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

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

W-1, W-2, W-3, W-4 (Consolidated)

Contested Case No. W1-11-1412

ORDER TO INITIATE CONTESTED
CASE

CONTESTED CASE NAME: *In re Phelps Dodge Corporation II*

HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report

DESCRIPTIVE SUMMARY: Contested case initiated. Claimant shall file a Report on or by **July 23, 2021**.

NUMBER OF PAGES: 12

DATE OF FILING: May 19, 2021

This Order initiates a contested case to consider the claims and resolve objections to Watershed File Report 111-24-DDB-001 ("WFR") published in the Final San Pedro River Watershed Hydrographic Survey Report (1991). The WFR found that 119.2 acres had been irrigated on land located in the south half of section 4 and the northeast quarter of section 9 T24S R24 but irrigation had been discontinued for the five years prior to the issuance of the WFR. A

1 copy of the watershed file report is attached as Attachment A. The land included with the
2 boundaries of the WFR is shown on the map attached as Attachment B and labelled as “(1)”.

3 The WFR identified Statement of Claimant 39-2297 (SOC) as the relevant filing for the
4 potential water right. Phelps Dodge Corporation filed the SOC and subsequently amended it to
5 claim rights to water for municipal, commercial, mining and stock watering uses.

6
7 **Claimants & Landowners**

8 On August 20, 2015, the SOC was the subject of an assignment from Phelps Dodge
9 Corporation to Freeport Minerals Corporation, (the “Claimant”). The records of the Cochise
10 County Assessor list Phelps Dodge Corporation as the owner of the property described in the
11 WFR. A copy of a map prepared by the Cochise County Assessor showing tax parcels 102-36-
12 015B and 102-36-015E is attached as Attachment C.

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14
15 **IT IS ORDERED:**

16
17 1. Contested Case. This contested case shall be known as *In re Phelps Dodge*
18 *Corporation II* and it will address the Statement of Claimant and objections that were filed to
19 Watershed File Report 111-24-DDB-001 published in the Final San Pedro River Watershed
20 Hydrographic Survey Report (1991). Copies of objections can be found under the case name
21 and number on the following website:
22 [http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.](http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp)
23 [asp](http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp)

24 2. Litigants. The litigants in this contested case are the Claimant, all persons who
25 filed objections to the listed watershed file reports who are included in the list on Attachment D,
26 and claimants who are allowed to intervene by order.

1 3. Court-Approved Mailing List.

2 A. The initial Court-approved mailing list for this case shall include all
3 persons listed on Attachment D to this order. The list may be modified only by
4 filing a motion with the Special Master to amend the Court-approved mailing list.

5 Litigants are responsible for using the current Court-approved mailing list.

6 B. A copy of any pleading filed with the Clerk of the Maricopa County
7 Superior Court in this case shall be served upon each person listed on the Court-
8 approved mailing list.

9 C. Claimants wishing to be added or removed from the court-approved
10 mailing list shall file a motion with the Special Master. Parties allowed to
11 intervene will be automatically added to the mailing list.

12 D. The Clerk of the Clerk will send copies of all minute entries and orders
13 issued in this case to the parties listed on the Court-approved mailing list. Upon
14 request, the Clerk of the Court will provide copies by email. Parties may request
15 emailed copies of minute entries and orders by completing and submitting a
16 CONSENT FOR ELECTRONIC RECEIPT OF WATER CASE DOCUMENTS,
17 which is attached as Attachment E.

18 4. Report. The Claimant shall file a Status Report on or by **July 23, 2021**. The
19 Report shall state whether Claimant intends to withdraw the Statement of Claimant or pursue
20 rights to appropriable water on the land. If Claimant does not intend to withdraw the Statement
21 of Claimant, but will seek appropriable water rights, the Report shall state whether Claimant
22 intends to file an amended Statement of Claimant. If Claimant intends to file an amended
23 Statement of Claimant, the Report shall include the information that the Claimant must obtain to
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1 file the Amended Statement of Claimant and the amount of time that Claimant reasonably
2 believes necessary to file an amended Statement of Claimant.

3
4 
5 SUSAN WARD HARRIS
6 Special Master

7
8 On May 19, 2021, the original of the foregoing was
9 delivered to the Clerk of the Maricopa County Superior
10 Court for filing and distributing a copy to all persons
11 listed on the Court-approved mailing list for this contested
12 case, a copy of which is attached hereto as Attachment D,
13 and to all persons listed on the Court-approved mailing
14 list for W-1, W-2, W-3, and W-4 (Consolidated).
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ATTACHMENT A

| | |
|--------------------------|----------------|
| LAND OWNER | WATERSHED FILE |
| ----- | REPORT NUMBER |
| PHELPS DODGE CORPORATION | 111-24-DDB-001 |

APPLICABLE FILINGS AND DECREES

CLEARLY STATED INFORMATION FROM FILINGS AND DECREES

| FILING NUMBER | FILING STATUS | USES | QUANTITY IN AFA | USE LOCATION SECTION | TWNP | RNGE | CLAIM DATE | DIVERSION LOCATION SECTION | TWNP | RNGE |
|---------------|---------------|------|-----------------|----------------------|------|------|------------|----------------------------|------|------|
| 39-0002297 | | | | | | | | | | |

DWR ANALYSIS OF FILINGS AND DECREES

| FILING NUMBER | USES CLAIMED OR REFERENCED | USES FOUND BY DWR | APPLIES TO DIVERSIONS | APPLIES TO PWR NUMBERS |
|---------------|----------------------------|-------------------|-----------------------|------------------------|
| 39-0002297 | | | | IR090 |

USES

| PWR # | LOCATION SECTION | TWNP | RNGE | SUPPLIED BY DIVERSIONS | WATER SOURCES | PHOTO DATE | SOURCE CHANGE | FACILITY NAME |
|-------|------------------|------|------|------------------------|---------------|------------|---------------|---------------|
| IR090 | NE09 | 240S | 240E | | SURFACE WATER | 1984 | NO | |
| | SE04 | 240S | 240E | | | | | |
| | SW04 | 240S | 240E | | | | | |

PWR SUMMARY

| PWR # | APPLICABLE ADJ FILINGS | APPLICABLE PRE FILINGS | *APPARENT FIRST USE DATE | DATE BASIS FOR DATE | WATER SOURCES AND CLASSIFICATIONS |
|-------|------------------------|------------------------|--------------------------|---------------------|-----------------------------------|
| IR090 | 39-0002297 | NONE | 1984 | 1984 AERIAL PHOTO | SURFACE WATER: SAN PEDRO RIVER |

QUANTITIES OF USE

| PWR # | QUANTIFICATION TYPE | ACRES | CROP TYPE | EFF | WATER DUTY | ESTIMATED VOLUME | REMARKS |
|-------|---------------------|-------|-----------|-----|------------|------------------|--------------------|
| IR090 | REGIONAL | 119.2 | NO CROP | | | | DISCONTINUED IRRG. |

EXPLANATION

FILINGS AND DECREES

FILING 39-2297 - NO WATER USES, USE AMOUNTS, OR LOCATIONS WERE CLAIMED. NO WATER USES COULD BE MATCHED TO THIS FILING.

DIVERSIONS

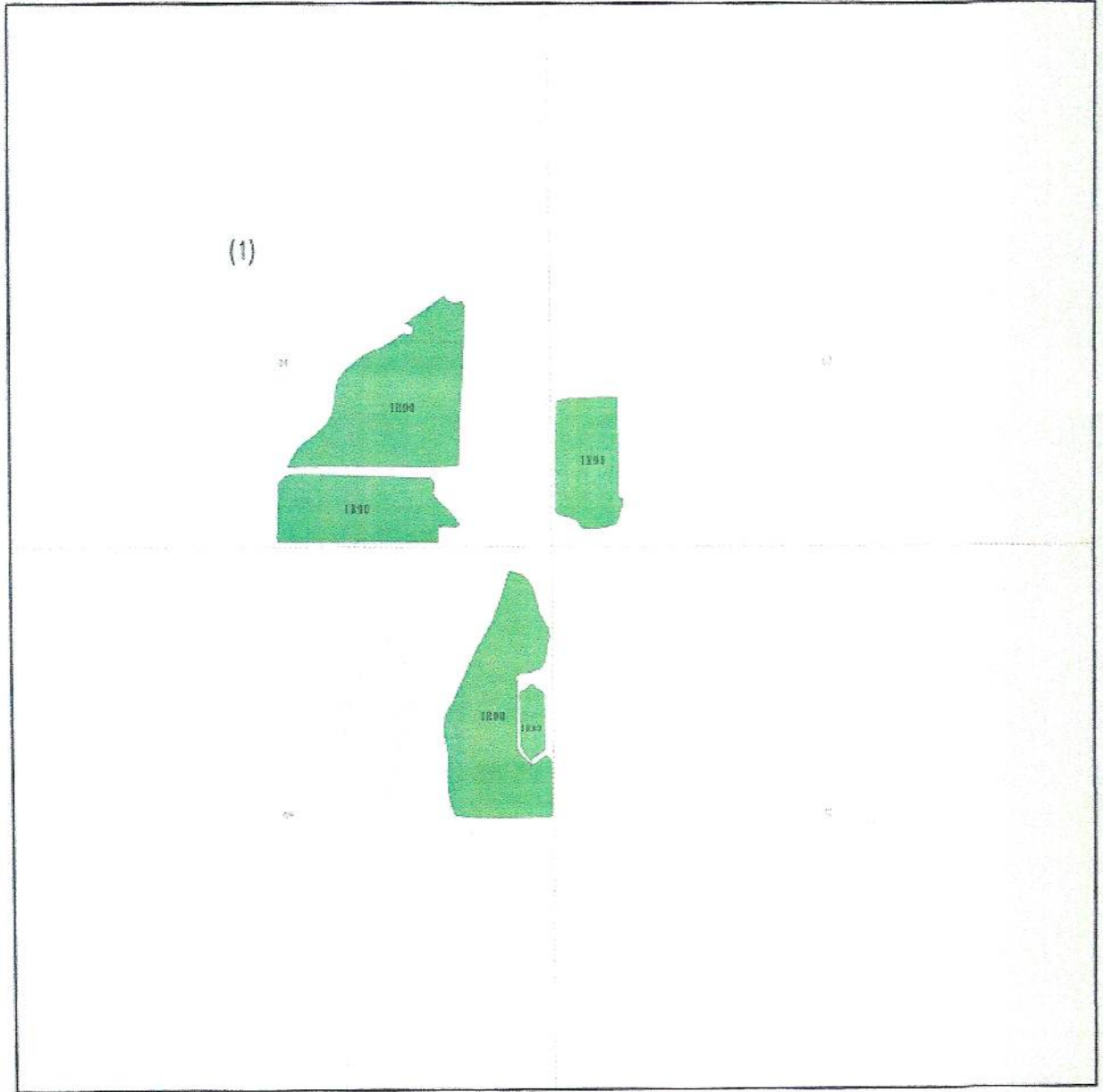
ORIGINALLY THIS ACREAGE HAD BEEN IRRIGATED BY PUMPAGE OF WATERS FROM THE SHAFTS OPERATED BY PHELPS DODGE CORPORATION. THERE ARE NO IDENTIFIED DIVERSIONS AT THE PRESENT TIME. THE ACREAGE MAY HAVE RECEIVED SURFACE RUN-OFF FROM NEARBY TAILINGS PILES.

USES AND RESERVOIRS

IR90 - DISCONTINUED IRRIGATION : D.W.R. HAS DETERMINED THAT NO IRRIGATION HAS OCCURRED ON THIS PROPERTY IN THE LAST FIVE YEARS, BUT THERE HAS BEEN IRRIGATION WITHIN THE PAST TEN YEARS BASED UPON A REVIEW OF HISTORICAL AERIAL PHOTOGRAPHY AND FIELD INVESTIGATIONS.

ATTACHMENT B

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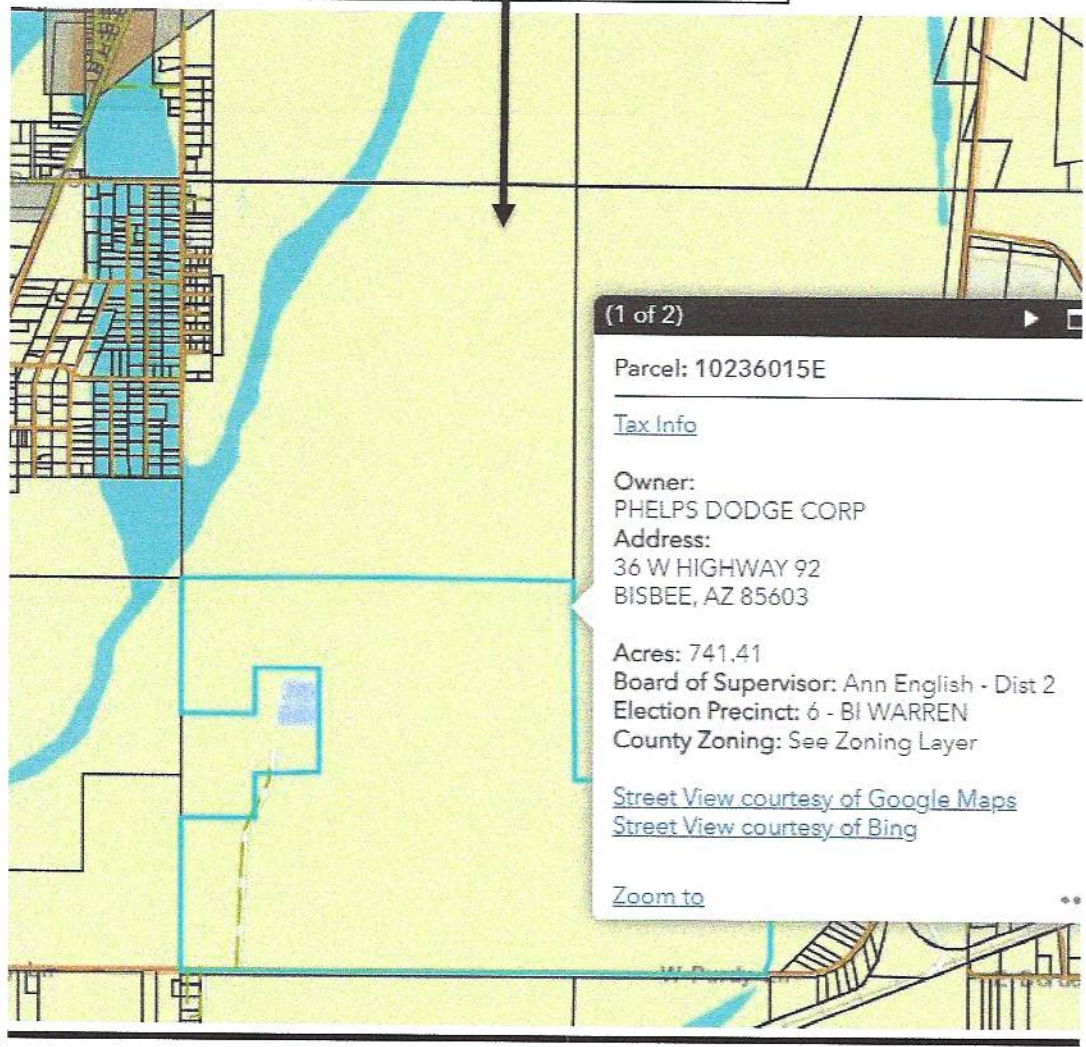


R 24 E

ATTACHMENT C

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Parcel: 10236015B
[Tax Info](#)
Owner: PHELPS DODGE CORP
Address: 36 W HIGHWAY 92
BISBEE, AZ 85603
Acres: 611.06



(1 of 2) ▶ □

Parcel: 10236015E

[Tax Info](#)

Owner:
PHELPS DODGE CORP
Address:
36 W HIGHWAY 92
BISBEE, AZ 85603

Acres: 741.41
Board of Supervisor: Ann English - Dist 2
Election Precinct: 6 - BI WARREN
County Zoning: See Zoning Layer

[Street View courtesy of Google Maps](#)
[Street View courtesy of Bing](#)

[Zoom to](#) **

ATTACHMENT D

1
2
3 Arizona Department of Water Resources

4 Kimberly Parks
5 P. O. Box 36020
6 Phoenix, AZ 85067

7 Clerk of the Superior Court
8 Maricopa County
9 Attn: Water Case
601 West Jackson Street
Phoenix, AZ 85003

10 Gila River Indian Community
11 Linus Everling and Thomas L. Murphy
12 Office of the General Counsel
P. O. Box 97
Sacaton, AZ 85147

13 Joe P. Sparks and Laurel A. Herrmann
14 The Sparks Law Firm, P.C.
15 7503 First Street
Scottsdale, AZ 85251-4573

16 Richard Palmer, Jr., Jeremiah Weiner,
17 and Lauren Mulhern
18 Rosette, LLP
565 W. Chandler Blvd. Suite 212
Chandler, AZ 85225

19 S. Montgomery, R. Interpreter, J. Tomkus
20 Montgomery & Interpreter, Plc
21 3301 E. Thunderbird Road
Phoenix, AZ 85032

22 Salt River Valley Water Users Association,
23 Salt River Project Agricultural Improvement and Power District
24 John B. Weldon, Jr., Mark A. McGinnis, and Michael Foy
25 Salmon, Lewis & Weldon PLC
2850 E Camelback Rd, Ste. 200
Phoenix, AZ 85016

26 Sean Hood
27 Fennemore Craig, P.C.
28 2394 E Camelback Rd, St 600
Phoenix, AZ 85016-3429

1 Special Master Susan Ward Harris
2 Superior Court of Arizona
3 201 W. Jefferson Street
4 Courtroom 301
5 Phoenix, AZ 85003

6 U. S. Department of Justice
7 Patrick Barry and Emmi Blades
8 Environment and Natural Resources
9 P. O. Box 7611
10 Washington, D.C. 20044-7611

11 William Sullivan
12 Law Ofcs of William P. Sullivan P.L.L.C.
13 3240 East Union Hills Drive, Ste. 117
14 Phoenix, AZ 85050

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ATTACHMENT E

**CLERK OF THE COURT
SUPERIOR COURT OF ARIZONA**

Jeff Fine
Clerk

**MARICOPA COUNTY
Customer Service Center
601 West Jackson
Phoenix, AZ 85003**

602 372-4115
Water Case Clerk

CONSENT FOR ELECTRONIC RECEIPT OF WATER CASE DOCUMENTS

In an effort to provide more timely and cost effective distribution of copies of filed Water Case documents, the Clerk of the Superior Court would like implement electronic distribution via email. To do so, we require your consent to receive copies of documents electronically at an email address provided to our office.

This consent is voluntary and can be rescinded if you so choose. If you no longer wish to receive Water Case documents from the Clerk of Superior Court electronically, please send written notification to the Clerk of the Superior Court Water Case Specialist at the email address below requesting that all future records be sent in paper form.

Please note that if you consent to receive documents via email, you must notify the Clerk's Office of any change to your email address to avoid delay in receiving future filings. In the event there is no valid email address on file with the Clerk of the Superior Court Water Case Specialist, documents will be mailed to the address provided.

If you wish to consent to receive future documents via email, please either fill out the information below and mail to our office or provide the below information to Mayra.Antelo@Maricopa.Gov.

Preferred email address:

Alternate email address:

Physical address:

Phone number:

Firm Name:

Name [Printed]:

Signature:

Date:

Thank you,

Mayra Antelo
Clerk of the Superior Court
Water Case Specialist
(602) 372-5375 options 7,1,3,4