

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF APACHE  
THE HONORABLE EDDWARD P. BALLINGER, JR.**

<b>IN RE THE GENERAL ADJUDICATION OF ALL RIGHTS TO USE WATER IN THE LITTLE COLORADO RIVER SYSTEM AND SOURCE</b>	Case No. <b>CV-6417</b>  DATE:       March 6, 2003  <b>ORDER</b>
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**ORDER**

The Court addresses the following pending matters:

**Schedule for ADWR's Technical Work**

In its order dated July 16, 2002, the Court stated that it would direct the Arizona Department of Water Resources ("ADWR") to complete hydrographic survey reports ("HSRs") and other tasks by separate order. The Court has considered ADWR's Report Concerning the Preparation of New and Updated Hydrographic Survey Reports and Related Matters and the materials filed by the parties.

The Court has determined the relative priority ADWR should give to the various projects it has been directed to undertake both in this proceeding and in the Gila River Adjudication.

IT IS ORDERED, that ADWR shall give priority to the following projects in the order listed below:

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.

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.

### **Motions of the State of Arizona Regarding Federal Reserved Water Rights for State Trust Lands**

The State of Arizona filed a Motion for Partial Summary Judgment Establishing the Existence of Federal Reserved Water Rights for State Trust Lands and a motion for the Court to set a hearing and briefing schedule. Abitibi Consolidated Sales Corporation, Arizona Public Service, Phelps Dodge Corporation, Aztec Land and Cattle Company, Hopi Tribe, Navajo Nation, and the United States filed responses opposing the motion for partial summary judgment or the motion to set a hearing and briefing schedule. The Salt River Project filed a response supporting the State's motion for a briefing and hearing schedule. The State of Arizona filed replies.

The Court has considered the motion filed by the State of Arizona concerning the issue of whether federal reserved water rights exist for State Trust Lands. Other pending matters need to be addressed before the Court or the Special Master considers this issue.

IT IS FURTHER ORDERED, deferring consideration of the matters relating to the State of Arizona's Motion for Partial Summary Judgment until the first general hearing held in this adjudication during 2004.

### **The Court-Approved Mailing List**

The Arizona Supreme Court approved the use of the Court-approved mailing list for service of pleadings. It is important that the list remains current, and all appropriate changes are timely made. For this reason,

IT IS FURTHER ORDERED, all persons who wish to be included or remain listed on the Court-approved mailing list shall so notify the office of the Special Master in writing on or before April 11, 2003. A copy of the request does not need to be sent to the other persons on the mailing list. The Special Master will prepare a revised mailing list and shall notify all parties on the current mailing list of the revisions.

**Notice of Visit to the Director of ADWR**

The Court will have a courtesy visit with Mr. Herb Guenther, the new Director of ADWR, sometime on or after Wednesday, March 19, 2003. The Court will not discuss the legal or technical merits of any claim, issue or matter. Special Master George A. Schade, Jr. will attend the meeting.

/s/ Eddward P. Ballinger, Jr.  
Honorable Eddward P. Ballinger, Jr.  
Judge of the Superior Court

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A copy of this order is mailed to all parties on the Court-approved mailing list for Case No. 6417 dated December 10, 2002, as modified.