

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

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

DATE: February 9, 2005

CIVIL NO. W1-104 (Gila)

CV 6417-100 (LCR)

ORDER REQUESTING  
COMMENTS REGARDING  
PROCEDURES FOR THIS  
NEW CONTESTED CASE

CONTESTED CASE NAME: *In re State Trust Lands.*

HSR INVOLVED: None.

DESCRIPTIVE SUMMARY: The Special Master requests comments from claimants and parties in both general stream adjudications on the procedures for this contested case.

NUMBER OF PAGES: 4.

DATE OF FILING: February 9, 2005.

**ORDER**

On January 20, 2005, the Hon. Eddward P. Ballinger, Jr. directed the Special Master to organize a contested case to hear the State of Arizona's Motions for Partial Summary Judgment Establishing the Existence of Federal Reserved Water Rights for State Trust Lands and submit findings of fact, conclusions of law, and recommendations. The Court identified the issues which the Special Master shall address.

The contested case will be designated *In re State Trust Lands* and will be assigned a unique docket number in each adjudication.

The Court directed the Special Master to “set an initial meeting to discuss the best method for considering the matters required to be resolved by” the order of reference. Because this contested case will involve both general stream adjudications, the Special Master wants to give claimants and parties the opportunity to meet, confer, and submit comments regarding the procedures to implement in this matter. Parties wishing to present the same or similar comments will be asked to submit them jointly. The Gila River Adjudication Steering Committee may submit separate comments.

Comments are requested regarding the following procedures:

1. Filings. The Special Master plans to request parties who participate in this contested case to file an original and a duplicate original with the Clerks of the Maricopa County and Apache County Superior Court. This filing procedure will be implemented immediately.

2. Court-Approved Mailing Lists. The Special Master plans to request the parties who participate in this case to send one copy of pleadings to all the persons listed on the Court-approved mailing lists for both adjudications. Several persons appear on both lists, and mailings can be consolidated. Upon issuance of this order, the Special Master will prepare a Court-approved mailing list for this case and will post a copy at <<http://www.supreme.state.az.us/wm>>.

3. Disclosure of Information. The Special Master plans to provide a reasonable period of time, but not more than 120 days, for parties to file disclosures of information pursuant to Arizona Rule of Civil Procedure 26.1 except section (a)(7). Would a longer or shorter period be preferable?

4. Litigation Support of the Arizona Department of Water Resources (“ADWR”). In Contested Cases W1-203 and W1-206, the parties produced the disclosed documents to the office of the Special Master. In this case, the Special Master plans to request that all disclosures of information be produced to ADWR to catalogue and maintain that record.

In Contested Cases W1-203 and W1-206, the office of the Special Master developed and maintains on the Internet, at its expense, an Index of Disclosed Documents. The Special Master wants to hear if a similar online index is desirable for this case, and wants to hear from ADWR if the department can undertake preparing either an index or a data base of all disclosed documents and maintain them on its Internet site at its expense.

5. Discovery. The Special Master plans to provide a reasonable period of time, but not more than 120 days, for parties to obtain discovery. Would a longer or shorter period be preferable?

The order of reference provides that “[p]roceedings before the Special Master may include consideration of discovery issues.” The Special Master anticipates that discovery disputes will be minimal and will consider any recommendations in this regard.

6. Amendment of State of Arizona’s Motions. If necessary, the Special Master plans to allow a reasonable period of time for the State of Arizona to amend its motions for partial summary judgment. The State should advise if it intends to amend its motions, and if so, how much time it will need to file amended motions.

7. Other Motions for Summary Judgment Relief. If requested, the Special Master plans to allow other parties to file summary judgment motions and to provide not more than one hundred and twenty (120) days to file the motions. The Special Master plans to order that other motions shall be filed at the same time that the State is required to file amended motions. Would a longer or shorter period be preferable?

8. Responses. The Special Master plans to provide a period of not more than sixty (60) or ninety (90) days to file responses to all motions for summary judgment relief. Would a longer or shorter period be preferable?

9. Replies. The Special Master plans to provide a period of not more than thirty (30) or forty-five (45) days to file replies to all motions for summary judgment relief. Would a longer or shorter period be preferable?

10. Oral Argument. The Special Master plans to allow oral argument on all motions for summary judgment relief.

11. Evidentiary Hearings. The Special Master wants to hear if an evidentiary hearing is anticipated, and if so, when should it be held in this schedule.

12. Expert Evidence. The order of reference provides that “the Special Master may adopt procedures similar to those used in his consideration of the subflow issues, including methods for effective presentation of expert opinions by sworn declarations.” The Special Master wants to hear if any party intends or anticipates having to present expert evidence; if so, how extensive is it expected to be; and which procedures used in the subflow case, or variations, should be implemented in this case.

13. Location of Hearings. The order of reference states that “parties may provide suggestions as to how the Special Master can ensure that hearings and conferences held in connection with implementing this order are conducted in a manner that is convenient for the parties in both adjudications.” The Special Master wants to hear the preferences for sites to hold hearings (Payson, Phoenix, Pinetop-Lakeside, Globe, Show Low, or other locations), or whether Phoenix is the most convenient or preferred location for all proceedings in this contested case.

The Special Master will consider all comments before proceeding with an initial meeting or a comprehensive prehearing conference.

IT IS ORDERED:

1. This contested case is designated *In re State Trust Lands*. In the Gila River Adjudication, the case is assigned docket number W1-104, and in the Little Colorado River Adjudication docket number 6417-100.
2. Claimants and parties in both the Gila River Adjudication and the Little Colorado River Adjudication shall have until **Friday, April 15, 2005**, to submit comments regarding the procedures listed above.
3. ADWR may submit comments regarding litigation support procedures.
4. The Gila River Adjudication Steering Committee may file comments.
5. Parties having the same comments or positions shall file them jointly.
6. All persons who file comments shall file an original and a duplicate original with the Clerks of the Maricopa County and Apache County Superior Court.
7. All persons filing comments shall provide a copy to the persons listed on the Court-approved mailing lists for both adjudications. Mailings may be consolidated.

DATED: February 9, 2005.

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

On the 9th day of February, 2005, one original of the foregoing was mailed to the Clerk of the Apache County Superior Court for filing, and a duplicate original was delivered to the Clerk of the Maricopa County Superior Court for filing and mailing a copy to all persons listed on the Court-approved mailing lists for Case No. W-1, W-2, W-3, and W-4 (Consolidated) and Case CV6417, both lists dated October 21, 2004.

/s/KDolge  
Kathy Dolge