

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: March 15, 2005  
CIVIL NO. W1-11-1174  
(Consolidated)  
ORDER

CONTESTED CASE NAME: *In re PWR 107 Claims.*

HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report.

DESCRIPTIVE SUMMARY: The Special Master directs the United States to provide additional information regarding the legal descriptions of the water sources and directs the Arizona Department of Water Resources to prepare a technical report regarding these locations and the boundaries of the San Carlos Apache Indian Reservation.

NUMBER OF PAGES: 3.

DATE OF FILING: March 15, 2005.

**ORDER**

On March 8, 2005, a status conference was held, and several matters were discussed.

1. Objections of the City of Sierra Vista. It appears that the United States and the City of Sierra Vista are in a position to execute a stipulation to resolve the City's objections. In discussion is the City's desire to obtain a "letter agreement" that states the position of the United States regarding the precedential value of an executed stipulation in this contested case. At the conference, there was discussion to the effect that the current language of the form stipulation

being used by the parties addresses the issue of precedential value, and furthermore, if this case is fully resolved by agreement, the proposed form of order lodged with the Special Master could incorporate the parties' position on precedential value. Moreover, if the parties cannot agree on this issue, they can present it to the Special Master for determination. These alternatives are preferable to the creation of separate letter agreements between some parties and not others. The Special Master believes that side agreements should not be used if their contents can be incorporated into orders or decrees. Counsel for the United States and the City will confer and try to mutually resolve this issue.

2. State of Arizona Agency Claimants. The State of Arizona Agency Claimants have researched their records and have determined that the State of Arizona did not file an objection to any of the claims of the United States being heard in this contested case. Accordingly, the State of Arizona Agency Claimants are not objectors in this matter.

3. Objections of the San Carlos Apache Tribe. The San Carlos Apache Tribe ("Apache Tribe") maintains its objections to all of the United States' claims because of the apparent possibility that some of the water sources are located inside the boundaries of the San Carlos Apache Indian Reservation. The United States has field checked all these water sources and believes that such is not the case.

The United States has computed the legal descriptions of the water sources using the Global Positioning System<sup>1</sup> ("GPS" and collectively "GPS descriptions"). The United States agreed to provide a listing of the GPS descriptions to the Apache Tribe, the Arizona Department of Water Resources ("ADWR"), and any party in this contested case who informally requests a copy. ADWR will prepare and file a technical report showing the locations of all the water sources and describing how the ground locations correspond to the boundaries of the San Carlos Apache Indian Reservation. The relevant boundary of the reservation was described as being fifteen miles south of the south bank of the Gila River. If needed, the Apache Tribe will provide to ADWR additional information about the reservation's boundaries.

The use of GPS descriptions in this matter to pinpoint the locations of water sources is intended to resolve a factual issue in this case. Their use in this case should not be interpreted to mean that claimants and parties shall compile GPS descriptions for all water sources. These GPS descriptions are additional evidence to help determine a factual issue presented by one party in this case.

The settling parties will not be required to include the GPS descriptions in the abstracts of proposed water rights as that would necessitate redoing completed and executed stipulations. The Special Master, however, asked the United States to consider filing separately a list of the GPS descriptions when a proposed form of order is lodged with the Special Master. The list would become part of the court record for future assistance should it ever be needed.

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<sup>1</sup> For a description of GPS, see [http://www.colorado.edu/geography/gcraft/notes/gps/gps\\_f.html](http://www.colorado.edu/geography/gcraft/notes/gps/gps_f.html) and [http://encarta.msn.com/encyclopedia\\_761579727/Global\\_Positioning\\_System.html#endads](http://encarta.msn.com/encyclopedia_761579727/Global_Positioning_System.html#endads).

4. Objections of Wilford H. Claridge. ADWR's March 1, 2005, report confirms that Mr. Wilford H. Claridge holds Statements of Claimant Nos. 39-9993, 39-9995, and 39-9996, and states that each statement claims a well. These three claims substantiate Mr. Claridge's continuing status as an objector in this case. The United States has reported that Mr. Claridge has executed a stipulation to resolve his objection.

5. Briefing of Legal Issues. At this time, there are no legal issues that the parties wish to brief for determination by the Special Master.

IT IS ORDERED,

1. On or before **Thursday, March 31, 2005**, the United States shall provide to ADWR and the Apache Tribe a listing of the GPS descriptions of all the water sources being considered in this case. The United States shall provide to any other party in this contested case, upon informal request, one copy of the listing.

2. ADWR is directed to file on or before **Monday, May 16, 2005**, a technical report and appropriate maps showing the locations of all the water sources being considered in this case. The report shall describe and the maps shall show how those locations correspond to the boundaries of the San Carlos Apache Indian Reservation.

3. On or before **Monday, August 1, 2005**, the United States and the Apache Tribe shall file a joint report indicating if all the Tribe's objections have been mutually resolved by agreement, and if not, which objections will require a hearing. The report shall provide an estimate of the number of witnesses expected to be called and the length of any such hearings.

DATED: March 15, 2005.

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

On the 15th day of March, 2005, 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. W1-11-1174 dated October 21, 2004.

/s/KDolge  
Kathy Dolge