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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, W-2, W-3, W-4 (Consolidated)
Contested Case No. W1-11-2394
ORDER TO INITIATE CONTESTED
CASE

CONTESTED CASE NAME: *In re Magma Copper Company*
HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report
DESCRIPTIVE SUMMARY: Contested case W1-11-2394 initiated and status conference set
for **February 4, 2020 at 2:30 p.m.**
NUMBER OF PAGES: 12
DATE OF FILING: December 20, 2019

General Explanation

This Order begins the process necessary to determine water rights to water used on land
that the Pinal County Assessor has identified as tax parcels 306-07-003A and 306-07-006 which
the Pinal County Assessor reports as owned by Swift Current Land & Cattle, LLC.

1 This contested case is one of the many cases in the General Stream Adjudication. The
2 purpose of the General Adjudication is to determine the water rights of those persons who use
3 water from the San Pedro watershed in addition to the watersheds for the Upper Salt, Verde,
4 Upper Gila, Lower Gila, Agua Fria and Upper Santa Cruz. Other cases in the General Stream
5 Adjudication have been completed, are in the process of determining water rights, or awaiting
6 initiation. This case is initiated to determine water rights to water in the San Pedro watershed.
7

8 **Claims for Water Rights**

9
10 This Order initiates a contested case to consider the claims and resolve objections to
11 Watershed File Report 113-04-DCD-001 (“WFR”) prepared by the Arizona Department of
12 Water Resources and published in the Final San Pedro River Watershed Hydrographic Survey
13 Report (1991).

14 The WFR identified potential water rights for domestic and irrigation use on land located
15 in sections 20 and 29 Township 8S Range 17E. The identified source of water for the claimed
16 uses is a well located in section 29 T8S R17E. The Arizona Department of Water Resources
17 has determined that the well is located in the subflow zone.

18 A copy of the WFR is attached as Attachment A. A copy of the map prepared for the
19 WFR is attached as Attachment B on which the land in question is labelled as “(1)” and “(4-
20 DCD-1)”. A copy of the map prepared by the Pinal County Assessor showing tax parcels 306-
21 07-003A and 306-07-006 is attached as Attachment C.
22

23 **Claimants & Landowners**

24
25 The WFR identified four Statements of Claimant (SOCs) relevant to the potential water
26 rights: 39-3161, 39-3163, 39-5227, and 39-5234. Magma Copper Company filed the SOC. The
27 WFR lists Magma Copper Company as the owner of the property described in the WFR. The
28

1 public records of the Arizona Department of Water Resources do not include an assignment of
2 the SOC's filed by Magma Copper Company to any succeeding landowner.

3 The records of the Pinal County Assessor list Swift Current Land & Cattle LLC as the
4 owner of the property described in the WFR.

5
6 **IT IS ORDERED:**

7 1. Contested Case. This contested case shall be known as *In re Magma Copper*
8 *Company* and it will determine water rights asserted in the Statements of Claimant and objections
9 that were filed to Watershed File Report 113-04-DCD-001 published in the Final San Pedro
10 River Watershed Hydrographic Survey Report (1991). Copies of objections can be found under
11 the case name and number on the following website:
12 [http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.](http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp)
13 [asp](http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp)

14
15 2. Litigants. The litigants in this contested case are the Claimant, the current
16 landowner, all persons who filed objections to the listed watershed file reports who are included
17 on Attachment D, and claimants who are allowed to intervene by order.

18 3. Court-Approved Mailing List.

19 A. The initial Court-approved mailing list for this case shall include all
20 persons listed on Attachment D to this order. The list may be modified
21 only by filing a motion with the Special Master to amend the Court-
22 approved mailing list. Litigants are responsible for using the current
23 Court-approved mailing list.

24
25 B. A copy of any pleading filed with the Clerk of the Maricopa County
26 Superior Court in this case shall be served upon each person listed on the
27 Court-approved mailing list.
28

1 C. Claimants wishing to be added or removed from the mailing list shall file
2 a motion with the Special Master. Parties allowed to intervene will be
3 automatically added to the mailing list.

4 4. Courtesy Email List.

5 The Special Master's office will email courtesy copies of orders and minute
6 entries entered in this case to persons listed on Attachment D. Requests for
7 inclusions on the email list should be sent to Barbara Brown at
8 brownb099@superiorcourt.maricopa.gov.

9
10 5. Status Conference.

11 A. An initial status conference shall be held to determine whether the
12 Magma Copper Company, now known as BHP Copper Inc., intends to
13 pursue its claims for water rights or assign them to the current landowner
14 and whether the current landowner intends to claim water rights. At the
15 status conference counsel for BHP Copper Inc. shall be prepared to
16 advise the status of the assignment of the SOCs if it does not intend to
17 pursue water rights claimed in those SOCs.

18
19 B. If water rights will be pursued with respect to the land, then another
20 purpose of the initial status conference will be to determine whether
21 objections to the WFR can be settled and the amount of time that the
22 parties will require to discuss the resolution of the objections.

23
24 C. If the objections cannot be settled, then a subsequent date will be set for
25 a scheduling conference to identify issues, file disclosure statements,
26 conduct discovery, submit prehearing motions, and hold a trial. No party
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shall conduct any discovery or file any motions prior to the Scheduling
Conference.

The Status Conference shall be held on **February 4, 2020 at 2:30 p.m.** before:

Special Master Susan Ward Harris
Superior Court of Arizona
201 West Jefferson Street, Courtroom 301
Phoenix, AZ 85003-2202

Instructions for telephonic appearance:
Dial: 602-506-9695 (local)
1-855-506-9695 (toll free long distance)
Dial Participant Pass Code 357264#



SUSAN WARD HARRIS
Special Master

On December 20, 2019, 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 this contested
case, a copy of which is attached hereto as Attachment D,
and to all persons listed on the Court-approved mailing
list for W-1, W-2, W-3, and W-4 (Consolidated).

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ATTACHMENT A

LAND OWNER	WATERSHED FILE
-----	REPORT NUMBER
MAGMA COPPER COMPANY	113-04-DCD-001

APPLICABLE FILINGS AND DECREES

CLEARLY STATED INFORMATION FROM FILINGS AND DECREES

W1-11-2394

FILING NUMBER	FILING STATUS	USES	QUANTITY IN AFA	USE LOCATION SECTION	TWNP	RNGE	CLAIM DATE	DIVERSION LOCATION SECTION	TWNP	RNGE
0 -0000063		IRRIGATION STOCK	18097.92	19	08OS	17OE	1898	29	08OS	17OE
10-1103286.1100		MINING	18000.00	20	08OS	17OE	1886	E2NW29	06OS	17OE
10-1105582.1100		IRRIGATION STOCK	18000.00	21	08OS	17OE	1898	29	08OS	17OE
36-0102337		IRRIGATION STOCK	1700.00	19	08OS	17OE				
				20	08OS	17OE				
				29	08OS	17OE				
				SESW20	08OS	17OE	1887	SESE29	08OS	17OE
				SWSE20	08OS	17OE				
				NENE29	08OS	17OE				
39-0003161	AMENDED	DOMESTIC STOCK	1.57				1898	SENE29	08OS	17OE
39-0003163	AMENDED	STOCK	2.25							
39-0005227	AMENDED	IRRIGATION	1283.00	20	08OS	17OE	1898	SESENE32	08OS	17OE
				NW29	08OS	17OE	1898	NESESE29	08OS	17OE
39-0005234	AMENDED	IRRIGATION DOMESTIC STOCK					1887	NESWNE29	08OS	17OE

DWR ANALYSIS OF FILINGS AND DECREES

FILING NUMBER	USES CLAIMED OR REFERENCED	USES FOUND BY DWR	APPLIES TO DIVERSIONS	APPLIES TO PWR NUMBERS
0 -0000063	IRRIGATION STOCK	IRRIGATION INCIDENTAL		IROO1
10-1103286.1100	MINING	NONE		
10-1105582.1100	IRRIGATION STOCK	IRRIGATION INCIDENTAL	WO1	IROO1
36-0102337	IRRIGATION	IRRIGATION	WO1	IROO1
39-0003161	DOMESTIC STOCK	DOMESTIC INCIDENTAL		DMOO1
39-0003163	STOCK	STOCKWELL		
39-0005227	IRRIGATION	IRRIGATION	WO1	IROO1
39-0005234	IRRIGATION DOMESTIC STOCK	IRRIGATION DOMESTIC INCIDENTAL		DMOO1, IROO1

DIVERSIONS

DIV #	SECTION	TWNP	RNGE	DIVERSION NAME	WATER SOURCE AND CLASSIFICATION
WO1	NESESE29	08OS	17OE	UNNAMED	GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER

USES

PWR #	LOCATION SECTION	TWNP	RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO SOURCE DATE	SOURCE CHANGE	FACILITY NAME
DMOO1	SENE29	08OS	17OE	WO1	GROUNDWATER : ZONE 1		NO	
IROO1		20	08OS	17OE	WO1	GROUNDWATER : ZONE 1	1935	YES
			29	08OS	17OE			

PWR SUMMARY

PWR #	APPLICABLE ADJ FILINGS	APPLICABLE PRE FILINGS	*APPARENT FIRST USE DATE* DATE BASIS FOR DATE	WATER SOURCES AND CLASSIFICATIONS
DMOO1	39-0003161	10-1105582.1100		GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER
	39-0005227	36-0102337		
	39-0005234			

PWR #	APPLICABLE ADJ FILINGS	APPLICABLE PRE FILINGS	*APPARENT FIRST USE DATE* DATE BASIS FOR DATE	WATER SOURCES AND CLASSIFICATIONS
IROO1	39-0005227 39-0005234	0-0000063 10-1105582.1100 36-0102337	1887 FILING 36-102337	GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER
NONE	39-0003163	10-1103286.1100		

Q U A N T I T I E S O F U S E

PWR #	QUANTIFICATION TYPE	ACRES	CROP TYPE	EFF	WATER DUTY	ESTIMATED VOLUME	REMARKS
DMOO1							SEE VOLUME 1 - GENERAL ASSESSMENT
IROO1	MAX. OBSERVED	173.2	MULTI.CROPS	45%	6.8 AF/AC	1177.8 AFA	
	REGIONAL	173.2	AVE. CROP	50%	5.4 AF/AC	935.3 AFA	
	MAX. POTENTIAL	173.2	ALFALFA	45%	7.4 AF/AC	1281.7 AFA	

E X P L A N A T I O N

FILINGS AND DECREES

FILING 0-163 - FILED IN 1898 IS AN OLD RIGHT CLAIMING 1000 MINERS INCHES FOR IRRIGATION AND STOCKWATERING USES FROM A DIVERSION ON THE SAN PEDRO RIVER.
 FILING 10-1103286-11 - CLAIMS MINING WATER USES FROM THE SAN PEDRO RIVER. NO MINING USES WERE FOUND AT THE CLAIMED LOCATION.

DIVERSIONS

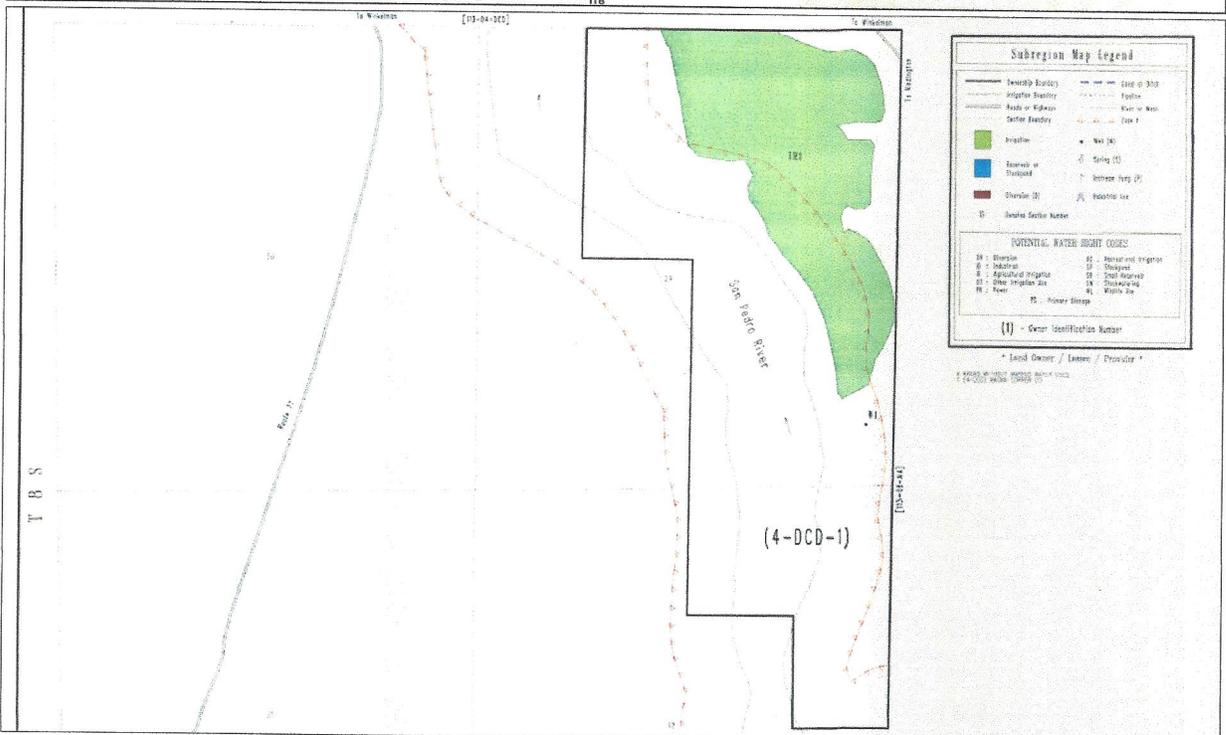
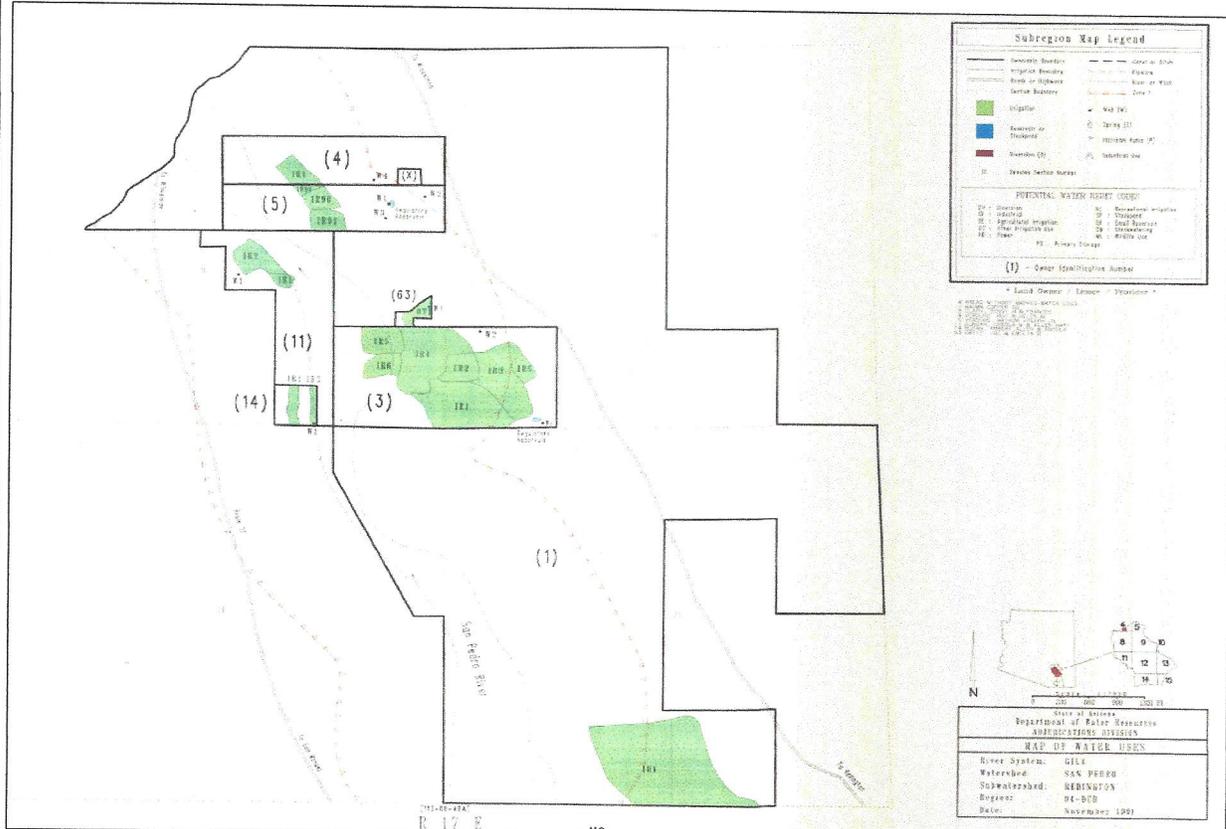
W1 - WELL PROVIDES WATER FOR IRRIGATION, DOMESTIC, AND STOCKWATERING USES.

USES AND RESERVOIRS

DM1 - DOMESTIC USE.
 IR1 - IRRIGATED MULTIPLE CROPS (PASTURE AND ALFALFA).

ATTACHMENT B

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ATTACHMENT C

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(2 of 4)

Parcels:

Assessor Parcel Number
30607003A

First Owner Name
SWIFT CURRENT LAND & CATTLE LLC

Second Owner Name

Property Address

Mailing Address
PO BOX 1944

City
SUPERIOR

State
AZ

Zip
85173

Sub or Condo Name

Property Description

[Zoom to](#)

Map labels: Creek Rd, S. River Rd, Copper Creek Rd, 20

(2 of 4)

Parcels:

Assessor Parcel Number
306070080

First Owner Name
SWIFT CURRENT LAND & CATTLE LLC

Second Owner Name

Property Address

Mailing Address
PO BOX 1944

City
SUPERIOR

State
AZ

Zip
85173

Sub or Condo Name

Property Description

[Zoom to](#)

Map labels: Mammoth Wash, S. River Rd, 20, 32, E River Ranch Rd

ATTACHMENT D

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Arizona Department of Water Resources
Kimberly Parks
Janet L. Miller
P. O. Box 36020
Phoenix, AZ 85067

ASARCO Incorporated
Lauren J. Caster
Fennemore Craig, P.C.
2394 East Camelback Road
Suite 600
Phoenix, AZ 85016-3429

BHP Copper, Inc.
John D. Burnside
Snell & Wilmer, L.L.P.
400 E. Van Buren Street, Ste 1900
Phoenix AZ 85004

Clerk of the Superior Court
Maricopa County
Attn: Water Case
601 West Jackson Street
Phoenix, AZ 85003

Corporation Service Company as
Statutory agent for Swift Current Land & Cattle LLC
8825 N. 23rd Avenue, Suite 100
Phoenix, AZ 85021

Gila River Indian Community
Linus Everling and Thomas L. Murphy
Office of the General Counsel
P. O. Box 97
Sacaton, AZ 85147

Joe P. Sparks and Laurel A. Herrmann
The Sparks Law Firm, P.C.
7503 First Street
Scottsdale, AZ 85251-4573

- 1 Lucas T. Christian & Julian Nava
- 2 Rosette, LLP
- 3 565 W. Chandler Blvd. Suite 212
- 4 Chandler, AZ 85225

- 5 S. Montgomery, R. Interpreter, J. Tomkus
- 6 Montgomery & Interpreter, Plc
- 7 3301 E. Thunderbird Road
- 8 Phoenix, AZ 85032

- 9 Salt River Valley Water Users Association,
- 10 Salt River Project Agricultural Improvement and Power District
- 11 John B. Weldon, Jr. and Mark A. McGinnis
- 12 Salmon, Lewis & Weldon PLC
- 13 2850 E Camelback Rd, Ste. 200
- 14 Phoenix, AZ 85016

- 15 Special Master Susan Ward Harris
- 16 Superior Court of Arizona
- 17 201 W. Jefferson Street
- 18 Courtroom 301
- 19 Phoenix, AZ 85003

- 20 Swift Current Land & Cattle LLC
- 21 P. O. Box 1944
- 22 Superior, AZ 85173

- 23 U. S. Department of Justice
- 24 Patrick Barry, Yosef Negose, and Emmi Blades
- 25 Environment and Natural Resources
- 26 P. O. Box 7611
- 27 Washington, D.C. 20044-7611
- 28