

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

IN CHAMBERS (X) IN OPEN COURT ()

SPECIAL MASTER JOHN E. THORSON
Presiding

IN RE THE GENERAL ADJUDICATION
OF ALL RIGHTS TO USE WATER IN THE
GILA RIVER SYSTEM AND SOURCE

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

Contested Case No. W1-204

Date: July 6, 1999

CONTESTED CASE NAME: *In re Proposed San Carlos Apache Tribe Water Rights Settlement.*

DESCRIPTIVE SUMMARY: The Special Master issues notice of a pretrial conference for scheduling purposes in this proceeding and orders the attendance of the Settling Parties and Objectors. The pretrial conference is set for Friday, July 23, 1999, at 9:00 a.m. Pleadings in response to certain questions are due July 16, 1999.

PROCEEDING NO.: SC 1

NUMBER OF PAGES – 2 pgs., Attachment A - 5 pgs., Attachment B - 4 pgs.; total: 11 pgs.

DATE OF FILING: Original delivered to the Clerk of the Court on July 6, 1999.

MINUTE ENTRY
(Notice of Pretrial Conference)

PLEASE BE ADVISED that a pretrial conference for scheduling will be held in this proceeding before the Special Master at **9:00 a.m. on Friday, July 23, 1999, in Appellate Courtroom II, Arizona State Courts Building, 1501 W. Washington, Phoenix, Arizona 85007**. At that time, the Master will discuss the proper parties for the contested case, discovery, the briefing and hearing of motions, prehearing conferences, and the hearing regarding this matter. The Master will also discuss and finalize the proposed case management order for this proceeding which is attached hereto as Attachment A.

Representatives of all Settling Parties, all Objectors, and Other Parties listed in the settlement documents (as identified and listed in the certificate of mailing of this Notice, Attachment B) are ORDERED to attend the pretrial conference and shall be prepared to discuss the topics to be addressed by the Master.

Additionally, the Settling Parties, Objectors, and Other Parties are ORDERED to file and serve, on or before July 16, 1999, a joint or individual pleading responding to the following:

1. A summary of the settlement or mediation efforts employed since the application for settlement approval was filed with the court;
2. The litigants' interest in having a third-party neutral appointed to mediate unresolved issues as this contested case proceeds; and
3. The litigants' willingness to pay, in some apportioned manner, for the services of a third party neutral, if one is appointed.

JOHN E. THORSON
Special Master

Attachment A

Proposed Case Management Order

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

IN RE THE GENERAL ADJUDICATION
OF ALL RIGHTS TO USE WATER IN THE
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W-1 (Salt)
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Contested Case No. W1-204
Special Proceedings

CONTESTED CASE NAME: *In re Proposed San Carlos Apache Tribe Water Rights Settlement.*

DESCRIPTIVE SUMMARY: The Special Master issues a case management order concerning the scheduling of discovery, motions, and hearings in this proceeding.

NUMBER OF PAGES - 5; Attachment A [to be provided]; Attachment B [to be provided]; Total - __ pages.

DATE OF FILING: July __, 1999.

MINUTE ENTRY

(Case Management Order No. 1)

THIS MATTER came before the Special Master on July 23, 1999, for a pretrial conference for scheduling purposes; the litigants being heard; and the Master being advised;

IT IS HEREBY ORDERED as follows:

1. Contested Case Designation. This contested case is named and numbered as follows:

Contested Case Name: *In re Proposed San Carlos Apache Tribe Water Rights Settlement.*

Contested Case Number: W1-204.

2. Nature of the Proceeding. This proceeding results from the application of certain Settling Parties for approval of a stipulation describing a proposed settlement involving the water right claims of the San Carlos Apache Tribe. The Settling Parties are believed to be as follows: the San Carlos Apache Tribe, the United States in its capacity as trustee for the San Carlos Apache Tribe, the Salt River Valley Water Users' Association and the Salt River Project Agricultural Improvement and Power District (jointly "the Salt River Project"), Buckeye Irrigation Company, Buckeye Water Conservation and Drainage District, Roosevelt Water Conservation District, City of Tempe, and City of Safford.

In addition to the Settling Parties, other litigants in this proceeding are the Objectors who filed objections to the proposed settlement. The Objectors are as follows: State of Arizona; Central Arizona Water Conservation District; City of Glendale; City of Globe; Gila Valley Irrigation District and Franklin Irrigation District (jointly "the UVDs" [Upper Valleys Defendants]); Harry M. Archuleta; Edward A. & Clara S. Bilson; Louis C. Bishop; Dan Christiansen; Mary Louise Crocker; Gene A. Kalisz; Wayne D. Klump; Charles A. & Elaine L. Nelson; Stephen & Laura Ann Spicker; Drew Vactor on behalf of The Tack Room, Ltd.; and John R. Zepeda.

Settling Parties and Objectors are jointly referred to as "litigants" in this order.

In addition to the Settling Parties and Objectors, Other Parties are listed in the Settlement Agreement but did not sign the Application: Town of Gilbert; City of Chandler; City of Mesa; and City of Scottsdale. The Arizona Game and Fish Commission and the Arizona State Land Department signed the Application, but Governor Jane Dee Hull on behalf of the State of Arizona has filed an objection to the Application. Unless these Other Parties provide justification for why they should be allowed to participate in this contested case, they will be removed from this case and from the Court-approved mailing list.

This proceeding is authorized by the Arizona Supreme Court's Special Procedural Order Providing for the Approval of Federal Water Rights Settlements, Including Those of Indian Tribes (May 16, 1991). The consideration of the proposed settlement has been referred to the Special Master by the Honorable Susan R. Bolton, Judge of the Superior Court, in her Order of April 2, 1999. This case management order is issued under authority of Rule 16(b), ARIZONA RULES OF CIVIL PROCEDURE.

3. Filing and Service of Pleadings and Other Documents. The original of all pleadings and other documents filed in this proceeding (either in person or by mail) are to be filed with the Clerk of the Superior Court at the following address:

Clerk of the Superior Court
Maricopa County
Attn: W1-204, Water Case
3345 W. Durango Street
Phoenix, AZ 85009¹

All telephone inquiries concerning pleadings should be made to Oscar Garcia at (602) 506-4139.

Copies of all pleadings and other documents filed with the Clerk of the Superior Court are to be served, either personally or by FAX, on the persons identified in the Certificate of Mailing of this Order (Attachment B, which is incorporated at this point). Any pleading or document to be served on the Settling Parties may be served upon Joe P. Sparks, lead counsel, alone. Responses to discovery requests (e.g., answers to interrogatories, documents produced in response to requests for production) are to be filed and served as specified in paragraph 5(c) of this Order.

The Special Master will attempt to post major pleadings in this proceeding on the Master's web site (<http://www.supreme.state.az.us/wm>). If they have the technical capability, litigants shall provide the Special Master's office with electronic files for all pleadings filed in this contested case. These files can be submitted in a common word processing format (such as WordPerfect or Microsoft Word) or in the portable document format (pdf) (preferred). These electronic files may be submitted directly to the Special Master's office either on floppy disks or by e-mail (kdolge@supreme.sp.state.az.us). Please contact Kathy Dolge in the Special Master's office if you have questions about this procedure.

4. Scheduling of Motions and Other Matters.

a. Pending Motions. The following motions are pending before the Court at this time: [list motions].

b. Responses to Pending Motions. On or before _____, 1999, Objectors must file any response they might have to any motion for summary disposition filed by the Settling Parties. Motions for summary disposition will be heard at ____ a.m./p.m., _____, _____, 1999, in Courtroom __, Arizona State Courts Building, 1501 W. Washington, Phoenix, AZ 85007.

c. Other Motions. [List other anticipated motions]. These motions will be heard at ____ a.m./p.m., _____, _____, 1999, in Courtroom __, Arizona State Courts Building, 1501 W. Washington, Phoenix, AZ 85007.

¹ Filing with the Clerk's office at this address is being ordered to expedite the filing and docketing of pleadings in this accelerated proceeding.

e. Orders to Show Cause. The Master is issuing orders to show cause why the objections of [any objector not appearing at the pretrial conference] should not be dismissed for failure to attend the July 23, 1999, pretrial conference (conducted under Rule 16, ARIZONA RULES OF CIVIL PROCEDURE). These show cause proceedings will be at ____ a.m./p.m., _____, 1999, in Courtroom __, Arizona State Courts Building, 1501 W. Washington, Phoenix, AZ 85007.

5. Discovery.

a. Discovery Requests. Discovery in this proceeding must be expressly approved by the Court, and requests for discovery will be granted for good cause shown. See Special Procedural Order Providing for the Approval of Federal Water Rights Settlements, Including Those of Indian Tribes ¶D(1) (May 16, 1991). The Settling Parties must specify their discovery requests in their responses to the objections, which responses are due on or before _____, 1999. On or before _____, 1999, Objectors must file any motions they might have concerning the Settling Parties' discovery requests.

If an Objector seeks discovery, that Objector must file a motion requesting discovery, setting forth in detail the discovery requested (e.g., interrogatories to be posed, persons to be deposed with a description of the information to be elicited from them). Objectors' discovery motions must be filed on or before _____, 1999. On or before _____, 1999, Settling Parties must file any responses they might have concerning the Objectors' discovery requests.

b. Hearing of Motions Concerning Discovery Requests. All discovery motions will be at ____ a.m./p.m., _____, 1999, in Courtroom __, Arizona State Courts Building, 1501 W. Washington, Phoenix, AZ 85007.

c. Filing and Service of Discovery Responses. Responses to discovery (e.g., answers to interrogatories, documents produced in response to requests for production) need not be filed with the Clerk of the Court. These responses must, however, be served (either personally or by FAX) upon the litigant requesting the discovery and copies of the responses must be served (either personally or by mail) upon the Department of Water Resources, Legal Division, 500 N. Third Street, Phoenix, AZ 85004-3903. In case of responses to the discovery requests of the Settling Parties, discovery responses may be served only upon Joe P. Sparks as lead counsel.

6. Prehearing Statements and Conference.

a. On or before _____, 1999, the litigants will prepare, file and serve their proposed prehearing statement(s) in accordance with Rule VI of

the ARIZONA UNIFORM RULES OF PRACTICE. The litigants are ordered to meet in advance of that date in an effort to formulate a joint prehearing statement. The litigants may, however, submit separate parts of the prehearing statements for those issues or topics on which they cannot agree. If the litigants have the technical capability, they shall also submit their prehearing statements to the Special Master in an electronic format as discussed in paragraph 3 of this Order.

b. The next prehearing conference in this matter will be held before the Special Master at ____ a.m./p.m. on ____, 1999. The prehearing conference will be held in Courtroom __, Arizona State Courts Building, 1501 W. Washington, Phoenix, AZ 85007.

7. **Hearing.** Unless otherwise ordered, the hearing in this matter will commence at 9:00 a.m. on ____, 1999, and continue for as many days as are necessary for completion. The hearing will be held in Courtroom __, Arizona State Courts Building, 1501 W. Washington, Phoenix, AZ 85007.

8. **Other Information.** A comprehensive schedule of events is set forth as Attachment A [to be provided after scheduling conference]. For information concerning the scheduling of motions and hearings in this matter, please contact the office of the Special Master. Please address all other questions to the Legal Division, Arizona Department of Water Resources, 500 N. Third Street, Phoenix, AZ 85004-3903; phone (602) 417-2442, toll-free in Arizona 1(800)352-8488.

DATED this __ day of July 1999.

JOHN E. THORSON
Special Master

The original of the foregoing delivered this __ day of July 1999 to the Clerk of the Maricopa County Superior Court for filing; also, a copy of the foregoing mailed to all parties on the Court-approved mailing list for Case No. W1-204 dated __, 1999 (Attachment B).

Kathy Dolge