

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: October 26, 2004

CIVIL NO. 6417-033-0060

ORDER GRANTING EXPEDITED  
CONSIDERATION AND SETTING  
BRIEFING SCHEDULE ON THE  
MOTION FOR CLARIFICATION  
AND RE-ISSUANCE OF THE  
ARIZONA DEPARTMENT OF  
WATER RESOURCES' 120-DAY  
NOTICE IN THIS CONTESTED CA

CONTESTED CASE NAME: *In re Phelps Dodge Corporation (Show Low Lake)*.

HSR INVOLVED: Silver Creek Hydrographic Survey Report.

DESCRIPTIVE SUMMARY: The Special Master grants the request for expedited consideration and sets a briefing schedule for the motion filed by several parties for clarification and re-issuance of the Arizona Department of Water Resources' 120-day notice regarding the filing of the final supplemental contested case hydrographic survey report for this contested case.

NUMBER OF PAGES: 3.

DATE OF FILING: Original mailed to the Clerk of the Court on October 26, 2004.

**ORDER**

On October 21, 2004, the Show Low Irrigation Company, Lakeside Irrigation Company, City of Show Low, and Other Small Claimants filed a Motion for Clarification and Re-Issuance of the Arizona Department of Water Resources' ("ADWR") 120-Day Notice Regarding the Filing of the Final Supplemental Contested Case Hydrographic Survey Report for the Claims of Phelps Dodge to Show Low Lake and a Motion for Expedited Consideration of that motion. The motion for expedited consideration will be granted. A briefing schedule will be set to consider the motion for clarification and re-issuance of the 120-day notice.

Pre-Trial Order No. 1 Re: Conduct of Adjudication ¶ 9(C) (April 24, 1987) provides that a "party filing a Response to a Motion in this proceeding shall do so within thirty-five (35) days of the date of service of the Motion or publication by docket sheet, whichever is first," and a "party filing a Reply to any Response shall do so within twenty (20) days of the date of service or publication by docket sheet, whichever is first." These time periods "are in addition to the five (5) day period for service by mail specified pursuant to Rule 6(e) of the Arizona Rules of Civil Procedure." For this motion, these periods would be November 30, 2004, for responses, and December 27, 2004, for replies.

Paragraph 9(C) provides that the "time periods set forth herein shall not apply to any issue scheduled for determination by the Court to which an established briefing schedule applies." In order to provide a reasonable expedited consideration of the motion, the Special Master will set November 12, 2004, as the last day for filing responses, and November 26, 2004, as the last day for filing replies. The Special Master will plan to issue a decision on or before December 10, 2004.

Paragraph 9(D) states that "[e]xcept for good cause shown a Motion filed in this action shall be heard by the Court no earlier than forty-five (45) days after the Motion has been filed, which period of time shall begin when the docket sheet on which the Motion appears shall be available from the DWR." The Special Master finds that there is good cause to hear the motion earlier than provided in Paragraph 9(D).

Because ADWR prepared and mailed the 120-day notice, the Special Master will allow the department to submit comments regarding the motion.

IT IS ORDERED:

1. The motion for expedited consideration is granted.
2. Parties may file responses on or before **Friday, November 12, 2004.**
3. Replies shall be filed on or before **Friday, November 26, 2004.**
4. ADWR may file comments regarding the motion on or before **Friday, November 12, 2004.** If ADWR believes that filing a reply would be appropriate or beneficial, it may do so on or before **Friday, November 26, 2004.**

DATED: October 26, 2004.

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

The original of the foregoing was mailed this 26th day of October 2004, to the Clerk of the Apache County Superior Court for filing, and a copy was mailed to all persons listed on the Court-approved mailing lists for Contested Case No. 6417-033-0060 and for Civil No. 6417, both dated October 21, 2004.

/s/ KDolge  
Kathy Dolge