II or are they are part of this case?

Mr. Hood states that all claims must be worked on at the same time and settled together.

Mr. Murphy agrees with Mr. Hood. He views the issues as a global matter involving the potential settlement of claims in both basins. He believes that the Gila River Indian Community's expectation would be that the United States is involved after the Community has concluded its settlement discussions with ASARCO.

Mr. Sparks states that he concurs with Messrs. Murphy and Hood with respect to "comprehensiveness." He regularly updates the United States as to the progress of these matters.

Ms. Willard and Ms. Staloff are asked to contact Mr. Sparks so that the United States will be made available during the scheduled meetings in January (and possibly in December).

The Court will set a status conference to determine where Mr. Hood's efforts stand. If Mr. Hood has not made enough progress, the Court will then set a scheduling conference and to set dates to try the case include a date for filing a disclosure statement.

1:52 p.m. Matter concludes.

LATER:

IT IS ORDERED that a Status Conference shall be held on **February 2, 2023, at 1:30 p.m.**

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. Alternatively, you may attend telephonically using the following instructions:

Instructions for telephonic appearance:

Dial: 602-506-9695 (local)

1-855-506-9695 (toll free long distance)

Dial Participant Pass Code 357264#

A copy of this minute entry will be sent to all people on the court-approved mailing list for this matter.

NOTE: All court proceedings are recorded digitally and not by a court reporter. The parties or counsel may request a CD of the proceedings. For copies of hearings or trial proceedings recorded previously, please call Electronic Records Services at 602-506-7100.



Court Connect Hearing Notice for In re ASARCO- Diversion & In re ASARCO - Irrigation

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 Name: In re ASARCO- Diversion & In re ASARCO Irrigation
Contested Case Nos. W1-11-2798 & W1-11-2801
Start Date/Time: February 2, 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](#)

