

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: January 24, 2006

CIVIL NO. CV 6417

NOTICE OF PUBLICATION OF
ARTICLE AND STATEMENT

CONTESTED CASE: Not applicable.

HSR INVOLVED: Not applicable.

DESCRIPTIVE SUMMARY: The Special Master gives notice that he authored an article and a statement recently published in the *Arizona Capitol Times* in separate issues.

NUMBER OF PAGES: 2; Exhibit A - 2; total - 4 pages.

DATE OF FILING: January 24, 2006.

The Special Master wrote an informative article that was published in the *Arizona Capitol Times* (December 19, 2005) and a statement that was published in the same newspaper in its State of the State issue (January 13, 2006).

The statement was an abbreviation of Judge Eddward P. Ballinger, Jr.'s letter to Mr. Herbert R. Guenther, Director of the Arizona Department of Water Resources. Copies of the article and of the statement, as they appear posted on the Internet site of the *Arizona Capitol Times* (azcapitoltimes.com), are set forth in Exhibit A attached to this notice.

DATED: January 24, 2006.

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

On January 24, 2006, the original of this notice was mailed to the Clerk of the Apache County Superior Court for filing and distribution to all persons listed on the Court-approved mailing list for CV-6417 dated June 15, 2005.

/s/ KDolge
Kathy Dolge



EXHIBIT A

ARIZONA CAPITOL TIMES*Serving Arizona's Business, Government and Political Community Since 1946*

azcapitoltimes.com

December 19, 2005

2 Arizona stream adjudications will affect many water users

By George A. Schade, Jr.

Congressional acts resolving water rights claims of the Gila River Indian Community, Tohono O'odham Nation, and Zuni Indian Tribe have been in the news, but Arizona's two general stream adjudications are moving forward in narrower contested cases whose resolutions will impact for years to come how water is used and managed.

Adjudications involve all water users in a river system. These very large Superior Court proceedings will determine the extent and priority of all state law, Indian, and federal non-Indian reserved water rights.

The river systems being adjudicated are the Gila River system in eastern, southern, and central Arizona, and the Little Colorado River system in northeastern Arizona. River systems consist of watersheds. For example, the waters that flow into the Verde River from its many tributaries and drain into the Gila River make up the Verde River Watershed of the Gila River system.

The Arizona Department of Water Resources (ADWR) serves as the Superior Court's technical adviser. ADWR prepares a hydrographic survey report for each watershed and Indian reservation. A hydrographic survey report describes all water uses investigated by ADWR in a watershed or reservation and presents ADWR's recommendations for rights.

Following a report's publication, all claimants in the river system can object to the report's findings and recommendations. After considering all objections, the special master submits recommendations to the Superior Court, which makes a ruling and issues a water rights decree.

Due to the thousands of claimants, complexity of issues, and budget constrictions, the adjudications are proceeding in contested cases that address a specific claimant's water rights or an issue of broad importance.

In the Gila River Adjudication, the special master is considering the federal non-Indian reserved water rights of Fort Huachuca. In another case, the master is hearing the Bureau of Land Management's reserved water rights claimed to flow from a 1926 executive order of President Coolidge. On the agenda is a contested case to determine the United States' reserved water rights for the San Pedro Riparian National Conservation Area near Sierra Vista.

In the Little Colorado River Adjudication, a case involving Phelps Dodge's water rights to Show Low Lake, a lake outside the city of Show Low, was recently concluded. Contested cases can take years to resolve as shown by this matter begun in 1992.

A contested case can focus on an issue of broad or statewide importance. In two cases heard in the Gila River Adjudication, the court entered orders concerning the effect of a federal district court decree on certain claims of the Gila River Indian Community and the San Carlos Apache Tribe. The rulings were appealed to the Arizona Supreme Court, which heard oral argument in the matter in October.

Recently, the Superior Court ruled on perhaps the most prominent contested case to date, the matter addressing subflow issues.

An issue of broad or statewide importance can be heard concurrently in both adjudications. A contested case is proceeding to consider the state of Arizona's claim that federal reserved water rights exist on state trust lands. This case is being heard in both the Gila River and the Little Colorado River adjudications.

While the Congressional acts concerning some of our largest Indian communities have been in the spotlight, Arizona's adjudications move forward in other matters whose answers will greatly benefit all our citizens.

George A. Schade, Jr. is a judicial officer appointed by the Arizona Superior Court to hear cases arising out of stream adjudications and report on legal and factual issues designated by the Superior Court. General stream adjudications are judicial proceedings to determine the extent and priority of all water rights in an entire river system.

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ARIZONA CAPITOL TIMES

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January 13, 2006

Other VOICES

Policy watchers tell lawmakers what they expect from the 47th

Arizona's general stream adjudications must be expedited

The adjudication of all water rights in the Gila River and Little Colorado River systems will place great demands upon the Arizona Department of Water Resources.

The department's administrative and technical assistance is crucial to the progress of these proceedings. Over 30 years of litigation have shown that these cases are extremely complex, and while much progress has been made on several fronts, the work to be done to complete the first phase of the adjudications, which involves identifying, quantifying and prioritizing thousands of water rights claims, must be expedited.

The department assists the Adjudication Court by overseeing service of process, conducting field investigations, maintaining a document repository, providing assistance to the clerks of the Superior Court, and preparing a variety of technical reports. Without significant increased funding for technical staff, travel, and equipment, the department will be unable to fulfill responsibilities mandated by the general stream adjudication statutes, and the adjudications will be further delayed.

The Adjudication Court has set the priorities the department should give to the various projects pending in both cases. The department has undertaken these priorities as well as its budget has allowed. The first priority, which deals with subflow issues in the Gila River Adjudication, is extensive and demanding. In the Little Colorado River Adjudication, the completion of a hydrographic survey report for the Hopi Indian Reservation remains the primary directive.

In the near future, the department's support will be especially needed in contested cases addressing Indian and other federal reserved water rights, various legal issues of first impression and statewide importance, consideration of the Zuni Indian Tribe Water Rights Settlement Act in the Little Colorado River Adjudication and the Arizona Water Settlements Act in the Gila River Adjudication.

The people of this state are not well served by the continuing uncertainty over water issues. Arizona's greatly improved financial health dictates it is now time to ensure that the adjudication's progress in the next decade greatly surpasses that of the last 30 years.

By George A. Schade Jr., who is special master with Arizona General Stream Adjudication, Superior Court of Arizona