

1 RESPECTFULLY SUBMITTED this 29th day of May, 1991.

2 APKER, APKER, HAGGARD & KURTZ, P.C.

3
4 BY Jerry L. Haggard
5 Jerry L. Haggard
6 2111 East Highland, Suite 230
7 Phoenix, Arizona 85016
8 Attorneys for Phelps Dodge
9 Corporation

8 Copy of the Objections of
9 Phelps Dodge Corporation
10 to Silver Creek Final
11 Hydrographic Survey Report
12 mailed this 29th day of
13 May, 1991 to all parties on
14 the Court-Approved mailing
15 list:

13 Jerry L. Haggard

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

No. 6417

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- _____ - _____
(please insert no.)

OBJECTOR INFORMATION

Objector's Name: F. J. Menzer
Objector's Address: 4521 State Highway 666
Morenci, AZ 85540-9795
Objector's Telephone No.: (602) 865-4521, Ext. 267
Objector's Watershed File Report No. (if the Objector's claimed water rights are located within the Silver Creek Watershed):
033- 56 - ABC - 027
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.

Categories are listed with individual objections included herein.

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)

PLEASE DETACH CAREFULLY

6417-033- 0060

Objection No. 1, Category No. 11
Volume 1, Pages 19-20 (Continued)

extent to which the decisions control federal water law in all circumstances. For example, without further explanation, characterizing Arizona v. California as establishing the practicably irrigable acreage ("PIA") method of quantifying reserved rights can lead to the erroneous impression that PIA is the standard to be applied in all cases. Similarly, the characterization of Cappert v. United States as holding that "federal reserved rights can be protected from infringement by junior users of groundwater" over-simplifies the holding and implies that the stated principle would be applicable to all situations involving federal reserved rights (whatever they may be) and groundwater (whatever it may be).

6417-033- 0061

Objection No. 2, Category No. 11
Volume 1, Page 255, Paragraph 1

In reference to agreements with downstream water rights interests, Phelps Dodge in a letter dated September 14, 1989 provided to the Department, agreements with the Arizona Game and Fish Commission regarding Show Low Lake dated April 24, 1951, Supplemental Agreement dated August 18, 1955, and Supplemental Indenture dated October 11, 1963. Copies of these agreements were again provided in the Phelps Dodge comments on the preliminary HSR submitted in March 1990, as Attachments 2, 3 and 4. Attachment 5 of that package was a Phelps Dodge agreement with Show Low Irrigation Company dated March 20, 1954 regarding operation of the outlet works of Jaques Dam as may be necessary to release downstream the flows of Show Low Creek entering the reservoir whether consisting of normal flows or water released from upstream reservoirs.

Objection No. 2, Category No. 11
Volume 1, Page 255, Paragraph 1 (Continued)

Phelps Dodge objects to the statement that "... the criteria that define the rates of inflow and outflow, the applicable periods of year, and who has entered into the agreements are not known. Efforts by DWR to obtain complete information as to these agreements have not been successful to date."

It is Phelps Dodge's position that all pertinent agreements that control the operation of the reservoir and releases therefrom, have been provided. Phelps Dodge does not have any record of, nor do we recall having received, any subsequent inquiries from the DWR regarding the interpretation of these agreements. Phelps Dodge objects to being characterized as being uncooperative in this matter and is concerned regarding the department's apparent lack of analysis and investigation of the agreements provided.

6417-033- 0062
Objection No. 3, Category No. 11
Volume 1, Page 127

In the DWR's August 21, 1990 response (Comment #3) to Phelps Dodge's March 30, 1990 comments on the preliminary HSR, the department agreed that the last sentence on this page would be changed to make reference to industrial purposes. This change was not made.

6417-033- 0063
Objection No. 4, Category No. 11
Volume 1, Page 129

In the DWR's August 21, 1990 response (Comment #4) to Phelps Dodge's March 30, 1990 comments on the preliminary HSR, the department decided to

Objection No. 4, Category No. 11
Volume 1, Page 129 (Continued)

report the area and capacity of Show Low Lake as 186 acres and 6,176 acre feet, respectively. The capacity listed in Table 3-13 on this page should have been changed to 6,176 acre feet from 6,000 acre feet.

6417-033- 0064
Objection No. 5, Category No. 11
Volume 1, Page 251, Paragraph 3

In the DWR's August 21, 1990 response (Comment #6) to Phelps Dodge's March 30, 1990 comments on the preliminary HSR, the department agreed to use a 67,000 acre foot capacity for Horseshoe Reservoir. This change was not made.

6417-033- 0065
Objection No. 6, Category No. 11
Volume 1, Page 251

The dates in the third sentence of Paragraph 4 should be 1954 and 1989, rather than 1953 and 1987, to conform to the Table 4-1 reference.

6417-033- 0066

Objection No.	Objection Directed to Watershed File Report No.	Category No.	Objection	
				Reason
7	33-56-DAB-001	1,8,9	Phelps Dodge objects to Filing Nos. 39-0088150, 33-0094845, and 4A-000118 to the extent that diversions are removed from the primary Billy Creek channel and not returned to Billy Creek in the area of the fish hatchery facilities.	

6417-033- 0067

8	33-56-057	1,8,9	Phelps Dodge objects to Filing Nos. 39-0084116 and 39-0087216 to the extent that diversions are in excess of the valid rights and priorities associated with the diversions.	
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6417-033 0068

9	33-56-072	1,8,9	Phelps Dodge objects to Filing Nos. 39-0084116 and 39-0087216 to the extent that diversions are in excess of the valid rights and priorities associated with the diversions.	
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6417-033- 0069

10	33-56-074		As between Show Low Irrigation Company and Phelps Dodge Corporation, the rights of Phelps Dodge to store water in Show Low Reservoir are governed by a March 20, 1954 Agreement. By not objecting to any specific water uses by Show Low Irrigation Company, Phelps Dodge does not waive its rights under the agreement.	
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6417-033- 0070

11	33-56-ACAA-001	1,8,9	Phelps Dodge objects to Filing No. 39-0091644 to the extent that diversions are in excess of the valid rights and priorities associated with the diversions. Although DV001 is assigned an apparent first use date of 1891, the diversion point at 33-56-ADBB- 001-SR005 has an apparent first use date of 1953.	
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6417-033- 0071

Objection No.	Objection Directed to Watershed File Report No.	Category No.	Objection
			Reason
12	33-56-007	1,8,9	Phelps Dodge objects to Filing Nos. 39-0086831 and 39-0086832 to the extent that diversions are in excess of the valid rights and priorities associated with the diversions. Although DV001 is assigned an apparent first use date of 1907, the diversion point at 33-56-ACAD-002-SR001 has an apparent first use date of 1953.

6417-033- 0072

13	33-51-107	1,8,9	Phelps Dodge objects to Filing No. 39-0088816 to the extent that diversions are in excess of the valid rights and priorities associated with the diversions.
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1			Phelps Dodge objects to Filing No. 39-0081226 to the extent that 13,000.00 AFA are stored in Lone Pine Dam Reservoir with a priority of 1878. Phelps Dodge objects to Filing No. 39-088816 to the extent that 19,162.50 AFA are stored in Lone Pine Dam Reservoir and Schoens Lake with a priority of 1878. Although Lone Pine Dam Reservoir was constructed in 1936, it has not held water of this quantity and is under order by ADWR to leave the outlet works open at all times. Schoens Dam was constructed in 1986.
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6417-033- 0073

14	33-51-014	1,8,9	Phelps Dodge objects to Filing Nos. 39-0080957 and 39-0082168 to the extent that diversions are in excess of the valid rights and priorities associated with the diversions.
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6417-033-0074

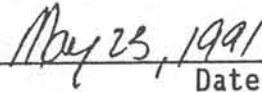
Objection No.	Objection Directed to Watershed File Report No.	Category No.	Objection	
				Reason
15	33-51-BAC-007	1	Phelps Dodge objects to Filing No. 39-0088816 to the extent that 19,162.50 AFA are stored in Schoens Lake with a priority of 1896. Schoens Dam was constructed in 1986.	

6417-033-0075

16	33-51-CAB-001	1	Phelps Dodge objects to Filing No. 39-0088816 to the extent that 19,162.50 AFA are stored in Lone Pine Dam Reservoir with a priority of 1896. Phelps Dodge objects to Filing No. 36-0081226 to the extent that 13,000.00 AFA are stored in Lone Pine Dam Reservoir with a priority of 1878. Although this reservoir was constructed in 1936, it has not held water of these quantities and is under order by ADWR to leave the outlet works open at all times.	
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 Signature



 Date

FOR: Phelps Dodge Corporation

APPENDIX A
PHELPS DODGE CORPORATION OBJECTIONS
SILVER CREEK HSR

<u>WFR #</u>	<u>Owner Name</u>	<u>Address</u>
33-56-DAB-001	Arizona Game & Fish Department	2222 W. Greenway Phoenix, AZ 85023
33-56-057	Woodland Irrigation Co.	Rt. 1 Box 860 Lakeside, AZ 85929
33-56-072	Pinetop-Woodland Irrigation Co.	P.O. Box 2727 Pinetop, AZ 85935
33-56-074	Show Low Irrigation Co.	51 S. White Mountain Rd. Show Low, AZ 85901
33-56-ACAA-001 33-51-CAB-001	Forest Service - Apache Sitgreaves	P.O. Box 640 Springerville, AZ 85938
33-56-007	Jack G. & V. Scott Peterson	P.O. Box 13 Lakeside, AZ 85929
33-51-107	Silver Creek Irrigation District	P.O. Box 127 Snowflake, AZ 85937
33-51-014	Gary & Elladene D. Feezor,	HC 32 Box 502 Show Low, AZ 85901
	Bert D. & Gertrude Solomon	HC 32 Box 503 Show Low, AZ 85901
33-51-BAC-007	Church of Jesus Christ - LDS c/o Real Estate Division	50 E. North Temple Salt Lake City, UT 84150

6417-033- 0678

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

APACHE CO. SUPERIOR COURT
FILED

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

No. 6417

NO. _____ DOCKETED

MAY 28 1991

AT 9 O'CLOCK A.M.
RICHARD D. LIPKE, CLERK
J.M. DEPUTY

COPY

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. 033-56-DAB -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

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.

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)
- X 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. Rubatz

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. Rubatz

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

(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:

Name: ARIZONA GAME & FISH DEPT.
Address: 2222 W. GREENWAY RD.
PHOENIX, AZ 85023

David C. Rubatz

(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.

ATTACHMENT 1

WFR CATEGORY 8 - PWR SUMMARY

The Salt River Project objects to DWR's characterization of this diversion as a "Potential Water Right." For purposes of administration, a Watershed File Report should be maintained for these diversions. Moreover, each diversion should be assigned a quantity, as well as the priority date or dates associated with downstream Potential Water Rights (PWRs) for which the diversion constitutes a source of supply. The Watershed File Report for a diversion should also list all PWRs, along with their applicable Watershed File Report Nos., served by the diversion. The diversion itself, however, is not a water right, and should not be so designated in the Hydrographic Survey Report. (This objection applies to: DV001.)

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: SR001 and SR002.)

* * * *

The Salt River Project objects to the failure of DWR to assign a quantity of use to this Potential Water Right (PWR). All water rights subject to the court's jurisdiction must be quantified in accordance with A.R.S. 45-257(B). This PWR is no exception. (This objection applies to: ID001.)

* * * *

WFR CATEGORY 9 - QUANTITIES OF USE (continued)

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: ID001.)

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
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This Objection is directed to Watershed File Report No.

033- 56 - DAB - 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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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.

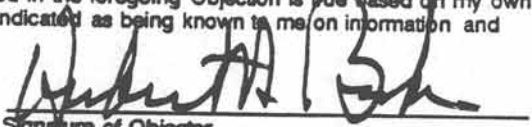

Signature of Objector

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 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:

03356DAB 001

ARIZONA GAME & FISH DEPT.
2222 W. GREENWAY RD.
PHOENIX AZ 85023


(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 #:

033-56-DAB-001

1. There is no documentation presented that the claimant has the right to divert water and develop appurtenant water delivery facilities on property he/she does not own.
2. The historical record does not substantiate the claimed priority date. The date should be amended to accurately reflect the date that water was first used beneficially.

Filings 33-0094845 and 4A-0001118 appear to be duplicate filings and should be so noted.

The quantities of water use requested in the Statement of Claimant filings conflict with the valid water right permits and certificates of record. Diversion DO1 does not supply SR1 or SR2.

3. There is no documentation that SR1 or SR2 are connected in any way to the operation of the Pinetop Fish Hatchery. These uses are, therefore, objected to.
4. Diversion S2 is not part of any use area associated with this claimant. Therefore, it should not be listed.

Use of water from Well 1 is challenged because it interferes with downstream federal Indian rights and is contrary to state and federal law. This facility should be identified as a discontinued use.

5. The diversion facilities were discontinued for decades and some are still defined by ADWR as being in a state of disrepair. This development should be identified as a discontinued use. There is no guarantee that the facility will be fully renovated or that a firm source of water supply is available.
6. The two small ponds (SR1, SR2) are not tied to any specific adjudication filing. There is no current use being made of these facilities. The ponds are not part of the fish hatchery operation. Therefore, no potential water right should be identified for these facilities.
8. The historical record does not substantiate the priority date assigned to this Watershed File Report by the Arizona Department of Water Resources. The date should be amended to accurately reflect the date that water was first used beneficially.

There were extended periods of discontinued use of both surface and ground water at the Pinetop Fish Hatchery. The facility, at present, is not operational. As such, 1930 is an invalid priority date. The new date should be tied to 33-0094845 (1989) contingent upon the facility being renovated and a firm source of water supply (surface and ground water) established.

WFR #:

033-56-DAB-001

SR1 and SR2 have no apparent use in relation to the fish hatchery. These water rights are invalid.

Well 1 is challenged because use of water from this facility interferes with downstream federal rights and is contrary to state and federal law.

9. Diversion capacity exceeds historic use. The extent of the water right should be tied to historic use levels. If expanded use is required because of renovation, then this incremental supply should be obtained by means of a new water right permit.

The small ponds should not be part of the potential water right as they are not a functional part of the fish hatchery. There is no apparent beneficial use for this facility.

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

COPY

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

No. 6417 APACHE CO. SUPERIOR COURT
FILED

NO. _____ DOCKETED

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

MAY 29 1991

AT _____ O'CLOCK 1:45 P.M.

RICHARD D. LUPKE, 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- 56 - DAB - 001
(please insert no.)

OBJECTOR INFORMATION

Objector's Name: Arizona Game & Fish Commission
Objector's Address: 2222 West Greenway Rd.
Phoenix, Arizona 85023
Objector's Telephone No.: (602) 942-3000
Objector's Watershed File Report No. (if the Objector's claimed water rights are located within the Silver Creek Watershed): 033- 56 - DAB - 001

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

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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
9

See attachment

10

See attachment

11

See attachment

I hereby make this Objection on this 23^d day of May, 1991

Arizona Game & Fish Commission

Duane L. Shroufe
Signature of Objector

Duane L. Shroufe, Secretary to the Commission

FOR: _____

(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.

Arizona Game & Fish Commission

Duane L. Shroufe
Signature of Objector

Duane L. Shroufe,

Secretary to the Commission

SUBSCRIBED AND SWORN to before me this 23^d day of May, 1991

Marcia E. Kettner
Notary Public for the State of Arizona

Residing at 2102 W. Camelback Rd., Phoenix

My commission expires March 3, 1995

(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 _____ day of _____, 199____, postage prepaid and addressed as follows:

Name: _____

Address: _____

(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.

A T T A C H M E N T
to
RECOMMENDED FORM
FOR OBJECTIONS TO THE
Hydrographic Survey Report for the
Silver Creek Watershed

(Pinetop Fish Hatchery)
(033- 56 - DAB - 001)

The reason for my objection is as follows:

CATEGORY
NUMBER

COMMENTS

9. APPLICABLE FILINGS AND DECREES Section; claim number 0088150 (Pinetop Springs), correct quantity should be 3,620 AFA
9. APPLICABLE FILINGS AND DECREES Section; claim number 0088151 (Pinetop Springs), correct quantity should be 104.83 AFA
10. EXPLANATION, USES AND RESERVOIRS Section ID1, change second sentence which begins as follows: "This use includes the hatchery. . . . Change sentence to read: "This use includes the hatchery building, four raceways and incubators in main hatchery building and three small off-channel ponds and one raceway used for fish rearing."
11. Other Objections - Narrative for Pinetop Fish Hatchery (WFR # 033-56-DAB-1), Volume I, page 272

The Game and Fish Department has conducted additional research regarding the history of Pinetop Fish Hatchery and request the following changes to the narrative:

A. Line 9 reads:

". . . constructed hatchery."

Please add the following after line 9:

There are four types of water uses that occur at fish hatcheries: first, actual fish propagation operations where fish eggs are hatched; second, fish growing or fingerling raising activities where small fish are grown to a catchable size prior to stocking lakes; third, fish holding which may be necessary for any number of reasons ranging from normal stocking transfers and transportation to emergency holding

due to some temporary problem at other hatcheries or fish holding ponds. The fourth type of use is research. Game and Fish has been active in research regarding a variety of fish including endangered species. The Pinetop Hatchery has been used for each of these purposes over the years, however, research has been the hatchery's most important objective. For example, the type of research conducted at Pinetop includes work with Grayling Trout and Apache Trout cultures.

B. Line 12 reads:

"A well was drilled in 1952 next to the main hatchery building to supplement flow from the Springs."

Please add this explanation after line 12:

The well did not produce sufficient water and was disconnected a few years thereafter. After 1955, neither the well nor the springs could provide sufficient flow to support the hatchery. During the sever drought years between 1956 and 1966, it appears that the hatchery operations were curtailed due to lack of water. In 1966, when the springs again provided sufficient water flow, all hatchery operations were resumed. Game and Fish stocking records indicate the hatchery was operating in the years 1966, 1968-71, 1974-6, 1980-3 and 1986 to the present.

C. Line 13 reads:

"In the 1960's due to unreliable water conditions, the collection and delivery system from Pinetop fell into disrepair, the well was disconnected, and fish production was discontinued."

Please amend to read as follows:

In the 1960's, due to the unreliable water conditions, the collection and delivery system fell into disrepair. The pipe that collects water from the spring and delivers it to the hatchery has two leaks. In each case, the water which leaks out of the pipe flows directly back into the spring. Neither of these leaks were serious enough to affect hatchery operations.

11. Continued: Other Objections - Narrative for Pinetop Fish Hatchery (WFR # 033-56-DAB-1), Volume I, page 274, lines 28-29

Under sub-heading "Water Supply System." Lines 28-29 read: "The hatchery water supply. . . . Second sentence from end of paragraph reads as follows: "The headbox also supplies water to two fingerling troughs located inside the hatchery building."

Please amend to read as follows: "The headbox also supplies water to four fingerling troughs, as well as incubators, located inside the hatchery building."

5938A.36

6417-033-03451

APACHE CO. SUPERIOR COURT
FILED

NO. _____ DOCKETED

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

MAY 29 1991

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

No. 6417

AT 3:55 O'CLOCK P.
RICHARD D. LUPKE, CLERK
SP DEPT

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- 56 - DAB - 001
(please insert no.)

OBJECTOR INFORMATION

Objector's Name: The Committee to Save Billy Creek
Objector's Address: c/o Claudia Watt, Secretary
P. O. Box 3088, Pinetop, AZ 85935

Objector's Telephone No.: (602) 367-6068

Objector's Watershed File Report No. (if the Objector's claimed water rights are located within the Silver Creek Watershed):
033- See attached list of objectors & file numbers.

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)

OBJECTOR INFORMATION

Objector's Name: Claudia Watt
Objector's Address: P.O. Box 3088
Pinetop, AZ 85935
Objector's Telephone No.: (602) 367-6068
Objector's Watershed File Report No. (if the Objector's claimed water rights are located within the Silver Creek Watershed):
Application No. 033-94852-

I hereby make this Objection on this 29 day of May, 1991.

Claudia Watt
Signature of Objector

FOR: _____
(If in a representative capacity)

STATE OF Arizona
COUNTY OF Navajo

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.

Claudia Watt
Signature of Objector

SUBSCRIBED AND SWORN to before me this 29 day of May, 1991

(SEAL)

Carol Sweeney
Notary Public for the State of Arizona
Residing at Pinetop
My commission expires Sept. 30, 1994

OBJECTOR INFORMATION

Objector's Name: Jefferson J. Larson
Objector's Address: 8215 E. Wilshire Dr.
Scottsdale, AZ 85257
Objector's Telephone No.: (602) 945-8085 or 367-4353

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

033- 56 - ACDA -012
Also 033-56-ACAC-063 (Under name of J. Donal Earl, trustholder)

I hereby make this Objection on this 29 day of May, 199 1.

[Signature]
Signature of Objector

FOR: _____
(If in a representative capacity)

STATE OF Arizona
COUNTY OF Navajo

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.

[Signature]
Signature of Objector

SUBSCRIBED AND SWORN to before me this 29 day of May, 199 1.

{SEAL}

Notary Public for the State of Arizona
Residing at Navajo
My commission expires Sept. 30, 1993

OBJECTOR INFORMATION

Objector's Name:

AK - PATRICIA STOECKLEIN

Objector's Address:

PO-212

PINETOP AZ 85935

Objector's Telephone No.:

(602) 367-4558

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

Application No. 033-94850

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

Patricia Stocklein
AK Stocklein
Signature of Objector

FOR: _____
(If in a representative capacity)

STATE OF Arizona
COUNTY OF Navajo

VERIFICATION
(Must be completed by Objector)

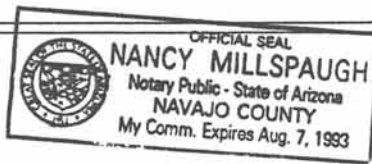
I declare under penalty of perjury that I am a claimant in this proceeding; that I have read the contents of the foregoing Objection and know the contents thereof; and that the information contained in the foregoing Objection is true based on my own personal knowledge, except for those portions of the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

Patricia Stocklein
AK Stocklein
Signature of Objector

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

(SEAL)

Nancy Millspaugh
Notary Public for the State of Arizona
Residing at Pinetop, Az
My commission expires _____



OBJECTOR INFORMATION

Objector's Name: F. DUANE WALKER
Objector's Address: P. O. BOX 1140
LAKESIDE, ARIZONA 85929
Objector's Telephone No.: (602) 368-6364
Objector's Watershed File Report No. (if the Objector's claimed water rights are located within the Silver Creek Watershed): application no. 033-94847.

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

F. Duane Walker
Signature of Objector

FOR: _____
(If in a representative capacity)

STATE OF ARIZONA
COUNTY OF NAVAJO

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.

F. Duane Walker
Signature of Objector

SUBSCRIBED AND SWORN to before me this 29 day of May, 1991.

(SEAL)

Notary Public for the State of ARIZONA
Residing at NAVAJO
My commission expires Sept. 30, 1993

This Objection is directed to Watershed File Report No:

033- 56 - DAB - 001
(Please insert no.)

OBJECTOR INFORMATION

Objector's Name:
Objector's Address:

KATHLEEN WATKINS
12427 N. 66th St.
Scottsdale Arizona 85254
(602) 948-5359

Objector's Telephone No.:

Objector's Watershed File Report No. (if the Objector's claimed water rights are located within the Silver Creek Watershed):
Application No. 033-94851-

I hereby make this Objection on this 29 day of May, 1991.

Signature of Objector

FOR: _____
(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.

Kathleen A. Watkins
Signature of Objector

SUBSCRIBED AND SWORN to before me this

29th day of May, 1991
Crystal J. Burns

Notary Public for the State of Arizona
Residing at 3980 E. McDowell Rd.
My commission expires My Commission Expires July 31, 1994



This Objection is directed to Watershed File Report No:

033- 56-DAB-001
(please insert no.)

OBJECTOR INFORMATION

Objector's Name:

DENNIS K. WATKINS

Objector's Address:

12427 N. 66TH ST

SCOTTSDALE, ARIZONA 85254

Objector's Telephone No.:

(602) 948-5359

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

Application No. 033-94851-

I hereby make this Objection on this 29 day of May, 1991.

Dennis K. Watkins
Signature of Objector

FOR: _____
(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.

Dennis K. Watkins
Signature of Objector



SUBSCRIBED AND SWORN to before me this 29 day of MAY, 1991.

Kathleen G. Watkins
Notary Public for the State of ARIZONA
Residing at 12427 N. 66th St. Scott. AZ
My commission expires My Commission Expires Oct. 7, 1992