

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

IN CHAMBERS (X) IN OPEN COURT ()

SPECIAL MASTER GEORGE A. SCHADE, JR.
Presiding

IN RE THE GENERAL ADJUDICATION
OF ALL RIGHTS TO USE WATER IN THE
GILA RIVER SYSTEM AND SOURCE

DATE: October 28, 2003

Nos. W-1, W-2, W-3, and W-4
(Consolidated)

ORDER REQUESTING STATUS
REPORT BY UNITED STATES

CONTESTED CASE NAME: *In re San Pedro Riparian National Conservation Area* (a contested case not yet initiated).

HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report.

DESCRIPTIVE SUMMARY: The Special Master requests a status report from the United States on or before **Tuesday, June 1, 2004**.

NUMBER OF PAGES: 2; Attachment A - 3 pgs; Total - 5 pgs.

DATE OF FILING: Original filed with the Clerk of the Court on October 28, 2003.

ORDER

On August 29, 2003, the United States filed a status report regarding its water right claims for the San Pedro Riparian National Conservation Area (“SPRNCA”). ASARCO Incorporated and BHP Copper, Inc. filed comments in response to the report.

The United States reported that it is “refining its [instream water] claims to the natural hydrologic conditions that existed in 1988” (the year the SPRNCA was established), is “reexamining its claims to groundwater,” and is “studying the aquatic

habitat of the river and is modeling the effect of various hydrologic conditions on aquatic fauna.” Technical studies are being conducted with other agencies and organizations.

These studies are expected to be completed in the spring of 2004. After reviewing, evaluating, and possibly incorporating the studies in the quantification of the SPRNCA water right, the United States anticipates being prepared to file amended claims in the fall of 2004. Once the amended claims are filed, the United States “has no objection to the initiation of a contested case and proceeding with the litigation of its claims,” although it “reserves the right to argue whether jurisdiction is proper and to raise any other defenses that may be appropriate once the contested matter is initiated.”

ASARCO Incorporated and BHP Copper, Inc. commented that a decision regarding initiating a contested case should be made after the amended water right claims are filed, and interested claimants have had an opportunity to review the nature and scope of the amended claims.

The Special Master appreciates the United States’ suggestion of a status report in the spring of 2004, regarding the progress of ongoing work.

IT IS ORDERED:

1. The United States shall file on or before **Tuesday, June 1, 2004**, a status report describing the work completed or in progress to prepare new or amended statements of claimant and indicating an anticipated date for their filing.

2. A copy of the status report shall be served on all persons listed in Attachment A to this order.

DATED: October 28, 2003.

/s/ George A. Schade, Jr.
GEORGE A. SCHADE, JR.
Special Master

The original was filed with the Clerk of the Maricopa County Superior Court on October 28, 2003, and was delivered to the Distribution Center for copying and mailing to all the persons listed in Attachment A.

/s/ KDolge
Kathy Dolge