

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: December 9, 2009

CIVIL NO. W1-11-19
(Consolidated)

NOTICE THAT THE SPECIAL
MASTER WILL MEET WITH
THE ARIZONA DEPARTMENT
OF WATER RESOURCES

CONTESTED CASE NAME: *In re Sands Group of Cases.*

HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report.

DESCRIPTIVE SUMMARY: The Special Master informs claimants and parties he will meet on January 26, 2010, with the staff of the Arizona Department of Water Resources to discuss the work that must be completed in this contested case as directed by the Court.

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On April 29, 2009, the Court approved the course of action outlined in the reports of the Arizona Department of Water Resources (“ADWR”) dated January 31, 2007, and October 15, 2008. In its October 15, 2008, report, ADWR proposed “to commence the summary adjudication process approved by the Court in 2002 for all existing *de minimis* uses that meet the *Sands* criteria for certain small domestic, stockpond and stockwatering uses.”¹ This work involves several activities.

¹ ADWR’s Memorandum Concerning an Update of the San Pedro River Watershed HSR 6 (Oct. 15, 2008).

The Special Master will meet with ADWR's staff to discuss the work directed by the Court. The Arizona Supreme Court has held that "A.R.S. § 45-256 expressly authorizes ex parte communications between a general adjudication judge ... and DWR."² Although the Special Master may initiate ex parte communications with ADWR, the Court held that the ex parte communications approved by the Arizona Code of Judicial Conduct "generally require notice to the parties.... [N]otice is the rule rather than the exception."³

Accordingly, the Special Master informs claimants and parties he will meet with ADWR's staff on January 26, 2010. The Special Master plans to discuss with staff the commencement and completion of the work the Court directed in this contested case. The meeting will not be recorded. Following the meeting, the Special Master will enter appropriate orders.

DATED: December 9, 2009.

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

On December 9, 2009, the original of the foregoing was delivered to the Clerk of the Maricopa County Superior Court for filing and distributing a copy to all persons listed on the Court approved mailing list for the Gila River Adjudication Nos. W-1, W-2, W-3, and W-4 (Consolidated) dated July 27, 2009.

/s/ Barbara K. Brown
Barbara K. Brown

² *San Carlos Apache Tribe v. Bolton*, 194 Ariz. 68, 72, 977 P.2d 790, 794 (1999).

³ *Id.* at 73, 977 P.2d at 795. The Court considered Canon 3(B)(7) of the Judicial Conduct Code. The Arizona Supreme Court adopted a new Code of Judicial Conduct effective September 1, 2009. Former Canon 3(B)(7) is found in Rule 2.9(A) (Ex Parte Communication) of the new Code, http://www.supreme.state.az.us/ethics/NewCode/Internet_version_MASTER_11-24-09.pdf (last visited Dec. 4, 2009). See Rule 2.9(A)(5).