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

IN RE THE GENERAL ADJUDICATION
OF ALL RIGHTS TO USE WATER IN THE
GILA RIVER SYSTEM AND SOURCE

W-1 (Salt)
W-2 (Verde)
W-3 (Upper Gila)
W-4 (San Pedro)
Consolidated

Contested Case No. W1-202
Special Proceedings

JUDGMENT

THIS MATTER COMING before the Court on the application of the Yavapai-
Prescott Indian Tribe ("Tribe") to initiate special proceedings to approve the
proposed settlement of the Tribe's water rights; the settlement and a stipulation
having been entered into by the Tribe, United States of America, State of Arizona,
City of Prescott, and Chino Valley Irrigation District ("CVID"), known collectively as
the "Settling Parties," all of whom are claimants in the Gila River adjudication; the
proposed settlement having been approved, ratified and confirmed by the United
States Congress, *see* Yavapai-Prescott Indian Tribe Water Rights Settlement Act of
1994, Pub. L. 103-434, 108 Stat. 4526 (1994) (hereinafter the "Act"); consideration of the
proposed settlement having been referred to the Special Master; the Master's report
having been filed with the Clerk and received by the Court; the Master having
moved the Court for an order approving his report; and the Court having
considered the report and being fully advised;

1 THE COURT FINDS that notice of the special proceeding and notice of the
2 Master's report and motion have been given as required by law; all claimants in the
3 Gila River adjudication have been given an opportunity to review and object to the
4 proposed settlement; a total of nine objections to the proposed settlement have been
5 filed; four of these objections have been withdrawn voluntarily; four of these
6 objections have been properly dismissed for failure to comply with orders of the
7 Court; the Special Master has recommended the summary disposition of the
8 remaining objection; and the period for exceptions to the Master's report has passed;

9 IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

10 1. The Special Master's motion to approve his report is granted. The
11 Master's report, including the proposed findings of fact and conclusions of law, is
12 accepted.

13 2. The Settling Parties' stipulation, filed with the Court on June 30, 1995,
14 is approved.

15 IT IS FURTHER ORDERED adjudicating the Tribe's rights and entitlements to
16 water as follows:

17 1. The Tribe shall have the perpetual right to divert, store and use a
18 portion of CVID's entitlement to Granite Creek surface water as provided in the
19 settlement agreement, to wit:

20 Each year, the Tribe shall be entitled to store, divert and use: (a) as its
21 Minimum Annual Entitlement, fifty (50) percent of the flow of Granite Creek, as
22 measured at the State Highway 89 bridge across Granite Creek adjacent to the
23 Reservation, until it has diverted five hundred and fifty (550) acre-feet per year (ac-
24 ft/yr); *provided, however,* that if the existing and customary beneficial users of
25 surface water by CVID pursuant to the rights to Granite Creek surface water are
26 reduced to an annual entitlement of less than one thousand one hundred (1,100) ac-
27 ft/yr by a determination of the Court in the Gila River adjudication which is not

1 subject to further appeal, then the Tribe's Minimum Annual Entitlement shall be
2 reduced by an amount equal to one-half the difference between one thousand one
3 hundred (1,100) ac-ft/yr and CVID's reduced entitlement; and (b) as its Maximum
4 Annual Entitlement, an additional ten (10) percent of that portion of the flow of
5 Granite Creek which exceeds 1,100 ac-ft/yr, as measured at the State Highway 89
6 bridge across Granite Creek adjacent to the reservation, up to a total combined
7 diversion of one thousand (1,000) ac-ft/yr; *provided, however,* that if CVID's
8 existing and customary beneficial uses of Granite Creek surface water are reduced by
9 virtue of a determination by the Court in the Gila River adjudication, which is not
10 subject to further appeal, that one or more of such rights is or are invalid, the Tribe's
11 total Maximum Annual Entitlement pursuant to this Subparagraph shall be
12 reduced by the same percentage as the percentage reduction in CVID's use rights.

13 The priority of storage, diversion and use of surface water by the Tribe shall be
14 the same as the priorities determined by the confirmation of CVID's right to Granite
15 Creek water in the Gila River adjudication. The Tribe's annual entitlement to
16 Granite Creek surface water shall not be carried over from year to year; *provided,*
17 *however,* that: (i) any water stored by the Tribe during a given year may be left in
18 storage and/or consumptively used by the Tribe in subsequent years without such
19 storage and/or use being counted against the Tribe's annual entitlements for such
20 subsequent years; (ii) if the flow of Granite Creek is insufficient in any year to permit
21 the Tribe and CVID each to divert five hundred and fifty (550) ac-ft/yr, then an
22 amount equal to the difference between the amount the Tribe actually diverts in
23 that year and its five hundred and fifty (550) ac-ft/yr Minimum Annual Entitlement
24 shall be carried forward from year to year (but not to exceed four years) as a
25 Deficiency until the Tribe is able to recover such Deficiency; and (iii) the Tribe's total
26 Maximum Annual Entitlement shall be increased in any given year by an amount
27 equal to the sum of the Deficiencies carried forward from the preceding four years.

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1 If the Tribe has the right to divert, and does divert, an amount in excess of one
 2 thousand (1,000) ac-ft/yr to recover its accumulated deficiencies, then the Tribe's
 3 accumulated Deficiencies shall be reduced by an amount equal to such excess. All
 4 such excess diversions shall be applied to the earliest deficiency still being carried
 5 forward. Deficiencies older than four years shall lapse.

6 Chino Valley Irrigation District's right or entitlement to Granite Creek surface
 7 water is defined as that right or entitlement to be adjudicated in these proceedings
 8 and based on the various water claims identified in the settlement agreement.

9 2. In addition to the Tribe's right to surface water from Granite Creek, the
 10 Tribe shall have the permanent right to withdraw all groundwater beneath its
 11 reservation for on-reservation beneficial use in accordance with any groundwater
 12 management plan which may be developed by the Tribe pursuant to Section 11(c) of
 13 the Act. To the extent that groundwater beneath the Tribe's reservation remains
 14 subject to this Court's adjudication jurisdiction, the Court retains jurisdiction over
 15 the groundwater to ensure that the Tribe's groundwater use complies with Section
 16 111(c) of the Act, the settlement agreement, and this judgment.

17 3. In addition to its other entitlements to water, the Tribe shall have the
 18 right to use on its reservation or sell to off-reservation users, all effluent generated
 19 on the reservation.

20 4. In addition to the entitlements to water established by this judgment,
 21 the Tribe has contractual rights to receive water service from other sources. This
 22 judgment in no way affects any contractual rights that the Tribe may have (or may
 23 acquire in the future) to receive additional water pursuant to contract.

24 IT IS FURTHER ORDERED dismissing Statements of Claimant Nos. 39-54011
 25 through 39-54023, filed by the United States of America in behalf of the Tribe.

26 THERE BEING NO JUST REASON FOR DELAY, this partial judgment is
 27 properly deemed final pursuant to ARIZ. R. CIV. P. 54(b).

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WHEREFORE, the Court directs the entry of judgment, pursuant to the provision of ARIZ. R. CIV. P. 54(b).

DATED this 15 day of December 1995.

SUSAN R. BOLTON,
JUDGE OF THE SUPERIOR COURT

SUSAN R. BOLTON
Judge of the Superior Court