

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

11/06/2014

CLERK OF THE COURT
Form V000

JUDGE MARK H. BRAIN

T. Springston
Deputy

Contested Case No. W1-103

FILED: March 4, 2015

In re Subflow Technical Report,
San Pedro River Watershed

Contested Case No. W1-103

In re Revised Subflow Zone Delineation
Report for the San Pedro River Watershed
(April 2014) Prepared by the Arizona
Department of Water Resources

In re Salt River Project's Motion to Designate
Contested Case on Verde River Subflow

In re City of Cottonwood's Motion to Designate
Contested Case to Determine the Water
Rights of the Yavapai-Apache Nation

In re Conference

MINUTE ENTRY

1:34 p.m. This is the time set for a conference before Judge Mark Brain set for November 6, 2014 at 1:30 p.m. (MST) to discuss the subflow technical report and the litigation going forward.

The following attorneys and parties appear telephonically:

- John Ford SRP expert
- Charles Cahoy on behalf of the City of Tempe
- Sara Ransom on behalf of the City of Flagstaff
- Richard L. Mabery on behalf of Verde Ditch Company
- Mark Holycross on behalf of US Army

The following attorneys and parties appear in-person:

- Special Master George A. Schade, Jr.
- R. Lee Leininger and F. Patrick Barry on behalf of the United States
- John B. Weldon, Jr., Patrick B. Sigl, Frederic Beeson and Mark McGinnis on behalf of Salt River Project
- Sean T. Hood, Shilpa Hunter-Patel and Rhett A. Billingsley on behalf of Freeport Minerals Corporation
- Janet L. Miller and Nicole D. Klobas on behalf of the Arizona Department of Water Resources
- Theresa M. Craig on behalf of the State of Arizona
- David A. Brown on behalf of Smallhouse (Bayless & Berkalew)
- Susan B. Montgomery and Robyn L. Interpreter on behalf of Pascua Yaqui Tribe and Yavapai-Apache Nation
- Thomas L. Murphy on behalf of Gila River Indian Community
- Margaret B. LaBianca on behalf of BHP Copper Inc.
- Douglas C. Nelson on behalf of LGWUS
- David A. Brown and J. Albert Brown on behalf of GVID, FRD, and City of Cottonwood
- William H. Anger on behalf of Cities of Avondale, Chandler, Glendale, Mesa, and Scottsdale
- Cynthia Haglin on behalf of City of Chandler
- William P. Sullivan on behalf of City of Sierra Vista, Pueblo del Sol and Liberty (Bella Vista Water) Corp.
- Stephen Cann on behalf of The Nature Conservancy
- Sally Worthington on behalf of Maricopa County
- Joe P. Sparks on behalf of San Carlos Apache Tribe and Tonto Apache Tribe
- Gregory L. Adams and Lauren J. Caster on behalf of ASARCO, LLC
- L. Williams Staudenmaier on behalf of APS and RWCD
- Cynthia Chandley on behalf of City of Tombstone

Court reporter Brenda Brown is present and a record of the proceedings is also made by audio and/or videotape.

Discussion is held regarding the objections to the recent maps created by the Arizona Department of Water Resources. Based thereon,

IT IS ORDERED the Arizona Department of Water Resources shall provide supplemental subflow technical reports by **February 13, 2015**. Any supplements or withdrawals to objections shall be submitted by **April 2, 2015**.

IT IS FURTHER ORDERED setting an in-person hearing for **April 23, 2015 at 9:30 a.m.** (time allotted: 1 day) in this division to resolve remaining objections to the

supplemental subflow technical reports. Counsel shall meet and confer between April 2, 2015 and April 22, 2015 to discuss the supplemental subflow reports.

Oral argument is presented on SRP's Motion to Designate a Contested Case on Verde River Subflow.

Oral argument is presented on the City of Cottonwood's Motion to Designate Contested Case to Determine the Water Rights of the Yavapai-Apache Nation.

2:58 p.m. Court stands at recess.

3:19 p.m. Court reconvenes with counsel and respective parties present.

Court reporter Brenda Brown is present and a record of the proceedings is also made by audio and/or videotape.

Oral argument continues on the City of Cottonwood's Motion to Designate Contested Case to Determine the Water Rights of the Yavapai-Apache Nation.

The court opens the floor to other topics. Cone of depression testing and the Steering Committee are discussed.

The Arizona Department of Water Resources offers to come up with a proposed general game plan for the first six months.

IT IS ORDERED taking SRP's Motion to Designate a Contested Case on Verde River Subflow and the City of Cottonwood's Motion to Designate Contested Case to Determine the Water Rights of the Yavapai-Apache Nation under advisement.

3:55 p.m. Matter concludes.

LATER:

Regarding SRP's motion to designate a contested case regarding Verde River subflow, the court agrees that the Verde River is an appropriate "next stop" for the Department of Water Resources' attention, and that the Department should begin work on that basin as its resources permit. The court believes that the Department's work, however, should continue to focus on the goal of completing the adjudication regarding the San Pedro River, both in terms of completing the delineation of the subflow zone and in creating cone of depression testing. This work on the San Pedro River takes priority over work on the Verde River. And, the court does not believe that the creation of a contested case is a prerequisite to the Department beginning work on the Verde River subflow.

Regarding Cottonwood's Motion to Designate a Contested Case to Determine the Water Rights of the Yavapai-Apache Nation, the court believes that such is premature because the Department's limited resources are better deployed elsewhere at this juncture.

A copy of this order is mailed to all persons listed on the court approved mailing list for Contested Case No. W1-103 dated March 3, 2015.