

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: February 16, 2011

CIVIL NO. W1-103

ORDER CONCERNING THE  
OBJECTIONS REFERRED TO  
THE SPECIAL MASTER

CONTESTED CASE NAME: *In re Subflow Technical Report, San Pedro River Watershed.*

HSR INVOLVED: None.

DESCRIPTIVE SUMMARY: The Special Master defers consideration of the objections of Carmen J. Miller until the Court decides pending issues or an appropriate time, but will dismiss the other objections referred to the master.

NUMBER OF PAGES: 3.

DATE OF FILING: February 16, 2011.

The Special Master allowed objectors Richard Donahue, Howard L. Judd, Paul B. Kartchner, Quentin H. Miller and Carmen J. Miller, Marsha L. Thompson, Kevin J. Trejo, and George L. White and Richard B. White to supplement their objections by January 31, 2011. Only Mrs. Carmen J. Miller filed a supplement.

**I. THE MILLER OBJECTIONS**

Mrs. Miller filed objections with Quentin H. Miller and William Miller and on behalf of the Miller Family Trust, Miller Brothers' Ranch, and Apache Powder Company (hereinafter collectively "the Miller objections"). The Special Master will construe her supplemental information to apply to all of these objections.

The Adjudication Court is in the process of determining the objections filed by seven parties who submitted extensive legal and technical objections and comments concerning the Subflow Zone Delineation Report of the Arizona Department of Water Resources (“ADWR”). The Court has indicated that the evidentiary hearing will be concluded prior to May 15, 2011.<sup>1</sup>

The determination of the seven parties’ objections and comments may influence the outcome of the Miller objections. Accordingly, the Special Master will wait until the Court’s ruling on those objections is final before determining the Miller objections. However, the Special Master reserves the option to determine the Miller objections at an appropriate time depending on how the Court’s ruling proceeds.

## **II. THE OTHER OBJECTIONS REFERRED TO THE SPECIAL MASTER**

Objectors Richard Donahue, Howard L. Judd, Paul B. Kartchner, Marsha L. Thompson, Kevin J. Trejo, George L. White, and Richard B. White neither attended the conference held on December 14, 2010, in Sierra Vista, Arizona, nor supplemented their objections. ADWR reported that only Mr. Trejo contacted ADWR to obtain information after the Special Master, in his initial order, advised the objectors they could contact Mr. Richard T. Burtell at ADWR to obtain information.<sup>2</sup>

The Adjudication Court allowed claimants to file objections to ADWR’s Subflow Zone Delineation Report, and directed that “[o]bjections shall be limited to ADWR’s findings regarding the lateral extent of the subflow zone.”<sup>3</sup>

The Special Master reviewed the objections and stated in the order setting the conference held on December 14, 2010, that:

“The majority describe existing wells, some history, and current or planned water uses. Many do not provide supporting technical information. Several objections describe the artesian nature of a well or wells. One objection may be outside the scope of this phase of this case.”<sup>4</sup>

Following the conference, the Special Master found “that the contents of the objections referred to him do not address ‘ADWR’s findings regarding the lateral extent

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<sup>1</sup> Court’s Order at 1 (Feb. 1, 2011). Its text is available at [http://www.superiorcourt.maricopa.gov/SuperiorCourt/Adjudications/\\_ballinger/W1-103ord020111.pdf](http://www.superiorcourt.maricopa.gov/SuperiorCourt/Adjudications/_ballinger/W1-103ord020111.pdf).

<sup>2</sup> Special Master’s Order at 2 (Sept. 3, 2010). Its text is available at [http://www.superiorcourt.maricopa.gov/SuperiorCourt/Adjudications/\\_schade/W1-103ord090310.pdf](http://www.superiorcourt.maricopa.gov/SuperiorCourt/Adjudications/_schade/W1-103ord090310.pdf).

<sup>3</sup> This directive is part of a recommendation made by the Special Master. The Court approved Recommendation No. 36 of the Special Master’s report. Order at 42 (Sept. 28, 2005). The order’s text is available at [http://www.superiorcourt.maricopa.gov/SuperiorCourt/Adjudications/\\_ballinger/Subfloword92805.pdf](http://www.superiorcourt.maricopa.gov/SuperiorCourt/Adjudications/_ballinger/Subfloword92805.pdf). See Rept. of the Special Master on ADWR’s Subflow Technical Report, San Pedro River Watershed at 97 (subsection C) (July 16, 2004). The complete report is available at [http://www.superiorcourt.maricopa.gov/SuperiorCourt/Adjudications/\\_schade/W1-103FinalRep071604.pdf](http://www.superiorcourt.maricopa.gov/SuperiorCourt/Adjudications/_schade/W1-103FinalRep071604.pdf).

<sup>4</sup> Special Master’s Order at 2 (Sept. 3, 2010). See n2, *supra*.

of the subflow zone’.”<sup>5</sup> The Special Master gave the objectors “an opportunity to supplement their objections in order to comply with the requisite scope of objections in this phase” and pointed out “to the objectors that they will have an opportunity at a future time to file objections that relate to the water right attributes of their wells.”<sup>6</sup>

In a report to be prepared later, the Special Master will recommend the dismissal of the objections filed by Richard Donahue, Howard L. Judd, Paul B. Kartchner, Marsha L. Thompson, Kevin J. Trejo, George L. White, and Richard B. White.

IT IS ORDERED deferring until further ordered the determination of the objections filed by Mrs. Carmen J. Miller with Quentin H. Miller and William Miller and on behalf of the Miller Family Trust, Miller Brothers’ Ranch, and Apache Powder Company.

DATED: February 16, 2011.

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

On February 16, 2011, 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 (Special Master) for Contested Case No. W1-103 dated January 12, 2011.

/s/ Barbara K. Brown  
Barbara K. Brown

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<sup>5</sup> Special Master’s Order at 4 (Dec. 20, 2010). Its text is available at [http://www.superiorcourt.maricopa.gov/SuperiorCourt/Adjudications/\\_schade/W1-103ord122010.pdf](http://www.superiorcourt.maricopa.gov/SuperiorCourt/Adjudications/_schade/W1-103ord122010.pdf).

<sup>6</sup> *Id.*