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10 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
11 **IN AND FOR THE COUNTY OF MARICOPA**
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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. W1-103

**ARIZONA DEPARTMENT OF WATER
RESOURCES' REQUEST FOR
CONTINUANCE**

Special Master Susan Ward Harris

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

DESCRIPTIVE SUMMARY: The Arizona Department of Water Resources ("ADWR") requests a continuance of the Scheduling Conference currently set for June 17, 2022.

NUMBER OF PAGES: Four

DATE OF FILING: April 21, 2022

1 On March 11, 2022, Freeport Minerals Corporation, Arizona Public Service
2 Company, and BHP Copper Inc. (collectively, “Requestors”) filed a Request asking the
3 Court to set a hearing to establish a schedule for ADWR to issue its final report on its
4 MODFLOW model that will be used for subflow depletion testing.¹ The court issued an
5 Order on March 22, 2022 setting a Scheduling Conference on June 17, 2022 during which
6 ADWR would be expected to update the Court and parties on the status of the model
7 development, a projected completion date, and other technical information. ADWR
8 hereby requests a continuance of the June 17, 2022 conference until October 2022.

9 In 2019, ADWR originally projected that the model work would take a *minimum* of
10 three years to accomplish.² Since June 2019, there have been a number of complications
11 that have significantly affected ADWR’s ability to develop the MODFLOW model,
12 including the COVID-19 pandemic. Additionally, five of the six hydrologists who were
13 assigned to work on this project have left employment with ADWR within the last 6 to
14 twelve months. While ADWR has been able to fill a few of those vacancies, the new staff
15 has only recently been getting up to speed on the work that was previously done on the
16 model. ADWR will not have a projected timeline for completion of the model work until
17 the current staff gets a better understanding of where the former staff left off with the
18 project.

19 One of the concerns raised by the Requestors is what they characterize as ADWR’s
20 “intent to reduce the number of model layers in the MODFLOW model to represent the
21 different hydrogeologic layers within the aquifer” and intent to “simplify the model down
22 to only three layers to represent eight different hydrogeologic units.”³ However, as
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24 ¹ Request for Scheduling Conference Concerning Completion of the Subflow Depletion
25 Test filed March 11, 2022.

26 ² Arizona Department of Water Resources’ Meeting Report filed June 27, 2019 at 4.

³ Request, *supra* note 1, at 3.

1 ADWR witnesses explained during the evidentiary hearing on February 22 and 23, 2021,
2 ADWR is building its own MODFLOW model from scratch with ADWR's own
3 preliminary geology for the Upper San Pedro River Basin, not removing data and layers
4 from the existing United States Geologic Survey (USGS) MODFLOW model for that
5 area.⁴ ADWR was unable to use the existing USGS model (which consists of five model
6 layers) because the USGS model does not cover the entire area that ADWR is modeling.⁵
7 Further, the five geologic layers in the USGS model do not exist everywhere throughout
8 the basin, and the parties, including the parties who filed the Request, have previously
9 agreed that there should be continuous geologic layers across the entire basin.⁶ ADWR
10 staff also testified that it is possible that ADWR may find that it makes scientific sense to
11 add additional layers to the model in the future, but that adding layers does not necessarily
12 make a better model.⁷ It appears that the Requestors are asking the Court to compel
13 ADWR to add additional model layers before ADWR has determined whether it makes
14 scientific sense to do so. ADWR would appreciate being permitted to continue
15 developing the model based on existing data and scientific principles before the parties
16 attempt to preempt ADWR's work in a manner that suits a particular party's interests.

17 ADWR hereby requests a continuance of the June 17, 2022 conference until
18 October 2022, at which time ADWR staff will be in a better position to provide a status
19 update and projected timeline for completion of its modeling work.
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24 ⁴ Hearing Tr. at 19:18- 27:16 (Feb. 22, 2021).

25 ⁵ Hearing Tr. at 26:22- 26:23 (Feb. 22, 2021).

26 ⁶ Hearing Tr. at 26:23- 27:2 (Feb. 22, 2021); *See also*, Meeting Report, *supra* note 2, at 4.

⁷ Hearing Tr. at 27:3- 27:16 (Feb. 22, 2021).

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RESPECTFULLY SUBMITTED this 21st day of April, 2022.

ARIZONA DEPARTMENT OF WATER
RESOURCES



Kimberly R. Parks, Deputy Counsel

ORIGINAL of the foregoing sent by
first-class mail on April 21, 2022, to:

Clerk of the Maricopa Superior Court
Attn: Water Case
601 W. Jackson Street
Phoenix, Arizona 85003

COPIES of the foregoing sent by
first-class mail on April 21, 2022, to:

Special Master Susan Ward-Harris
Maricopa County Superior Court
Central Court Building
201 West Jefferson Street, Suite 3A
Phoenix, AZ 85003-2205

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No. W1-103.


