

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

September 3, 2015

CLERK OF THE COURT  
Form V000

JUDGE MARK H. BRAIN

T. Springston  
Deputy

W1-103

FILED: September 8, 2015

In re Subflow Technical Report,  
San Pedro River Watershed

W1-103

In re Revised Subflow Zone Declination  
Report for the San Pedro River Watershed  
(April 2014) Prepared by the Arizona  
Department of Water Resources

In re Evidentiary Hearing

EVIDENTIARY HEARING  
DAY 4

Central Court Building - 1201

10:45 a.m. The Evidentiary Hearing continues before Judge Mark H. Brain.

The following attorneys appear in-person:

- Patrick F. Barry, JoAnn Kintz and Yosef M. Negose on behalf of the United States;
- J. Albert Brown on behalf of Gila Valley Irrigation District and City of Cottonwood;
- Joe P. Sparks and Julia M. R. Kolsrud on behalf of the San Carlos Apache Tribe and the Tonto Apache Tribe;
- Sean T. Hood, Brian J. Heiserman, and Shilpa Hunter-Patel on behalf of Freeport Minerals Corporation;
- Thomas L. Murphy on behalf of Gila River Indian Community;
- Christopher W. Payne and Mitchell Klein on behalf of BHP Copper, Inc.;
- Mark A. McGinnis on behalf of Salt River Project;

- Janet L. Miller and Nicole D. Klobas on behalf of the Arizona Department of Water Resources;
- Gregory L. Adams on behalf of ASARCO LLC;
- William P. Sullivan on behalf of Pueblo Del Sol Water Co., City of Sierra Vista, Liberty Utilities (Bella Vista Water Company) Corp.;
- Sarah A. (Sally) Worthington on behalf of Maricopa County;
- William H. Anger on behalf of Cities of Avondale, Chandler, Glendale, Mesa and Scottsdale;
- L. William Staudenmaier on behalf of APS and Roosevelt Water Conservation District;
- Cynthia J. Haglin on behalf of City of Chandler; and
- Carrie J. Brennan on behalf of State of Arizona.

Court Reporter, Christine Coaly, is present.

Rich Burtell resumes the stand and testifies further.

Rich Burtell is excused.

Patrick F. Barry requests to be excused as he will not return after the lunch break.

THE COURT INFORMS Mr. Barry and other counsel that they are free to exit and return as they need.

12:07 p.m. Court stands at recess.

1:32 p.m. Court reconvenes with respective counsel present.

Court Reporter, Christine Coaly, is present.

Mr. Sparks moves to strike Objector 4 BHP's exhibits 127 and 128. Discussion is held regarding same. Mr. Hood and Mr. McGinnis avow the Declarations marked as exhibits 127 and 128 were attached to objections previously filed by BHP. For reasons stated on the record,

IT IS ORDERED denying Mr. Sparks' motion to strike.

Discussion is held regarding Mr. McGinnis' motion in limine.

Objector 4 BHP calls witness William Ray Victor to the stand.

William Ray Victor is sworn and testifies.

Objector 4 BHP's exhibits 127 and 128 are received in evidence.

3:01 p.m. Court stands at recess.

3:16 p.m. Court reconvenes with respective counsel present.

Court Reporter, Christine Coaly, is present.

Counsel having no further questions for witness Mr. Victor,

William Ray Victor is excused.

IT IS ORDERED taking this matter under advisement.

Discussion is held regarding post-hearing procedures and exhibits.

Objector 3 FMC's exhibit 120 is received in evidence.

Discussion is held regarding modeling, cones of depression, and scheduling.  
Based thereon,

IT IS ORDERED any interested party shall file comments regarding ADWR's Initial Progress Report (filed April 23, 2015) by **November 6, 2015**. ADWR will file responses as they are able.

No additional evidentiary hearing briefs are required.

3:27 p.m. Hearing concludes.

IT IS ORDERED that the clerk permanently release Objector 2 SRP's exhibit numbers 3 through 34, 36 through 46, 50 through 53; and Objector 3 FMC's exhibits 100 through 106, 111 through 115, 118, 121 through 124 which were not offered in evidence to the counsel/party causing them to be marked, or their written designee.

LET THE RECORD REFLECT both Objector 2 SRP and Objector 3 FMC picked up their exhibits on September 4, 2015.

ISSUED: Exhibit Release Forms (2)

FILED: Trial Worksheet

A copy of this order is mailed to all persons listed on the Court approved mailing list for Contested Case Number W1-103 dated July 20, 2015.