

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: January 14, 2013

CIVIL NO. W1-11-3423

ORDER

CONTESTED CASE NAME: *In re Powers Garden Administrative Site.*

HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report.

DESCRIPTIVE SUMMARY: The Special Master gives the United States and objectors 120 days to submit a proposed stipulation and abstracts of water rights or advise that a settlement agreement will not be executed. If a stipulation is executed by all or some of the objectors, the Arizona Department of Water Resources is directed to review the proposed stipulation and abstracts of water rights. A schedule is set for the consideration of the stipulation and abstracts.

NUMBER OF PAGES: 3.

DATE OF FILING: January 14, 2013.

On January 9, 2013, the Special Master held a conference to review the status of this contested case. The records of the Arizona Department of Water Resources ("ADWR") show that the United States Forest Service, Coronado National Forest, Salt River Project, and jointly the Gila River Indian Community, San Carlos Apache Tribe, Tonto Apache Tribe, and the Yavapai-Apache Indian Community, Camp Verde Reservation (now the Yavapai-Apache Nation) filed objections to the claims associated with Watershed File Report No. 115-09-001 ("WFR") of the 1991 Final San Pedro River

Watershed Hydrographic Survey Report (“Final San Pedro HSR”).¹

I. SETTLEMENT AGREEMENT

The United States and SRP have engaged in negotiations for some time but have not reached an agreement. These discussions have not involved the other objectors.

A settlement involving all the objectors should be explored. The Special Master will give the United States and the objectors one hundred and twenty (120) days to file a proposed stipulation and abstracts of water rights or inform the Special Master that a settlement agreement will not be executed.

The Final San Pedro HSR identified Statement of Claimant No. 39-4214, filed by Mr. Mike Isley, as being related to water uses at the Powers Garden Administrative Site. The HSR reported this statement of claimant in WFR 115-09-001 under the name of Mr. Anthony J. Lunt of the Deer Creek Ranch, Inc. Mr. Lunt is a lessee of the Coronado National Forest. Neither Mr. Isley nor Mr. Lunt is an objector in this case. It is suggested that the settling parties inform Mr. Lunt if an agreement is executed, and if feasible, obtain Mr. Lunt’s approval of the agreement.

If an agreement is executed, the United States will be directed to submit to ADWR the complete proposed stipulation and abstracts of water rights. ADWR will have sixty days to review and file its recommendations concerning the stipulation and abstracts in accordance with the directives set forth in the order.

Thereafter, if all the objectors executed the proposed stipulation, the Special Master will file a report with the Court regarding adoption and approval of the stipulation and abstracts of water rights. If all the objectors did not execute the proposed stipulation, the Special Master will give the non-settling objectors and parties in this case the opportunity to comment on the stipulation, abstracts of water rights, and ADWR’s recommendations.

Claimants will have sixty days to file objections to the Special Master’s report because the report will not cover an entire federal reservation. A.R.S. §45-257 (A)(2).

II. MR. SEAN T. HOOD’S REQUEST TO BE ADDED TO THE COURT APPROVED MAILING LIST

Mr. Sean T. Hood, a private attorney representing Freeport-McMoRan Corporation, has requested to be added to the Court approved mailing list of this case.

As Freeport-McMoRan is on the mailing list, having been added on December 28, 2010, Mr. Hood will be added.

¹ See Order Announcing the Commencement of a New Contested Case in the San Pedro River Watershed at 2 (Nov. 30, 2007).

IT IS ORDERED:

1. On or before **Tuesday, May 14, 2013**, the United States and the settling parties shall submit to ADWR the complete proposed stipulation and abstracts of water rights or advise the Special Master that a settlement agreement will not be executed.

2. Whether all or some objectors executed the proposed stipulation, on or before **Monday, July 15, 2013**, ADWR shall review the stipulation and proposed abstracts of water rights in accordance with the following two directives and file its recommendations:

A. A comprehensive technical report is not contemplated but rather a review and recommendations regarding the settlement agreement.

B. ADWR's review shall be limited to the accuracy and completeness of the factual information contained in the proposed stipulation and abstracts of water rights. During the course of ADWR's review, if it would facilitate and expedite, but not delay, the process, ADWR and the settling parties may discuss the stipulation and abstracts and make factual corrections.

3. If all the objectors have not executed the proposed stipulation, on or before **Friday, August 16, 2013**, the non-settling objectors and parties in this case may comment on the stipulation, abstracts of water rights, and ADWR's recommendations.

4. Claimants will have sixty days to file objections to the Special Master's report. The last day to file objections will be set forth in the report. And,

5. Mr. Sean T. Hood is added to the Court approved mailing list of this case. The directives in the Special Master's December 28, 2010, order remain in effect.

DATED: January 14, 2013.

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

On January 14, 2013, 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. W1-11-3423 dated January 10, 2013.

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