

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: September 3, 2010

CIVIL NO. W1-103

ORDER SETTING CONFERENCE
ON DECEMBER 14, 2010

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

HSR INVOLVED: None.

DESCRIPTIVE SUMMARY: The Special Master will hold a conference on December 14, 2010, in Sierra Vista, Arizona, to address twenty objections and comments filed to the Subflow Zone Delineation Report for the San Pedro River Watershed, dated June 2009, prepared by the Arizona Department of Water Resources.

NUMBER OF PAGES: 3; Attachment A - 1; total 4 pages.

DATE OF FILING: September 3, 2010.

On August 24, 2010, Judge Eddward P. Ballinger, Jr., referred to the Special Master for determination twenty objections and comments filed by claimants to the Subflow Zone Delineation Report for the San Pedro River Watershed (June 2009) prepared by the Arizona Department of Water Resources (“ADWR”). The Court directed that:

- A. Proceedings before the Special Master may include consideration of disclosures and discovery, including matters arising under Arizona Rules of Civil Procedure 26 and 26.1, briefing of issues, and conducting hearings and conferences. The Special Master is empowered with all the powers enumerated in Arizona Rule of Civil Procedure 53.

B. The Special Master shall submit findings of fact, conclusions of law, and recommendations in a report to the Court (the “Special Master’s Report”).

C. Objections and comments to the Special Master’s Report may be filed within seventy-five (75) days after the report is filed with the Court. Responses to objections and comments shall be filed within sixty (60) days thereafter, with replies to be filed not later than forty (40) days after the response due date. Filing times are exclusive of the additional period authorized by Arizona Rule of Civil Procedure 6(e).¹

The Special Master has reviewed the objections referred to him. 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.

The Special Master will hold a conference on December 14, 2010, in Sierra Vista, Arizona, to address the resolution of the twenty objections and comments.

Objectors may wish to obtain additional information from ADWR in order to understand the report and their situation. The Special Master encourages all the objectors to contact Mr. Richard T. Burtell prior to December 7, 2010, to obtain information. ADWR cannot give legal advice or opinions. Objectors may call or visit ADWR. In light of ADWR’s current budget situation, the Special Master will not request ADWR to travel in order to meet with objectors. Telephonic conferences are encouraged as well as personal visits if agreeable to ADWR and the objectors.

IT IS ORDERED:

1. Contested Case. This contested case began in February 2003. This phase of the case will continue to be designated *In re Subflow Technical Report, San Pedro River Watershed*, W1-103, although the report under consideration will be ADWR’s Subflow Zone Delineation Report for the San Pedro River Watershed dated June 2009.

2. Litigants. At this time, the litigants in this phase are all the claimants who filed objections and comments to ADWR’s Subflow Zone Delineation Report for the San Pedro River Watershed. Litigants may be added if proper and necessary.

3. Motion to Intervene. Any claimant in the San Pedro River Watershed may request to intervene in this phase pursuant to Arizona Rule of Civil Procedure 24. The initial deadline to file a motion to intervene shall be **December 1, 2010**.

4. Court Approved Mailing List. The mailing list for this phase of the case shall include all the claimants who filed objections or comments, the Clerk of the Maricopa County Superior Court, the Arizona Department of Water Resources, and the Special Master. Judge Eddward P. Ballinger, Jr. will not be included in the mailing list.

A. The initial mailing list is set forth in Attachment A. Litigants are responsible for using the current approved mailing list. Parties allowed to

¹ Order 2 (Aug. 24, 2010).

intervene will be added to the list. The list may be modified as necessary.

B. A copy of any pleading filed with the Clerk of the Maricopa County Superior Court shall be served upon all persons listed on the mailing list.

C. Parties wishing to be added to or removed from the mailing list shall file a written request with the Special Master.

D. Parties shall promptly advise the office of the Special Master, in writing, of a change of mailing address.

5. Conference. A conference is set on **Tuesday, December 14, 2010, at 9:00 a.m.**, at the Foothills County Complex, Large Conference Room, 4001 East Foothills Drive, Sierra Vista, Arizona 85635, to consider the following matters:

a. Most efficient procedures to manage this phase of this case, particularly, the use of disclosure statements, discovery, motions, and hearings.

b. Supplementing the objections with additional information.

c. Legal and procedural issues the Special Master should determine.

d. Scheduling future conferences and hearing(s), and

e. Any other issues that will expedite this matter.

6. Information. Objectors are encouraged to contact ADWR prior to December 7, 2010, to obtain further information in order to understand the report and their situation. Please contact Mr. Richard T. Burtell, telephone (602) 771-8402.

DATED: September 3, 2010.

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

On September 3, 2010, 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, W-1, W-2, W-3, and W-4 (Consol.), dated July 29, 2010, and the persons listed in Attachment A of this order that is incorporated by reference.

/s/ George A. Schade, Jr.
George A. Schade, Jr.

ATTACHMENT A
Court Approved Mailing List (19 Names)
In re Subflow Technical Report, San Pedro River Watershed, W1-103

<p>Clerk of the Superior Court Maricopa County Attn: Water Case 601 West Jackson Street Phoenix AZ 85003</p>	<p>U.S. Department of Justice Environment and Natural Resources Division R. Lee Leininger 1961 Stout Street, 8th Floor Denver CO 80294</p>
<p>Tempe, City of Office of the City Attorney Charlotte Benson P. O. Box 5002 Tempe AZ 85280-5002</p>	<p>Salmon, Lewis & Weldon, P.L.C. M. Byron Lewis, John B. Weldon, Jr. and Mark A. McGinnis 2850 East Camelback Road, Suite 200 Phoenix AZ 85016</p>
<p>Phoenix, City of City Attorney's Office M. James Callahan 200 West Washington, 13th Floor Phoenix AZ 85003-1611</p>	<p>The Nature Conservancy Lewis and Roca, L.L.P. Linda C. McNulty One South Church Avenue, Suite 700 Tucson AZ 85701-1611</p>
<p>Fennemore Craig, P.C. Lauren J. Caster and Gregory L. Adams 3003 North Central Avenue, Suite 2600 Phoenix AZ 85012-2913</p>	<p>Quentin H. Miller and Carmen J. Miller 1376 South Lee Street St. David AZ 85630</p>
<p>Holme Roberts & Owen LLP Cynthia M. Chandley, Robert J. Polhman and Rhett A. Billingsley 16427 North Scottsdale Road, Suite 300 Scottsdale AZ 85254-1597</p>	<p>Arizona Department of Water Resources Legal Division Janet L. Ronald 3550 North Central Avenue Phoenix AZ 85012</p>
<p>Richard Donahue P. O. Box 6047 Huachuca City AZ 85616</p>	<p>Special Master Arizona General Stream Adjudication George A. Schade, Jr. 201 West Jefferson, CCB 5B Phoenix AZ 85003-2205</p>
<p>Gila River Indian Community Jennifer K. Giff, R. B. Lewis, J. T. Hestand, R. E. Koester, and A. M. Chischilly 525 West Gu u Ki P. O. Box 97 Sacaton AZ 85247</p>	<p>Curtis, Goodwin, Sullivan, Udall & Schwab, P.L.C. William P. Sullivan 501 East Thomas Road Phoenix AZ 85012-3205</p>
<p>Howard L. Judd 2246 South Judd Street St. David AZ 85630</p>	<p>Marsha L. Thompson 1160 West Calle Privada Sahuarita AZ 85629</p>
<p>Paul B. Kartchner 512 South Miller Lane St. David AZ 84530</p>	<p>Kevin J. Trejo P. O. Box 408 Benson AZ 85602</p>
	<p>George L. and Richard B. White 1284 South Lee Street St. David AZ 85630</p>