

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: August 16, 2007

CIVIL NO. W1-11-605

ORDER DENYING MOTION
FOR STAY AND NOTICE OF
COURTROOM LOCATION
FOR ORAL ARGUMENT

CONTESTED CASE NAME: *In re Fort Huachuca.*

HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report.

DESCRIPTIVE SUMMARY: The Special Master denies the motion for stay filed by the Sierra Vista Parties and informs of the courtroom where oral argument will be held.

NUMBER OF PAGES: 2.

DATE OF FILING: August 16, 2007.

The Sierra Vista Parties moved for a stay of this matter “unless and until the Arizona Department of Water Resources (‘ADWR’) issues an updated report on the Fort’s statement of claimant that complies with A.R.S. § 45-256.” The United States, ASARCO LLC, Arizona Water Company, and Salt River Project opposed the motion.

Both sides have argued relevant prior rulings of the Court and recommendations of the Special Master acted upon by the Court. The briefing of the designated four issues does not contradict those prior rulings. Although the determinations of these issues will help to construct the attributes of a reserved water right - if one exists for Fort Huachuca - not all the attributes of such a right will be determined or even known after this briefing

is completed. The quantification of the right - an important attribute - will remain for another phase, one that includes an A.R.S. § 45-256 report from ADWR.

This briefing will not replace or supplant a supplemental contested case hydrographic survey report (“supplemental HSR”). The United States “agrees that a supplemental HSR will need to be issued by ADWR...before the water right may be finally decreed.”¹ The Special Master believes what he said *five* years ago that “[t]he proper, most efficient, and promising direction for this contested case is to proceed with the completion of the” supplemental HSR.²

The Sierra Vista Parties correctly state that “due to limited funding, competing priorities, and uncertainty about how to proceed with subflow determinations,” ADWR has not issued a supplemental HSR. The Special Master was compelled to proceed otherwise but is doing so properly within the circumscriptions of the general stream adjudication statutes.

IT IS ORDERED:

1. Denying the motion for stay of the Sierra Vista Parties.
2. The oral argument will be held on November 20, 2007, in Courtroom 309, Maricopa County Superior Court, 125 West Washington, Phoenix, Arizona. Counsel are reminded that a schedule of time allocation is due on November 14, 2007.

DATED: August 16, 2007.

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

On August 16, 2007, 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 Contested Case No. W1-11-605 dated July 26, 2007.

/s/ George A. Schade, Jr.
George A. Schade, Jr.

¹ Response in Opposition to the Sierra Vista Parties’ Motion for Stay 2-3.

² Special Master’s Order 2 (Aug. 13, 2002).