6417-033-02982

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

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

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 - 007
(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)

[xx] 1. I object to the description of **Land Ownership**

[xx] 2. I object to the description of **Applicable Filings and Decrees**

[xx] 3. I object to the description of **DWR's Analysis of Filings and Decrees**

[xx] 4. I object to the description of the **Diversions** for the claimed water right(s)

[xx] 5. I object to the description of the **Uses** for the claimed water right(s)

[xx] 6. I object to the description of **Reservoirs** used for the claimed water right(s)

[xx] 7. I object to the description of **Shared Uses & Diversions** for the claimed water right(s)

[xx] 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 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.

{SEAL}

Notary Public for the State of New Mexico
Residing at Albuquerque
My commission expires 10/3/93

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:

03356 007

PETERSON, JACK G. and V. SCOTT
P.O. BOX 13
LAKESIDE AZ 85929

(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 #: 033-56-007

1. Jack G. and V.S. Peterson are making claims for water to be used on properties owned by others.

   The claimant has not provided sufficient information to indicate that they have the right to provide water to any of the privately owned lands indicated under their claimed place of use. There is no documentation that the claimant delivers water as part of any water company or irrigation district.

   There is no basis established that these claimants can file for storage water for a facility they do not own and which is not part of an official irrigation company or district.

2. There is an invalid legal foundation for this claim. ADWR recognizes no applicable pre-adjudication filings to support adjudication filings 39-86831 and 39-86832.

   Peterson Lake is on property owned by Kenneth Abrams. There is no valid water right permit of record to use this facility for irrigation purposes.

   Part of the use area is also within the service area claiming water from the Lakeside Irrigation Company.

   There is no distinct breakout between storage rights and direct flow rights relative to priority date, place of use and quantity of use.

   There are errors in types of use and quantity of water.

3. The Lakeside Irrigation Company adjudication filing 39-84141 overlaps with part of the service area for this claimant.

   Storage rights must be separated out from direct flow rights.

4. There is no legal basis established for the diversion and water delivery systems to be shared among the several users. Filing 39-86831 does not show Peterson Tank as a point of diversion. Therefore, there is no legal means of getting water into the conveyance system.

   Source of water is not defined in sufficient detail.

5. There is no detailed legal description of the claimed service areas so that a comparison can be made with the actual use areas. Actual use acreage is considerably less than the claimed acreage totals.

   There is no distinction made as to what lands are served from direct flow or storage or both.

6. There is a 1400 AF storage right made for a small reservoir/stockpond called Peterson Tank. Claim is invalid.

7. There is no legal basis presented that this claimant can act as an irrigation company or district and deliver water to the private landowners.

8. No applicable pre-adjudication filings are identified by ADWR. Therefore, the claim has no legal foundation. Since part of the service area claimed by the Lakeside Irrigation Company overlaps with this service area, there are duplicate claims.

   There is no distinction between water rights or direct flow rights.

6417-033-02202

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

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

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- 007
(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**
[XX] 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 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

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

Lucinda E Hill

{SEAL}

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

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:

03356 007

Name: PETERSON, JACK G. and V. SCOTT
Address: P.O. BOX 13
LAKESIDE AZ 85929

(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.**

2. The claimant for this stockpond (39-86832) failed to register the stockpond under the terms set forth in the Arizona Stockpond Registration Act (1977). Further, the claimant failed to file for use of surface water as mandated by the Arizona Surface Water Act (1974). Thus, the claimant has not complied with the legally enacted procedures for registering this stockpond, therefore the potential water right should be denied.

6417-033- 0653

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 WATER IN THE LITTLE COLORADO RIVER SYSTEM AND SOURCE

No. 6417

APACHE CO. SUPERIOR COURT
FILED
NO. _____ DOCKETED ☑

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

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-____-007
(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. 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.

OFFICIAL SEAL
TERRY R. HOLMES
Notary Public — State of Arizona
MARICOPA COUNTY
My Comm. Expires Sept. 24, 1992

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: PETERSON, JACK G.
Address: P.O. BOX 13
LAKESIDE, AZ 85929

David C. Roberts
(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 calculation of the maximum demand rate for this Potential Water Right (PWR) Diversion. DWR's method of calculating maximum demand rate relies upon principles which are inconsistent with Arizona law and, further, are technically inaccurate. The quantity associated with a diversion should be the capacity of the diversion facility or facilities, unless historic diversions indicate a different amount.

For an additional discussion of the problems with DWR's methods for quantification of Diversion PWRs, see the Salt River Project's Volume 1 objections on this issue, a copy of which is attached and incorporated herein by reference. (This objection applies to: DV001.)

Pasture Peak Use
p. A-5, lines 30-31; p. A-7, Fig. A-1; p. A-8, Fig. A-2

The Salt River Project objects to DWR's reporting of pasture peak use that exceeds corn peak use. Corn peak use should be higher than pasture since it is taller and has a crop coefficient (kc) that is higher than that of pasture at peak use.

Effective Precipitation
p. A-9, lines 1-31

The Salt River Project objects to DWR's failure to report how it estimates effective precipitation during the non-growing season. The Salt River Project also objects to the use of a 3-inch rather than 4-inch depth of irrigation water application in its estimation of growing season effective precipitation for alfalfa. Furthermore, the Salt River Project objects to DWR's use of a 50 percent probability of precipitation, which results in an inadequate supply in one-half of the years. A 50 percent probability indicates that average effective precipitation is subtracted from crop consumptive use when DWR calculates the irrigation requirement. This means that in years of below-average precipitation, irrigation users would be unable to replace the lack of precipitation with additional irrigation water. The amount of precipitation that is available 80 percent of the time for field crops and 90 percent of the time for orchards and vegetables is appropriate.

Efficiency Estimates
pp. A-10 through A-13; pp. A-31 through A-65

The Salt River Project objects to DWR's estimates of efficiencies for water uses served by irrigation districts and major surface water diverters where average rates of diversion from a few measurements are used to calculate total deliveries and no consideration is given to supplemental supplies obtained by individual users. The Salt River Project also objects to the failure of DWR to include conveyance losses where appropriate in efficiency estimates in the "second procedure," which employs categories of systems.

EXCERPT FROM
SALT RIVER PROJECT OBJECTIONS TO
VOLUME 1 OF THE SILVER CREEK HSR

MAXIMUM DEMAND ESTIMATES

(page numbers refer to Volume 1)

Maximum Demand Rate
pp. A-25 through A-28

The Salt River Project objects to DWR's estimation method and results for maximum demand rates for diversions. Since these rates are based upon estimates of irrigation demand and efficiency, they are inaccurate as a result of the technical errors set forth below. The Salt River Project also objects to DWR's method since it relies upon principles that are inconsistent with Arizona law. A.R.S. § 45-141.(B) provides that "[b]eneficial use shall be the basis, measure, and limit to the use of water." Consistent with this legal standard, diversion rates should be based on actual maximum historic diversions or diversion capacity rather than estimates based upon averages.

Relative Humidity
p. A-4, lines 23-25

The Salt River Project objects to DWR's failure to specify whether it used minimum relative humidity as specified in Food and Agricultural Organization (FAO) Paper 24. The Salt River Project also objects to DWR's use of relative humidity from Winslow when data for the Show Low, Snowflake and Snowflake 15W weather stations can be converted to mean minimum relative humidity through the use of the 6AM and 6PM estimates adjusted with the assistance of "Useful Arizona Climatic Graphs and Data, Series #7."

Wind
p. A-4, lines 26-32

The Salt River Project object's to DWR's use of wind travel data at a height of 2 feet (Snowflake #15) and windspeed data at a height of 10 meters (Winslow) without converting to a 2 meter height as required by FAO Paper 24.[1]

Evapotranspiration for Pine Trees
p. A-6, Table A-2; p. A-10, Table A-4

The Salt River Project objects to DWR's reporting of inexplicably high evapotranspiration (consumptive use) values for pine trees as compared to all other crops. DWR has reported Christmas tree or pine tree consumptive use in its various management plans for Active Management Areas at about one-half of the value shown in Table A-2.

---

[1]The wind travel data for Snowflake can be adjusted by use of the formula:

$$WT_2 = WR_{.61}(2/0.61)^{.2} = 1.27\ WT_{.61}$$

The windspeed data for Winslow can be adjusted by use of the formula:

$$W_2 = W_{10}(2/10)^{.2} = 0.72\ W_{10}$$

6417-033- 0071

APACHE CO. SUPERIOR COURT
FILED
NO. _____ DOCKETED BY
MAY 29 1991
_____ O'CLOCK _____
RICHARD D. LUPIKE, CLERK
_____ DEPUTY

LAW OFFICES OF
APKER, APKER, HAGGARD & KURTZ, P.C.
A PROFESSIONAL CORPORATION
PARK ONE
2111 EAST HIGHLAND AVENUE, SUITE 230
PHOENIX, ARIZONA 85016
AREA CODE 602 TELEPHONE 381-0085

Jerry L. Haggard #002667

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 OBJECTIONS OF PHELPS DODGE CORPORATION TO SILVER CREEK FINAL HYDROGRAPHIC SURVEY REPORT

Descriptive Summary: Objections of Phelps Dodge Corporation to Silver Creek Final Hydrographic Survey Report.

Statement of Claimant Nos.: 39-84534 through 39-84542.

Number of Pages: 9

Date of Filing: May 29, 1991

Phelps Dodge Corporation hereby submits its attached Objections to the Silver Creek Final Hydrographic Survey Report.

. . .

. . .

. . .

. . .

. . .

. . .

. . .

RESPECTFULLY SUBMITTED this 29th day of May, 1991.

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

By _____
Jerry L. Haggard
2111 East Highland, Suite 230
Phoenix, Arizona 85016
Attorneys for Phelps Dodge Corporation

Copy of the Objections of Phelps Dodge Corporation to Silver Creek Final Hydrographic Survey Report mailed this 29th day of May, 1991 to all parties on the Court-Approved mailing list:

_____

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

6417-033- 0071
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-_____

(PLEASE DETACH CAREFULLY)

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)

Categories are listed with individual objections included herein.

- ☐ 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 above; please attach supporting information and additional pages as necessary):

CATEGORY NUMBER	
11	Objection No. 1
	Volume 1, Pages 19-20
	Phelps Dodge objects that the characterization of the holdings in the
	federal water cases are included. It is appropriate to list the citations
	of the cases as some of those on which federal water law is based. However,
	characterizing the holdings can lead to erroneous impressions as to the

I hereby make this Objection on this 23rd day of May ,199 1 .

Signature and Date on Page 8 of Comments
Signature of Objector

FOR: Phelps Dodge Corporation
(If in a representative capacity)

STATE OF ARIZONA
COUNTY OF GREENLEE

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.

J Meyer for Phelps Dodge
Signature of Objector

SUBSCRIBED AND SWORN to before me this 23rd day of May ,199 1 .

Linda M. Stacy
Notary Public for the State of Arizona
Residing at 128 Sunflower, Morenci, AZ
My commission expires March 16, 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 23rd day of May ,199 1 , postage prepaid and addressed as follows:

Name: Please see Appendix A attached hereto
Address:

J Meyer
(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.**

APPENDIX A

PHELPS DODGE CORPORATION OBJECTIONS
SILVER CREEK HSR

WFR #	Owner Name	Address
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

Objection No.	Objection Directed to Watershed File Report No.	Objection 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.
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.

Signature

May 23, 1991
Date

FOR: Phelps Dodge Corporation

WFR:lms

Objection No.	Objection Directed to Watershed File Report No.	Objection 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.
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.
		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.
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.

Objection No.	Objection Directed to Watershed File Report No.	Objection 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.
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.
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.
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.
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.

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.

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.

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.

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.

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.

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. 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).

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.