

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

04/28/2021

CLERK OF THE COURT  
Form V000

SPECIAL WATER MASTER  
SUSAN WARD HARRIS

A. Parmar  
Deputy

FILED: April 29, 2021

In re: Town of Huachuca City and  
Whiting Ranches  
Contested Case No. W1-11-0245

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)

Re: Trial to Court

**MINUTE ENTRY  
TRIAL DAY 3**

Courtroom CCB - 301

9:00 a.m. Trial to Court continues from April 27, 2021.

The following attorneys appear via GoToMeeting:

- Sean Hood and Bradley Pew on behalf of Freeport Minerals
- John Burnside on behalf of BHP Copper and Arizona Public Service (“APS”)
- Joshua Greer on behalf of Town of Huachuca City
- Carrie Brennan and Kevin Crestin on behalf of Arizona State Land Department (“ASLD”)
- Rhett Billingsley on behalf of American Smelting and Refining Company (“ASARCO”)
- David Brown and J. Albert Brown on behalf of Michael J. and Susan S. Cavender, Gila Valley Irrigation District, Franklin Irrigation District and City of Cottonwood

- R. Lee Leininger on behalf of the United States Department of Justice
- Mark McGinnis and John Weldon on behalf of Salt River Project (“SRP”)
- Clyde Halstead on behalf of City of Prescott
- Jenny Winkler on behalf of City of Chandler
- Charles Cahoy on behalf of the City of Phoenix
- William H. Anger on behalf of the City of Mesa
- Thomas Murphy on behalf of the Gila River Indian Community (“GRIC”)
- Joe Sparks and Laurel Herrmann on behalf of the San Carlos Apache Tribe
- Alexandra Arboleda observing on behalf of City of Flagstaff
- Kimberly Parks observing on behalf of Arizona Department of Water Resources (“ADWR”)

Court Reporter, Diane Donoho, is present. A record of the proceedings is also made digitally.

Mark Cross, having been previously sworn, testifies.

The witness is excused.

Rich Burtell, is sworn and testifies.

10:30 a.m. The Court stands in recess.

10:45 a.m. The Court reconvenes with the above-named parties and counsel present.

Court Reporter, Diane Donoho, is present. A record of the proceedings is also made digitally.

Rich Burtell testifies further.

**LET THE RECORD REFLECT** that Mr. Hood objects to the limited reading of GRIC’s exhibit 9, the transcript of Mr. Burtell’s testimony at a prior adjudication hearing. The Court will allow Mr. Hood to supplement by reading parts of the transcript into the record after the lunch hour.

12:00 p.m. The Court stands in recess.

1:30 p.m. The Court reconvenes with the above-named parties and counsel present.

Court Reporter, Diane Donoho, is present. A record of the proceedings is also made digitally.

Rich Burtell testifies further.

**LET THE RECORD REFLECT** that Mr. Hood reads from the transcript of Mr. Burtell's prior testimony before Judge Brain in the Subflow case on September 2, 2015 beginning on page 129, then turns to and reads from testimony given on re-direct on page 60 of the September 3, 2015 transcript. Mr. Hood turns to page 23 of the transcript. Mr. Murphy objects. The objection is sustained and Mr. Hood continues reading on page 23 as an offer of proof.

Rich Burtell testifies further.

The witness is excused.

Huachuca's exhibit 19 is marked for identification and received in evidence.

Discussion is held regarding further legal briefing. The Court will inform the parties if further legal briefing is necessary as a later in today's minute entry.

**IT IS ORDERED** taking this matter under advisement.

2:16 p.m. Matter concludes.

LATER:

The Town of Chandler's request to file a supplemental briefing on the legal issue is granted. The Town of Chandler may file a supplemental brief by **May 14, 2021** that does not exceed five pages. Any party may file a Response to the supplemental brief by **May 28, 2021**. A Response filed by a party shall not exceed three pages. Parties who choose to jointly file a Response shall file a Response that does not exceed three pages. No Reply shall be filed.

No further pleadings will be submitted with respect to the two designated issues of broad legal importance before a decision is issued.

A copy of this order is mailed to all persons listed on the Court approved mailing list for Contested Case Number W1-11-0245.