

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: November 30, 2007

W-1 (Salt)  
W-2 (Verde)  
W-3 (Upper Gila)  
W-4 (San Pedro)  
(Consolidated)

Contested Case No. W1-11-3423

ORDER ANNOUNCING THE  
COMMENCEMENT OF A NEW  
CONTESTED CASE IN THE SAN  
PEDRO RIVER WATERSHED

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

HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report.

DESCRIPTIVE SUMMARY: The Special Master announces the commencement of a contested case concerning the claimed water rights of the Coronado National Forest to the Powers Garden Administrative Site and issues initial procedural directives.

NUMBER OF PAGES: 4.

DATE OF FILING: November 30, 2007.

The San Pedro River Watershed Hydrographic Survey Report (“Final San Pedro HSR”) identified six non-Indian federal claims.<sup>1</sup> The remaining claim which has not been acted upon involves the Coronado National Forest’s statements of claimant for the Powers Garden Administrative Site which is located approximately twenty miles south of Klondyke, Arizona, in the Galiuro Mountains.

**A. Background of Claimed Water Rights**

The claimed water rights are described in volume 1, chapter 5.4, pages 380 - 382 of the Final San Pedro HSR. The Final San Pedro HSR reports the findings of the Arizona Department of Water Resources (“ADWR”) in Watershed File Report (“WFR”) 115-09-001, which is found in volume 6, table 4 (Aravaipa Subwatershed), page 63, and the related map is in volume 9, page 196.

The Final San Pedro HSR associates the Coronado National Forest’s Statements of Claimant Nos. 39-8034 and 39-8321 with the use of water at the Powers Garden Administrative Site. The uses identified in all the reported filings include domestic, fire fighting, irrigation, stockwatering, and wildlife. The Final San Pedro HSR states that both statements of claimant claim a federal reserved water right. Copies of water rights filings are available from ADWR’s online Imaged Records Database at <http://www.azwater.gov/dwr/Content/ImagedRecords/default.htm>.

The Final San Pedro HSR also identifies Statement of Claimant No. 39-4214, filed by Mr. Mike Isley, as being related to water uses at the Powers Garden Administrative Site. Mr. Isley filed this statement of claimant on June 10, 1980. The Final San Pedro HSR reports this statement of claimant and WFR 115-09-001 under the name of Mr. Anthony J. Lunt of the Deer Creek Ranch, Inc. Mr. Lunt is reported as a lessee. The Powers Garden Administrative Site is located on lands owned by the United States.

ADWR’s records 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 filed objections to the claims associated with WFR 115-09-001.

**B. Organization of Contested Case**

The Special Master will organize a contested case to determine the claimed water rights of the Coronado National Forest to the Powers Garden Administrative Site whether they are reserved or state law water rights. A case name and docket number will be assigned. The Coronado National Forest will be allowed a period of time to file amended claims and provide other information. The current parties will be identified, and a deadline will be set for filing motions to intervene. At this time, no directives will be made regarding disclosure statements and formal discovery.

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<sup>1</sup> Vol. 1, ch. 5.4, Hydrographic Survey Report for the San Pedro River Watershed 375-438 (1991).

It appears that ADWR was not able to field verify its findings reported in the Final San Pedro HSR because “access was not readily available at the time of the investigation,” and “the aerial photographic evidence was inconclusive.”<sup>2</sup>

If this case settles, the Special Master plans to request ADWR to prepare a report presenting its recommendations concerning the settlement. If this matter does not settle, the Special Master will determine the need for and scope of a report.

Accordingly, IT IS ORDERED:

1. Contested Case Designation. The designation of this contested case is *In re Powers Garden Administrative Site*.

2. Docket Number. The docket number is W1-11-3423.

3. Date of Filing. Papers shall be considered timely filed if postmarked by the deadline specified in any order issued in this case.

4. Signature Page. In lieu of numerous signature pages, the Special Master will accept as sufficient an avowal by the lead counsel that includes a listing of the attorneys and represented parties who join in the particular pleading. This allowance is made pursuant to Arizona Rule of Civil Procedure 1 that the rules “shall be construed to secure the ... inexpensive determination of every action.” If a party has concerns related to Rule 11(a), that party may request or provide an individual signature.

5. Amendment of Water Rights Claims. On or before March 31, 2008, the Coronado National Forest shall file any amendments, supplements, and maps to its water rights claims that it desires to be considered in this contested case. Specific and material information is requested particularly concerning the attributes of claimed water rights. A copy of all documents submitted to ADWR shall be provided to the Special Master.

6. Current Lessees, Permittees, and Allottees. On or before March 31, 2008, the Coronado National Forest shall file a list of the names and addresses of current lessees, permittees, and allottees, if any, of the current unit associated with the Powers Garden Administrative Site. If Mr. Anthony J. Lunt is the only person in this capacity, the Coronado National Forest shall so inform.

7. Parties. At this time, the parties in this contested case are the Coronado National Forest, Salt River Project, Gila River Indian Community, San Carlos Apache Tribe, Tonto Apache Tribe, Yavapai-Apache Indian Community, Camp Verde Reservation, and Mr. Anthony J. Lunt. Mr. Lunt’s mailing address is 33000 West Deer Creek Ranch Road, Klondyke, Arizona 85643.

8. Motions to Intervene. On or before April 30, 2008, any claimant in the Gila River Adjudication may file a motion to intervene in this contested case.

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<sup>2</sup> *Id.* at 380 and 382.

9. Withdrawal of Objections. An objector may withdraw an objection at any time by filing a notice with the Clerk of the Maricopa County Superior Court.

10. Court Approved Mailing List. The Court approved mailing list for this case shall include all litigants identified in paragraph 5 above and any claimants allowed to intervene. At a future time, the Special Master will post a mailing list for this case at <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Adjudications/>. Until that time, claimants should use the main Gila River Adjudication mailing list available at <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Adjudications/maillingLists.asp>.

11. Change of Address. Parties shall promptly inform the Special Master of any changes or corrections to mailing addresses.

12. Comments. On or before April 30, 2008, any party in this contested case and any other claimant who has requested to intervene may file comments regarding the legal or procedural issues that can or should be addressed in this contested case.

13. Settlement. The current litigants in this contested case are experienced in water rights settlements. They are encouraged to meet and confer regarding mutual resolution of disputed issues. This process can start immediately.

14. Status Conference. The Special Master will set a conference at an appropriate time as this case proceeds or upon the request of a party.

DATED: November 30, 2007.

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

On November 30, 2007, 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 Nos. W-1, W-2, W-3, and W-4 (Consolidated) dated July 26, 2007, and to Mr. Anthony J. Lunt, 33000 West Deer Creek Ranch Road, Klondyke, Arizona 85643.

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