

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

07/16/2009

CLERK OF THE COURT
FORM V000

HONORABLE EDDWARD BALLINGER, JR.

M. Wetherell
Deputy

W-1, W-2, W-3, W-4 (Consolidated)

FILED: 9/04/2009

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

COPY

In Re Salt River Project's Request
For Status Conference on Certain
Applications for Orders to Show
Cause and Requests for Injunctions

TRIAL SETTING MINUTE ENTRY

Courtroom 110 – NE RCC

10:32 a.m. This is the time set for Telephonic Rule 16 Scheduling Conference re: Salt River Project's Request for Status Conference on Certain Applications for Orders to Show Cause and Requests for Injunctions re: River Ranch Estates/Michael C. and Judy L. Kasper, David R. and Kathy S. Henry, Myron Gale Ray, Justin T. and Chelise C. Largent, and Jerry D. and Shawn L. Stryker. Present telephonically are: L. Richard Mabery, Mark A. McGinnis, M. Byron Lewis, Robyn L. Interpreter, Jenny Pelton, Michael J. Pearce, Douglas E. Brown, David A. Brown, Margaret B. LaBianca, and Janet L. Ronald. Barbara K. Brown, Assistant to Special Master George A. Schade, Jr. is also present telephonically.

Court Reporter, Melody O'Donnell, is present as well as a record of the proceedings being made by CD/videotape.

Discussion is held.

IT IS ORDERED that the parties shall submit a Supplemental Joint Pretrial Order on or before **August 14, 2009**.

Court and counsel discuss the status of the case and scheduling matters.

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IT IS ORDERED setting a Two-Day Trial to the Court on **March 30-31, 2010 at 9:30 a.m.** before:

**HONORABLE EDDWARD P. BALLINGER, JR.
SUPERIOR COURT OF ARIZONA
NORTHEAST REGIONAL COURT CENTER
18380 NORTH 40TH STREET
COURTROOM 112
PHOENIX, ARIZONA 85032
602.506.8551**

THIS IS A FIRM TRIAL SETTING.

IT IS FURTHER ORDERED setting a Pretrial Management Conference on **March 16, 2010 at 8:30 a.m. (30 minutes allotted)**. The Pretrial Management Conference shall be governed by the Pretrial Management Orders issued this date.

IT IS FURTHER ORDERED all trial exhibits shall be submitted for marking not later than **February 26, 2010**. In the event that exhibits are not submitted by this date,

IT IS FURTHER ORDERED that counsel shall appear in person for an Order to Show Cause Hearing on **March 5, 2010**. Counsel shall contact this division at 602.506.8551 to obtain the specific time to appear.

No information disclosed after the dates contained in the order may be used at the trial absent court order on motion and affidavit.

IT IS ORDERED that should any discovery disputes arise, prior to filing discovery motions, counsel shall MEET AND CONFER FACE TO FACE. If counsel are not able to resolve the dispute,

IT IS FURTHER ORDERED that any discovery motion must be accompanied by a Rule 37(2)(C) certification, to include that counsel have met face to face.

The proceedings will take place in the Superior Court's new "e-courtroom." A record of the proceedings will be made by FTR in lieu of a court reporter. With this new technology, a

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court reporter is not required and the parties are encouraged to experience the court's video recording system before requesting a court reporter. If a court reporter is required, the Court must receive a written request prior to the Trial Management Conference set. Failure to timely request a court reporter will be deemed consent to proceed without a court reporter. Should you want an unofficial copy of the proceedings, the parties or counsel may request a CD of the proceedings for a \$20.00 charge. If a CD is requested, please obtain a form from the Self Center to request a daily copy of a court hearing or trial proceeding being conducted and pay the applicable fee. Should an official transcript be required, you may request that the court prepare it. The party ordering the transcript must pay for it.

If the parties are not familiar with the courtroom's technology, they are encouraged to set up an appointment with the court's technology liaison at 602.372.7877.

PRETRIAL MANAGEMENT ORDERS

IT IS ORDERED that the Joint Pretrial Statement (JPTS) in accordance with Rule 16(d), A.R.Civ.P., is due in this division by **5:00 p.m., March 11, 2010.**

IT IS FURTHER ORDERED with the JPTS, counsel shall deliver to this division, copies of the following:

- A. A jointly completed time and witness estimate list.
- B Proposed Findings of Fact and Conclusions of Law, if a request has been or will be filed. If no proposed Findings of Fact and Conclusions of Law is received, the request shall be deemed waived.
- C. Whether or not the Rule of Exclusion of Witnesses has been invoked.

DISPOSITIVE MOTIONS

All motions, other than motions in limine, shall be filed not later than ninety (90) days prior to the date set for trial.

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Discussion is held regarding Respondent Wiertzema Family Trust's case, Mr. Mabery filed a Motion to Dismiss with a Motion for Expedited Consideration.

IT IS ORDERED that Salt River Project shall file its response to Respondent Wiertzema Family Trust's renewed Motion to Dismiss on or before **August 10, 2009**.

IT IS FURTHER ORDERED movant's reply shall be due on or before **August 17, 2009**.

10:44 a.m. Matter concludes.

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ATTACHED: SAMPLE FORMAT FOR TIME ESTIMATE FORM AND EXHIBIT PROCEDURES

CAUSE NUMBER

CASE CAPTION

PLAINTIFF'S COUNSEL

DEFENDANT'S COUNSEL

(NOTE: Add additional lines as needed for additional parties and or witnesses.)

TIME ESTIMATES FOR TRIAL

Opening Statement and Closing Argument

PLAINTIFF'S OPENING STATEMENT	
DEFENDANT'S OPENING	
PLAINTIFF'S CLOSING	
DEFENDANT'S CLOSING	
PLAINTIFF'S REBUTTAL	

Estimate of Time for Witness Examination

PLAINTIFF'S WITNESSES	DIRECT EXAMINATION	CROSS EXAMINATION	REDIRECT EXAMINATION

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Estimate of Time for Witness Examination

DEFENDANT'S WITNESSES	DIRECT EXAMINATION	CROSS EXAMINATION	REDIRECT EXAMINATION

GUIDELINES FOR COUNSEL WHEN PREPARING **EXHIBIT** FOR USE IN COURT

COUNSEL PLEASE READ

Exhibits are due to the Court not later than thirty (30) days prior to the trial.

If Defendant's exhibits are received prior to Plaintiff's exhibits, the Clerk may mark them first with Plaintiff's exhibits following.

Exhibits will be marked consecutively. If your list refers to an exhibit and it is not provided at the time of marking, the numbers of all following exhibits will be moved up. *The clerk cannot reserve numbers for exhibits that will be provided at a later date.* Exhibits will be marked as they are received. Do not list "Any and all exhibits listed by"

Each multiple page exhibit must be securely fastened together by staple or other means. No rubber bands may be used. If Acco fasteners are used they must be long enough to fasten securely.

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Counsel are to provide a workable list of exhibits. The list should include a description of each exhibit. (See blank sample of an exhibit table below as a reference.) Do not put numbers on the exhibits; however a slip sheet with the exhibit number on it should be placed in front of each exhibit.

Exhibit Description Information:

The descriptions should be verifiable when viewing the first page of the exhibit.

No bates stamp references or number of pages in documents should be used.

If counsel are submitting large charts, blow-ups or maps, please include a small version which can be marked as the exhibit and can go into the jury if in evidence. The blow-ups, charts and/or maps can be used as demonstrative but will not be marked as exhibits and will be returned to counsel.

For additional assistance in preparation of exhibits contact the courtroom clerk at 602-372-7736.

Sample of List of Exhibits to be provided to the courtroom clerk:

EXHIBIT LIST			
Exhibit No.	Identified By	Description	Legal Ground for Objection

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EXHIBIT LIST			
Exhibit No.	Identified By	Description	Legal Ground for Objection

The foregoing are based on the best estimates of counsel of the time reasonably needed to complete the necessary examination of the witnesses listed.

Counsel for Plaintiff

Counsel for Defendant

A copy of this order is mailed to all parties on the Court approved mailing list for the Gila River Adjudication, W-1, W-2, W-3, W-4 (Consolidated), dated January 23, 2009 and to the following persons:

Michael C. and Judy L. Kasper
P. O. Box 1059
Cottonwood, AZ 86326

David R. and Kathy S. Henry
3745 West Wahalla
Glendale, AZ 85308

Myron Gale Ray
4605 Caughran Road
Camp Verde, AZ 86322-0938

Justin T. and Chelise C. Largent
4680 Caughran Road
Camp Verde, AZ 86322-0938

Jerry D. and Shawn L. Stryker

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P. O. Box 398
Camp Verde, AZ 86322-0938