

SUPERIOR COURT OF ARIZONA  
APACHE COUNTY

07/19/2005

CLERK OF THE COURT  
FORM V000

HONORABLE EDDWARD BALLINGER, JR.

R. Luiszer  
Deputy

CV-6417  
Contested Case CV-6417-033-0060

FILED: JULY 19, 2005

In Re the General Adjudication  
of All Rights to Use Water in the  
Little Colorado River System and  
Source

In re Phelps Dodge's Motion to  
Dismiss Contested Case  
In re Phelps Dodge Corporation  
(Show Low Lake) CV-6417-033-0060

MINUTE ENTRY

On July 8, 2005, a hearing was held to consider Phelps Dodge Corporation's request for an expedited ruling on its motion to dismiss the above-referenced contested case. The City of Show Low, the Show Low/Pinetop-Woodland Irrigation Company, Inc., and the Silver Creek Irrigation District joined in the motion. The Navajo Nation, one of the primary objectors in this contested case, had no objection to accelerated consideration of the motion.

At the hearing, Phelps Dodge confirmed that it has unequivocally and permanently abandoned any and all rights related to Show Low Lake, including those claimed water rights described in Certificate of Water Right No. 2093 and Statement of Claimant No. 39-84542, and that it had not, and would not, assign any claimed rights under these instruments. Counsel for Phelps Dodge avowed that this abandonment would not grant any person or entity rights under this certificate or claimant statement as a successor in interest or assignee of Phelps

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Dodge. Based upon these representations the Court concluded that it would be appropriate to grant Phelps Dodge's dismissal request. Neither the Navajo Nation, the Arizona Department of Water Resources ("ADWR"), nor any other party present at the hearing expressed an objection to this ruling.

Based upon the foregoing,

IT IS ORDERED,

1. Dismissing Contested Case No. 6417-033-0060 and Statement of Claimant No. 39-84542 with prejudice, effective immediately.

2. Directing ADWR to take no further action with respect to the Final Supplemental Contested Case Hydrographic Survey Report In Re Phelps Dodge Corporation (Show Low Lake) except as necessary to inform parties and claimants about the disposition of this matter. This Order does not prevent ADWR from undertaking work necessary to address claims other than those asserted in this contested case.

3. Deeming all pending motions and objections filed in this contested case moot in light of the dismissal set forth above.

4. Directing ADWR to prepare a news release announcing the effect of this Order and make this news release available on its website for a reasonable period of time. The Special Master shall similarly post ADWR's news release on his website.

5. This Order does not prohibit ADWR, the Special Master, or any other party from taking further action to disseminate the contents of this Order.

6. The Special Master is authorized to prepare a notice, for use by the Clerk of the Apache County Superior Court, which will inform claimants and the public of cancellation of any pending deadlines in this contested case.

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7. The Special Master and ADWR are authorized to complete any administrative actions that may be required to carry out the dismissal of this case.

8. The Arizona Game and Fish Commission is granted leave to file, on or before August 5, 2005, a motion to reconsider the terms of this Order.

9. The Special Master is directed to prepare and lodge with the Court a formal Order setting forth the directives set forth herein.

10. A copy of this Order shall be served upon each person or entity appearing on the Court-approved mailing lists for the Little Colorado River Adjudication, this contested case, and the Gila River Adjudication.

\* \* \* \*

A copy of this minute entry is mailed to all parties on the Court-approved mailing lists for CV-6417, CV-6417-033-0060, and W-1, W-2, W-3, and W-4, all dated June 15, 2005.