

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: April 3, 2006

CIVIL NO. W1-11-605

ORDER EXTENDING FUTURE
DEADLINES SET IN THE MAY 5,
2005, SCHEDULING ORDER

CONTESTED CASE NAME: *In re Fort Huachuca.*

HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report.

DESCRIPTIVE SUMMARY: The Special Master grants the request of the United States and other parties designated Nonfederal Parties to extend four deadlines set in the May 5, 2005, Scheduling Order and scheduling a telephonic status conference.

NUMBER OF PAGES: 3.

DATE OF FILING: April 3, 2006.

On March 20, 2006, the United States and Phelps Dodge Corporation, Arizona Water Company, ASARCO LLC, Bella Vista Water Co., Inc., Pueblo Del Sol Water Co., and the City of Sierra Vista (collectively "Nonfederal Parties") filed a Joint Motion to Extend Deadlines under Scheduling Order dated May 5, 2005 ("Scheduling Order"). These parties request an extension of ninety days for four deadlines, of which the first one comes up on April 14, 2006.

The grounds for the request are that this additional time will allow these parties "to conduct a more meaningful review of the voluminous documents and materials disclosed and engage in further settlement negotiations." The major parties in this

contested case “have held two productive settlement meetings and begun to make progress towards a prospective settlement of the United States’ claims with regard to Fort Huachuca.”

Formal discovery began on January 9, 2006, and informal discovery has been ongoing since last year. Both the claimant United States and the objectors have filed disclosure statements referencing numerous documents.

Because the first deadline is fast approaching, the claimant United States joins in the request, the Nonfederal Parties are among the active litigants in this case, no other party has indicated it objects to the request, and it does not appear that any of the litigants in this case will be materially harmed, the Special Master will rule on this motion at this time.

The motion establishes good cause to grant the request. Furthermore, this case presents federal non-Indian reserved water rights issues, those issues involve a military installation with a long history, they are being addressed for the first time in this adjudication, and settlement might be a practical resolution of this case.

Nevertheless, promising outlooks for settlement and request for extensions make adjudication courts wary. Is the case moving to or deviating from a conclusion? Courts desire to facilitate a proper and efficient end for legal determinations, to allow a full opportunity for settlement but to be ready to litigate. In general stream adjudications, those goals can at times be difficult to accomplish.

The Special Master will take into account that in this case counsel are experienced in both litigation and settlement, are highly competent in water law, and are involved in a variety of other water matters. Counsel, however, should take into account the Court’s goal of always moving forward to a conclusion. All requests for extensions will be carefully considered but may not always be granted or the request may be modified.

Accordingly, IT IS ORDERED:

1. Section 7.C. of the Scheduling Order is revised to extend the deadline for completion of all discovery, including depositions, from April 14, 2006, to **July 13, 2006**.

2. Section 8 of the Scheduling Order is revised to extend the deadline for filing the appropriate motion presenting a party’s position concerning any of the designated issues from April 28, 2006, to **July 27, 2006**.

3. Section 9 of the Scheduling Order is revised to extend the deadline for filing responses to motions from June 27, 2006 to **September 25, 2006**.

4. Section 10 of the Scheduling Order is revised to extend the deadline for filing replies to all motions from August 28, 2006, to **November 27, 2006**.

5. The status conference originally scheduled for Tuesday, May 16, 2006, at 10:00 a.m. under Section 12 of the Scheduling Order is cancelled.

6. A telephonic conference shall be held on **Thursday, October 5, 2006, at 10:00 a.m. (MST)** to discuss the status of motions, oral argument, need for evidentiary hearings, progress of settlement negotiations, and any other relevant matters. To enter the conference, counsel should call (602) 542-9005 from the telephone they will use. Each participant will bear any long distance telephonic charges.

7. The Scheduling Order shall remain in effect in all other respects.

DATED: April 3, 2006.

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

On April 3, 2006, 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 Contested Case No. W1-11-605 dated February 28, 2006.

/s/ KDolge
Kathy Dolge