

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 7, 2013

CIVIL NO. W1-11-232
(Consolidated)

ORDER SETTING TIME LINES
FOR DISCLOSURE STATEMENTS,
DISCOVERY, EXPERT REPORTS,
MOTIONS, TECHNICAL
INVESTIGATIONS, AND A
STATUS CONFERENCE

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 adopts the time lines recommended by the Steering Committee for filing disclosure statements, commencing and completing discovery, filing expert reports, filing substantive motions including motions in limine on the issues designated for hearing, and scheduling a status conference.

NUMBER OF PAGES: 7.

DATE OF FILING: August 7, 2013.

The Special Master requested this case's Steering Committee to submit proposed time lines for filing disclosure statements, commencing and completing discovery, filing

expert reports, and filing substantive motions including motions in limine on the issues designated for hearing. The Steering Committee submitted its recommendations. Having considered them, the Special Master adopts the recommendations and thanks the committee for their assistance. The Special Master added Paragraph 5(F), a provision concerning the page limitations of pleadings set to be filed, pursuant to this order, on and after September 22, 2014.¹

IT IS ORDERED:

1. Disclosure Statements.

A. Scope. Disclosure statements shall be limited to matters concerning the three principal issues and subissues designated for an evidentiary hearing in the order dated May 29, 2013.

B. Filing Date for the United States. On or before **Tuesday, December 3, 2013**, the United States shall file its initial Arizona Rule of Civil Procedure 26.1 disclosure statement.

C. Filing Date for All Other Parties. On or before **Tuesday, January 7, 2014**, all other parties shall file their initial Rule 26.1 disclosure statements.

D. Contents. All disclosures shall include information and data in the possession, custody, and control of the disclosing party as well as that which can be ascertained, learned, or acquired by reasonable inquiry and investigation. The disclosure statement shall set forth:

(1). The factual basis of a party's claim concerning each of the designated issues.

(2). The legal theory upon which each claim is based including, where necessary for a reasonable understanding of the claim, citations of pertinent legal or case authorities.

(3). The names, addresses, and telephone numbers of any witnesses whom the disclosing party expects to call to substantiate its claims with a fair description of the substance of each witness' expected testimony.

(4). The names and addresses of all persons whom the disclosing party believes may have knowledge or information relevant to the events, transactions, or occurrences that gave rise to each claim, and the nature of the knowledge or information each such

¹ Recently, the Arizona Supreme Court approved amendments to the Local Rules of Practice of this Court effective July 1, 2013. Ariz. Sup. Ct. No. R-12-0033 (June 12, 2013). Rule 3.2(f) was not amended. *See also* Rules for Proceedings Before the Special Master §11.01 (Nov. 1, 1991).

individual is believed to possess.

(5). The names and addresses of all persons who have given statements, whether written or recorded, signed or unsigned, and the custodian of the copies of those statements.

(6). The name and address of each person whom the disclosing party expects to call as an expert witness, the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, a summary of the grounds for each opinion, the qualifications of the witness, and the name and address of the custodian of copies of any reports prepared by the expert.

(7). The existence, location, custodian, and general description of any tangible evidence, relevant documents, or electronically stored information that the party plans to use to support its claims.

(8). A list of the documents or electronically stored information, or in the case of voluminous documentary information or electronically stored information, a list of the categories of documents or electronically stored information, known by the disclosing party to exist whether or not in its possession, custody, or control and which that party believes may be relevant to any of its claims concerning the designated issues, and those which appear reasonably calculated to lead to the discovery of admissible evidence, and the date(s) upon which those documents or electronically stored information will be made, or have been made, available for inspection, copying, testing or sampling. Unless good cause is stated for not doing so, a copy of the documents and electronically stored information listed shall be served with the disclosure. If production is not made, the name and address of the custodian of the document and electronically stored information shall be indicated. A party who produces documents for inspection shall produce them as they are kept in the usual course of business.

E. Continuing Duty. All parties shall have a continuing duty to disclose as required by and in the manner provided in Rule 26.1(b)(2).

F. Service of Disclosures. All disclosing parties shall provide a notice of filing and a listing of the disclosed documents and electronically stored information to all persons appearing on the Court approved mailing list for this case. Paper copies of disclosed documents need not be served upon the other parties in this case, as copies can be obtained from ADWR.

G. Service of Lengthy Listing of the Disclosed Documents: If a party's listing of its disclosed documents or electronically stored information, not

the disclosure statement, exceeds twenty-five pages, the party shall so state in its disclosure statement. The party shall provide a copy of the complete listing to the Special Master, ADWR, and parties who request a copy.

H. Assistance of ADWR. ADWR shall reasonably assist parties in locating and retrieving information in ADWR's custody that may be used in disclosure statements and discovery.

2. Electronic Data Base and Index Provided by ADWR. The parties participating in this phase shall use ADWR's electronic data base and index of all disclosed documents.

A. Electronic Format. A disclosing party shall submit to ADWR a copy of all documents disclosed and an index of the documents in accordance with the following requirements:

(1). Number each document in numeric sequence with a unique alpha identifier that is related to the name of the disclosing party.

(2). Complete a Disclosure Input Form in Microsoft Excel format for each disclosed document containing the following searchable index fields:

a. Title or description of document. The verbatim title of the document shall be used. If a document does not have a title, a brief description in square brackets shall be provided.

b. Unique identifying number created by the disclosing party for each document. The unique identifying number shall be limited to ten alpha numeric characters.

c. Date of publication or preparation of document. The format shall be YYYY/MM/DD. Where a date is not identified in a document, the format shall be YYYY/MM/00. Where neither a date nor a month is identified, the format shall be YYYY/00/00.

d. Document type (article, book, letter, map, report).

e. Recipient. The format shall be Last Name, First Name.

f. Number of pages of document.

g. Disclosing party.

h. Date of submittal of document.

i. Subject matter of document (up to three categories). To the extent a party wishes to use the subject matter field, information already entered in any other field shall not be repeated in the subject matter field.

j. Author. The format shall be Last Name, First Name.

k. Recipient Title Position. The format shall be Position Title, Employee Entity.

(3). Create a portable document format file (.pdf) of each document.

(4). Provide a compact disc to ADWR with copies of the Disclosure Input Forms (Microsoft Excel files) and corresponding disclosure documents in .pdf file format.

(5). Provide to ADWR paper copies of disclosed documents and corresponding Disclosure Input Forms. ADWR will maintain paper copies to satisfy the Public Records Act, A.R.S. §§ 39-101 *et seq.*

B. Internet Access. ADWR shall place a blank copy of the Disclosure Input Form together with format protocols on the Internet at a domain or address made known to all persons who appear on the Court approved mailing list for this case. In order to provide access to the disclosed documents, each index field in the Disclosure Input Form shall be subject to query. To the greatest extent possible, electronic copies of all disclosed documents and completed Disclosure Input Forms shall be made available on the Internet for viewing and copying.

C. Form. To the extent possible, parties shall submit documents in the following form: single-sided, 8.5" x 11" size, no punched holes, no permanent binding (staples excepted), and no tabs.

D. Copies of Disclosed Documents. ADWR shall make available to any claimant, at the claimant's expense, a copy of disclosed documents on a CD-ROM or a paper copy. ADWR shall determine the best and most practical manner for providing copies.

E. Fees. ADWR may collect its standard fees for copies and other services rendered related to the use of the electronic data base and index.

3. Discovery.

A. Scope. Discovery shall be limited to matters concerning the three principal issues and subissues designated for an evidentiary hearing in the order dated May 29, 2013.

B. Commencement. Parties may commence formal discovery on or after **Tuesday, January 7, 2014**, but prior thereto may, and are encouraged, to engage in informal discovery. The parties, counsel, and witnesses will attempt to hold open the week of **July 28, 2014 - August 1, 2014**, for purposes of completing any fact or expert depositions that have not yet been completed. The parties agree that their respective experts will be advised to be available for the taking of the experts' depositions during the period of **July 28, 2014 - August 1, 2014**, and will advise the other parties of any limited availability of their expert(s) during that designated week. Nothing herein shall preclude a party from duly noticing any fact or expert deposition at a different time prior to the close of discovery.

C. Completion. All discovery including depositions shall be completed by **Friday, August 22, 2014**. Extension of the deadline for completion of discovery may be granted upon a showing of good cause.

D. Rules. All discovery related to the designated issues shall be conducted according to Arizona Rules of Civil Procedure 26 through 37, and as applicable, pretrial orders issued in this adjudication and the Rules for Proceedings Before the Special Master.

4. Expert Reports.

A. Filing Date for the United States. On or before **Monday, March 31, 2014**, the United States will file expert reports that it considers relevant to the designated issues.

B. Filing Date for All Other Parties. On or before **Monday, May 12, 2014**, all other parties will file expert reports that they consider relevant to the designated issues.

C. Rebuttal Reports. On or before **Monday, June 16, 2014**, any party may submit rebuttal reports to the expert reports previously filed.

5. Motions.

A. Motions. Substantive motions shall be filed on or before **Monday, September 22, 2014**. Parties sharing the same position are encouraged to file joint pleadings.

B. Responses. Responses to all motions shall be filed on or before **Monday, October 20, 2014**.

C. Replies. Replies shall be filed on or before **Friday, November 7, 2014**.

D. Date of Filing. Papers submitted to the Clerk of the Maricopa County Superior Court shall be considered timely filed if postmarked by the deadline specified in an order issued in this case.

E. Signature Page. In papers joined by numerous parties, in lieu of separate signature pages, the Special Master will accept as sufficient an avowal by the lead counsel that includes a listing of the attorneys and the parties each represents who join in the pleading. This allowance is made pursuant to Arizona Rule of Civil Procedure 1 that the rules “shall be construed to secure the ... inexpensive determination of every action.” If a party has concerns related to Rule 11(a), that party may request or provide an individual signature.

F. Page Limitations. Because this case may be transferred to the Court, parties are not excused from mandated page limitations for motions, responses, and replies. Until this case is transferred, requests to exceed page limits should be filed with the Special Master.

G. Oral Argument. Oral argument on substantive motions will be set at a future date and will be held in the Maricopa County Superior Court.

H. Motions in Limine. Motions in limine shall be filed fourteen (14) court days prior to the commencement of the evidentiary hearing. Responses to motions in limine shall be filed seven (7) court days prior to the commencement of the evidentiary hearing.

6. Technical Investigations. Until further order, ADWR will not be directed to update or conduct technical work related to the issues designated for an evidentiary hearing.

7. Status Conference. A status conference will be scheduled after a decision(s) is rendered on all substantive motions.

DATED: August 7, 2013.

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

On August 7, 2013, 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. W1-11-232 dated July 1, 2013.

/s/ Barbara K. Brown
Barbara K. Brown