

Online ARIZONA GENERAL STREAM ADJUDICATION BULLETIN  
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Court Sets Priorities for ADWR's Reports 2

LITTLE COLORADO RIVER ADJUDICATION

Special Master Begins Show Low Lake Case 3  
Contested Case No. 6417-033-0060

ADWR Sends Out New Use Summonses 4

Zuni Indian Tribe Settlement Agreement 6

GILA RIVER ADJUDICATION

Superior Court Draws Road Map 7  
for the Gila River Adjudication

Gila River Indian Community 10  
Water Rights Settlement

Special Master Addresses Subflow Issues 12  
*In re Subflow Technical Report,*  
*San Pedro River Watershed*  
Contested Case No. W1-103

Special Master Schedules Conference 12  
*In re Coronado National Memorial*  
Contested Case No. W1-11-556

Special Master Submits Report on 13  
Issues of Broad Legal Importance  
*In re PWR 107 Claims*  
Contested Case No. W1-11-1174

OTHER NEWS

Court Visits New ADWR Director Herb Guenther 17

***Copies of the Superior Court's orders and minute entries,  
the Special Master's decisions, and the calendar  
of hearings and deadlines are available at  
[HTTP://WWW.SUPREME.STATE.AZ.US/WM](http://www.supreme.state.az.us/wm)***

## **COURT SETS PRIORITIES FOR ADWR'S TECHNICAL WORK**

In orders entered in both adjudications, the Superior Court set the priorities the Arizona Department of Water Resources (ADWR) should give to the projects it has been directed to complete.

The Court set the following schedule of priorities for the next two years:

1. Completion of the subflow determinations, cone of depression tests, and determination of *de minimis* water rights in the San Pedro River Watershed.
2. Work related to the Fort Huachuca contested case in the Gila River Adjudication.
3. The Hopi Tribe HSR in the Little Colorado River Adjudication.
4. Completion of work needed to resolve the Show Low Lake contested case in the Little Colorado River Adjudication.
5. Work related to the PWR 107 contested case in the Gila River Adjudication.

Judge Ballinger explained the court's desires for these priorities:

Should ADWR find that it has capacity to undertake other technical work in addition to that described above, it shall notify the Court and will receive an order providing additional guidance. This Order does not direct ADWR to now undertake tasks only on one project at a time in the sequence set forth above. It may well be that certain circumstances justify performing work other than in strict compliance with the listed priorities. For example, the Court does not intend for ADWR to halt work and await resolution of objections to its Subflow Technical Report, San Pedro River Watershed. The priority scheme set forth here is a general guideline.

The Court considered the current levels of ADWR's staff and funding, and in keeping with prior orders, emphasized completion of the San Pedro River Watershed. These schedules will focus ADWR's technical work on the projects that must be advanced during the next two years while accounting for the department's reduced funding. 🌻

## LITTLE COLORADO RIVER ADJUDICATION

### **SPECIAL MASTER BEGINS SHOW LOW LAKE CASE IN RE PHELPS DODGE CORPORATION (SHOW LOW LAKE) CONTESTED CASE NO. 6417-033-0060**

After holding a status conference in Pinetop-Lakeside on February 4, 2003, Special Master Schade issued an order commencing this contested case that involves the water right claims of Phelps Dodge Corporation (Phelps Dodge) to Show Low Lake. The claims are based on a certificate of water right issued by the State of Arizona to Phelps Dodge.

The determination of Phelps Dodge's water right claims to the lake began in 1992, but in 1994, the matter was held in abeyance. Special Master Schade severed this case from a larger special consolidated case (designated by former Special Master Thorson) that included other matters.

The transriver system diversion is a unique aspect of this case. As part of a water exchange agreement with the Salt River Valley Water Users' Association, Phelps Dodge moves the water diverted and stored in Show Low Lake, which is in the Little Colorado River system, to the Salt River that is part of the Gila River system. The exchange agreement dates back to 1944.

Special Master Schade ordered Phelps Dodge to file by July 25, 2003, an amended statement(s) of claimant associated with its claimed water rights to Show Low Lake. ADWR will use the information to update the information reported in the 1990 Final Silver Creek Watershed Hydrographic Survey Report (HSR) and to prepare a supplemental contested case HSR. The supplemental report shall be filed with the Court by December 31, 2003.

ADWR was directed to include in the supplemental contested case HSR the information required by a decision of Special Master Thorson issued on October 30, 1992. Special Master Thorson's decision provided that:

[W]hen water is diverted into another watershed or river system as part of an exchange agreement, DWR shall report information on all aspects of the exchange sufficient to allow potential objectors in the

watershed of origin to make an informed decision about whether or not to object to the claimed water rights. This information shall include a water budget for the entire water exchange describing all points of diversion, consumptive and nonconsumptive uses, return flows, groundwater recharge, as well as maps, a history of the exchange, and summaries of important agreements and other documents.

Special Master Schade directed ADWR “to report information related to Phelps Dodge’s water uses at the place of use of its State Certificate of Water Right No. 2093, or in Miami, Arizona, if the place of use will be severed and transferred to that location,” but ADWR was not directed “to prepare proposed water right attributes, pursuant to A.R.S. § 45-256(B), for water rights that Phelps Dodge claims or holds in the Salt River Watershed or in the Upper Gila River Watershed.”

Consideration of the kind of notice and opportunity to file objections that will be given to claimants after ADWR files the supplemental contested case HSR was deferred until the Superior Court has considered the Special Master’s report on these issues that is pending in the Gila River Adjudication. See the article, *Special Master Submits Report on Issues of Broad Legal Importance*.

Similarly, consideration of four pending motions that may be related to this case was deferred until such time as it becomes clearer that a motion requires a ruling. Orders regarding mandatory disclosure of information and discovery were not made at this time, but discovery is allowed in accordance with the Superior Court’s July 16, 2002, order.

The litigants were encouraged to disclose and exchange technical and other information and to avoid discovery disputes. They were also encouraged to explore settlement. 🌻

### **ADWR SENDS OUT NEW USE SUMMONSES**

In January, the Arizona Department of Water Resources (ADWR) began sending out nearly 2,500 summonses to people who may have initiated water uses between November 24, 1985, and December 31, 2000. Persons who

received a permit from ADWR to drill or deepen a well, build a stockpond, develop a spring, or who began a new water use during this period were sent a summons by certified mail.

A summons must be served because the adjudication of water rights is a legal proceeding in the Apache County Superior Court. ADWR is the technical advisor to the Superior Court and its Special Master. ADWR sends out summonses as part of the adjudication process. The new use summonses explain the procedures for filing water right claims.

The Little Colorado River Adjudication began in 1978. Over 3,100 claimants have filed nearly 11,400 claims pursuant to prior summonses, most claims having been filed prior to 1986.

The summonses state that claims to water rights may be asserted by filing a statement of claimant and the appropriate fee with ADWR, which forwards the claims and remits all filing fees to the Clerk of the Apache County Superior Court.

There are four forms: *Domestic*, *Stockpond*, *Irrigation*, and *Other Uses*. ADWR provides forms and answers questions regarding the process. ADWR can be reached by telephone at 1-866-246-1414. The forms can be downloaded from ADWR's Web site at <[www.water.az.gov](http://www.water.az.gov)>. The Special Master's Web site at <[www.supreme.state.az.us/wm](http://www.supreme.state.az.us/wm)> provides information about pending proceedings. Copies of court orders and the online *Arizona General Stream Adjudication Bulletin* are available on the Special Master's Web site.

Persons receiving a summons have 90 days to file claims, but potential claimants are informed that, "State law allows rights holders to file adjudication forms *after* expiration of the 90-day period."

On April 15, 2003, the Apache County Board of Supervisors voted to exclude adjudication statements of claimant from the list of court filings that require payment of a local Court Improvement Fee of \$40.00. Persons filing statements of claimant in the Little Colorado River Adjudication will not be

required to pay this local court fee. Persons who have already paid the local fee will receive a refund of the fee. But claimants will have to pay the appropriate fees set by statute for filing a statement of claimant.

If you file a statement of claimant, keep it current. Update a claim as new information is obtained. There are no fees for most amendments and updates.

If you file a claim and later you sell your property, discuss with your real estate broker and the buyer the assignment of your statement of claimant to the new owner. There are no fees to assign a statement of claimant.

If you become a claimant, read all the materials that the Court, the Special Master, and ADWR send you. 📄

## **ZUNI INDIAN TRIBE SETTLEMENT AGREEMENT**

By Kathy Dolge<sup>1</sup>

On March 13, the Senate unanimously passed the Zuni Indian Tribe Water Rights Settlement (S.222). This bill, introduced by Senator Jon Kyl, provides the resources to acquire water from willing sellers for the tribe's use to restore wetlands in the vicinity of Zuni Heaven, a sacred lake situated at the confluence of the Little Colorado and Zuni rivers. The bill grandfathers existing water uses and waives claims against many future water uses.

The settlement agreement is the result of more than four years of negotiations. Taking part in those talks were representatives of the United States, the Zuni Indian Tribe, the State of Arizona, several state agencies, irrigation and water companies in the local area, the City of St. Johns, the Towns of Eagar and Springerville, Salt River Project, and Tucson Electric Power Co.

The bill authorizes at least \$26.85 million from several sources for the purpose of acquiring water rights and protected wetlands. Most of the money, \$19.25 million, comes from the federal government and is paid out over several years.

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<sup>1</sup> Ms. Dolge is Assistant to the Special Master.

Proceedings for approval of the settlement agreement will come before the adjudication court in due course, pursuant to the Arizona Supreme Court's Administrative Order filed September 27, 2000. The federal legislation requires all aspects of the settlement to be finalized no later than December 31, 2006.

A companion bill (H.R. 495) was introduced by Rep. Rick Renzi and has made its way to the House Resources Committee's Water and Power Subcommittee. 🌳

## GILA RIVER ADJUDICATION

### SUPERIOR COURT DRAWS ROAD MAP

After holding a hearing and considering a report from the Gila Steering Committee, the Court identified the claims and issues that will be addressed during the next two years.

1. The Court referred to the Special Master the determination of the objections to the Arizona Department of Water Resources' (ADWR) *Subflow Technical Report, San Pedro River Watershed*. The report describes ADWR's recommended methodologies for identifying the subflow zone, implementing a cone of depression test, and establishing guidelines for *de minimis* water rights. The Special Master was directed to hold hearings as deemed necessary and file a report with recommendations as to whether ADWR's *Subflow Technical Report* should be adopted in whole or in part or modified. The Special Master began that proceeding with a conference on April 10, 2003. See the article, *Special Master Holds Conference*.

2. The Court directed ADWR to apply the standards for *de minimis* water rights in the San Pedro River Watershed, approved by the Court in September 2002, in future supplemental contested case hydrographic survey reports (HSRs) or other technical reports. The Court "believes that identifying specific *de minimis* claims is best addressed as part of other tasks undertaken by ADWR."

3. The Court denied the Roosevelt Water Conservation District's (RWCD) request to schedule consideration of RWCD's application for court approval of its settlement agreement with the Gila River Indian Community and the United States. RWCD filed the application in September 1999. The Court ruled that the request could be renewed after June 1, 2004.

4. The Court determined the priorities ADWR should give to the projects ADWR has been directed to complete in both adjudications. The schedule of priorities is described in the foregoing article, *Court Sets Priorities for ADWR's Technical Work*.

5. The Court denied the United States' request to determine as an issue of broad legal importance whether parties who do not claim a right to appropriable water are properly joined and have standing to object to parties claiming water rights based on state or federal law. The Court ruled that this issue "should be addressed as part of the consideration of individual contested cases."

6. The Court will consider "whether to set a briefing schedule and oral argument on the State of Arizona's Motion for Partial Summary Judgment Establishing the Existence of Federal Reserved Water Rights for State Trust Lands at the first general hearing held in this adjudication during 2004." The State of Arizona has raised - in the Little Colorado River Adjudication - the issue of whether federal reserved water rights exist for State Trust Lands. Because the issue is significant, the motion may be considered for ruling in both adjudications. The Court stated that other matters need to be addressed before it or the Special Master can consider this issue.

In an order issued in the Little Colorado River Adjudication on March 6, 2003, the Court deferred consideration of the State's motion until the first general hearing held in the Little Colorado River Adjudication during 2004.

7. The Court addressed two motions filed by the San Carlos Apache Tribe in 1995. One motion requests a judicial declaration that the Gila River system is fully appropriated, and the other motion requests an order directing ADWR to



implement several statutes regarding licensed dams, irrigation canals and works, and relinquishment of surface water rights. Because the Tribe's counsel avowed that the full appropriation motion "deals with binding factual findings accepted by the United States Supreme Court in *Arizona v. California*, 373 U.S. 546 (1963)," the Court believed this motion should be considered now. The Court ordered the San Carlos Apache Tribe to file by March 28, 2003, either amendments to or withdrawals of the motions.

The Tribe filed amendments to its motions. Parties have until May 2, 2003, to file responses, and replies are due by May 27, 2003. The Court will determine if oral argument is needed and will set a hearing date if appropriate.

8. The Court amended Pre-Trial Order No. 1 (May 29, 1986) to provide that completion of the Verde River Watershed HSR will be the second priority in the production of HSRs. The Verde River Watershed HSR will be taken up upon completion of the San Pedro River Watershed.

9. The Court granted the United States' request that some materials supporting the land and water use planning information, previously ordered to be submitted to ADWR, can be filed under seal. The Court had ordered the Gila River Indian Community (GRIC) and the United States to file information and supporting documentation relating to their current and future land and water use planning within the area affected by the Gila River Indian Reservation HSR. The United States asked the Court to allow GRIC and the United States to file portions of the materials under seal. In granting the request, the Court ordered, "A log identifying and describing each item filed under seal in sufficient detail to allow any claimant to identify the author of each document, its general nature, and the basis for it being subject to seal shall be submitted to ADWR and available for inspection by the parties."

10. Because ADWR's resources are too limited at this time, the Court denied the request of the United States to direct ADWR to prepare a final HSR

for the Tonto National Monument. The United States has been diligently working to resolve the Monument's water right claims.

11. The Court appointed Mr. Rodney B. Lewis, Esq. or his designee to the Gila Steering Committee as a representative of GRIC, and reiterated that the committee "shall continue to operate in accordance with the directives set forth in Pre-Trial Order No. 1, including the procedures for notices of meetings set forth in ¶ 9.B." All parties listed on the Gila River Adjudication Court-Approved Mailing List must be notified in advance of committee meetings.

12. The Court directed ADWR to file by May 30, 2003, a "report describing the numbers of new use summonses mailed, served, not served, reasons for lack of service, and new use claims filed since ADWR began the most recent service of new use summonses" in the Gila River Adjudication. The Court "wishes to know how the service of process could be more efficient and less costly, and ADWR's plans for future service of new use summonses." New use summonses were sent to people who may have initiated water uses within the Gila River system, between July 1, 1991 and December 31, 2000. See the foregoing article, *ADWR Sends Out New Use Summonses*, describing this process in the Little Colorado River Adjudication.

13. In order to update the Gila River Adjudication Court-Approved Mailing List, the Court ordered all persons who wished to be added to or remain listed on the Court-approved mailing list to notify the Special Master. A similar order was entered for the Little Colorado River Adjudication Court-Approved Mailing List. The updated mailing lists for both adjudications will be published in May. 🌻

## **GILA RIVER INDIAN COMMUNITY WATER RIGHTS SETTLEMENT**

By Kathy Dolge

Senate Bill 437 was introduced by Senator Jon Kyl on March 25, 2003. Separate parts of the 200-page legislation include: adjustments to the Central Arizona Project (CAP); water delivery requirements with respect to the 20-year-old Southern Arizona Water Rights Settlement Act (SAWRSA); Arizona's

repayment obligation for construction costs of the CAP; and authorization of the Gila River Indian Community Water Rights Settlement (“the GRIC settlement”).

Reportedly the largest single water settlement in U.S. history, the GRIC settlement would provide 653,500 acre-feet per year to the Community from the Colorado River (through the CAP), Salt River, and Gila River. This amount totals 212 billion gallons, or enough water to serve the needs of three million people. The Community states it intends to use the bulk of the water to raise 146,000 acres of cotton, wheat, alfalfa, and vegetables. Valley cities would lease approximately 41,000 acre-feet from the Community.

Negotiations leading up to the settlement and the federal legislation consumed more than five years and involved dozens of parties: state and federal governments, Indian tribes, municipalities, corporate entities, and farmers, as well as the Salt River Project and Central Arizona Water Conservation District, operator of the CAP.

A unique feature of Senator Kyl's bill involves the mechanism through which the federal government would pay for acquiring water rights, building and repairing infrastructure, and establishing a trust fund. Rather than rely on annual appropriations from Congress, this bill returns Arizona's repayment for CAP construction back to the Lower Colorado River Basin Development Fund. This Fund would consist solely of revenues paid by Arizona entities, currently \$55 million annually of property taxes levied in Pima, Pinal, and Maricopa counties for repayment of CAP construction costs. The Fund would provide federal money to build and repair irrigation systems, repair and remediate damage related to subsidence due to ground water pumping on the reservation, and establish a trust fund for the Community.

Some of the “wet” water provided by the settlement will become available by gradually reducing the CAP allocations of non-Indian farmers in exchange for \$73 million in debt relief. In addition, the bill requires the Secretary of the Interior to reduce the demand for irrigation water in the upper Gila River Valley by

acquiring decreed water rights and extinguishing or severing and transferring those rights for the benefit of the Community. No CAP water could be sold or leased outside of Arizona.

A companion bill has been introduced in the House by Rep. J.D. Hayworth (H.R. 885). Senator Kyl has predicted the legislation may take as long as two years to final passage. The settlement agreement will eventually come before the adjudication court under the provisions of the Arizona Supreme Court's Special Procedural Order Providing for the Approval of Federal Water Rights Settlements, Including those of Indian Tribes (filed May 16, 1991). 🌻

**SPECIAL MASTER HOLDS CONFERENCE  
IN RE SUBFLOW TECHNICAL REPORT  
SAN PEDRO RIVER WATERSHED  
CONTESTED CASE NO. W1-103**

The Special Master held a conference on April 10, 2003, to determine the scope of his report to the Superior Court and set the procedures for resolving the issues raised by the Arizona Department of Water Resources' (ADWR) *Subflow Technical Report, San Pedro River Watershed* (subflow report) and the responses and objections filed by parties. The Superior Court referred this matter to the Special Master for recommendations. The conference was well attended, and many views were expressed as to how this matter should proceed. The proceedings in this matter will be reported in the next issue of the *Bulletin*. 🌻

**SPECIAL MASTER SCHEDULES CONFERENCE  
IN RE CORONADO NATIONAL MEMORIAL  
CONTESTED CASE NO. W1-11-556**

The Special Master will hold a conference on May 5, 2003, at 1:30 p.m., to discuss any issues whose resolution would conclude this case. This matter involves the adjudication of several surface water rights and wells, claimed by the United States, for use within the Coronado National Memorial in southern Arizona.

This case has moved on a settlement track. On December 30, 2002, the United States reported that the parties "have reached an agreement in principle,"

a “stipulation and abstracts for each water use” were circulated among the litigants, and the “United States believes a fully executed document will be filed with the Court within three to four weeks.”

The conference will be held in Conference Room 230, Arizona State Courts Building, 1501 West Washington Street, Phoenix, Arizona. 🌻

**SPECIAL MASTER SUBMITS REPORT ON  
ISSUES OF BROAD LEGAL IMPORTANCE  
*IN RE PWR 107 CLAIMS*  
CONTESTED CASE NO. W1-11-1174**

On January 24, 2003, Special Master Schade submitted to the Superior Court his recommendations for two issues of broad legal importance. The Superior Court will consider and rule on the objections filed to the report.

The issues of broad legal importance, which are related to the procedures to be used when the Arizona Department of Water Resources (ADWR) files a supplemental hydrographic survey report (HSR) for a contested case, are:

1. Which claimants or parties should ADWR notify that a supplemental contested case HSR has been filed, and which claimants or parties should be allowed to file written objections?
2. How much time should claimants or parties have to file written objections after ADWR files a supplemental contested case HSR?

The report reviewed the background leading to these issues and pointed to the following factors: “(1) the passing of almost twelve years since ADWR filed the 1991 Final San Pedro River Watershed HSR, (2) the Legislature’s amendments, in 1995, to the general stream adjudication statutes, (3) the stay of the contested cases being litigated in the San Pedro River Watershed pending the determination of constitutional challenges to many of the 1995 legislative provisions, (4) the Arizona Supreme Court’s five interlocutory opinions between 1992 and 2001, and (5) ADWR’s reduced capability to undertake a complete ‘one-time’ updating of the 1991 Final HSR.” These factors and considerations of due process influenced the scope of the Special Master’s recommendations.

The report contained thirteen recommendations. The principal recommendations are:

1. A preliminary supplemental contested case HSR should not be required prior to the filing of any supplemental contested case HSR.

2. All claimants in the Gila River Adjudication should be notified of the filing of a supplemental contested case HSR in the San Pedro River Watershed. The report states, “A supplemental contested case HSR will update matters reported in the 1991 Final HSR, and will cover subjects or aspects, such as subflow and ADWR’s water right recommendations, that were not addressed in the final HSR and will be new. The new information may be important or even vital for the determination of a claimant’s relative water rights.”

But due process for claimants outside the San Pedro River Watershed “is satisfied by informing those claimants, upon the filing of the first supplemental contested case HSR, about the preparation and filing of supplemental contested case HSRs, but without having to send a copy of the objection notice by first-class mail to those claimants every time a supplemental contested case HSR is filed thereafter.” All claimants in the Gila River Adjudication will be notified upon the filing of the first supplemental contested case HSR in the San Pedro River Watershed but will not be individually notified of subsequent supplemental HSRs in that watershed.

The Special Master recommended that existing procedures regarding publication of preliminary and final HSRs be adopted for supplemental HSRs. Those procedures require that ADWR issue a press release containing the information stated in the objection notice and publish the release on its internet web site and in newspapers of general circulation throughout the Gila River Adjudication area. ADWR must provide copies of HSRs to county court clerks and public libraries located throughout the area of the Gila River Adjudication. Copies shall also be available at each of ADWR’s active management area offices.

3. Upon ADWR filing the first supplemental contested case HSR in the San Pedro River Watershed, ADWR should be directed to send a copy of the objection notice by first-class mail to the persons listed on the mailing list for the contested case, to persons appearing on the Court-approved mailing list, to each claimant and nonclaimant water user in the San Pedro River Watershed, to all persons who filed objections to the Final San Pedro River Watershed HSR filed in 1991, and to every other claimant in the Gila River Adjudication.

4. Upon ADWR filing the first supplemental contested case HSR in the San Pedro River Watershed, the Superior Court should direct the Special Master to send a notice informing all claimants in the Gila River Adjudication that other supplemental contested case HSRs will be filed in the San Pedro River Watershed, but notice of future supplemental contested case HSRs filed in the San Pedro River Watershed will be sent by first-class mail only to the persons listed on the mailing list for the contested case, to persons appearing on the Court-approved mailing list, to each claimant and nonclaimant water user in the San Pedro River Watershed, and to all persons who filed objections to the 1991 Final HSR. This notice should include, if available, a description and filing schedule for future supplemental contested case HSRs in the San Pedro River Watershed and other relevant information about the Gila River Adjudication.

5. For subsequent supplemental contested case HSRs filed in the San Pedro River Watershed, ADWR should be directed to send a copy of the objection notice by first-class mail to the persons listed on the mailing list for the contested case, to persons appearing on the Court-approved mailing list, to each claimant and nonclaimant water user in the San Pedro River Watershed, and to all persons who filed objections to the 1991 Final HSR.

6. At least 120 days before a supplemental contested case HSR is filed in the San Pedro River Watershed, ADWR should file a notice with the Clerk of the Superior Court as is required for final comprehensive HSRs. A.R.S. § 45-256(H) requires that at least 120 days before a final HSR is to be filed, ADWR “shall file with the court a notice stating the date on which the final report is to be filed.”

This 120-day notice shall state the date on which the supplemental contested case HSR is to be filed and the deadlines for filing a new statement of claimant or amendment to an existing statement of claimant as provided by A.R.S. § 45-254. ADWR should send a copy of this 120-day notice by first-class mail to all persons listed on the mailing list for the contested case, to persons appearing on the Court-approved mailing list, and to all claimants and nonclaimant water users in the subwatershed(s) of the major watershed covered by the supplemental contested case HSR.

7. All claimants in the Gila River Adjudication should be allowed to file objections to any supplemental contested case HSR filed in the San Pedro River Watershed. The report states, “In the San Pedro River Watershed, the passage of twelve years since the final HSR was filed, the holdings of the Arizona Supreme Court in five interlocutory opinions since 1992, the 1995 legislative amendments relating to new HSR reporting requirements, and the technical importance of a supplemental contested case HSR in the adjudicatory process” compel that all claimants in the Gila River Adjudication be allowed to file objections to a supplemental contested case HSR.

8. Any claimant may file written objections to a supplemental contested case HSR, or to any part of the report, filed in the San Pedro River Watershed, within 180 days after the report is filed. 180 days is the objection period specified in A.R.S. § 45-256(B). The report states, “The passage of almost twelve years since the final HSR was filed; the extent of new matters, information, and recommendations that will be reported; the new requirements for objections; and the likely increase in the number of claimants and water uses since 1991 compel that claimants be allowed a period of 180 days, as statutorily provided for a final HSR, to file objections to any supplemental contested case HSR filed in the San Pedro River Watershed.” A 180-day period provides “sufficient time for claimants and objectors to engage in technical and settlement discussions and aids the unhurried review of reported findings.”



9. Objections to supplemental contested case HSRs filed in the San Pedro River Watershed should not be limited to the reported supplemental information. Some parties had suggested that objections be limited to the supplemental data, information, findings, and recommendations and to any impacts they might have on the information contained in an earlier HSR. Although the Special Master did not adopt this suggestion, the report states, “In other watersheds or contested cases in the future, different circumstances might exist where limiting the scope of objections to a supplemental contested case HSR could promote efficiency, and therefore, the suggestion could be considered” further after allowing affected claimants to be heard on this issue.

If adopted, the recommendations may set precedent for contested cases in other watersheds. The San Carlos Apache Tribe, the Arizona Water Company, the United States, and Mr. Wayne Klump filed objections; ADWR submitted comments. It is not known when the Superior Court will take up the report. 🌻

## OTHER NEWS

### **JUDGE BALLINGER AND SPECIAL MASTER SCHADE VISIT ADWR DIRECTOR HERB GUENTHER**

On March 19, 2003, Judge Ballinger and Special Master Schade visited Mr. Herb Guenther, the new Director of the Arizona Department of Water Resources (ADWR). This was the Court’s first opportunity to meet Mr. Guenther, whom Governor Napolitano appointed in January.

A topic of discussion was ADWR’s funding to carry out the technical work of the adjudications. Mr. Guenther has been working diligently to maintain, if not increase, ADWR’s funding to facilitate completion of adjudication investigations and reports. Major efforts have been ongoing at the Legislature. Judge Ballinger and Special Master Schade complimented Mr. Guenther for these efforts. 🌻