

MARICOPA COUNTY CLERK OF SUPERIOR COURT

W1-103

In re Subflow Technical Report, San Pedro River Watershed

Doc. No File Date Document Description

001 02-24-2003 ORDER SETTING CONFERENCE

SUMMARY: The Special Master will hold a conference on April 10, 2003, to determine the scope of the Special Master's report to the Superior Court and the procedures to resolve the issues presented by the Arizona Department of Water Resources' Subflow Technical Report, San Pedro River Watershed, and the responses and objections filed by claimants.

CLAIMANT NO: None Given

PAGES: 7

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In re Subflow Technical Report, San Pedro River Watershed

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002	04-08-2003	JOINT APPLICATION FOR ORDER APPROVING WITHDRAWAL OF COUNSEL AND APPROVING SUCCESSOR COUNSEL <u>SUMMARY</u> : Joint application by the law firms of Snell & Wilmer, L.L.P., and Bryan Cave, L.L.P. and DeConcini McDonald Yetwin & Lacy, P.C., for approval of the withdrawal of Snell & Wilmer, L.L.P., as counsel for BHP Copper Inc. and for approval of Bryan Cave, L.L.P., and DeConcini McDonald Yetwin & Lacy, P.C., as successor counsel. <u>CLAIMANT NO</u> : 39-11-0003142, et al. <u>PAGES</u> : 6
003	04-17-2003	MINUTE ENTRY <u>SUMMARY</u> : On April 10, 2003, the court has reviewed all reports and pleadings and presents the following procedure for consideration by all the parties: 1) Need, if any, for oral argument on responses and objections to the Report. 2) Use of rebuttal declarations from expert witnesses. 3) Cross-examination of the reports. 4) Briefing of the legal issues. Future hearings would be held in a larger courtroom at Central Court Building. The Court stated the report that will be sent to Judge Ballinger would cover subflow, the cone depression test, and <i>de minimis</i> issues. The Court will identify the issues, a briefing schedule will be set and a formal order will be sent out. <u>CLAIMANT NO</u> : Not Applicable <u>PAGES</u> : 5
004	04-25-2003	ORDER <u>SUMMARY</u> : The Special Master sets a briefing schedule for legal issues and schedules a hearing on October 21 and 22, 2003, for the cross-examination of witnesses who have made sworn declarations. <u>CLAIMANT NO</u> : None Given <u>PAGES</u> : 9
005	05-05-2003	ORDER APPROVING REQUEST TO A WITHDRAW AS COUNSEL AND APPROVING SUCCESSOR COUNSEL <u>SUMMARY</u> : IT IS HEREBY ORDERED that the law firm of Snell & Wilmer, L.L.P., be and hereby is authorized to withdraw as counsel of record of BHP Copper Inc. (fkn Magma Copper Company) in these proceedings. IT IS FURTHER ORDERED that the law firms of Bryan Cave, L.L.P, and Deconcini, McDonald, Yetwin & Lacy, P.C., be and hereby is authorized to appear as counsel of record for BHP Copper Inc. and the the law firms Court-approved mailing list in this matter. <u>CLAIMANT NO</u> : None given <u>PAGES</u> : 2
006	06-06-2003	BELLA VISTA WATER CO., INC. AND PUEBLO DEL SOL WATER CO. BRIEF OF LEGAL ISSUES IDENTIFIED BY THE SPECIAL MASTER IN HIS MINUTE ENTRY DATED APRIL 25, 2003. <u>SUMMARY</u> : Bella Vista Water Co., Inc. and Pueblo Del Sol Water Co., file their Brief on the issues listed by the Special Master in the Minute Entry dated April 25, 2003. <u>CLAIMANT NO</u> : 39-11-2739, et al. <u>PAGES</u> : 11

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007	06-06-2003	<p>CITIES' BRIEF RE: SHOULD AWDR'S SUBFLOW ANALYSIS CONSIDER PREDEVELOPMENT OR CURRENT STREAM CONDITIONS?</p> <p><u>SUMMARY:</u> The Cities of Chandler, Glendale, Mesa and Scottsdale ("Cities") submit their brief regarding whether the Arizona Department of Water Resources ("ADWR") subflow analysis should consider predevelopment of current stream conditions.</p> <p><u>CLAIMANT NO:</u> 39-L8-37521, et al.</p> <p><u>PAGES:</u> 7</p>
008	06-06-2003	<p>BHP COPPER INC.'S BRIEF RE: LEGAL ISSUES IDENTIFIED IN SPECIAL MASTER'S ORDER OF APRIL 25, 2003</p> <p><u>SUMMARY:</u> BHP Copper Inc. submits its briefing on certain legal issues identified in the Order of the Special master dated April 25, 2003.</p> <p><u>CLAIMANT NO:</u> 39-11-0003142, et al.</p> <p><u>PAGES:</u> 8</p>
009	06-06-2003	<p>ASARCO INCORPORATED'S, ARIZONA WATER COMPANY'S, AND TUCSON ELECTRIC POWER COMPANY'S SUPPLEMENTAL BRIEF ON SUBFLOW-RELATED ISSUES DESIGNATED BY THE SPECIAL MASTER</p> <p><u>SUMMARY:</u> ASARCO Incorporated, Arizona Water Company, and Tucson Electric Power Company submit their supplemental brief on subflow-related issues designated by the Special Master in his Order Setting Briefing Schedule and Hearing (April 25, 2003).</p> <p><u>CLAIMANT NO:</u> 39-U8-62699, et al.</p> <p><u>PAGES:</u> 4</p>
010	06-06-2003	<p>NOTICE OF INTENT TO PARTICIPATE IN SUBFLOW PROCEEDINGS AND JOINDER IN OBJECTIONS AND SUPPLEMENTAL BRIEF FILED BY ARIZONA PUBLIC SERVICE COMPANY AND PHELPS DODGE CORPORATION</p> <p><u>SUMMARY:</u> Roosevelt Water Conservation District files its Notice of Intent to Participate in Subflow Proceedings and Joinder in Objections and Supplemental Brief filed by Arizona Public Service Company and Phelps Dodge Corporation.</p> <p><u>CLAIMANT NO:</u> 39-3421, et al.</p> <p><u>PAGES:</u> 3</p>
011	06-06-2003	<p>ARIZONA PUBLIC SERVICE COMPANY'S AND PHELP'S DODGE CORPORATION'S SUPPLEMENTAL BRIEF ON SUBFLOW LEGAL ISSUES</p> <p><u>SUMMARY:</u> Arizona Public Service Company and Phelps Dodge Corporation submit a supplemental brief addressing two legal issues identified by the Special Master in his April 25, 2003 Order: (1) whether ADWR should report the cumulative effect of wells or a group of wells and (2) whether ADWR's findings should be reported in case-by-case supplemental HSRs or in a comprehensive supplemental San Pedro River Watershed HSR.</p> <p><u>CLAIMANT NO:</u> 39-34900, et al.</p> <p><u>PAGES:</u> 11</p>
012	06-06-2003	<p>APACHE TRIBES' MEMORANDUM ADDRESSING LEGAL ISSUES RE SUBFLOW TECHNICAL REPORT, SAN PEDRO RIVER WATERSHED</p> <p><u>SUMMARY:</u> Apache Tribes' Memorandum Addressing Legal Issues re Subflow Technical Report, san Pedro River Watershed.</p> <p><u>CLAIMANT NO:</u> 39-07-12676, et al.</p> <p><u>PAGES:</u> 28</p>

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013	06-06-2003	SALT RIVER PROJECT'S OPENING BRIEF ON LEGAL ISSUES <u>SUMMARY</u> : The Salt River Project submits its opening brief on legal issues associated with the implementation of the court decisions on "subflow." <u>CLAIMANT NO</u> : 39-07-1040, et al. <u>PAGES</u> : 15
014	06-06-2003	COMMENTS TO QUESTIONS RAISED BY THE SPECIAL MASTER IN ORDER DATED APRIL 25, 2003 <u>SUMMARY</u> : The City of Safford, Paloma Irrigation and Drainage District, Rio Rico Properties, Inc., and Valory Strausser submit comments to questions raised by the Special Master in Order dated April 25, 2003. <u>CLAIMANT NO</u> : 39-U8-63161, et al. <u>PAGES</u> : 9
015	06-12-2003	UNITED STATES' MEMORANDUM ON LEGAL ISSUES RELATED TO ADWR'S SUBFLOW TECHNICAL REPORT <u>SUMMARY</u> : This is the United States' response to the legal issues presented by the Special Master in an Order dated April 25, 2003. <u>CLAIMANT NO</u> : None Given <u>PAGES</u> : 9
016	06-06-2003	GILA RIVER INDIAN COMMUNITY'S OPENING MEMORANDUM ON LEGAL ISSUES: IN RE SUBFLOW TECHNICAL REPORT, SAN PEDRO RIVER WATERSHED <u>SUMMARY</u> : The Gila River Indian Community submits its Opening Memorandum on Legal Issues: In Re Subflow Technical Report, San Pedro River Watershed. <u>CLAIMANT NO</u> : 39-11-54-78, et al. <u>PAGES</u> : 26
017	06-24-2003	UNITED STATES' REQUEST FOR CLARIFICATION RE: DISCOVERY <u>SUMMARY</u> : The United States seeks clarification of the Special Master's April 25, 2003, Scheduling Order ("Scheduling Order"). The United States requests a determination by the Special Mater that additional discovery, other than the disclosure of Expert Witness Reports and their rebuttal reports, is not permitted. <u>CLAIMANT NO</u> : None Given <u>PAGES</u> : 5
018	06-26-2003	BHP COPPER INC.'S EXPERT DECLARATION PURSUANT TO SPECIAL MASTER'S ORDER OF APRIL 25, 2003. <u>SUMMARY</u> : BHP Copper Inc. submits its expert's declaration addressing matters identified in the Order of the Special master dated April 25, 2003. <u>CLAIMANT NO</u> : 39-11-0003142, et al. <u>PAGES</u> : 34
019	06-27-2003	CONSOLIDATED CONTESTED CASE W1-103 (In re Subflow Technical Report, San Pedro River Watershed) HSR Involved None <u>SUMMARY</u> : Notice of Bella Vista Water Co., Inc. and Pueblo Del Sol Water Co., Filing of Rebuttal Declaration of Michael J. Lacey. <u>CLAIMANT NO</u> : 39-11-2739, et al. <u>PAGES</u> : 2

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020	06-27-2003	CONSOLIDATED CONTESTED CASE W1-103 (In re Subflow Technical Report, San Pedro River Watershed) HSR Involved None <u>SUMMARY:</u> Rebuttal Declaration of Michael j. Lacey <u>CLAIMANT NO:</u> 39-11-2739, et al. <u>PAGES:</u> 4
021	06-30-2003	UNITED STATES' NOTICE OF FILING REBUTTAL DECLARATION RE SUBLFLOW <u>SUMMARY:</u> This is the United States' notice of filing of the rebuttal declaration of Oliver S. Pages regarding issues of subflow pursuant to the Special Master's Order dated April 25, 2003. <u>CLAIMANT NO:</u> None Given <u>PAGES:</u> 2
022	06-27-2003	GILA RIVER INDIAN COMMUNITY'S NOTICE OF FILING EXPERT WITNESS REBUTTAL REPORTS, UNDER SEAL, OF T. ALLEN J. GOOKIN, P.E., R.L.S., R.H., AND PETER A. MOCK, PH.D., R.G. PERTAINING TO THE ISSUES DEALING WITH SUBFLOW AND CONES OF DEPRESSION <u>SUMMARY:</u> The Gila River Indian Community hereby gives notice that it has submitted expert witness rebuttal reports, under seal, authored by T. Allen J. Gookin, P.E., R.L.S., R.H., and Peter A. Mock, Ph.D., and R.G., pertaining to the issues dealing with subflow and cones of depression. <u>CLAIMANT NO:</u> 39-11-54-78, et al. <u>PAGES:</u> 2
023	06-27-2003	ARIZONA PUBLIC SERVICE COMPANY'S AND PHELPS DODGE CORPORATION'S NOTICE OF FILING EXPERT REBUTTAL REPORT <u>SUMMARY:</u> Arizona Public Service Company and Phelps Dodge Corporation submit their Expert Rebuttal Report. <u>CLAIMANT NO:</u> 39-34900, et al. <u>PAGES:</u> 2; Attachments: 35
024	06-27-2003	CITIES' REBUTTAL DECLARATION <u>SUMMARY:</u> The Cities of Chandler, Glendale, Mesa and Scottsdale ("Cities") submit the Rebuttal Declaration of their expert Doug Toy, P.E. <u>CLAIMANT NO:</u> 39-L8-37521, et al. <u>PAGES:</u> 5
025	06-27-2003	SALT RIVER PROJECT'S SUBMITTAL OF REBUTTAL EXPERT AFFIDAVIT <u>SUMMARY:</u> The Salt River Project provides notice of and submits the rebuttal affidavit of its expert, Jon Ford, regarding issues associated with the implementation of the court decisions on "subflow". <u>CLAIMANT NO:</u> 39-07-1040, et al. <u>PAGES:</u> 2; Attachments: 26
026	07-06-2003	SALT RIVER PROJECT'S JOINDER IN UNITED STATES' REQUEST FOR CLARIFICATION RE: DISCOVERY <u>SUMMARY:</u> The Salt River Project joins in the United States' June 20, 2003 request for clarification regarding the applicable rules and guidelines, if any, for discovery in this matter. <u>CLAIMANT NO:</u> 39-07-1040, et al. <u>PAGES:</u> 5

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027	07-10-2003	GILA RIVER INDIAN COMMUNITY'S STATEMENT OF SUPPORT FOR THE UNITED STATES' REQUEST FOR CLARIFICATION RE: DISCOVERY <u>SUMMARY:</u> The Gila River Indian Community submits its Statement of Support for the United States' Request for Clarification re: Discovery. <u>CLAIMANT NO:</u> 39-11-54-78, et al. <u>PAGES:</u> 3
028	07-14-2003	APACHE TRIBES' JOINDER IN UNITED STATES AND SALT RIVER PROJECT'S REQUEST FOR CLARIFICATION RE: DISCOVERY <u>SUMMARY:</u> Apache Tribes' Joinder in United States and Salt River Project's Request for Clarification Re: Discovery <u>CLAIMANT NO:</u> 39-07-12676, et al. <u>PAGES:</u> 2
029	07-16-2003	ASARCO INCORPORATED'S RESPONSE TO SUPPLEMENTAL MEMORANDA ON SUBFLOW-RELATED ISSUES DESIGNATED BY THE SPECIAL MASTER <u>SUMMARY:</u> ASARCO Incorporated responds to the supplemental memoranda on subflow-related issues designated by the Special Master in his Order Setting Briefing Schedule and Hearing (April 25, 2003). <u>CLAIMANT NO:</u> 39-U8-62699, et al. <u>PAGES:</u> 81
030	07-16-2003	SALT RIVER PROJECT'S RESPONSIVE BRIEF ON LEGAL ISSUES <u>SUMMARY:</u> The Salt River Project submits its responsive brief on legal issues associated with the implementation of the court decisions on "subflow." <u>CLAIMANT NO:</u> 39-07-1040, et al. <u>PAGES:</u> 13
031	07-16-2003	ARIZONA PUBLIC SERVICE COMPANY'S AND PHELPS DODGE CORPORATION'S RESPONSE TO SUPPLEMENTAL BRIEFS ON SUBFLOW LEGAL ISSUES <u>SUMMARY:</u> Arizona Public Service Company and Phelps Dodge Corporation respond to supplemental briefs filed by various parties on subflow legal issues specified by the Special Master. <u>CLAIMANT NO:</u> 39-34900, et al. <u>PAGES:</u> 21
032	07-16-2003	JOINDER IN SUFLOW RESPONSE BRIEF FILED BY ARIZONA PUBLIC SERVICE COMPANY AND PHELPS DODGE CORPORATION <u>SUMMARY:</u> Roosevelt Water Conservation District files its Joinder in the subflow response brief filed this date by Arizona Public Service Company and Phelps Dodge Corporation. <u>CLAIMANT NO:</u> 39-3421, et al. <u>PAGES:</u> 2
033	07-16-2003	BHP COPPER INC.'S RESPONSEIVE BRIEF RE: LEGAL ISSUES IDENTIFIED IN SPECIAL MASTERS' ORDER OF APRIL 25, 2003 <u>SUMMARY:</u> BHP Copper Inc. submits its responsive brief re: legal issues Identified in Special Master's Order of April 25, 2003. <u>CLAIMANT NO:</u> 39-11-0003142, et al. <u>PAGES:</u> 4

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034	07-16-2003	<p>CITIES' RESPONSE TO OPENING MEMORANDUMS RE: LEGAL ISSUES IDENTIFIED BY SPECIAL MASTER'S APRIL 25, 2003 ORDER</p> <p><u>SUMMARY:</u> The Cities of Chandler, Glendale, Mesa and Scottsdale ("Cities") submit their response to the opening memorandums regarding legal issues identified by special master's April 25, 2003 Order.</p> <p><u>CLAIMANT NO:</u> 39-L8-37521, et al.</p> <p><u>PAGES:</u> 13; Attachments: 4</p>
035	07-16-2003	<p>CONSOLIDATED RESPONSE TO MEMORANDA ON LEGAL ISSUES RE SUBFLOW TECHNICAL REPORT</p> <p><u>SUMMARY:</u> The City of Safford, Paloma Irrigation and Drainage District and Rio Rico Properties, Inc., file the Consolidated Response to Memoranda on Legal Issues re Subflow Technical Report.</p> <p><u>CLAIMANT NO:</u> 39-U8-63161, et al.</p> <p><u>PAGES:</u> 10</p>
036	07-16-2003	<p>APACHE TRIBES' CONSOLIDATED RESPONSE TO CERTAIN PARTIES' MEMORANDA ADDRESSING LEGAL ISSUES RE SUBFLOW TECHNICAL REPORT, SAN PEDRO RIVER WATERSHED</p> <p><u>SUMMARY:</u> Apache Tribes' Consolidated Response to Certain Parties' Memoranda Addressing Legal Issues re Subflow Technical Report, San Pedro River Watershed.</p> <p><u>CLAIMANT NO:</u> 39-07-12676, et al.</p> <p><u>PAGES:</u> 12</p>
037	07-17-2003	<p>UNITED STATES' RESPONSE MEMORANDUM ON LEGAL ISSUES RELATED TO ADWR'S SUBFLOW TECHNICAL REPORT</p> <p><u>SUMMARY:</u> The United States' response to memoranda submitted by various parties and addressing the legal issues presented by the Special Master in an Order dated April 25, 2003.</p> <p><u>CLAIMANT NO:</u> None Given</p> <p><u>PAGES:</u> 10</p>
038	07-17-2003	<p>GILA RIVER INDIAN COMMUNITY'S CONSOLIDATED RESPONSE TO OPENING MEMORANDA ON LEGAL ISSUES: IN RE SUBFLOW TECHNICAL REPORT, SAN PEDRO RIVER WATERSHED</p> <p><u>SUMMARY:</u> The Gila River Indian Community submits its Consolidated Response to Opening Memoranda on Legal Issues: In Re Subflow Technical Report, San Pedro River Watershed.</p> <p><u>CLAIMANT NO:</u> 39-11-54-78, et al.</p> <p><u>PAGES:</u> 28</p>
039	07-17-2003	<p>MOTION BY GILA RIVER INDIAN COMMUNITY TO FILE ITS CONSOLIDATED RESPONSE TO OPENING MEMORANDA ON LEGAL ISSUES: IN RE SUBFLOW TECHNICAL REORT, SAN PEDRO RIVER WATERSHED, ONE DAY LATE</p> <p><u>SUMMARY:</u> The Gila River Indian Community submits a Motion to File its Consolidated Response to Opening Memoranda on Legal Issues: in Re Subflow Technical Report, San Pedro River Watershed, one day late.</p> <p><u>CLAIMANT NO:</u> 39-11-54-78, et al.</p> <p><u>PAGES:</u> 3</p>

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040	08-08-2003	<p>ORDER CLARIFYING THE SCOPE OF DISCOVERY <u>SUMMARY:</u> The Special Master clarifies the scope of formal and informal discovery for the hearing set on October 21 and 22, 2003. <u>CLAIMANT NO:</u> Not Applicable <u>PAGES:</u> 4</p>
041	08-11-2003	<p>ARIZONA PUBLIC SERVICE COMPANY'S AND PHELPS DODGE CORPORATION'S REPLY TO RESPONSE BRIEFS ON SUBFLOW LEGAL ISSUES <u>SUMMARY:</u> Arizona Public Service Company and Phelps Dodge Corporation reply to response briefs filed by various parties on subflow legal issues specified by the Special Master. <u>CLAIMANT NO:</u> 39-34900, et al. <u>PAGES:</u> 15</p>
042	08-11-2003	<p>JOINER IN SUBFLOW REPLY BRIEF FILED BY ARIZONA PUBLIC SERVICE COMPANY AND PHELPS DODGE CORPORATION <u>SUMMARY:</u> Roosevelt Water Conservation District files its Joinder in the subflow reply brief filed this date by Arizona Public Service Company and Phelps Dodge Corporation. <u>CLAIMANT NO:</u> 39-3421, et al. <u>PAGES:</u> 2</p>
043	08-11-2003	<p>GILA RIVER INDIAN COMMUNITY'S CONSOLIDATED REPLY TO RESPONSIVE MEMORANDA ON LEGAL ISSUES: IN RE SUBLFLOW TECHNICAL REPORT, SAN PEDRO RIVER WATERSHED <u>SUMMARY:</u> The Gila River Indian Community submits its Consolidated Reply to Responsive Memoranda on Legal Issues: in Re Subflow Technical Report, San Pedro River Watershed <u>CLAIMANT NO:</u> 39-11-54-78, et al. <u>PAGES:</u> 23</p>
044	08-11-2003	<p>ASARCO INCORPORATED'S REPLY IN SUPPORT OF RESPONSE TO SUPPLEMENTAL MEMORANDA ON SUBFLOW-RELATED ISSUES DESIGNATED BY THE SPECIAL MASTER <u>SUMMARY:</u> ASARCO Incorporated replies in support of its response to the supplemental memoranda on subflow-related issues designated by the Special Master in his Order Setting Briefing Schedule and Hearing (April 25, 2003). <u>CLAIMANT NO:</u> 39-U8-62699, et al. <u>PAGES:</u> 6</p>
045	08-11-2003	<p>CONSOLIDATED REPLY TO RESPONSES TO MEMORANDA ON LEGAL ISSUES RE SUBFLOW TECHNICAL REPORT <u>SUMMARY:</u> The City of Safford, Paloma Irrigation and Drainage District, Rio Rico Properties, Inc., and Valory Strausser file a consolidated reply concerning legal issues re Subflow Technical Report. <u>CLAIMANT NO:</u> 39-U8-63161, et al. <u>PAGES:</u> 8</p>
046	08-11-2003	<p>SALT RIVER PROJECT'S REPLY BRIEF ON LEGAL ISSUES <u>SUMMARY:</u> The Salt River Project submits its reply brief on legal issues associated with the implementation of the court decisions on "subflow." <u>CLAIMANT NO:</u> 39-07-1040 <u>PAGES:</u> 12</p>

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047	08-11-2003	SALT RIVER PROJECT'S REPLY IN SUPPORT OF UNITED STATES' REQUEST FOR THE CLARIFICATION RE: DISCOVERY <u>SUMMARY</u> : The Salt River Project submits its reply in support of the United States' June 20, 2003 request for clarification regarding the applicable rules and guidelines, if any, for discovery in this matter. <u>CLAIMANT NO</u> : 39-07-1040, et al. <u>PAGES</u> : 4
048	08-11-2003	CITIES' REPLY BRIEF REGARDING LEGAL ISSUES IDENTIFIED BY SPECIAL MASTER'S APRIL 25, 2003 ORDER <u>SUMMARY</u> : The Cities of Chandler, Glendale, Mesa and Scottsdale ("Cities") submit their Reply Brief in support of their June 6, 2003 Opening Brief regarding legal issues identified by special master's April 25, 2003 Order. <u>CLAIMANT NO</u> : 39-L8-37521, et al. <u>PAGES</u> : 13
049	08-11-2003	BELLA VISTA WATER CO., INC. AND PUEBLO DEL SOL WATER CO.'S REPLY TO RESPONSE BRIEFINGS OF LEGAL ISSUES IDENTIFIED BY THE SPECIAL MASTER IN HIS MINUTE ENTRY DATED APRIL 25, 2003 <u>SUMMARY</u> : Bella Vista Water Co., Inc. and Pueblo Del Sol Water Co., file their Reply to Response Briefings on the issues listed by the Special Master in the Minute Entry dated April 25, 2003. <u>CLAIMANT NO</u> : 39-11-2739, et al. <u>PAGES</u> : 7
050	8-11-2003	UNITED STATES' RESPONSE MEMORANDUM ON LEGAL ISSUES RELATED TO ADWR'S SUBFLOW TECHNICAL REPORT <u>SUMMARY</u> : The United States' reply to memoranda submitted by various parties and addressing the legal issues presented by the Special Master in an Order dated April 25, 2003. <u>CLAIMANT NO</u> : None Given <u>PAGES</u> : 8

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051	09-08-2003	ORDER DETERMINING ISSUES 1 THROUGH 4 <u>SUMMARY</u> : The Special Master issues an order with proposed resolutions of issues 1 through 4 that were briefed in advance of the hearing set on October 21 and 22, 2003. These rulings may be modified after the hearing. <u>CLAIMANT NO</u> : None Given <u>PAGES</u> : 11
052	09-26-2003	JOINT SUBMISSION OF PROPOSED SCHEDULE FOR CROSS-EXAMINATION OF WITNESSES <u>SUMMARY</u> : The Salt River Project, Arizona Public Service Company, and Phelps Dodge Corporation, after consultation with counsel for various parties, submit a proposed schedule for cross-examination of witnesses for the October 21-22, 2003 hearing regarding subflow issues. <u>CLAIMANT NO</u> : 39-07-1040, et al. <u>PAGES</u> : 5
053	09-29-2003	NOTICE OF ERRATA <u>SUMMARY</u> : APS and Phelps Dodge file a Notice of Errata regarding the Joint Submission of Proposed Schedule for Cross-Examination of Witnesses. <u>CLAIMANT NO</u> : 39-34900, et al. <u>PAGES</u> : 3

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054	09-25-2003	ARIZONA DEPARTMENT OF WATER RESOURCES' NOTICE OF RECENTLY PUBLISHED SOIL SURVEY MAPS FOR COCHISE COUNTY <u>SUMMARY</u> : The Arizona Department of Water Resources (Department) hereby provides notice of recently published soil survey maps for Cochise County. <u>CLAIMANT NO</u> : None Given <u>PAGES</u> : 7
055	09-30-2003	ORDER SETTING PREHEARING TELEPHONIC CONFERENCE <u>SUMMARY</u> : The Special Master will hold a telephonic conference on October 10, 2003, to address any matters that will facilitate the orderly and efficient conduct of cross-examination of witnesses. <u>CLAIMANT NO</u> : None Given <u>PAGES</u> : 2
056	10-07-2003	ASARCO INCORPORATED'S JOINDER IN MOTION IN LIMINE TO EXCLUDE ALL EXPERT TESTIMONY RE LEGAL ISSUES AND TO EXCLUDE T. ALLEN J. GOOKIN'S REGUTTAL REPORTS AND TESTIMONY <u>SUMMARY</u> : ASARCO Incorporated joins in the Motion in Limine to Exclude All Expert Testimony Re Legal Issues and To Exclude T. Allen J. Gookin's Rebuttal Reports and Testimony dated October 3, 2003, filed by the Gila Valley Irrigation District, the Franklin Irrigation District, and the Verde Valley Communities. <u>CLAIMANT NO</u> : 39-U8-62699, et al. <u>PAGES</u> : 2
057	10-08-2003	ARIZONA PUBLIC SERVICE COMPANY'S AND PHELPS DODGE CORPORATION'S MOTION TO ALLOW ADDITIONAL TIME TO ANALYZE AND SUBMIT EXPERT TESTIMONY ON ADWR'S NOTICE OF RECENTLY PUBLISHED SOIL SURVEY MAPS FOR COCHISE COUNTY <u>SUMMARY</u> : Arizona Public Service Company and Phelps Dodge Corporation move the Court to allow the parties additional time to review the Arizona Department of Water Resources' September 25, 2003 proposal to delineate the lateral extent of the floodplain Holocene alluvium along the San Pedro River using previously published soil survey data sources. <u>CLAIMANT NO</u> : 39-34900, et al. <u>PAGES</u> : 8
058	10-09-2003	LETTER <u>SUMMARY</u> : Letter filed by L. Anthony Fines of Snell & Wilmer notifying the Office of the Special Master of documents reflecting the wrong contested case number. <u>CLAIMANT NO</u> : Not Applicable <u>PAGES</u> : 1
059	10-14-2003	GILA RIVER INDIAN COMMUNITY'S WRITTEN CONFORMATION OF ITS ORAL MOTION FOR RECIPROCAL TREATMENT OF ALL EXPERT WITNESS REPORTS, DECLARATION, REBUTTAL DECLARATIONS, AFFIDAVITS, AND/OR TESTIMONY WITH REGARD TO THE OCTOBER 3, 2003, MOTION IN LIMINE <u>SUMMARY</u> : The Gila River Indian Community submits its Written Conformation of its Motion for Reciprocal Treatment of All Expert Witness Reports, Declarations, Rebuttal Declarations, Affidavits, and/or Testimony with Regard to the October 3, 2003, Motion in Limine. <u>CLAIMANT NO</u> : 39-11-54-78, et al. <u>PAGES</u> : 8

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060	10-14-2003	<p>JOINDER IN ARIZONA PUBLIC SERVICE COMPANY'S AND PHELPS DODGE CORPORATION'S MOTION TO ALLOW ADDITIONAL TIME TO ANALYZE AND SUBMIT EXPERT TESTIMONY ON ADWR'S NOTICE OF RECENTLY PUBLISHED SOIL SURVEY MAPS FOR COCHISE COUNTY</p> <p><u>SUMMARY</u>: The Gila Valley Irrigation District and the Franklin Irrigation District (collectively, the "Upper Valley Irrigation Districts"); the City of Sedona, the Town of Jerome, the Town of Clarkdale, and the City of Cottonwood (collectively "Verde Valley Communities"); and the City of Casa Join in Arizona Public Service Testimony on ADWR's Notice of Recently Published Soil Survey Maps for Cochise County.</p> <p><u>CLAIMANT NO</u>: 39-U862840, et al.</p> <p><u>PAGES</u>: 3</p>
061	10-14-2003	<p>MINUTE ENTRY</p> <p><u>SUMMARY</u>: The Special Master reports on a telephonic conference held on October 10, 2003, and enters orders to facilitate the orderly and efficient conduct of cross-examination of witnesses.</p> <p><u>CLAIMANT NO</u>: None Given</p> <p><u>PAGES</u>: 6</p>
062	10-15-2003	<p>BHP COPPER INC'S RESPONSE TO MOTION IN LIMINE RE: EXPERT TESTIMONY ADDRESSING LEGAL ISSUES BY SAN CARLOS APACHE TRIBE AND THE GILA RIVER INDIAN COMMUNITY</p> <p><u>SUMMARY</u>: BHP Copper Inc. submits its response to motion in limine re: expert testimony addressing legal issues by San Carlos Apache Tribe and Gila River Indian Community.</p> <p><u>CLAIMANT NO</u>: 39-11-0003142, et al.</p> <p><u>PAGES</u>: 3</p>
063	10-15-2003	<p>SALT RIVER PROJECT'S RESPONSE TO MOTION TO DELAY SUBFLOW HEARING</p> <p><u>SUMMARY</u>: The Salt River Project submits its response in opposition to Arizona Public Service Company and Phelps Dodge Corporation's October 8, 2003 Motion to Allow Additional Time to Analyze and Submit Expert Testimony on ADWR's Notice of Recently Published Soil Survey Maps for Cochise County.</p> <p><u>CLAIMANT NO</u>: 39-07-1040, et al.</p> <p><u>PAGES</u>: 8</p>
064	10-08-2003	<p>ARIZONA PUBLIC SERVICE COMPANY'S AND PHELPS DODGE CORPORATION'S RESPONSE TO MOTIONS IN LIMINE TO EXCLUDE EXPERT TESTIMONY</p> <p><u>SUMMARY</u>: Arizona Public Service Company and Phelps Dodge Corporation respond (1) in support of the Gila Valley Irrigation District, <i>et al.</i> Motion in Limine to Exclude All Expert Testimony Re: Legal Issues to Exclude T. Allen J. Gookin's Rebuttal Reports and Testimony and (2) to various statements made in the Gila River Indian Community's Written Confirmation of Its Oral Motion for Reciprocal Treatment of All Expert Witness Reports.</p> <p><u>CLAIMANT NO</u>: 39-34900, et al.</p> <p><u>PAGES</u>: 8</p>
065	10-16-2003	<p>MINUTE ENTRY CORRECTED</p> <p><u>SUMMARY</u>: The Special Master corrects a paragraph in the minute entry dated October 14, 2003.</p> <p><u>CLAIMANT NO</u>: None Given</p> <p><u>PAGES</u>: 2</p>

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066	10-15-2003	<p>SALT RIVER PROJECT'S RESPONSE TO MOTION IN LIMINE TO PRECLUDE ALL EXPERT TESTIMONY RE LEGAL ISSUES AND TO EXCLUDE T. ALLEN J. GOOKIN'S REBUTTAL REPORTS AND TESTIMONY</p> <p><u>SUMMARY</u>: The Salt River Project submits its response in opposition to the motion in limine filed by the Gila Valley Irrigation District, et al. on October 3, 2003 directed toward Allen Gookin and other listed expert witnesses.</p> <p><u>CLAIMANT NO</u>: 39-07-1040, et al.</p> <p><u>PAGES</u>: 12</p>
067	10-15-2003	<p>STATE'S RESPONSE TO MOTION IN LIMINE TO EXCLUDE ALL EXPERT TESTIMONY RE LEGAL ISSUES AND TO EXCLUDE T. ALLEN J. GOOKIN'S REBUTTAL REPORTS AND TESTIMONY</p> <p><u>SUMMARY</u>: The State responds to the Motion in Limine to Exclude All Expert Testimony re Legal Issues and to Exclude T. Allen J. Gookin's Rebuttal Reports and testimony dated October 3, 2003, filed by the upper Valley Irrigation Districts, the Verde Valley Communities, the Central Valley Irrigation Districts, and the City of Casa Grande.</p> <p><u>CLAIMANT NO</u>: None Given</p> <p><u>PAGES</u>: 3</p>
068	10-15-2003	<p>GILA RIVER INDIAN COMMUNITY'S RESPONSE IN OPPOSITION TO THE MOTION IN LIMINE TO EXCLUDE ALL EXPERT TESTIMONY RE LEGAL ISSUES AND TO EXCLUDE T. ALLEN J. GOOKIN'S REBUTTAL REPORTS AND TESTIMONY</p> <p><u>SUMMARY</u>: The Gila River Indian Community submits its Response in Opposition to the Motion in Limine to Exclude All Expert Testimony Re Legal Issues and to Exclude T. Allen J. Gookin's Rebuttal Reports and Testimony.</p> <p><u>CLAIMANT NO</u>: 39-11-54-78, et al.</p> <p><u>PAGES</u>: 31</p>
069	10-15-2003	<p>GILA RIVER INDIAN COMMUNITY'S MOTION TO EXCEED PAGE LIMITATION RE ITS RESPONSE IN OPPOSITION TO THE MOTION IN LIMINE TO EXCLUDE ALL EXPERT TESTIMONY RE LEGAL ISSUES AND TO EXCLUDE T. ALLEN J. GOOKIN'S REBUTTAL REPORTS AND TESTIMONY</p> <p><u>SUMMARY</u>: The Gila River Indian Community submits its Motion to Exceed Page Limitation re its Response in Opposition to the Motion in Limine to Exclude all Expert Testimony re Legal Issues and to Exclude T. Allen J. Gookin's Rebuttal Reports and Testimony.</p> <p><u>CLAIMANT NO</u>: 39-11-54-78, et al.</p> <p><u>PAGES</u>: 5</p>
070	10-15-2003	<p>THE APACHE TRIBES' RESPONSE TO MOTION IN LIMINE FILED BY THE UPPER VALLEY IRRIGATION DISTRICTS ET AL.</p> <p><u>SUMMARY</u>: The San Carlos Apache Tribe, the Tonto Apache Tribe, and the Yavapai-Apache Nation (the "Apache Tribes") response to the October 3, 2003, Motion in Limine filed by the Upper Valley Irrigation District et al.</p> <p><u>CLAIMANT NO</u>: 39-07-12676, et al.</p> <p><u>PAGES</u>: 6</p>

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071	10-16-2003	<p>ARIZONA DEPARTMENT OF WATER RESOURCES' NOTICE OF SERICE OF COPIES OF PROPOSED EXHIBITS</p> <p><u>SUMMARY:</u> The Arizona Department of Water Resources (Department) hereby provides notice of service of copies of proposed exhibits.</p> <p><u>CLAIMANT NO:</u> None Given</p> <p><u>PAGES:</u> 3</p>
072	10-16-2003	<p>RESPONSE TO GILA RIVER INDIAN COMMUNITY'S WRITTEN CONFIRMATION OF ITS ORAL MOTION FOR RECIPROCAL TREATMENT OF ALL EXPERT WITNESS REPORTS, DECLARATIONS, REBUTTAL DECLARATIONS, AFFIDAVITS, AND/OR TESTIMONY WITH REGARD TO THE OCTOBER 3, 2003 MOTION IN LIMINE</p> <p><u>SUMMARY:</u> The Gila Valley Irrigation District and the Franklin Irrigation District, the City of Sedona, the Town of Jerome, the Town of Clarkdale, the City of Cottonwood, and the City of Casa Grande hereby respond to the Gila River Indian Community's Written Confirmation of Its Oral Motion for Reciprocal Treatment of All expert Witness Reports, Declarations, Rebuttal Declarations, Affidavits, and/or Testimony with Regard to the October 3, 2003 Motion to Limine.</p> <p><u>CLAIMANT NO:</u> 39-25267, et al.</p> <p><u>PAGES:</u> 4</p>
073	10-17-2003	<p>CERTIFICATE OF SERVICE OF RESPONSE TO GILA RIVER INDIAN COMMUNITY'S WRITTEN CONFIRMATION OF ITS ORAL MOTION FOR RECIPROCAL TREATMENT OF ALL EXPERT WITNESS REPORTS, DECLARATIONS, REBUTTAL DECLARATIONS, AFFIVABITS, AND/ OR TESTIMONY WITH REGARD TO THE OCTOBER 3, 2003 MOTION IN LIMINE</p> <p><u>SUMMARY:</u> The Gila Valley Irrigation District and the Franklin Irrigation District, the City of Sedona, the Town of Jerome, the Town of Clarkdale, the City of Cottonwood, and the City of Casa Grande Certificate of Service of Response to the Gila River Indian Community's Written Confirmation of Its Oral Motion for Reciprocal Treatment of All expert Witness Reports, Declarations, Rebuttal Declarations, Affidavits, and/or Testimony with Regard to the October 3, 2003 Motion to Limine.</p> <p><u>CLAIMANT NO:</u> 39-25267, et al.</p> <p><u>PAGES:</u> 3</p>
074	10-17-2003	<p>ORDER</p> <p><u>SUMMARY:</u> Order signed October 17, 2003 by Special Master George Shade. IT IS ORDERED that the page limit for the Response in Opposition to the Motion in Limine to Exclude All Expert Testimony Re Legal Issues and to Exclude T. Allen J. Gookin's Rebuttal Reports and Testimony is extended to 31 pages.</p> <p><u>CLAIMANT NO:</u> Not Applicable</p> <p><u>PAGES:</u> 2</p>
075	10-17-2003	<p>UNITED STATES' RESPONSE TO ARIZONA PUBLIC SERVICE COMPANY'S AND PHELPS DODGE CORPORATION'S MOTION TO ALLOW ADDITIONAL TIME TO ANALYZE AND SUBMIT EXPERT TESTIMONY ON ADWR'S NOTICE OF RECENTLY PUBLISHED SOIL SURVEY MAPS FOR COCHISE COUNTY</p> <p><u>SUMMARY:</u> The United Sates' response to the motion to reschedule the subflow hearing.</p> <p><u>CLAIMANT NO:</u> None Given</p> <p><u>PAGES:</u> 3</p>

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076	10-17-2003	UNITED STATES' RESPONSE TO GILA VALLEY IRRIGATION DISTRICT'S MOTION IN LIMINE TO EXCLUDE ALL EXPERT TESTIMONY RE LEGAL ISSUES <u>SUMMARY</u> : United States' Response to Gila Valley Irrigation District's Motion in Limine to Exclude All Expert Testimony Re Legal Issues. <u>CLAIMANT NO</u> : None Given <u>PAGES</u> : 14
077	10-17-2003	LETTER <u>SUMMARY</u> : Letter filed October 17, 2003 by Stanley B. Lutz of Bryan Cave. Letter is notifying all parties involved that BHP Copper Inc. ("BHP") is providing a copy of certain exhibits that BHP may use and / or introduce in connection with the Subflow Hearings on October 21 through October 23, 2003. <u>CLAIMANT NO</u> : None Given <u>PAGES</u> : 2; Attachments: 3

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Doc. No	File Date	Document Description
078	10-28-2003	SUBSTITUTION OF COUNSEL <u>SUMMARY</u> : The City of Sierra Vista hereby substitutes William P. Sullivan and the law firm of Martinez and Curtis, P.C. as its counsel of record. <u>CLAIMANT NO</u> : 39-1488, et al. <u>PAGES</u> : 2
079	10-30-2003	MINUTE ENTRY <u>SUMMARY</u> : IT IS ORDERED (1) Parties shall have until Monday, December 8, 2003 to file sworn declarations which like the initial declarations filed in this proceeding, will serve as the expert witness' direct testimony at a hearing should a hearing be set. Five days will be allowed for mailing purposes. (2) Parties shall have until Monday, January 12, 2004 to file rebuttal declarations. <u>CLAIMANT NO</u> : Not Applicable <u>PAGES</u> : 5
080	10-30-2003	MINUTE ENTRY <u>SUMMARY</u> : IT IS ORDERED as follows: (1) None of the sworn declarations, reports, and affidavits will be excluded in its entirety on the grounds of inadmissibility of expert opinions on questions of law, outside the scope of the expert's competency, and relevance. (2) The Special Master will determine the weight and credibility to give to a sworn declaration, report, affidavit, or testimony that states an expert's understanding or views of a legal opinion or holding. (3) Any sworn declaration or testimony that in the opinion of the Special Master rises to the level of being a conclusion of law will be disregarded. (4) Any testimony that is based on pure speculation or conjecture will be disregarded. (5) Little, if any, weight will be given to any testimony about perceived inequities in Arizona's or other states' water laws, the future of Arizona's water laws or water resources management, the unstated intent and goals of Court decisions, judges, and statutes, and how the Arizona Supreme Court should have or could have defined the subflow zone differently than it did in Gila IV. IT IS ORDERED the motion is Granted to the extent that the relief requested is granted by the ruling on the Motion in Limine, and is otherwise denied. <u>CLAIMANT NO</u> : Not Applicable <u>PAGES</u> : 6
081	11-05-2003	ORDER OF SUBSTITUTING COUNSEL <u>SUMMARY</u> : IT IS ORDERED substituting William P. Sullivan as counsel of record for the City of Sierra Vista in place and stead of Stuart L. Fauver. IT IS FURTHER ORDERED removing Stuart L. Fauver from the court approved mailing list and confirming William P. Sullivan. <u>CLAIMANT NO</u> : None Given <u>PAGES</u> : 1

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082	10-21-2003	<p>GROUNDWATER USERS' PROPOSED SCHEDULE OF CROSS-EXAMINATION FOR OCTOBER 21-22, 2003 HEARING</p> <p><u>SUMMARY</u>: Arizona Public Service Company and Phelps Dodge, on behalf of, and after consultation with, the Groundwater Users, filer their proposed schedule of cross-examination for the October 21-22, 2003 subflow hearing.</p> <p><u>CLAIMANT NO</u>: 39-34900, et al.</p> <p><u>PAGES</u>: 7</p>
083	12-04-2003	<p>GILA RIVER INDIAN COMMUNITY'S NOTICE OF SWORN DECLARATIONS REGARDING THE PROPOSAL OF ARIZONA DEPARTMENT OF WATER RESOURCES TO USE SOIL SURVEYS AND MAPS PREPARED UNDER THE AUSPICES OF THE NATURAL RESOURCES CONSERVATION SERVICE</p> <p><u>SUMMARY</u>: The Gila River Indian Community submits its sworn declarations regarding Arizona Department of Water Resources' proposal to use soil surveys and maps prepared under the auspices of the Natural Resources Conservation Service.</p> <p><u>CLAIMANT NO</u>: 39-11-54-78, et al.</p> <p><u>PAGES</u>: 2; Attachments: 6</p>
084	12-8-2003	<p>BHP'S SUBMISSION OF EXPERT TESTIMONY ON SOIL SURVEY MAPS FOR COCHISE COUNTY</p> <p><u>SUMMARY</u>: BHP Copper Inc. submits the report of Errol L. Montgomery & Associates, Inc., commenting on the relevance of the Soil Survey Maps prepared and in the process of being prepared as part of the Soil Survey Program of the Natural Resources Conservation Service.</p> <p><u>CLAIMANT NO</u>: 39-11-0003142, et al.</p> <p><u>PAGES</u>: 5</p>
085	12-8-2003	<p>CITIES' SUBMITTAL OF EXPERT DECLARATION REGARDING ARIZONA DEPARTMENT OF WATER RESOURCES' PROPOSAL TO USE SOIL SURVEY MAPS</p> <p><u>SUMMARY</u>: The- Cities of Chandler, Glendale, Mesa and Scottsdale ("Cities") provide notice of and submit the Declaration of their expert, Marshall P. Brown, regarding the Arizona Department of Water Resources ("ADWR") proposal to use soil survey maps.</p> <p><u>CLAIMANT NO</u>: 39-L8-37521, et al.</p> <p><u>PAGES</u>: 3; Attachments: 18</p>
086	12-08-2003	<p>SALT RIVER PROJECT'S SUBMITTAL OF SWORN DELARATION REGARDING THE PROPOSED USE OF SOIL SURVEYS</p> <p><u>SUMMARY</u>: The Salt River Project provides notice of and submits the sworn declaration of its expert, Jon Ford, regarding the proposed use of soil surveys in determining the "subflow" zone.</p> <p><u>CLAIMANT NO</u>: 39-07-1040, et al.</p> <p><u>PAGES</u>: 2; Attachments: 8</p>

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087	12-09-2003	JOINDER IN DECLARATION BY ERIC J. HARMON, P.E., ON BEHALF OF ARIZONA PUBLIC SERVICE COMPANY AND PHELPS DODGE CORPORATION AND REQUEST FOR CROSS-EXAMINATION AND LEGAL ARGUMENT <u>SUMMARY</u> : The Gila Valley Irrigation District, the Franklin Irrigation District, the City of Sedona, the Town of Jerome, the Town of Clarkdale, the City of Cottonwood, and the City of Casa Grande join in the submission by the Arizona Public Service Company and the Phelps Dodge Corporation of the declaration by Eric J. Harmon, P.E., in response to DWR's proposal to use NRCS soil survey maps to delineate the subflow zone within the San Pedro River watershed and request the opportunity for cross-examination and legal argument regarding ADWR's proposal. <u>CLAIMANT NO</u> : 39-25267, et al. <u>PAGES</u> : 5
088	12-08-2003	ARIZONA PUBLIC SERVICE COMPANY'S AND PHELPS DODGE CORPORATION'S NOTICE OF FILING EXPERT DECLARATION REGARDING ADWR PROPOSAL TO USE NRCS SOIL SURVEYS <u>SUMMARY</u> : Arizona Public Service Company and Phelps Dodge file with this Notice the declaration of Eric J. Harmon, P.E., of GRS Water Consultants, Inc. regarding the Arizona Department of Water Resources' proposal to use Natural Resources Conservation Service soil surveys in subflow determinations. <u>CLAIMANT NO</u> : 39-34900, et al. <u>PAGES</u> : 3; Attachments: 19
