

1 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

2 IN AND FOR THE COUNTY OF APACHE

3  
4 IN RE THE GENERAL ADJUDICATION  
5 OF ALL RIGHTS TO USE WATER IN  
6 THE LITTLE COLORADO RIVER  
7 SYSTEM AND SOURCE

CIVIL NO. CV 6417

Contested Case No. CV-6417-033-0060

ORDER DISMISSING WITH PREJUDICE  
CONTESTED CASE *In re Phelps Dodge  
Corporation (Show Low Lake)*

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9 On July 8, 2005, a hearing was held to consider Phelps Dodge Corporation's request for an  
10 expedited ruling on its motion to dismiss Contested Case No. CV-6417-033-0060. The City of Show  
11 Low, the Show Low/Pinetop-Woodland Irrigation Company, Inc., and the Silver Creek Irrigation  
12 District joined in the motion. The Navajo Nation, one of the primary objectors in this contested case,  
13 had no objection to accelerated consideration of the motion.

14 At the hearing, Phelps Dodge confirmed that it has unequivocally and permanently abandoned  
15 any and all rights related to Show Low Lake, including those claimed water rights described in  
16 Certificate of Water Right No. 2093 and Statement of Claimant No. 39-84542, and that it had not, and  
17 would not, assign any claimed rights under these instruments. Counsel for Phelps Dodge avowed that  
18 this abandonment would not grant any person or entity rights under this certificate or claimant  
19 statement as a successor in interest or assignee of Phelps Dodge. Based upon these representations, the  
20 Court concluded that it would be appropriate to grant Phelps Dodge's dismissal request. Neither the  
21 Navajo Nation, nor the Arizona Department of Water Resources ("ADWR"), nor any other party  
22 present at the hearing expressed an objection to this ruling.

1           On July 19, 2005, the Court granted the Arizona Game and Fish Commission leave to file, on  
2 or before August 5, 2005, a motion to reconsider the terms of this Order. The Commission did not file  
3 a motion for reconsideration.

4           Based upon the foregoing, IT IS ORDERED:

5           1.        Dismissing Contested Case No. CV-6417-033-0060 and Statement of Claimant No. 39-  
6 84542 with prejudice, effective immediately.

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

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

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

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

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

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

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

4           DATED:       September 19, 2005.

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7                               /s/ Eddward P. Ballinger, Jr.  
8                               EDDWARD P. BALLINGER, JR.  
9                               Judge of the Superior Court

10 A copy of this order is distributed to all  
11 persons who appear on the Court-approved  
12 mailing lists for Contested Case No. CV-  
13 6417-033-0060, the Little Colorado River  
14 Adjudication, and the Gila River  
15 Adjudication, all dated June 15, 2005.  
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