

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF APACHE

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 LITTLE
COLORADO RIVER SYSTEM AND SOURCE

DATE: May 12, 2010

CV 6417-201

FIFTH ORDER MODIFYING
THE CASE INITIATION
ORDER AND FIRST ORDER
MODIFYING THE ORDER
CONCERNING BRIEFING ON
SPANISH AND MEXICAN LAW

CONTESTED CASE NAME: *In re Hopi Tribe Priority.*

HSR INVOLVED: None.

DESCRIPTIVE SUMMARY: The Special Master extends the pending prospective deadlines for filing responses and replies, completing discovery concerning the reports on Spanish and Mexican law and filing motions, responses, and replies related to Spanish and Mexican law rights.

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DATE OF FILING: May 12, 2010.

At the telephonic conference held on May 5, 2010, the Special Master heard a consensus request to defer the current briefing schedule until after October 13, 2010, as the prospects for a water rights settlement involving the Hopi Tribe are good. The October 13, 2010, date is related to the litigation in the federal district court for Arizona that is stayed until then. There is no assurance all parties will execute a formal settlement

before the end of this year, but the parties will be given the requested time to finalize a settlement. A settlement would affect the future of this contested case.

The Hopi Tribe has filed its report on Spanish and Mexican law. The parties did not request to change the June 30, 2010, deadline to exchange rebuttals to the Hopi Tribe's expert report. However, all other prospective deadlines will be postponed until after October 13, 2010.

The Special Master modifies the prospective deadlines and retains the individual periods related to each deadline as previously set. The Special Master prefers to set a revised schedule now rather than wait until October. A telephonic conference is set on October 14, 2010, to review the status of settlement negotiations and the revised briefing schedule.

In light of the fiscal situation of the Arizona Department of Water Resources and the estimated one-year's time to complete the Final Hopi Indian Reservation Hydrographic Survey Report ("Final HSR"), the Special Master wants to know if the Department should continue preparing the Final HSR or stop that work. Currently, the Department is under an order to complete the Final HSR, and only the Court can modify that order. The Final HSR might serve a purpose given the extent of a settlement. On the other hand, releasing the Department from this assignment will enable it to commit its technical resources to other contested cases and projects.

IT IS ORDERED:

1. Modifying Paragraph 10(C) (Discovery: Completion) of the Case Initiation Order to provide that depositions or other discovery concerning the reports on Spanish and Mexican law issues shall be completed by **November 12, 2010**.

2. Modifying Paragraph 11 (Motions) of the Case Initiation Order to provide that motions and statements of position on Spanish and Mexican law rights shall be filed by **January 11, 2011**.

3. Modifying Paragraph 12 (Responses) of the Case Initiation Order to provide that responses to all motions shall be filed by **November 12, 2010**, but responses to motions and statements of position on Spanish and Mexican law rights shall be filed by **February 25, 2011**.

4. Modifying Paragraph 13 (Replies) of the Case Initiation Order to provide that replies to all motions shall be filed by **December 22, 2010**, but replies to motions on Spanish and Mexican law rights shall be filed by **April 11, 2011**.

5. Setting a telephonic status conference on **Thursday, October 14, 2010, at 9:30 a.m. (MST)**. The parties who wish to participate in the conference will call 1-866-921-2203, press the star key (*), dial the room number 2743132, and press the star key

again. The star key must be pressed before and after the room number. Each participant will bear any long distance telephonic charges.

6. Requesting the settlement parties to discuss beforehand and report at the October 14, 2010, telephonic conference its recommendations concerning the continuing work of the Arizona Department of Water Resources in the preparation of the Final Hopi Indian Reservation HSR.

DATED: May 12, 2010.

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

On May 12, 2010, the original of the foregoing was mailed to the Clerk of the Apache County Superior Court for filing and distributing a copy to all persons listed on the Court approved mailing list for the Little Colorado River Adjudication Civil No. 6417-201 dated January 20, 2010. The Special Master distributed a copy by electronic mail.

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