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**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
**IN AND FOR THE COUNTY OF APACHE**

IN RE: THE GENERAL ADJUDICATION  
OF ALL RIGHTS TO USE WATER IN  
THE LITTLE COLORADO RIVER  
SYSTEM AND SOURCE

No. 6417

Contested Case No.

**ORDER FOR SPECIAL  
PROCEEDINGS TO APPROVE AN  
INDIAN WATER RIGHTS  
SETTLEMENT AND STIPULATION**

Contested Case Name: In re Proposed Zuni Indian Tribe Water Rights Settlement.

Descriptive Summary: Order of Judge Eddward P. Ballinger, Jr., approving application filed March 1, 2006 to commence special proceedings to consider the proposed settlement of the claimed water rights of the Zuni Indian Tribe and the United States for the benefit of the Tribe.

Date of Filing: March 2, 2006.

Number of Pages: 7; Exhibit A – 5; Exhibit B – 11; Exhibit C – 4;

This matter came before the Court on March 1, 2006, upon the application of the Zuni Indian Tribe (“Tribe”), the United States of America in its capacity as trustee for the Tribe, the Arizona Game and Fish Commission, the Arizona State Land Department, the Arizona State Parks Board, St. Johns Irrigation & Ditch Company, the Lyman Water Company, Round Valley Water Users’ Association, Salt River Project Agricultural Improvement and Power District, Tucson Electric Power Company, the City of St. Johns, the Town of Eagar, and the Town of Springerville (“Applicants”) for an order for special proceedings to approve a Settlement Agreement dated June 7, 2002, as amended, and a Stipulation dated March 1, 2006, pursuant to the Administrative Order issued by the Arizona Supreme Court on September 27, 2000 relating to special procedures for the approval of settlements of Indian

1 water rights or water rights for other federal reservation(s) or federal lands (“Special  
2 Administrative Order”).

3 The Applicants seek special proceedings to obtain a final Judgment and Decree  
4 approving the Zuni Indian Tribe Water Rights Settlement Agreement of 2002, as amended  
5 (“Settlement Agreement”) and a Stipulation dated March 1, 2006. The Applicants are parties  
6 to the Settlement Agreement and the Stipulation. The Settlement Agreement and the  
7 Stipulation resolve the rights of the Tribe and the United States to underground water and  
8 surface water from the Little Colorado River and its tributaries in Arizona, as these terms are  
9 defined by the Settlement Agreement.

10 The Court, having considered the Application for Special Proceedings ex parte, as is  
11 authorized by paragraph B(1) of the Special Administrative Order, finds the following:

12 1. The Applicants, who are parties to this adjudication, have reached a proposed  
13 settlement of all claims of the Tribe and the United States for the benefit of the Tribe for water  
14 rights in the Little Colorado River basin in Arizona. The terms of the Settlement Agreement  
15 were approved, ratified and confirmed by the United States Congress in the Zuni Indian Tribe  
16 Water Rights Settlement Act, Public Law 108-34, 117 Stat. 788 (2003) (“Settlement Act”).

17 2. The Application for Special Proceedings satisfies the requirements of paragraph  
18 B(1) of the Special Administrative Order issued by the Arizona Supreme Court as it contains:  
19 (1) the Stipulation of the Applicants, which sets forth the terms of the Settlement Agreement  
20 and incorporates and attaches as exhibits thereto copies of the Settlement Agreement and an  
21 agreement between the Tribe, the United States and Lyman Water Company, as well as a  
22 proposed Judgment and Decree adjudicating the water rights of the Tribe and the United  
23 States for the benefit of the Tribe, as established in the Settlement Agreement; (2) a request  
24 that the Court enter an order approving the Stipulation and the proposed final Judgment and  
25 Decree; (3) a description of the special circumstances that prevent the consideration of the  
26 proposed settlement in the normal course of the Little Colorado River Adjudication; (4) a  
27 proposed order to commence the special proceedings, attaching a description of the terms of

1 the Settlement Agreement, a copy of the Special Administrative Order and a proposed Notice  
2 of Settlement; and (5) information indicating the location of copies of the settlement  
3 agreement and supporting documents available for review.

4 3. The Settling Parties have satisfied paragraph A of the Special Administrative  
5 Order which specifies the conditions warranting special procedures to consider the proposed  
6 settlement:

7 a. The water rights claims of the United States for the benefit of the Tribe,  
8 which are described in statement of claimant numbers 39-91736 through 39-91752, are within  
9 the jurisdiction of the Court under the principles of Arizona v. San Carlos Apache Tribe of  
10 Arizona, 463 U.S. 545 (1983) and United States v. Superior Court, 144 Ariz. 265, 697 P.2d  
11 658 (1985).

12 b. All parties to the Settlement Agreement, other than the United States, the  
13 Tribe, and the State of Arizona are claimants in this adjudication proceeding whose claims are  
14 adverse to statement of claimant numbers 39-91736 through 39-91752 by the United States for  
15 the benefit of the Tribe.

16 c. The Settlement Agreement establishes the water rights of the Tribe and  
17 the United States for the benefit of the Tribe in the Little Colorado River Basin in Arizona. A  
18 description of the water rights of the Tribe and the United States for the benefit of the Tribe,  
19 as established in the Settlement Agreement, is set forth in Exhibit A to this Order, which is  
20 incorporated herein by reference.

21 d. The terms of the Settlement Agreement were approved, ratified and  
22 confirmed by the United States Congress in the Zuni Indian Tribe Water Rights Settlement  
23 Act, Public Law 108-34, 117 Stat. 788 (2003), but Congress' confirmation is conditioned  
24 upon approval of the proposed settlement by the Court.

25 e. Special circumstances exist that prevent the consideration of the  
26 Settlement Agreement and the Stipulation in the normal course of the adjudication. Those  
27 special circumstances are that the enforceability of the Settlement Agreement, approved by

1 Congress in the Settlement Act, is conditioned upon the entry of an order by the Court, no  
2 later than December 31, 2006, approving the Settlement Agreement. Section 9 (a) (12) of the  
3 Settlement Act and Paragraph 3.1.K of the Settlement Agreement provide that the Settlement  
4 Agreement will not be effective unless it is approved in this proceeding on or before  
5 December 31, 2006. Under the normal course of the Little Colorado River Adjudication, the  
6 claims for water rights of the Tribe and the United States for the benefit of the Tribe would  
7 not be considered by the Court before December 31, 2006.

8 4. The proposed settlement of all of the claims for water rights of the Tribe and the  
9 United States for the benefit of the Tribe is a lengthy and complex agreement involving many  
10 parties, many separate documents and attachments, exchanges of water, and both monetary  
11 and non-monetary consideration. The Hydrographic Survey Report concerning present and  
12 potential water uses of the Zuni Indian Tribe, which would be prepared by the Arizona  
13 Department of Water Resources (“ADWR”) in the normal course of the adjudication to assist  
14 the Court and parties, has not been scheduled to be commenced. Without the expert assistance  
15 of ADWR, it will be difficult for the Court and other parties to the Little Colorado River  
16 adjudication to understand and evaluate the proposed settlement. As a consequence, it is  
17 appropriate for the Court to order ADWR to prepare a factual analysis and/or technical  
18 assessment of the proposed settlement as is authorized by paragraph B(3)(f) of the Supreme  
19 Court’s Special Administrative Order.

20 NOW, THEREFORE, IT IS ORDERED as follows:

21 1. The Application for Special Proceedings to consider the proposed settlement of  
22 all of the claims for water rights of the Tribe and the United States for the benefit of the Tribe  
23 is granted. The conditions warranting special procedures have been satisfied. The Applicants  
24 shall serve by mail copies of their Application for Special Proceedings and this Order upon all  
25 persons listed in the Court-approved mailing list for the Little Colorado River Adjudication.  
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1           2.     Special proceedings with respect to the Settlement Agreement shall be  
2 conducted in accordance with the Special Administrative Order, a copy of which is attached  
3 hereto as Exhibit B.

4           3.     The Court will consider the proposed settlement under the criteria enumerated  
5 by the Arizona Supreme Court in paragraph D (6) of its Special Administrative Order. If this  
6 Court approves the Settlement Agreement and the Stipulation and enters a final Judgment and  
7 Decree adjudicating the water rights of the Tribe and the United States for the benefit of the  
8 Tribe, the judgment shall be binding upon all parties to the Little Colorado River Adjudication  
9 except to the extent that the express terms of the Settlement Agreement and the Stipulation  
10 provide that non-signing parties will not be bound by the Settlement Agreement and the  
11 Stipulation.

12           4.     ADWR shall file with the Court no later than May 15, 2006 a factual analysis  
13 and/or technical assessment of the Indian water rights subject to the Settlement Agreement.  
14 ADWR's report shall at least include the following: (1) a review of the terms of the  
15 settlement; (2) a summary of the statements of claimant filed by or for the benefit of the Zuni  
16 Indian Tribe; (3) a brief description of the history, physical characteristics, and natural  
17 resources of the Zuni Heaven Reservation, emphasizing those facts, events, and plans which  
18 may be important in ascertaining the water rights of the reservation; (4) the potential changes  
19 in water resources in the Little Colorado River system and source as a result of the proposed  
20 settlement; (5) the potential impact of the proposed settlement upon categories of other  
21 claimants in the adjudication; and (6) the potential impact of the proposed settlement upon  
22 rights to use groundwater underlying or in the vicinity of the reservation and upon the  
23 groundwater regulatory program administered by ADWR. The Applicants are ordered to meet  
24 with ADWR and to provide ADWR with information and documents necessary for ADWR to  
25 complete its factual analysis and technical assessment. Upon filing the report with the Court,  
26 ADWR is ordered to serve a copy of the report upon each person appearing on the Court-  
27 approved mailing list for the Little Colorado River Adjudication.

1           5.     After the filing of the ADWR report, the Applicants shall conduct an  
2 informational meeting to provide interested parties in the Little Colorado River Adjudication  
3 and the public with information about the proposed settlement. The meeting will include a  
4 statement that such meeting has been ordered by the Court, a disclaimer indicating that the  
5 Applicants' interests in the proposed settlement may be adverse to the interests of other parties  
6 in the Little Colorado River Adjudication, a description of the terms and conditions of the  
7 proposed settlement, an announcement of the availability of the ADWR factual analysis and/or  
8 technical assessment, and an announcement of the date objections to the proposed settlement  
9 must be filed. At the meeting, the Applicants shall make copies of this Order (including  
10 exhibits) available to those persons who are present. The meeting will be held at 7:00 p.m. on  
11 June 1, 2006, at the Apache County Board of Supervisors' Room, Apache County Annex  
12 Bldg., 75 West Cleveland, St. Johns, Arizona.

13           6.     The Applicants shall serve by first-class mail a notice upon all claimants (and all  
14 assignees and transferees of claimants, to the extent they appear in ADWR's records) in the  
15 Little Colorado River general stream adjudication, notifying them of the application to  
16 approve the proposed settlement involving the water rights of the Zuni Indian Tribe; the  
17 pendency of this special proceeding; the time, date, and location of the informational meeting  
18 described in the preceding paragraph; and advising them where complete copies of the  
19 application for special proceedings and this Order may be found. Notice will also be provided  
20 by publication in papers of general circulation in every county located within the Little  
21 Colorado River System and Source for two (2) weeks. The Court approves the use of the  
22 Notice of Settlement attached hereto as Exhibit C.

23           7.     Objections to the application to approve the proposed settlement shall be filed  
24 with the Clerk of the Court in and for Apache County no later than **June 29, 2006**.

25           8.     Any Applicant may file a response to an objection no later than **August 8, 2006**.

26           9.     ADWR shall make the Application for Special Proceedings with exhibits,  
27 including the Stipulation, the Settlement Agreement, the Settlement Act, and the proposed  
final Judgment and Decree, as well as this Order with exhibits and ADWR's report described

1 in paragraph four above, available for public inspection and copying at its headquarters during  
2 its normal business hours and at its website: <http://www.azwater.gov/dwr>. ADWR shall also  
3 make its report described in paragraph four above available for public inspection and copying  
4 at the offices of the Clerks of the Superior Court in every county in the Little Colorado River  
5 System and Source. The Applicants shall make the Application for Special Proceedings with  
6 exhibits, including the Stipulation, the Settlement Agreement, the Settlement Act, and the  
7 proposed Judgment and Decree, as well as this Order with exhibits available for public  
8 inspection and copying at the offices of the Clerks of the Superior Court in every county in the  
9 Little Colorado River System and Source.

10 10. The pretrial orders of the Court apply to these special proceedings to the extent  
11 that they are consistent with the Supreme Court's Special Administrative Order.

12  
13 DATED this 2d day of March, 2006.

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17 EDDWARD P. BALLINGER, JR.  
18 JUDGE OF THE SUPERIOR COURT  
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EXHIBIT A  
to  
ORDER FOR SPECIAL PROCEEDINGS



**Description of the Proposed Water Rights of the Zuni Indian Tribe and Other  
Terms of the Zuni Indian Tribe Water Rights Settlement As Represented to  
the Court by the Settling Parties**

1. As described in Paragraph 1.7 of the Zuni Indian Tribe Water Rights Settlement Agreement of 2002, as amended (“Settlement Agreement”), the Zuni Indian Tribe (“Tribe”) will be entitled to use at least 5,500 acre feet of surface water per annum for wetland restoration on the Zuni Heaven Reservation in the Little Colorado River Basin in Arizona (“Reservation”) in accordance with the Settlement Agreement. The Tribe will use existing surface water rights appurtenant to its fee lands, and, within the scope of the Settlement Agreement, it has the right to acquire up to 3,600 acre feet of water per annum of existing court decreed surface water rights upstream of the Zuni Heaven Reservation. The Tribe may sever and transfer its water rights for use on the Reservation in accordance with the Settlement Agreement and State law.

2. The Tribe’s existing surface water rights are described in abstracts, which are attached to the Settlement Agreement as Exhibits 4.1.A (1) et seq.. The Tribe’s abstracted rights will be adjudicated along with other claimants’ rights in the normal course of the adjudication. The Parties have agreed not to object to the attributes of the Tribe’s water rights described in these abstracts as set forth in Paragraph 4.2.A of the Settlement Agreement. The Tribe’s existing surface water rights include:

- a. "Zuni Hunt Valley Area Historic Irrigation Diversions" for the maximum historical beneficial use between February and December for the irrigation of 2,493 acres from the Little Colorado River and Concho Creek, as provided in Exhibit 4.1.A(1) to the Settlement Agreement.
  - b. "Zuni Hunt Valley Large Irrigation Wells" as provided in Exhibit 4.1.A (2) to the Settlement Agreement.
  - c. "Zuni Meadows Area Historic Irrigation Diversions" for the maximum historical beneficial use between April 15 and September 15 for decreed acres and from January 1 to December 31 for non-decreed acres for the irrigation of 1,594 acres from the Little Colorado River, Carrizo Wash and Big Hollow Wash, as provided in Exhibit 4.1.A(3) to the Settlement Agreement.
  - d. "Zuni River Area Historic Irrigation" for the maximum historical beneficial use between July and October for the irrigation of 801 acres from Zuni River flood flows, as provided in Exhibit 4.1.A(4) to the Settlement Agreement.
3. For wetlands, irrigation and cultural uses on the Reservation, the Tribe will receive an appropriation of 5,500 acre feet per annum from the unappropriated flows of the Little Colorado River for use on 828 acres with a priority date of August 28, 1984 as described in Paragraph 4.6.B of the Settlement Agreement and in Exhibit 4.6.B to the Settlement Agreement.

4. The Tribe, the United States and Lyman Water Company have executed a Water Right, Entitlement and Perpetual Delivery Agreement (“Entitlement and Delivery Agreement”). Pursuant to the Entitlement and Delivery Agreement, the United States shall hold in trust for the Tribe all right, title and interest to a permanent water right and entitlement to receive, on an annual basis, twelve percent (12%) of LWC Delivered Water as defined in Paragraph 5 of the Entitlement and Delivery Agreement, at the priority date of Lyman Reservoir under the Norviel Decree. Twelve percent (12%) of LWC Delivered Water has historically provided 972 acre feet per annum of water. The Entitlement and Delivery Agreement is attached as Exhibit 2 to the Stipulation and Request for Entry of Judgment and Decree dated March 1, 2006 (“Stipulation”), which is attached as Exhibit A to the Application for an Order for Special Proceedings to Approve an Indian Water Rights Settlement and Stipulation.

5. The parties to the Settlement Agreement will not object to the Tribe’s withdrawal or use of 1,500 acre feet per annum of underground water from wells located on the Zuni Pumping Lands if the water is used on those lands in accordance with Paragraph 5.3 of the Settlement Agreement. The Zuni Pumping Lands, which are adjacent to the Reservation, are described in Exhibit 2.48 to the Settlement Agreement.

6. The Tribe will not object to water uses from all existing wells and from new exempt wells as set forth in Paragraphs 5.1 and 5.5 of the Settlement Agreement.

7. For new wells located outside the Zuni Protection Area, the Tribe and the United States will not object to the withdrawal of water from new non-exempt wells unless the withdrawal of water interferes with the Tribe's surface water rights as described in Paragraph 5.6 of the Settlement Agreement. The Zuni Protection Area, which is adjacent to the Reservation, is set forth in Exhibit 2.48 to the Settlement Agreement.

8. For new wells located inside the Zuni Protection Area, the Tribe and the United States will not object to the withdrawal of water unless the Static Water Level Decline is more than 50 feet as described in Paragraph 5.7.D of the Settlement Agreement.

9. Any owner of land located within the Zuni Protection Area may sign a Pumping Protection Agreement and agree to limit the capacity of new wells on his or her land to a total of 500 gallons per minute for each section of land, or a prorated amount if the lands are less than one section. If a landowner enters into a Pumping Protection Agreement, the Tribe and the United States will not object to wells or withdrawals of underground water from wells on his or her land that are consistent with the terms of the Pumping Protection Agreement. The Pumping Protection Agreement Form is attached to the Settlement Agreement as Exhibit 5.7.B.

10. The Tribe and the United States have also entered into agreements with Salt River Project, Tucson Electric Power Company and the Arizona State Land Department that recognize certain intended uses of underground water. These agreements are acknowledged in Section 5.8 of the Settlement Agreement.

11. As set forth in Article 8 of the Settlement Agreement, water rights made available to the Tribe under the Settlement Agreement and used on the Zuni Heaven Reservation will be held in trust by the United States in perpetuity, and will not be subject to forfeiture and abandonment.

12. In exchange for the water and funds provided to the Tribe by the Settlement Agreement, the Tribe, on its own behalf and on behalf of its individual members, and the United States have signed comprehensive waivers and releases of claims as described in Exhibits 11.2.1, 11.2.2 and 11.2.3 to the Settlement Agreement.

13. The description of water rights set forth in this Attachment is not intended to supersede the terms of the Stipulation or the Settlement Agreement among the settling parties. In the event any aspect of the description contained herein varies from or conflicts with the terms of the Stipulation or the Settlement Agreement, the terms of the Stipulation and the Settlement Agreement are controlling.

EXHIBIT B  
to  
ORDER FOR SPECIAL PROCEEDINGS

FILED

SEP 27 2000

NOEL K. DESSAINT  
CLERK SUPREME COURT  
BY

1 IN THE SUPREME COURT OF THE STATE OF ARIZONA

2 IN RE THE GENERAL ADJUDICATION ) Supreme Court  
3 OF ALL RIGHTS TO USE WATER IN ) No. WC-79-0006  
4 THE LITTLE COLORADO RIVER SYSTEM ) [WC-6]  
AND SOURCE. )  
) Apache County No. 6417  
5 )  
) ADMINISTRATIVE ORDER  
6 )  
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7  
8 Pursuant to Article 6, § 5 of the Arizona Constitution, and  
9 A.R.S. § 45-259 the following procedure is adopted for the approval of  
10 settlements of Indian water rights or water rights for other federal  
11 reservation(s) or federal lands arising in this adjudication:

12 A. Conditions Warranting Special Proceeding

13 Settlements of Indian water rights claims or water rights  
14 claims for other federal reservations or federal lands may be reviewed  
15 and, if appropriate, approved in special proceedings in this general  
16 adjudication action, which is subject to Article 9, Chapter 1 of Title  
17 45, Arizona Revised Statutes, under the following conditions:

18 1. There are special circumstances that prevent the consideration  
19 of the settlement agreement in the normal course of the adjudication.

20 2. The Indian water rights or water rights for other federal  
21 reservations or federal lands are the subject of a claim in the general  
22 adjudication action that is within the jurisdiction of the court;

23 3. The Indian water rights claims or water rights claims for  
24 other federal reservation(s) or federal lands are the subject of a  
25 settlement agreement among one or more Indian tribes (in the case of a  
26 . . .

1 settlement of Indian water rights), the United States, and a group of  
2 claimants in the general adjudication action whose claims are adverse to  
3 the claims of the United States or the Indian tribe(s) (in the case of  
4 a settlement of Indian water rights);

5 4. The settlement agreement resolving the Indian water rights  
6 claims or water rights claims for other federal reservation(s) or  
7 federal lands has been confirmed by an act of Congress or the  
8 appropriate federal agency; and

9 5. The terms of the settlement agreement, or the act of Congress  
10 or the appropriate federal agency that confirms it, require that the  
11 settlement agreement be approved by the general adjudication court or  
12 are conditioned upon such approval.

13 B. Application and Order for Special Proceedings

14 1. Special proceedings under this order shall be conducted  
15 pursuant to an order for special proceedings issued in the general  
16 adjudication action upon the application of one or more of the parties  
17 to the settlement agreement. The application may be filed ex parte and  
18 shall include:

19 a. the special circumstances that prevent the consideration  
20 of the settlement agreement in the normal course of the  
21 adjudication;

22 b. a stipulation of the parties to the settlement agreement  
23 setting forth the terms of the settlement agreement;

24 c. a request that the general adjudication court enter an  
25 order approving the stipulation and the settlement agreement

26 . . . .



1 and approving a final judgment adjudicating the Indian water  
2 rights or water rights for other federal reservation(s) or  
3 federal lands as set forth in the stipulation;

4 d. a proposed form of order directing that special  
5 proceedings be conducted to review the stipulation and  
6 settlement agreement, and to adjudicate the Indian water  
7 rights or water rights for other federal reservation(s) or  
8 federal lands as set forth in the stipulation; and

9 e. information indicating the location of copies of the  
10 settlement agreement and supporting documents for review by  
11 the public.

12 2. Upon the filing of the application, the general adjudication  
13 court shall grant the application and enter the order for special  
14 proceedings if the court determines that the application satisfies the  
15 conditions specified in part A. and the requirements of part B.1 of this  
16 order.

17 3. The order for special proceedings shall contain the following  
18 statements and directions:

19 a. a statement of the general adjudication court's findings,  
20 which may be based upon representations made in the  
21 application that the conditions enumerated in part A. are  
22 satisfied and that special proceedings are thus warranted;

23 b. a description of the Indian water rights or water rights  
24 for other federal reservation(s) or federal lands as agreed  
25 upon in the settlement agreement and set forth in the  
26 stipulation;

1 c. a statement that special proceedings with respect to the  
2 settlement agreement shall be conducted in accordance with  
3 this order, a copy of which shall be attached to the order for  
4 special proceedings, and a direction that the application and  
5 order for special proceedings shall be served forthwith in  
6 accordance with part E. of this order;

7 d. a statement of the terms of other general procedural  
8 orders, if any, established by the general adjudication court,  
9 that are applicable to such special proceedings and consistent  
10 with this order;

11 e. a statement that if the general adjudication court  
12 approves the stipulation and settlement agreement and enters  
13 a final judgment adjudicating the Indian water rights or water  
14 rights for other federal reservation(s) or federal lands, the  
15 judgment will be binding upon all parties to the general  
16 adjudication except to the extent that the express terms of  
17 the stipulation and settlement agreement provide that non-  
18 signing parties will not be bound by the stipulation and  
19 settlement agreement; and

20 f. at the discretion of the general adjudication court, a  
21 direction to the Arizona Department of Water Resources ("DWR")  
22 to prepare a factual analysis and/or technical assessment of  
23 the Indian water rights or water rights for other federal  
24 reservation(s) or federal lands subject to the settlement  
25 agreement and report to the general adjudication court within  
26 such time as may be specified by the court.

1 C. Objections and Responses

2 1. Any claimant in the general adjudication may file thereafter  
3 an objection with the general adjudication court asserting that:

- 4 a. approval of the stipulation and adjudication of the Indian  
5 water rights or water rights for other federal reservation(s)  
6 or federal lands as set forth in the stipulation would cause  
7 material injury to the objector's water rights;
- 8 b. the conditions enumerated in part A. of this order have  
9 not been satisfied;
- 10 c. the water rights established in the settlement agreement  
11 and set forth in the stipulation are not fair, adequate,  
12 reasonable, and consistent with applicable law, considering  
13 all of the circumstances surrounding the settlement and all of  
14 the consideration provided under the settlement; or
- 15 d. the statutes authorizing and implementing the settlement  
16 are unconstitutional or the manner in which they are being  
17 applied to implement the settlement is unconstitutional.

18 2. Objections shall include:

- 19 a. the name and address of the objector;
- 20 b. a description of the water rights asserted in the  
21 objector's claim;
- 22 c. a statement of the legal basis for the objection, and the  
23 specific factual grounds upon which the objection is based;
- 24 d. a list of any witnesses and exhibits that the objector  
25 intends to present at any hearing on the objection;
- 26 . . .

1 e. any request for discovery relating to the objection and a  
2 statement as to the need for such discovery; and

3 f. any other information the general adjudication court may  
4 require in the order for summary proceedings.

5 3. Objections shall be filed within 45 days after the date of  
6 service of the order for special proceedings or, if a DWR report was  
7 requested by the general adjudication court, within 45 days of the  
8 service of DWR's report.

9 4. Any party to the settlement agreement may file a response to  
10 each objection within 40 days after the time for filing objections has  
11 expired. The response shall include:

12 a. any motion for summary disposition of the objection;

13 b. a list of any witnesses and exhibits that the responding  
14 party to the settlement agreement intends to present at any  
15 hearing on the objection;

16 c. any request for discovery and a statement as to the need  
17 for such discovery;

18 d. any objections to a request for discovery made by the  
19 objector;

20 e. a statement that the response is being concurrently served  
21 upon parties entitled to service in accordance with this  
22 order; and

23 f. any other information the general adjudication court may  
24 require in the order for special proceedings.

25 . . .

26 . . .

1 D. Resolution of Objections

2       1. The general adjudication court may conduct hearings to resolve  
3 motions for summary disposition of objections or requests for discovery.  
4 Requests for discovery shall be granted for good cause shown and, if  
5 granted, the court shall establish a schedule within which any permitted  
6 discovery shall be completed.

7       2. Motions for summary disposition of objections shall be granted  
8 where an objector lacks standing to assert an objection or has asserted  
9 no valid legal basis for an objection, where an objection raises no  
10 genuine issues of material fact and fails to establish material injury  
11 to the objector's water rights, or where the general adjudication court,  
12 applying the standards for deciding motions for summary judgment under  
13 Ariz. R. Civ. P. 56, finds that summary disposition should be granted.

14       3. Where an objection is not resolved by motion for summary  
15 disposition, or where an objection is not the subject of a motion for  
16 summary disposition, the general adjudication court shall conduct  
17 expedited hearings on the objection.

18       4. The general adjudication court, in its discretion, may refer  
19 all or part of the special proceedings provided for by this order to the  
20 special master appointed under the provisions of A.R.S. § 45-255. The  
21 general adjudication court may request the master's recommendation on  
22 the issue of approval, but shall not delegate to the special master the  
23 court's power to approve or decline to approve the stipulation and  
24 settlement agreement or to enter a judgment accordingly.

25 . . .

26 . . .

1           5. Upon completion of all hearings, if any, on objections, and  
2 upon the receipt of the report of the master, if matters have been  
3 referred to the master, the general adjudication court shall enter a  
4 judgment either approving or disapproving the stipulation and settlement  
5 agreement and adjudicating the Indian water rights or water rights for  
6 other federal reservation(s) or federal lands as set forth in the  
7 stipulation.

8           6. The court shall approve the stipulation and settlement  
9 agreement and adjudicate the Indian water rights or water rights for  
10 other federal reservation(s) or federal lands as set forth in the  
11 stipulation if, after considering any admissible evidence presented, it  
12 determines that the parties to the settlement have established by a  
13 preponderance of the evidence that:

14           a. the settlement is fair, adequate, reasonable and  
15 consistent with applicable law, considering all of the  
16 circumstances surrounding the settlement and all of the  
17 consideration provided under the settlement. In making this  
18 determination, the court may consider in addition to other  
19 evidence offered, the statement of claimant filed by the  
20 Indian tribe(s) or federal agency and all supporting  
21 documentation;

22           b. the water rights claimed by the objector could not be  
23 established at a trial on the objector's water rights; the  
24 water rights of the objector, if established at trial, would  
25 not be materially injured either by the water rights of the  
26 Indian tribe(s) or federal agency established in the

1 settlement agreement and set forth in the stipulation, or by  
2 the terms of the stipulation and settlement agreement; the  
3 objector is bound by the settlement agreement because the  
4 objector's interests were adequately represented by a party to  
5 the settlement agreement by virtue of the objector's  
6 relationship to such party; or under the express terms of the  
7 settlement agreement and the stipulation, the objector is not  
8 bound and, therefore, both the objector and the Indian  
9 tribe(s) or federal agency may pursue their remedies against  
10 each other in the adjudication;

11 c. the settlement agreement has been reached in good faith;  
12 and

13 d. the statutes authorizing and implementing the settlement  
14 are constitutional on their face and as applied to the  
15 objector.

16 7. The general adjudication court's judgment approving or  
17 disapproving the stipulation and settlement agreement and adjudicating  
18 the Indian water rights or water rights for other federal reservation(s)  
19 or federal lands as set forth in the stipulation is subject to review by  
20 the Arizona Supreme Court pursuant to the Court's Special Procedural  
21 Order Providing for Interlocutory Appeals and Certifications adopted  
22 June 1, 1994 in this adjudication.

23 E. Service and Notice

24 1. Parties to the settlement agreement shall serve a copy of the  
25 application for special proceedings, together with a copy of the order  
26 . . .

1 for special proceedings, on all parties on the Court's approved mailing  
2 list.

3       2. The parties to the settlement agreement shall provide notice  
4 by mail to all claimants in the general adjudication, in a form approved  
5 by the general adjudication court, notifying them of the pendency of the  
6 special proceeding, advising them where complete copies of the  
7 application for special proceedings and the stipulation and settlement  
8 agreement will be available for review by the public, and including  
9 whatever other information the general adjudication court may require.

10       3. The general adjudication court shall cause a copy of any DWR  
11 report to be served as provided in the general adjudication court's Pre-  
12 trial Order No. 1.

13       4. A claimant filing an objection shall serve it, and all  
14 subsequent filings relating to the objection, upon the parties to the  
15 settlement agreement and all parties on the court-approved mailing list.  
16 The parties to the settlement agreement shall serve any response to an  
17 objection, and all subsequent filings relating to that objection, upon  
18 all the objecting parties and all parties on the court-approved mailing  
19 list. Service under this part shall be made in accordance with Ariz. R.  
20 Civ. P. 5(c)(1).

21       5. The general adjudication court may, in its discretion, require  
22 additional service of the application, objection, response, and other  
23 pleadings as deemed necessary in a given application, except that the  
24 final order of the court entered pursuant to part D.5 of this order  
25 shall be served on all parties on the Court's approved mailing list and  
26 any other party requesting notice of the Court's final action.



1           6.    The general adjudication court may, for good cause, extend the  
2 time limits established in parts B.3.f., C.3., and C.4. of this order.

3           7.    The Clerk of the Superior Court for Apache County shall  
4 maintain a docket sheet on which all documents filed in the action shall  
5 be entered. Docket sheet entries shall identify each filed document by  
6 the name of the party filing the document and the title of the document.  
7 The clerk shall update the docket sheet at least biweekly and furnish  
8 copies of it on a monthly basis to the Clerks of the Superior Court for  
9 all other counties. All clerks shall post in a prominent place a notice  
10 of the availability of the docket sheet in a form approved by the  
11 general adjudication court.

12           8.    The Clerk of the Superior Court for Apache County shall  
13 maintain a separate special proceedings file which shall include copies  
14 of all documents filed in special proceedings conducted under this  
15 order.

16 F.   Effect on Claims Excluded from Scope of a Settlement

17           Judicial approval of a settlement will not prejudice any claim  
18 to the right to use water expressly excluded from the scope of the  
19 settlement agreement.

20           DATED this 27th day of September, 2000.

21  
22 

23           Thomas A. Zlaket  
24           Chief Justice

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EXHIBIT C  
to  
ORDER FOR SPECIAL PROCEEDINGS

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

IN RE: THE GENERAL  
ADJUDICATION OF ALL RIGHTS  
TO USE WATER IN THE LITTLE  
COLORADO RIVER SYSTEM  
AND SOURCE

No. 6417

**NOTICE OF PROPOSED  
SETTLEMENT**

In re Zuni Indian Tribe Water Rights Settlement.

**IMPORTANT NOTICE FOR CLAIMANTS IN THE LITTLE COLORADO RIVER  
GENERAL STREAM ADJUDICATION**

Several parties to the Little Colorado River adjudication have asked the Superior Court to approve a proposed settlement of all claims of the Zuni Indian Tribe and the United States for the benefit of the Zuni Indian Tribe for water rights in the Little Colorado River basin in Arizona. The claimed water rights of the Tribe and the United States for the benefit of the Tribe, including its claims for the Zuni Heaven Reservation (as shown on the map, Attachment A), are subject to adjudication by this Court.

The parties to this proposed settlement (Settling Parties) include: the Zuni Indian Tribe; the United States of America in its capacity as trustee for the Tribe; the State of Arizona; the Arizona Game and Fish Commission; the Arizona State Land Department; the Arizona State Parks Board; St. Johns Irrigation & Ditch Company; Lyman Water Company; Round Valley Water Users' Association; Salt River Project Agricultural Improvement and Power District; Tucson Electric Power Company; the City of St. Johns; the Town of Eagar; and the Town of Springerville.

YOU ARE HEREBY NOTIFIED that the Court is conducting special proceedings to determine whether this proposed settlement should be approved. If the Court approves the proposed settlement and enters a final judgment adjudicating the water rights claims of the Zuni Indian Tribe and the United States for the benefit of the Tribe as set forth in a stipulation reflecting the principal terms of the settlement, the judgment will be binding upon all claimants in the Little Colorado River general stream adjudication except to the extent that the express terms of the stipulation and settlement agreement provide that non-signing parties will not be bound by the stipulation and settlement agreement.

1 The Court has ordered the Arizona Department of Water Resources (ADWR), to  
2 prepare a factual analysis and/or technical assessment of the proposed settlement. ADWR's  
report must be completed by May 15, 2006.

3 The Court has also ordered the Settling Parties to conduct an informational meeting to  
4 provide interested parties in the Little Colorado River Adjudication and the public with  
information about the proposed settlement. This meeting will be held at 7:00 p.m. on June 1,  
5 2006, at the Apache County Board of Supervisors' Room, Apache County Annex Bldg., 75  
West Cleveland, St. Johns, Arizona.

6 Once ADWR's report is filed with the Court, claimants in the Little Colorado River  
Adjudication will have until **June 29, 2006**, in which to file any objections they might have to  
7 the proposed settlement. The Court will thereafter schedule hearings on the proposed  
settlement and any objections to the proposed settlement.  
8

9 You or your predecessor has filed a statement of claimant for water uses in the Little  
Colorado River system and source. Your claimed water rights may be affected by the  
10 proposed settlement. To help you determine whether you should file an objection to the  
proposed settlement, you should review the application filed by the parties to the proposed  
11 settlement, including the attached stipulation and proposed judgment and decree; the Court's  
Order of March 2, 2006, authorizing these special proceedings; the settlement documents; and,  
12 once it has been completed, ADWR's report to the Court. All these materials will be available  
at ADWR's website: <http://www.azwater.gov/dwr>, and may be examined during business  
13 hours at ADWR, 3550 N. Central Ave., Phoenix, Arizona, 85012, telephone number (602)  
771-8500. Also, copies of these materials may be examined at the office of the Superior Court  
14 Clerk in each Arizona county located within the Little Colorado River System and Source.

15 If you decide to file an objection to the proposed settlement, you must do so on or  
before **June 29, 2006**. Any claimant in the general adjudication may file an objection with the  
16 general adjudication court asserting that:

- 17 a. Approval of the stipulation setting forth the terms of the settlement, and the  
18 proposed final judgment and decree adjudicating the water rights claims of the Zuni  
Indian Tribe and the United States for the benefit of the Tribe as set forth in the  
19 settlement agreement, would cause material injury to the objector's claimed water  
right;
- 20 b. The conditions described in the Arizona Supreme Court's Administrative Order  
dated September 27, 2000 providing for the approval of settlements of Indian water  
21 rights or water rights for other federal reservation(s) or federal lands, which  
warrant this special proceeding have not been satisfied;
- 22 c. The water rights established in the settlement agreement, set forth in the stipulation  
23 and adjudicated in the proposed final judgment and decree are not fair, adequate,  
reasonable and consistent with applicable law, considering all of the circumstances  
24 surrounding the settlement and all of the consideration provided under the  
settlement; or
- 25 d. The statutes authorizing and implementing the settlement are unconstitutional or  
26 the manner in which they are being applied to implement the settlement is  
unconstitutional.  
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Objections must also include:

- a. The name, address, and signature of the objector;
- b. A description of the water rights asserted in the objector's claim;
- c. A statement of the legal basis for the objection, and the specific factual grounds upon which the objection is based;
- d. A list of any witnesses and exhibits that the objector intends to present at any hearing on the objection;
- e. Any request for discovery relating to the objection and a statement as to the need for such discovery; and
- f. Any other information the adjudication court may require in the order for summary proceedings.

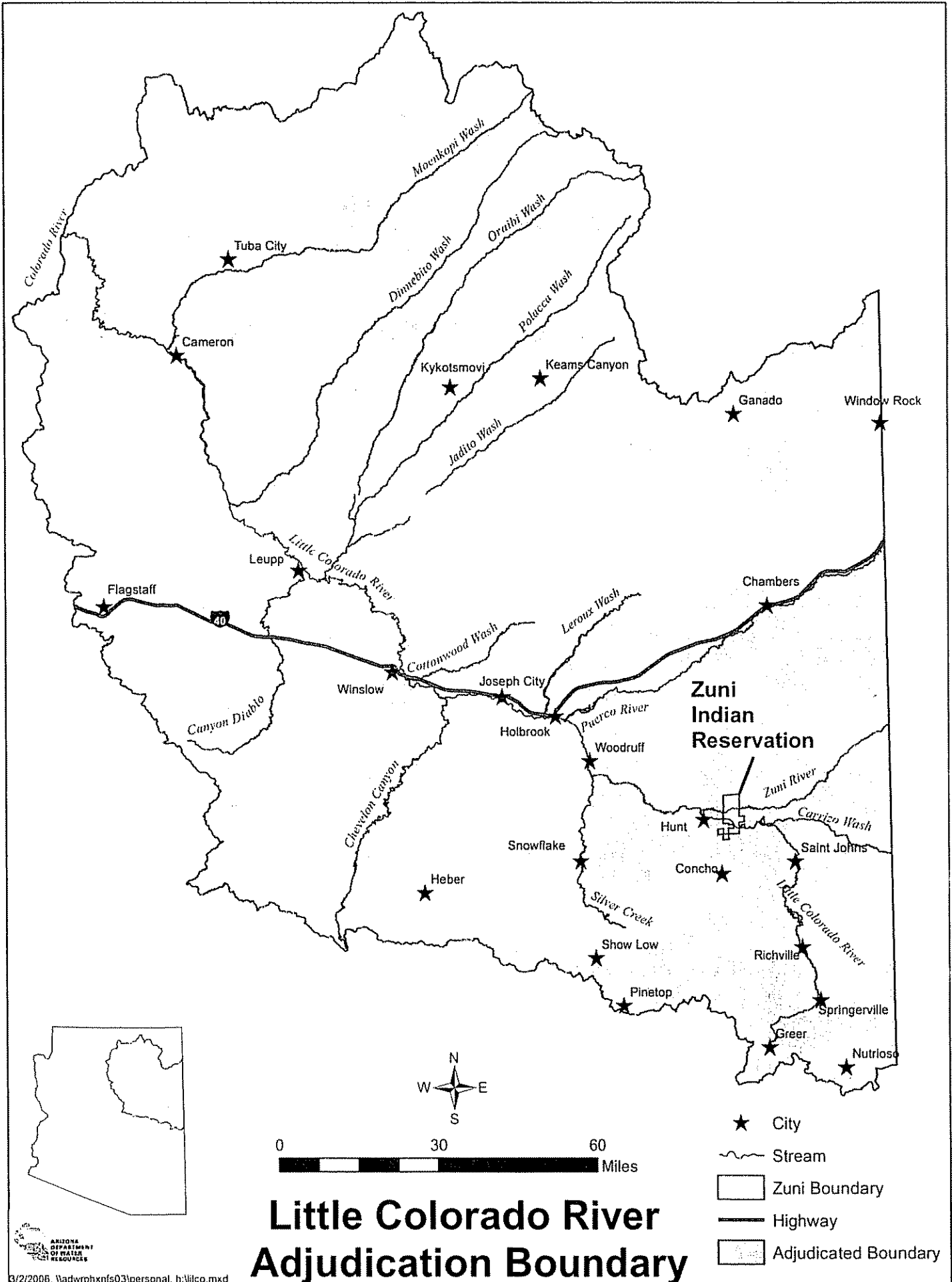
Objections must be filed with the Clerk of the Superior Court, Apache County, Attn: Water Case 6417, P.O. Box 365, St. Johns, Arizona, 85936, telephone number (928) 337-7550. Copies of all objections and all filings relating to the objections must be provided to the Settling Parties and all parties on the court approved mailing list for the Little Colorado River Adjudication.

If you have any questions concerning the proposed settlement and these special proceedings to consider the proposed settlement, you may wish to contact an attorney of your choice.

This Notice was approved on March 2, 2006, and mailed pursuant to the order of the Court.



EDDWARD P. BALLINGER, JR.  
Judge of the Superior Court



# Little Colorado River Adjudication Boundary

- ★ City
- ~ Stream
- ▭ Zuni Boundary
- Highway
- - - Adjudicated Boundary