



STATE OF ARIZONA  
NAVIGABLE STREAM ADJUDICATION COMMISSION

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Executive Director

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MEETING MINUTES  
Globe, Arizona November 15, 2004

**COMMISSION MEMBERS PRESENT**

Jay Brashear, Dolly Echeverria, Earl Eisenhower, Jim Henness, and Cecil Miller.

**COMMISSION MEMBERS ABSENT**

None.

**STAFF PRESENT**

George Mehnert, and Commission Legal Counsel Curtis Jennings.

**1. CALL TO ORDER.**

Chair Eisenhower called the meeting to order at approximately 1:05p.m.

**2. ROLL CALL.**

See above.

**3. APPROVAL OF MINUTES** (discussion and action).

A. September 16, 2004, Maricopa County.

Motion by: Cecil Miller Second by: Dolly Echeverria

Motion: To approve the minutes of September 16, 2004. Vote: All aye.

**4. HEARING REGARDING THE NAVIGABILITY OR NON-NAVIGABILITY OF THE GILA RIVER 03-007-NAV.**

Cheryl Doyle appeared on behalf of the State Land Department.

**5. HEARING REGARDING THE NAVIGABILITY OR NON-NAVIGABILITY OF THE UPPER SALT RIVER 04-008-NAV.**

Cheryl Doyle appeared on behalf of the State Land Department. Mark McGinnis spoke procedures.

**6. HEARING REGARDING THE SMALL AND MINOR WATERCOURSES IN GILA COUNTY 04-010-NAV.**

Cheryl Doyle appeared on behalf of the State Land Department. Jay Spehar, a resident of Gila County, and an employee of Phelps Dodge Miami.

Chairman Eisenhower closed the taking of testimony and other evidence except for Tonto Creek which will remain open until someone is available to answer questions at a future hearing relating to the Salt River.

**7. STATUS OF CASES** (update and discussion).

**8. RULES** (discussion and action).

The Commission discussed the rules regarding vote on navigability and adoption of the final report and no action was taken.

**9. BUDGET & TIMELINE-TIMETABLE AND COMMISSION SUNSET DATE** (discussion and action).

Discussion of the Land Department's need for funding to complete the Commission's work including funding for hiring experts to testify at hearings regarding reports submitted by the experts. The Director said that given the current budget and no appeals, the Commission can probably complete 22 hearings in FY2005, but the Land Department may not have the funding to provide their part. Cheryl Doyle indicated that the funds for the Commission work is requested separately and is not part of the Land Department lump sum funding.

**10. ATTORNEY CONTRACT** (discussion and action).

A. To extend the attorney contract.

Motion by: Jim Henness Second by: Dolly Echeverria

Motion: To extend the attorney contract by one year. Vote: All aye.

**11. CALL FOR PUBLIC COMMENT** (comment sheets).

*(Pursuant to Attorney General Opinion No. 199-006 [R99-002]. Public Comment: Consideration and discussion of comments and complaints from the public. Those wishing to address the Commission need not request permission in advance. Action taken as a result of public comment will be limited to directing staff to study the matter or rescheduling the matter for further consideration and decision at a later date.)*

Sally Worthington, attorney representing Maricopa County: Ms. Worthington asked about the status of the Commission's Lower Salt River Report (which is not yet completed). Mr. Jennings and Chairman Earl Eisenhower explained that the evidence was voluminous, greater than 6,500 pages, and that the Commission Attorney, Curtis Jennings, was working on the report as diligently as he can, given his other obligations.

**12. FUTURE AGENDA ITEMS AND ESTABLISHMENT OF FUTURE HEARINGS AND OTHER MEETINGS.**

Chairman Eisenhower indicated there may be a business meeting in December 2004.

Discussion of calendars and of hearings and hearing locations (counties) occurred among the Commissioners, the Director, and attendees/guests. Assistant Attorney General Laurie Hachtel, representing the State Land Department, stated, relating to budget shortages, they do not know whether the Land Department will be able to provide report updates or expert witnesses at all hearings without additional funding, but that they will continue to do the best they can. The decision was made by Chairman Earl Eisenhower that the next hearing will occur in Yuma County, during January 2005, and it will include the only item remaining to be adjudicated in Yuma County and that is the Gila River. Chairman Eisenhower also indicated that the next hearing following the Yuma County hearing regarding the Gila River, will likely be in February 2005, and will be all of the watercourses in Yavapai County; (the Yavapai County small and minor watercourses, the Agua Fria River, the Hassayampa River, Burro Creek, the Santa Maria River and the Verde River). The Commission Chairman said that following the Yavapai County hearings, the next hearings will likely be in Phoenix, Maricopa County, and will include the Upper Salt River, the Verde River, and the Gila River. Much of the discussion related to establishing a timetable that is within the Land Department's (financial) ability to deliver updated reports, and expert witnesses to appear at hearings. Chairman Eisenhower asked Land Department representatives to inform the Commission Director of dates and times that are problems both for the experts' calendars (other commitments) and for budget purposes. Ms. Hachtel indicated that for the Commission to hold 22 hearings during FY05 will be a problem for the Land Department insofar as providing updated reports and the experts who write the reports at all hearings is concerned.

Considerable discussion occurred by Commissioners and parties regarding the unavailability of an expert witness to answer questions by the Commissioners and by parties, (regarding reports by experts).

**13. ADJOURNMENT.**

Motion by: Cecil Miller                      Second by: Jay Brashear

Motion: To adjourn.                      Vote: All aye.

Meeting adjourned at approximately 2:47 p.m.

Respectfully submitted,



George Mehnert, Director  
November 16, 2004