

SUPERIOR COURT OF ARIZONA
APACHE COUNTY
MARICOPA COUNTY

09/30/2010

CLERK OF THE COURT
FORM V000

HONORABLE EDDWARD BALLINGER, JR.

R. TOMLINSON
DEPUTY

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

FILED: 10/07/2010

COPY

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

CV-6417-100

In Re State Trust Lands

W1-104

In Re Oral Argument Re
Special Master's Report Dated
September 28, 2007 Concerning
Whether Federal Reserved Water
Rights Exist for the State Trust Lands

George A. Schade, Jr.

MINUTE ENTRY

On September 29, 2010, the Court held oral argument on the Special Master's Motion for Adoption of his report dated September 28, 2007 (the "State Trust Lands Report" or the "Report"), which addressed the question of whether federal reserved water rights exist for land granted to, and held in trust by, the State of Arizona. After considering the memoranda and arguments of various claimants, the Court has determined that the Special Master's motion should be granted because the state trust lands at issue here were not withdrawn from the public domain and reserved for a federal purpose and, therefore, as a matter of law, cannot be deemed to possess federal implied reserved water rights. In accordance with this conclusion,

IT IS ORDERED adopting and approving the following findings of fact and conclusions of law contained in the State Trust Lands Report:

Findings of Fact: Nos. 1 through 36; and

Conclusions of Law: Nos. 1 through 23.

Although the Court declines to adopt the Report's remaining findings and conclusions, this decision is not intended to be a comment on the merits of the issues discussed in those findings/conclusions, or their corresponding objections. These matters need not be addressed in light of the ruling that an implied reserved water right does not exist for Arizona state trust lands. Should later developments bring this ruling into question, the parties may seek reconsideration of the Court's decision to limit the scope of the current ruling.

In light of the adopted findings and conclusions,

IT IS FURTHER ORDERED denying the Arizona State Land Department's request for summary judgment and granting, in part, the request for summary disposition filed by various claimants including, the Arizona Public Service Company, BPH Copper, Inc., Cities of Cottonwood, Phoenix, and Show Low, Franklin Irrigation District, Freeport McMoRan Copper & Gold, Inc., Gila Valley Irrigation District, Roosevelt Water Conservation District, Salt River Project Agricultural Improvement and Power District and Salt River Water Users' Association, ASARCO LLC and Abitibi Consolidated Sales Corporation, the Gila River Indian Community, the Navajo Nation, the Apache Tribes, and the United States with respect to the relief granted above and denying the motions to the extent they seek relief relating to findings and conclusions contained in the Report, but not adopted by this Court.

IT IS FURTHER ORDERED signing this order as a formal order of the Court.

/s/ Eddward P. Ballinger, Jr. _____
Eddward P. Ballinger Jr.
Judge of the Arizona Superior Court

A copy of this order is mailed to all parties on the Court approved mailing lists for the Gila River Adjudication, W-1, W-2, W-3, W-4 (Consolidated), and the Little Colorado River Adjudication, Civil No. 6417, both dated July 29, 2010.