

6417-033-03194

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

APACHE CO. SUPERIOR COURT
FILED

DOCKETED

MAY 28 1991

No. 6417 9 O'CLOCK A.M.
RICHARD D. LUPKE, CLERK
DEPUTY

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

RECOMMENDED FORM
FOR OBJECTIONS TO THE
Hydrographic Survey Report for the
Silver Creek Watershed

Please file a separate objection for each watershed file report. Objections to information contained in Volumes 1 & 2 can be stated on one objection form. Objections must be written. Use of this form is suggested. Objections must be received on or before May 29, 1991.

This Objection is directed to Watershed File Report No. 033- 52 - CCA - 001
(please insert no.)

OBJECTOR INFORMATION

Objector's Name: United States of America
Objector's Address: P.O. Box 607, Albuquerque, New Mexico 87103
Objector's Telephone No.: (505) 766 - 1060
Objector's Watershed File Report No. (if the Objector's claimed water rights are located within the Silver Creek Watershed):
033- 42 - 088 -

Or Objector's Statement of Claimant No. (if the Objector's claimed water rights are located outside the Silver Creek Watershed):
39-

STATEMENT OF THE OBJECTION

The following are the main categories of the typical watershed file report (not all watershed file reports have all these categories). Please check the category(ies) of the watershed file report to which you object, and state the reason for the objection on the following page.

Please check appropriate box(es)

- 1. I object to the description of Land Ownership
- 2. I object to the description of Applicable Filings and Decrees
- 3. I object to the description of DWR's Analysis of Filings and Decrees
- 4. I object to the description of the Diversions for the claimed water right(s)
- 5. I object to the description of the Uses for the claimed water right(s)
- 6. I object to the description of Reservoirs used for the claimed water right(s)
- 7. I object to the description of Shared Uses & Diversions for the claimed water right(s)
- 8. I object to the PWR (Potential Water Right) Summary of the claimed water right(s)
- 9. I object to the description of Quantities of Use for the claimed water right(s)
- 10. I object to the Explanation provided for the claimed water right(s)
- 11. Other Objections (please state volume number, page number and line number for each objection)

The reason for my objection is as follows (please number your objections to correspond to the boxes checked and please attach supporting information and additional pages as necessary):

CATEGORY
NUMBER

SEE ATTACHED SHEET(S)

I hereby make this Objection on this 28 day of May, 1991.

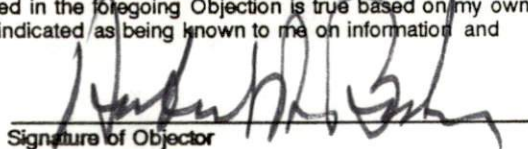

Signature of Objector

FOR: United States of America
(If in a representative capacity)

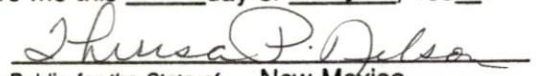
STATE OF New Mexico } VERIFICATION

COUNTY OF Bernallilo } (Must be completed by Objector)

I declare under penalty of perjury that I am a claimant in this proceeding; that I have read the contents of the foregoing Objection and know the contents thereof; and that the information contained in the foregoing Objection is true based on my own personal knowledge, except for those portions of the Objection which are indicated as being known to me on information and belief and, as to those portions, I believe them to be true.


Signature of Objector

SUBSCRIBED AND SWORN to before me this 28 day of May, 1991.


Notary Public for the State of New Mexico
Residing at New Mexico, Albuquerque
My commission expires October 3, 1993

{SEAL}

CERTIFICATE OF MAILING

(Must be completed if you object to another Claimant's watershed file report. Does not need to be completed if you file an Objection to your own watershed file report or to information contained in Volumes 1 or 2 of the Hydrographic Survey Report.)

I hereby certify that a copy of the foregoing Objection was served upon the following Claimant(s) by mailing true and correct copies thereof on the 28th day of May, 1991, postage prepaid and addressed as follows:

SCHAUERS, MERRILL and WANDA L.
P.O. BOX 812
SHOW LOW AZ 85901

03352CAA 001


(Signature of Objector or person mailing in Objector's behalf)

Objections must be filed with the Clerk of the Superior Court in and for Apache County, Apache County Courthouse, P.O. Box 365, St. Johns, AZ 85936, on or before May 29, 1991. This means that the Objection must be received at the Clerk's office no later than 5:00 p.m. on Wednesday, May 29, 1991.

WFR #: 033-52-CCA-001

- 1 Ortega Lake and the Brown Creek diversion are operated by the Silver Creek Flood Control District. No Statement of Claimant was filed by the owner and operator. There is no documentation presented that the claimant David M. Gibson has the legal right to store and/or use water on property he does not own.
2. No Statement of Claimant was filed in this adjudication for irrigation or flood control.

Mr. Gibson is claiming stockwatering use from a small impoundment at the point of diversion (39-88784). This property is owned by the Silver Creek Flood Control District.

The owner has a pending application (33-90552) for use of Ortega Lake for flood control storage. This application has not yet advanced into the permit stage.

Relative to David Gibson, there is no legal foundation for 39-88784. He is claiming a pre-1919 priority water right but made no filing under the 1974 Water Rights Registration Act.

At present, the Silver Creek Flood Control District has no valid water right permit for Ortega Lake. Improvements made to this facility in the 1980's should not have occurred before a valid water right was obtained from ADWR.

3. The owner (Silver Creek Flood Control District) has no water right permit for this facility and made no adjudication filing for Ortega Lake. David Gibson (39-88784) has no legal foundation for this adjudication filing.
6. This facility has been enlarged over time. The date and extent of these enlargements should be documented.
8. No potential water right should be established for Ortega Lake. The owner has no valid state water right permit or certificate for this facility. No adjudication filing was made for this facility.

There is no legal foundation established for the stockwatering uses claimed by David Gibson.

There are no valid adjudication or pre-adjudication filings of record for use in establishing priority dates for storage. Further, enlargements to the facility have occurred over time.

9. No potential water right should be established for Ortega Lake.

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

APACHE CO. SUPERIOR COURT
FILED

NO. _____ DOCKETED

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

No. 6417
AT 9 O'CLOCK A.M.
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RICHARD D. LUPKE, CLERK
DEPUTY

RECOMMENDED FORM
FOR OBJECTIONS TO THE
Hydrographic Survey Report for the
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Please file a separate objection for each watershed file report. Objections to information contained in Volumes 1 & 2 can be stated on one objection form. Objections must be written. Use of this form is suggested. Objections must be received on or before May 29, 1991.

This Objection is directed to Watershed File Report No.

033- 52 - CCA - 001
(please insert no.)

OBJECTOR INFORMATION

Objector's Name: United States of America
Objector's Address: P.O. Box 607, Albuquerque, New Mexico 87103
Objector's Telephone No.: (505) 766 - 1060
Objector's Watershed File Report No. (if the Objector's claimed water rights are located within the Silver Creek Watershed):
033- 42 - 088 -

Or Objector's Statement of Claimant No. (if the Objector's claimed water rights are located outside the Silver Creek Watershed):

39-

STATEMENT OF THE OBJECTION

The following are the main categories of the typical watershed file report (not all watershed file reports have all these categories). Please check the category(ies) of the watershed file report to which you object, and state the reason for the objection on the following page.

Please check appropriate box(es)

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- 2. I object to the description of Applicable Filings and Decrees
- 3. I object to the description of DWR's Analysis of Filings and Decrees
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- 11. Other Objections (please state volume number, page number and line number for each objection)

The reason for my objection is as follows (please number your objections to correspond to the boxes checked and please attach supporting information and additional pages as necessary):

CATEGORY
NUMBER

SEE ATTACHED SHEET(S)

I hereby make this Objection on this 28 day of May, 1991.

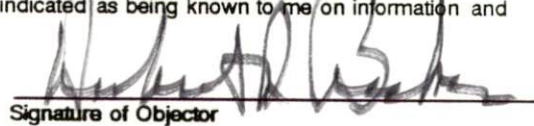

Signature of Objector

FOR: United States of America
(If in a representative capacity)

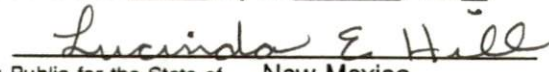
STATE OF New Mexico } VERIFICATION

COUNTY OF Bernalillo } (Must be completed by Objector)

I declare under penalty of perjury that I am a claimant in this proceeding; that I have read the contents of the foregoing Objection and know the contents thereof; and that the information contained in the foregoing Objection is true based on my own personal knowledge, except for those portions of the Objection which are indicated as being known to me on information and belief and, as to those portions, I believe them to be true.


Signature of Objector

SUBSCRIBED AND SWORN to before me this 28 day of May, 1991.


Notary Public for the State of New Mexico
Residing at Albuquerque
My commission expires 7-21-92

{SEAL}

CERTIFICATE OF MAILING

(Must be completed if you object to another Claimant's watershed file report. Does not need to be completed if you file an Objection to your own watershed file report or to information contained in Volumes 1 or 2 of the Hydrographic Survey Report.)

I hereby certify that a copy of the foregoing Objection was served upon the following Claimant(s) by mailing true and correct copies thereof on the 28th day of May, 1991, postage prepaid and addressed as follows:

SILVER CREEK FLOOD & CONTROL DISTRICT
P.O. BOX 161
TAYLOR AZ 85939

03352CCA 001


(Signature of Objector or person mailing in Objector's behalf)

Objections must be filed with the Clerk of the Superior Court in and for Apache County, Apache County Courthouse, P.O. Box 365, St. Johns, AZ 85936, on or before May 29, 1991. This means that the Objection must be received at the Clerk's office no later than 5:00 p.m. on Wednesday, May 29, 1991.

WFR #: 033-52-CCA-001

1. Ortega Lake and the Brown Creek diversion are operated by the Silver Creek Flood Control District. No Statement of Claimant was filed by the owner and operator. There is no documentation presented that the claimant David M. Gibson has the legal right to store and/or use water on property he does not own.
2. No Statement of Claimant was filed in this adjudication for irrigation or flood control.

Mr. Gibson is claiming stockwatering use from a small impoundment at the point of diversion (39-88784). This property is owned by the Silver Creek Flood Control District.

The owner has a pending application (33-90552) for use of Ortega Lake for flood control storage. This application has not yet advanced into the permit stage.

Relative to David Gibson, there is no legal foundation for 39-88784. He is claiming a pre-1919 priority water right but made no filing under the 1974 Water Rights Registration Act.

At present, the Silver Creek Flood Control District has no valid water right permit for Ortega Lake. Improvements made to this facility in the 1980's should not have occurred before a valid water right was obtained from ADWR.

The currently available historical record does not support the 1909/1915/1896 priority dates listed by the claimant in the filings/prefilings 39-88784/20-9469/10-91029 under this Watershed File Number.

3. The owner (Silver Creek Flood Control District) has no water right permit for this facility and made no adjudication filing for Ortega Lake. David Gibson (39-88784) has no legal foundation for this adjudication filing.
6. This facility has been enlarged over time. The date and extent of these enlargements must be documented, and separate priority dates and amounts of diversion and use determined.
8. No potential water right should be established for Ortega Lake. The owner has no valid state water right permit or certificate for this facility. No adjudication filing was made for this facility.

There is no legal foundation established for the stockwatering uses claimed by David Gibson.

WFR #: 033-52-CCA-001

There are no valid adjudication or pre-adjudication filings of record for use in establishing priority dates for storage. Further, enlargements to the facility have occurred over time.

The currently available historical record does not support the priority date 1896 listed for the filings/prefilings 39-88784/10-91209, 20-09469 and 33-90552 under this Watershed File Number.

9. No potential water right should be established for Ortega Lake.

6417-033-01972

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

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

APACHE CO. SUPERIOR COURT
FILED
No. 6417 DOCKETED

RECOMMENDED FORM
FOR OBJECTIONS TO THE
Hydrographic Survey Report for the
Silver Creek Watershed

MAY 28 1991
AT 9 O'CLOCK A.M.
RICHARD D. HUPKE, CLERK
DEPUTY

Please file a separate objection for each watershed file report. Objections to information contained in Volumes 1 & 2 can be stated on one objection form. Objections must be written. Use of this form is suggested. Objections must be received on or before May 29, 1991.

This Objection is directed to Watershed File Report No.

033- 52 - CCA - 001
(please insert no.)

OBJECTOR INFORMATION

Objector's Name: United States of America
Objector's Address: P.O. Box 607, Albuquerque, New Mexico 87103
Objector's Telephone No.: (505) 766 - 1060
Objector's Watershed File Report No. (if the Objector's claimed water rights are located within the Silver Creek Watershed):
033- 42 - 088 -

Or Objector's Statement of Claimant No. (if the Objector's claimed water rights are located outside the Silver Creek Watershed):

39-

STATEMENT OF THE OBJECTION

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Please check appropriate box(es)

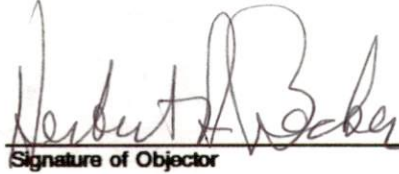
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CATEGORY
NUMBER

SEE ATTACHED SHEET(S)

I hereby make this Objection on this 28TH day of May, 1991.


Signature of Objector

FOR: UNITED STATES OF AMERICA

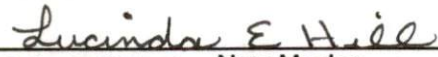
(If in a representative capacity)

STATE OF New Mexico } VERIFICATION
COUNTY OF Bernalillo } (Must be completed by Objector)

I declare under penalty of perjury that I am a claimant in this proceeding; that I have read the contents of the foregoing Objection and know the contents thereof; and that the information contained in the foregoing Objection is true based on my own personal knowledge, except for those portions of the Objection which are indicated as being known to me on information and belief and, as to those portions, I believe them to be true.


Signature of Objector

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Notary Public for the State of New Mexico
Residing at Albuquerque
My commission expires 7-21-92

{SEAL}

CERTIFICATE OF MAILING

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03352CCA 001

Name: SILVER CREEK FLOOD & CONTROL DISTRICT
Address: P.O. BOX 161
TAYLOR AZ 85939


(Signature of Objector or person mailing in Objector's behalf)

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WFR #:

033- 52 - CCA - 001

2. The use of water from this well or wells is challenged because the water withdrawn is sub-flow under state law and therefore must be administratively authorized or recognized in a judicial decree. Alternatively, the use is challenged because it interferes with downstream federal Indian rights and is contrary to state and federal law.

The amount of water identified by the claimant exceeds the normal quantity of water for a domestic claim established by the Arizona Department of Water Resources.

3. The use of water from this well or wells is challenged because the water withdrawn is sub-flow under state law and therefore must be administratively authorized or recognized in a judicial decree. Alternatively, the use is challenged because it interferes with downstream federal Indian rights and is contrary to state and federal law.
8. The use of water from this well or wells is challenged because the water withdrawn is sub-flow under state law and therefore must be administratively authorized or recognized in a judicial decree. Alternatively, the use is challenged because it interferes with downstream federal Indian rights and is contrary to state and federal law.
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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF APACHE

IN RE THE GENERAL ADJUDICATION OF ALL RIGHT TO USE
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No. 6417

APACHE CO. SUPERIOR COURT
FILED

NO. _____ DOCKETED

MAY 28 1991

AT 9 O'CLOCK A M.
RICHARD D. LUPKE, CLERK
RL DEPUTY

RECOMMENDED FORM
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=====
This objection is directed to Watershed File Report No. 033-52-CCA -001
(Please insert no.)
=====

OBJECTOR INFORMATION

Objector's Name: Salt River Project
Objector's Address: Post Office Box 52025
Phoenix, Arizona 85072-2025
Objector's Telephone No: (602) 236-2210

Objector's Watershed File Report No. (If the Objector's claimed water rights are located within the Silver Creek Watershed):
033 - -

Or Objector's Statement of Claimant No. (if the Objector's claimed water rights are located outside the Silver Creek Watershed):
39- 82193 - 82206
39- 87343

=====
STATEMENT OF THE OBJECTION
=====

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- 1. I object to the description of LAND OWNERSHIP
- 2. I object to the description of APPLICABLE FILINGS AND DECREES
- 3. I object to the description of DWR's ANALYSIS OF FILINGS AND DECREES
- 4. I object to the description of the DIVERSIONS for the claimed water right(s)
- 5. I object to the description of the USES for the claimed water right(s)
- 6. I object to the description of RESERVOIRS used for the claimed water right(s)
- 7. I object to the description of SHARED USES & DIVERSIONS for the claimed water right(s)
- 8. I object to the PWR (POTENTIAL WATER RIGHT) SUMMARY of the claimed water right(s)
- X 9. I object to the description of the QUANTITIES OF USE for the claimed water right(s)
- 10. I object to the EXPLANATION provided for the claimed water right(s)
- 11. Other Objections (please state volume number, page number and line number for each objection)

My reason for my objection is as follows (please number your objections to correspond to the lines listed above; please attach supporting information and additional pages as necessary).

SEE ATTACHMENT 1

I hereby make this objection on this 15th day of May, 1991.

David C. Roberts

Signature of Objector

FOR: Salt River Project

(if in a representative capacity)

STATE OF Arizona
COUNTY OF Maricopa

VERIFICATION

(Must be completed by Objector)

I declare under penalty of perjury that I am a claimant in this proceeding; that I have read the contents of the foregoing Objection and know the contents thereof; and that the information contained in the foregoing Objection is true based on my own personal knowledge, except for those portions of the Objection which are indicated as being known to me on information and belief and, as to those portions, I believe them to be true.

David C. Roberts

Signature of Objector

SUBSCRIBED AND SWORN to before me this 15th day of May, 1991.



Terry R. Holmes

Notary Public for the State of Arizona

Residing at Maricopa County

My commission expires _____

CERTIFICATE OF MAILING

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Name: SILVER CREEK FLOOD

Address: P.O. BOX 161

TAYLOR, AZ 85939

David C. Roberts

(Signature of Objector or person mailing in Objector's behalf)

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ATTACHMENT 1

WFR CATEGORY 9 - QUANTITIES OF USE

The Salt River Project objects to the lack of specificity of the quantity of use assigned to this storage Potential Water Right (PWR). The Watershed File Report fails to indicate whether the volumetric quantity assigned to this PWR implies a continuous fill, one fill per year, or one fill only. Unless evidence from previous filings, or other sufficient historic evidence, indicates a clear intention to the contrary, the quantity of use assigned to a storage PWR should be sufficient to permit continuous filling of the storage reservoir. (This objection applies to: PS001.)

* * * *

The Salt River Project objects to the failure of DWR to calculate a diversion rate for this Potential Water Right (PWR). All PWRs assigned a point or points of diversion should be assigned a separate diversion rate for each point of diversion. Diversion rates should be calculated at the point of diversion and should include transportation losses from the point of diversion to the place of use. (This objection applies to: PS001.)

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033- 52 - CCA - 001
(please insert no.)

OBJECTOR INFORMATION

Objector's Name: Arizona State Land Department
Objector's Address: 1616 West Adams
Phoenix, Arizona 85007
Objector's Telephone No.: (602) 542-3500
Objector's Watershed File Report No. (if the Objector's claimed water rights are located within the Silver Creek Watershed):
033- _____ - _____ - _____

Or Objector's Statement of Claimant No. (if the Objector's claimed water rights are located outside the Silver Creek Watershed):
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The reason for my objection is as follows (please number your objections to correspond to the boxes checked above; please attach supporting information and additional pages as necessary):

CATEGORY NUMBER

8 The state objects to DWR's determination that the PWR should be based on the amount of water used rather than the amount of water claimed where the use volume exceeds the claim volume or where the volume is not clearly stated on the claim.

I hereby make this Objection on this 28th day of May, 199 1.

M. Benson
STATE LAND COMMISSIONER

Signature of Objector

FOR: STATE OF ARIZONA (State Land Department)
(if in a representative capacity)

STATE OF ARIZONA
COUNTY OF MARICOPA

VERIFICATION

(Must be completed by Objector)

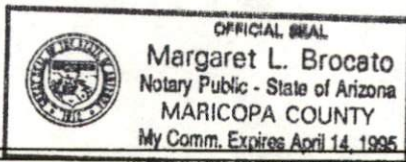
I declare under penalty of perjury that I am a claimant in this proceeding; that I have read the contents of the foregoing Objection and know the contents thereof; and that the information contained in the foregoing Objection is true based on my own personal knowledge, except for those portions of the Objection which are indicated as being known to me on information and belief and, as to those portions, I believe them to be true.

M. Benson
STATE LAND COMMISSIONER

Signature of Objector

SUBSCRIBED AND SWORN to before me this 28th day of May, 199 1.

(SEAL)



Margaret L. Brocato
Notary Public for the State of ARIZONA
Residing at 1616 W. Adams, Phoenix, Arizona 85007
My commission expires _____

CERTIFICATE OF MAILING

(Must be completed if you object to another Claimant's watershed file report. Does not need to be completed if you file an Objection to your own watershed file report or to information contained in Volumes 1 or 2 of the Hydrographic Survey Report.)

I hereby certify that a copy of the foregoing Objection was served upon the following Claimant(s) by mailing true and correct copies thereof on the 29 day of May, 199 1, postage prepaid and addressed as follows:

Name: Silver Creek Flood
Address: P.O. Box 161
Taylor, Arizona 85939

Centria M. Chandley
(Signature of Objector or person mailing in Objector's behalf)

Objections must be filed with the Clerk of the Superior Court in and for Apache County, Apache, County Courthouse, P. O. Box 365, St. Johns, AZ 85936, on or before May 29, 1991. This means that the Objection must be received at the Clerk's office no later than 5:00 p.m. on Wednesday, May 29, 1991.

APACHE CO. SUPERIOR COURT
FILED
NO. 454 DOCKETED
MAY 28 1991
AT 4:50 O'CLOCK 4:50 P.M.
RICHARD D. LUPKE, CLERK
DL, DEPUTY

1 Stanley M. Pollack (S.B. No. 011046)
Navajo Nation Department of Justice
2 P.O. Drawer 2010
Window Rock, AZ 86515
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5 1250 Eye Street, N.W., Suite 1000
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7 Jeanne S. Whiteing
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8 1136 Pearl Street, Suite 203
Boulder, CO 80302
9 Attorneys for THE SAN JUAN
SOUTHERN PAIUTE TRIBE

10

11

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

12

IN AND FOR THE COUNTY OF APACHE

13

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

No. 6417

16

17

18

19

) JOINDER AND CONCURRENCE OF
) THE NAVAJO NATION, THE
) HOPI TRIBE, THE SAN JUAN
) SOUTHERN PAIUTE TRIBE WITH
) ALL OBJECTIONS SUBMITTED
) BY THE UNITED STATES TO THE
) HYDROGRAPHIC SURVEY REPORT
) FOR THE SILVER CREEK
) WATERSHED

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Descriptive Summary: The Navajo Nation, the Hopi Tribe,
and the San Juan Southern Paiute Tribe (Tribes) join in, concur
with, and adopt the Statements of Objection for all Watershed File
Reports submitted by the United States.

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Statement of Claimant Numbers: Not Applicable.

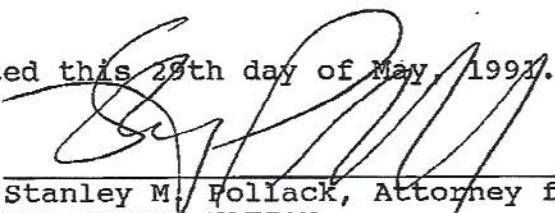
Date of Filing: May 29, 1991.

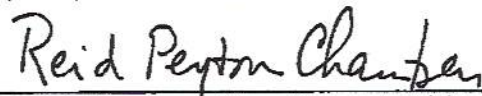
Number of Pages: 2 (Excluding Exhibit).

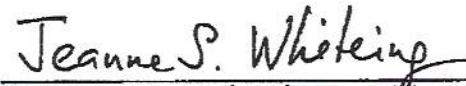
THE NAVAJO NATION, THE HOPI TRIBE, and THE SAN JUAN
SOUTHERN PAIUTE TRIBE join in, concur with, and adopt the

1 Statements of Objection for all Watershed File Reports submitted
2 by the United States, as though each Tribe had submitted said
3 objection on its own behalf.

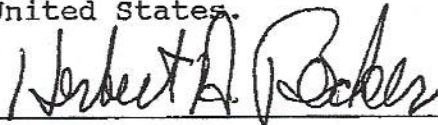
4 Respectfully submitted this 29th day of May, 1997.

5
6 
7 Stanley M. Follack, Attorney for
8 THE NAVAJO NATION
9 Navajo Nation Department of Justice
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22 THE SAN JUAN SOUTHERN PAIUTE TRIBE
23 Whiteing & Thompson
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25 Boulder, CO 80302
26 (303) 444-2549

27
28
29 Copies of the foregoing were
30 served upon each claimant to
31 which an objection was filed by
32 the United States. Service was
33 made by attaching a copy of this
34 pleading to the objections
35 served on each claimant by the
36 United States.

37 
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