

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF APACHE**

**THE HONORABLE MICHAEL C. NELSON, PRESIDING JUDGE**

IN CHAMBERS      ( X )

IN OPEN COURT      ( )

**THE HONORABLE EDWARD L. DAWSON**, Visiting Judge

**IN RE THE GENERAL ADJUDICATION  
OF ALL RIGHTS TO USE WATER IN  
THE LITTLE COLORADO RIVER  
SYSTEM AND SOURCE**

Case No. CV-6417

**PROTECTIVE ORDER**

DESCRIPTIVE SUMMARY: Protective order limiting the use of the Hopi/Western Navajo Water Supply Study.

NUMBER OF PAGES: 2.

DATE OF FILING: Original mailed to Apache County Superior Court Clerk's Office on January 3, 2002.

The Court has considered the comments made at the Status Conference held on August 30, 2001, and the revised form of proposed Protective Order filed by the Navajo Nation, Arizona Public Service, Phelps Dodge Corporation, and Aztec Land and Cattle Company. The Court granted additional time until November 1, 2001, for parties to submit written comments regarding the proposed order. No comments were filed.

The Court finds good cause to issue a Protective Order but will limit the scope of the order to judicial proceedings in this Adjudication. The Court does not want to restrict the regulatory authority of an administrative agency, especially when the nature of possible future administrative proceedings is unknown, and further, the involved parties can ask an agency to issue the same or a similar protective order.

1.     **IT IS ORDERED** that the Hopi/Western Navajo Water Supply Study shall not be used in any judicial proceeding in this Adjudication by any party to this Adjudication or by any representative of a party to this Adjudication.

2.     **IT IS FURTHER ORDERED** that the Hopi/Western Navajo Water Supply Study shall be admissible as evidence to the extent it is relevant in any judicial proceedings related to the approval of a water rights settlement with the Navajo Nation and/or the Hopi Tribe.

3. **IT IS FURTHER ORDERED** that the terms of this Protective Order shall not apply to any existing documents, reports, studies or compilations of data that are referenced in, analyzed by or attached to the Hopi/Western Navajo Water Supply Study unless such existing documents, reports, studies or compilations of data were themselves prepared by a party to this Adjudication for settlement negotiation purposes in a manner protected by Rule 408, Ariz. R. Evidence. Parties and counsel shall maintain a records system that facilitates the identification of those documents, reports, studies or compilations of data that were prepared by the party for settlement negotiation purposes.

4. **IT IS FURTHER ORDERED** that no expert witness shall offer an opinion on behalf of any party to this Adjudication that is based in whole or in part on the Hopi/Western Navajo Water Supply Study in any judicial proceeding in this Adjudication, except in those judicial proceedings related to the approval of a water rights settlement with the Navajo Nation and/or the Hopi Tribe.

5. **IT IS FURTHER ORDERED** that expert witnesses may offer an opinion on behalf of any party to this Adjudication that is based in whole or in part on any documents, reports, studies or compilations of data that are referenced in, analyzed by or attached to the Hopi/Western Navajo Water Supply Study, unless such existing documents, reports, studies or compilations of data were themselves prepared by a party to this Adjudication for settlement negotiation purposes in a manner protected by Rules 408 and 703, Ariz. R. Evidence.

6. **IT IS FURTHER ORDERED** that this Protective Order shall apply equally to all parties in this Adjudication.

7. **IT IS FURTHER ORDERED** that this Protective Order may be modified or terminated for good cause shown upon motion and after hearing.

DATED this 31st day of December, 2001.

/s/ Edward L. Dawson  
EDWARD L. DAWSON  
Judge of the Superior Court

The original of the foregoing filed with the Superior Court Clerk of Apache County.

On this 7th day of January 2002, a copy of the foregoing is mailed to those parties who appear on the court-approved mailing list for CV-6417 dated October 30, 2001.

/s/ K Dolge  
Kathy Dolge