

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.

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