



STATE OF ARIZONA
NAVIGABLE STREAM ADJUDICATION COMMISSION

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GEORGE MEHNERT
Executive Director

Meeting Minutes
Phoenix, Maricopa County
December 16, 2003

COMMISSION MEMBERS PRESENT

Jay Brashear, Dolly Echeverria, Earl Eisenhower, James Hennes, Cecil Miller.

COMMISSION MEMBERS ABSENT

None.

STAFF PRESENT

George Mehnert, Dir; Curtis Jennings, Legal Counsel.

1. CALL TO ORDER.

Chair Eisenhower called the meeting to order at approximately 10:05 a.m.

2. ROLL CALL.

See above.

3. RULES (discussion and action).

Mr. Mehnert said that the only outstanding suggestion is that there be an opening post hearing memorandum, a response memorandum, and a reply memorandum to the response memorandum. Mr. Mehnert indicated that in the past the Commission has considered the opening post hearing memorandum and response memorandum to be sufficient. Mr. Mehnert indicated that if there are no additional suggested changes in the rules the Commission will go forward with the Notice of Final Rulemaking before the end of the year.

4. APPROVAL OF MINUTES (discussion and action).

A. Minutes of October 14, 2003, Graham County.

Motion: To approve minutes.

Motion by: Cecil Miller. Second by: Jim Hennes Vote: All aye.

B. Minutes of October 15, 2003, Greenlee County.

Motion: To approve minutes.

Motion by: Jim Hennes. Second by: Dolly Echeverria Vote: All aye.

5. CONSIDERATION OF THE COMMISSION REPORT REGARDING THE NAVIGABILITY OF THE SMALL AND MINOR WATERCOURSES IN SANTA CRUZ COUNTY, (discussion and action).

Motion: To adopt the report as written.

Motion by: Jay Brashear. Second by: Jim Henness Vote: All aye.

6. **CONSIDERATION OF THE COMMISSION REPORT REGARDING THE NAVIGABILITY OF THE SMALL AND MINOR WATERCOURSES IN COCHISE COUNTY,** (discussion and action).

Motion: To adopt the report as written.

Motion by: Jay Brashear. Second by: Dolly Echeverria Vote: All aye.

7. **ATTORNEY CONTRACT CONTINUATION** (discussion and action).

It was recognized and discussed that the attorney should receive a greater hourly rate, but that budget shortages will prevent an increase.

Motion: To approve continuation of attorney contract.

Motion by: Jim Henness. Second by: Dolly Echeverria Vote: All aye

8. **BUDGET AND REPORT FROM DIRECTOR** (discussion and action).

Director reported condition of budget and potential need for infusion of additional funding for FY2004, FY2005, and FY2006 to speed up Commission's work and be able to pay for appeals.

9. **CAUSE NUMBER CONSOLIDATION** (discussion and action).

A discussion ensued with the goal of insuring that any testimony or other evidence received during a hearing regarding a major watercourse will be considered by the Commission regarding the entire major watercourse. The example was given by attorney Curtis Jennings that there will be six separate hearings in six Arizona counties regarding the Gila River and that if someone submits evidence regarding the Gila River in a particular county that evidence should apply to the entire watercourse to the extent it relates to the entire watercourse.

The Commissioners decided that any consolidation of cause numbers to facilitate insuring all evidence submitted for any portion of a watercourse is Considered by the Commission for the entire watercourse is an administrative matter and should be resolved by the Chair and the Director.

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

(Pursuant to Attorney General Opinion No. I99-006 [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.)

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

A hearing meeting was established for March 9, 2004 in Florence, Pinal County Arizona regarding the Small and Minor Watercourses in Pinal County, the Gila River, the Santa Cruz River, and the San Pedro River.

A discussion occurred regarding whether oral arguments by parties would be permitted as an agenda item regarding the determination of the navigability of the Lower Salt River scheduled for a meeting on January 27, 2004. The Commissioners indicated that oral arguments before a vote have not been helpful in the past because the Commissioners had already reviewed the evidence and read the post hearing memorandums. The Chair indicated that he would probably move the consideration of the Lower Salt River to the last watercourse item on the January 27, 2004 agenda.

12. ADJOURNMENT.

Motion: To adjourn.

Motion by: Cecil Miller. Second by: Dolly Echeverria Vote: All aye.

Adjourned at approximately 10:50 a.m.

Respectfully submitted,

George Mehnert, Director, December 17, 2003.