

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 (Salt)

W-2 (Verde)

W-3 (Upper Gila)

W-4 (San Pedro)

(Consolidated)

Contested Case No. **W1-106**

ORDER

CONTESTED CASE NAME: *In re Subflow Technical Report, Verde River Watershed*

HSR INVOLVED: None

DESCRIPTIVE SUMMARY: Order clarifying the Special Master's September 27, 2023, Order.

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The Court has reviewed and considered the United States' *Motion for Clarification*, dated October 12, 2023, as well as relevant portions of the record. The United States seeks clarification regarding the Special Water Master's September 27, 2023 *Order Granting Freeport Mineral Corporation's Motion for Summary Judgment On A Portion of The United States' Federal Reserved Water Claims and Vacating Oral Argument*.

Specifically, the United States asks the Court to clarify whether the Special Water Master's *Order* is the type of final order contemplated by Rule 53(f), Ariz.R.Civ.P.,

thereby triggering the United States' obligation to timely file objections to the *Order*.

The Court determines that it is not.

On September 27, 2023, Special Water Master Zendri issued an order granting Freeport Mineral Corporation's *Motion for Summary Judgement on a Portion of the United States Federal Reserved Water Claims* ("Order"). The *Order* contained the following factual and procedural findings for purposes of adjudicating the Freeport's *Motion*:

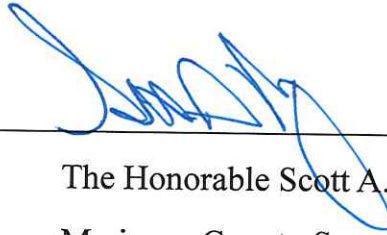
- 1) The United States claims federal reserved water rights within five (5) "Wilderness Areas" within the Verde River watershed.
- 2) The Statements of Claimants ("SOCs") claiming the reserved water rights for these Wilderness Areas were filed February 23, 2023.
- 3) The United States SOC included the language, "The United States claims as a matter of law, all of the unappropriated flow within the [specific] Wilderness Area, with a priority date of March 6, 1972."
- 4) Each SOC also seeks to quantify the relevant water right by an alternative standard, "enough water to 'maintain the wilderness character' of the wilderness areas."
- 5) United States' SOC are not being dismissed. The Order does not limit the quantity of the reserved water rights at issue.
- 6) The Order only determines the evidentiary showing that the United States must make to obtain those rights.
- 7) When the final Verde River Watershed Hydrographic Survey Report is filed by the Arizona Department of Water Resources, the United States' SOC in the alternative will be available for full adjudication.

As the United States correctly points out in its *Motion*, and for all the reasons stated therein, the Special Water Master's *Order* is not a final order as contemplated by Rule 53(f). The United States was not obligated to file timely objections to the *Order*.

IT IS ORDERED granting the United States' *Motion for Clarification* and clarifying that the Special Water Master's *Order* is not a final, substantive order or report

under Ariz.R.Civ.P. 53(f). Thus, no objections are required to be filed.

IT IS FURTHER ORDERED dismissing as moot the United States' *Objections to the Order of the Special Master*, filed October 12, 2023. This dismissal is without prejudice to the United States filing objections at the appropriate time.



The Honorable Scott A. Blaney
Maricopa County Superior Court