

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

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
GILA RIVER SYSTEM AND SOURCE

DATE: September 26, 2006

CIVIL NO. W1-11-232

CASE MANAGEMENT ORDER

CONTESTED CASE NAME: *In re San Pedro Riparian National Conservation Area.*

HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report.

DESCRIPTIVE SUMMARY: The Special Master issues a Case Management Order initiating this contested case.

NUMBER OF PAGES: 4, Attachment A - 3, Attachment B - 3; total 10 pages.

DATE OF FILING: September 26, 2006.

The Special Master has considered the comments previously filed and those made at the conference held on September 19, 2006. The Special Master has concluded that a formal contested case can be initiated, but the case should initially focus on implementing a settlement track. This case management order initiates a contested case and gives the potential parties an opportunity to explore the scope of a realistic settlement track.

IT IS ORDERED:

1. Contested Case Consolidation. This contested case will address the objections that were filed to the watershed file reports (“WFRs”) published in the Final San Pedro River Watershed Hydrographic Survey Report (1991) that are associated with the San Pedro Riparian National Conservation Area (“SPRNCA”). Those WFRs are

listed in Attachment A of this order. A unique contested case number was assigned to each WFR. All the WFRs listed in Attachment A are ordered consolidated with Contested Case No. W1-11-232.

2. Contested Case Designation and Docket Number. The objections filed to the WFRs listed in Attachment A will be resolved as part of *In re San Pedro Riparian National Conservation Area*, Contested Case No. W1-11-232.

3. Litigants. The litigants in this contested case are the claimant and owner of lands, namely the United States Bureau of Land Management, all persons who filed objections to the WFRs listed in Attachment A, and claimants who are allowed to intervene by order.

4. Lessees, Allottees, and Permittees. Regarding the inclusion as parties of lessees, allottees, or permittees of land reported in the listed WFRs, the United States Bureau of Land Management shall provide a list of names and addresses of lessees, allottees, or permittees associated with these WFRs on or before **January 31, 2007**.

5. Southern Pacific Transportation Company and the Arizona Nature Conservancy. As explained in Attachment A, these claimants might no longer be parties in this contested case. Both the Southern Pacific Transportation Company and the Arizona Nature Conservancy shall inform the Special Master on or before **November 6, 2006**, if they are parties in this contested case.

6. Court-Approved Mailing List.

A. The initial Court-approved mailing list for this case shall include all persons listed in Attachment B of this order (the list is dated July 7, 2006). The office of the Special Master will post the mailing list at <http://www.supreme.state.az.us/wm>. The list may be modified from time to time, and litigants are responsible for using the current Court-approved mailing list.

B. A copy of any pleading filed with the Clerk of the Maricopa County Superior Court in this case shall be served upon each person listed on the Court-approved mailing list.

C. Claimants wishing to be added or removed from the mailing list shall file a motion with the Special Master. Parties allowed to intervene will be automatically added to the mailing list.

D. If your name or address is incorrect, contact the office of the Special Master to make changes.

7. Pending Motions to Intervene.

A. Phelps Dodge Corporation: On March 2, 1995, Phelps Dodge Corporation filed a motion to intervene. Special Master Thorson deferred

ruling on the motion until a contested case was initiated. Responses to Phelps Dodge's motion to intervene shall be filed on or before **November 6, 2006**, and replies shall be filed on or before **December 1, 2006**. The motion will be granted if no objections are filed by November 6, 2006.

B. ASARCO Incorporated and Magma Copper Company: On September 29, 1995, ASARCO LLC (then ASARCO Incorporated) and Magma Copper Company filed a motion to intervene. These parties filed objections to several of the WFRs listed in Attachment A, hence they are parties in this contested case, and their motion to intervene is moot.

8. Settlement Track.

A. The United States shall immediately begin meeting and conferring with parties in this and any other pending cases to explore the feasibility and scope of implementing a comprehensive settlement track. The scope of a settlement track can include the appointment of a Settlement Committee and Chair, fixing the committee's optimal size, term limits, mandatory reports to the Special Master, use of a facilitator, drafting a settlement plan for further consideration, the possibility and nature of joint settlement discussions with the matter of *In re Fort Huachuca*, and the role of the Arizona Department of Water Resources in a settlement track.

B. The United States and other parties in this case will be asked to report on the progress of these efforts at the telephonic conference set on January 18, 2007.

9. Status Conference. A telephonic conference shall be held on **Thursday, January 18, 2007, at 10:00 a.m. (MST)** to discuss the progress of efforts to implement a settlement track. The call-in telephone number for the conference will be provided at a later time. Each participant will bear any long distance telephonic charges.

10. Disclosure Statements. The filing of disclosure statements pursuant to Arizona Rule of Civil Procedure 26.1 is stayed until further order of the Special Master.

11. Electronic Data Base and Index Provided by ADWR. At this time, ADWR will not be directed to develop and maintain an electronic data base and index of disclosed documents.

12. Discovery. All formal discovery pursuant to Arizona Rule of Civil Procedure 26.1 is stayed until further order of the Special Master.

13. Investigations. At this time, ADWR will not be directed to conduct any technical investigations of the WFRs listed in Attachment A.

14. Motions. Until further order of the Special Master, the filing of motions except for motions to intervene is discouraged so that the parties can explore the implementation of a settlement track.

15. Additional Information. If you desire more information about the Gila River Adjudication, you may contact the following offices, but none of these offices can give you legal advice:

A. For information about hydrographic survey reports, specific WFRs, copies of court filings, ordering a monthly docket subscription for the Gila River Adjudication, or obtaining other publications concerning the adjudications:

Arizona Department of Water Resources
3550 North Central Avenue
Phoenix, AZ 85012
(602) 771-8635 (Phoenix area)
1-(800) 352-8488 (toll free within Arizona)
1-(866) 246-1414 (toll free within the United States)

B. For information about filing pleadings, reviewing contested case court files, obtaining copies of court filings, or ordering a docket for an individual contested case:

Clerk of the Maricopa County Superior Court
Attn: Water Case
601 West Jackson Street
Phoenix, AZ 85003

DATED: September 26, 2006.

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

On September 26, 2006, the original of the foregoing was delivered to the Clerk of the Maricopa County Superior Court for filing and distributing a copy to all persons listed on the Court-approved mailing list for this contested case dated September 26, 2006, a copy of which is attached hereto as Attachment A and to all persons listed on the Court-approved mailing list for W-1, W-2, W-3, and W-4 (Consolidated) dated July 7, 2006.

/s/ KDolge
Kathy Dolge

Attachment A

A. WATERSHED FILE REPORTS IN THE FINAL SAN PEDRO RIVER WATERSHED HYDROGRAPHIC SURVEY REPORT (1991) ASSOCIATED WITH THE SAN PEDRO RIPARIAN NATIONAL CONSERVATION AREA

| No. | Watershed File Report Number | Claimant or Landowner | Contested Case Number ¹ |
|-----|------------------------------|--|------------------------------------|
| 1 | 111-20-032 | United States Bureau of Land Management (“BLM”) | 232 |
| 2 | 111-20-065 | BLM | 252 |
| 3 | 111-20-DD-001 ² | Southern Pacific Transp. Co. | 419 |
| 4 | 111-23-AAA-001 | BLM | 629 |
| 5 | 111-23-DDA-004 | Church of Jesus Christ, LDS | 1154 |
| 6 | 111-24-082 | BLM | 1211 |
| 7 | 111-24-CBB-002 ³ | Edward F. & Ethelyn Lehner | 1343 |
| 8 | 111-24-CBB-003 ⁴ | McDowell Craig Manuf. Co. | 1344 |
| 9 | 111-24-CBB-005 | Robert W. Boucher | 1346 |
| 10 | 111-24-CCB-011 | BLM | 1374 |
| 11 | 111-17-063 | BLM | 1655 |
| 12 | 112-17-088 | St. David Irrigation District | 1675 |
| 13 | 112-17-DB-096 ⁵ | Edith K. Donlevy, Steven M. Shields, and John P. Shields | 2066 |
| 14 | 112-17-DCA-010 ⁶ | Arizona Nature Conservancy | 2187 |
| 15 | 112-17-DCD-001 | BLM | 2193 |
| 16 | 112-20-013 | BLM | 2239 |

Notes

1. Special Master Thorson assigned a unique Contested Case Number to each watershed file report (“WFR”) published in the Final San Pedro River Watershed HSR (1991).

2. The Company claims it may have assigned the well associated with this WFR to the BLM’s predecessor in interest. It is not clear if the statement of claimant associated with this WFR is 39-011829 as stated in Southern Pacific Transportation Company’s comments (Sept. 29, 1995) or 39-011831 as stated in the WFR. The Southern Pacific Transportation Company might not be a party in this case.

3. These claimants assigned two of their statements of claimant to the BLM but retained four statements of claimant associated with this WFR.

4. This claimant assigned the five statements of claimant associated with this WFR to the Arizona Nature Conservancy which, in turn, assigned the five claims to Walter R. Kolbe and Mayola C. Kolbe. Hence, the McDowell Craig Manufacturing Company might not be a party in this case, but the Kolbes may be parties.

5. These claimants sold their property to the Arizona Nature Conservancy which assigned the statements of claimant to the BLM. Hence, Ms. Donlevy and the Shields might not be parties in this case. The Arizona Nature Conservancy, which filed objections to this WFR, might also not be a party in this case.

6. The claimant Arizona Nature Conservancy, which objected to this WFR, assigned the statements of claimant associated with this WFR to the BLM. Hence, the Arizona Nature Conservancy might not be a party in this case.

B. OBJECTORS

According to the records compiled by the office of the Special Master, these claimants objected to all or some of the watershed file reports listed in Table A above:

1. Arizona Nature Conservancy
2. Arizona State Land Department
3. ASARCO LLC formerly ASARCO, Incorporated
4. Bella Vista Water Company, Bella Vista Ranches, L.L.L.P., and Pueblo del Sol Water Company formerly identified in this adjudication as a group consisting of the Bella Vista Limited Partnership, Nicksville Water Company, Bella Vista Water Company, Bella Vista Ranches Limited Partnership, Dan Cracchiolo, and Pueblo Del Sol Water Company
5. City of Benson
6. BHP Copper, Inc. formerly Magma Copper Company
7. United States Bureau of Land Management
8. Church of Jesus Christ of Latter-Day Saints
9. Gila River Indian Community
10. City of Mesa
11. George E. Monzingo, Jr. and Katherine H. Monzingo
12. City of Phoenix
13. Salt River Project
14. San Carlos Apache Tribe, Tonto Apache Tribe, and Yavapai Apache Nation (formerly Yavapai-Apache Indian Community, Camp Verde Reservation)

15. City of Sierra Vista

C. LESSEES, ALLOTTEES, AND PERMITTEES

According to the records compiled by the office of the Special Master, these claimants may have been or are lessees or permittees of lands associated with the San Pedro Riparian National Conservation Area and may be parties in this case; however, the accuracy or completeness of this information is not claimed:

1. Brookline Ranch, Inc.
2. John L. Casalena
3. Gordon H. Coulter
4. Joseph John Escapule
5. Charles Goff and Joseph Goff
6. Jack K. Hughes
7. Edward F. Lehner and Ethelyn Lehner
8. Ross Meracle
9. Sierra Ready Mix & Contracting
10. Ted R. Smith and Rose A. Clinton Smith

Attachment B
Court-approved Mailing List
In re San Pedro Riparian National Conservation Area (SPRNCA)
W1-11-232 (37 names)
Prepared by the Office of the Special Master
July 7, 2006

Benson, City of
P.O. Box 2223
Benson AZ 85602

U.S. Bureau of Land Management (BLM)
Safford District
711 14th Ave.
Safford AZ 85546

Brookline Ranch, Inc.
Route 1, Box 275
Huachuca City AZ 85616

U.S. Bureau of Land Management (BLM)
San Pedro Project Office
1763 Paseo San Luis
Sierra Vista AZ 85635

Clerk of the Superior Court
Maricopa County
Attn: Water Case
601 W. Jackson Street
Phoenix AZ 85003

LDS Church
**Attn: Bruce Findlay or Real Estate
Dep't**
60 East South Temple, Suite 1800
Salt Lake City UT 84111-1004

Sierra Ready Mix & Contracting
P.O. Box 450
Waddell AZ 85355-0450

U.S. Dep't of Justice
Environment & Natural Resources Div.
F. Patrick Barry
P. O. Box 44378
Washington DC 20026-4378

St. David Irrigation District
P. O. Box 463
St. David AZ 85630

Robert W. Boucher
10906 E. Hereford Rd.
Hereford AZ 85615

U.S. Bureau of Land Management (BLM)
Arizona State Office
222 N. Central Ave.
Phoenix AZ 85004

St. David Irrigation District
c/o Brown & Brown Law Offices, P.C.

U.S. Bureau of Land Management (BLM)
Phoenix Field Office
21605 N. 7th Ave.
Phoenix AZ 85027

Attn: David A. Brown
P. O. Box 3128
Pinetop AZ 85935

Mesa, City of
City Attorney's Office
Attn: Charles L. Cahoy
P. O. Box 1466
Mesa AZ 85211-1466

LDS Church
c/o Cavanagh Law Firm, P.A.
Attn: Ralph E. Hunsaker
1850 N. Central Ave., Suite 2400
Phoenix AZ 85012-1656

Phoenix, City of
City Attorney's Office
Attn: M. James Callahan
200 W. Washington, 13th Floor
Phoenix AZ 85003-1611

Walter R. & Mayola C. Kolbe
8348 Hereford Rd.
Hereford AZ 85615

ASARCO LLC; Southern Pacific Transportation Co.
c/o Fennemore Craig, P.C.
Attn: Lauren J. Caster
3003 N. Central Ave., Suite 2600
Phoenix AZ 85012-2913

BHP Copper Inc. (fmr. Magma Copper Co.)
c/o DeConcini McDonald Yetwin & Lacy, P.C.
Attn: John C. Lacy
2525 E. Broadway, Suite 200
Tucson AZ 85716-5303

Joseph John Escapule
P.O. Box 1047
Tombstone AZ 85638

Edward & Ethelyn A. Lehner
4871 N. Territory Loop
Tucson AZ 85750

Gila River Indian Community
Office of Water Rights
**Jennifer Giff, R. Lewis, J.
Hestand, T.
Pierson, R. Koester,**
5350 N. 48th St., Suite 130
Chandler AZ 85226

U.S. Dep't of Justice
Environment & Natural Resources Div.
Attn: R. Lee Leininger
1961 Stout St., 8th Floor
Denver CO 80294

Charles & Joseph Goff
P. O. Box 50186
Tucson AZ 85703

Salt River Project
c/o Salmon, Lewis & Weldon, P.L.C.
**Attn: M. Byron Lewis, J.B. Weldon,
M.A. McGinnis**
2850 E. Camelback Rd., Suite 200
Phoenix AZ 85016

Jack K. Hughes, et al.
HCR Box 750
Benson AZ 85602

The Nature Conservancy
c/o Lewis and Roca, L.L.P.
Linda C. McNulty
One S. Church Ave., Suite 700
Tucson AZ 85701

Ross Meracle

c/o Beatrice Meracle
446 E. Meisterhaus St.
St. David AZ 85630-6237

George E. & Katherine H. Monzingo

4180 S. Curtis Flats Rd.
St. David AZ 85630

BHP Copper Inc. (fmr. Magma Copper Co.)
c/o Bryan Cave, L.L.P.

**Attn: Lucas J. Narducci & Stanley
B. Lutz**

Two N. Central Ave., Suite 2200
Phoenix AZ 85004-4406

AZ Dep't of Water Resources
Legal Division

Janet L. Ronald

3550 N. Central, 4th Floor
Phoenix AZ 85012

Special Master

Arizona General Stream Adjudication

George A. Schade, Jr.

1501 W. Washington, Suite 228
Phoenix AZ 85007

Tenneco West, Inc. and Tenneco Arizona Properties
Corporation

c/o Norling, Kolsrud, Sifferman & Davis, P.L.C.

Attn: Mark S. Sifferman

16427 N. Scottsdale Rd., #210
Scottsdale AZ 85254

AZ Attorney General's Ofc representing
AZ State Land Dep't

Attn: Patrick B. Sigl

Natural Resources Section
1275 W. Washington
Phoenix AZ 85007-2926

Ted R. and Rose A. Clinton Smith

Box 34
Hereford AZ 85615

Apache Tribes

c/o Sparks, Tehan & Ryley, P.C.

**Attn: Joe P. Sparks & John H.
Ryley**

7503 First Street
Scottsdale AZ 85251-4573

Bella Vista Ltd. Partnership; Nicksville Water Co.; Bella Vista
Water Co.; Bella Vista Ranches Ltd. Partnership; Dan
Cracchiolo; Pueblo Del Sol Water Co.; City of Sierra Vista
c/o Curtis, Goodwin, Sullivan, Udall & Schwab, P.L.C.

**Attn: William P. Sullivan & Nancy A.
Mangone**

2712 N. 7th St.
Phoenix AZ 85006-1003