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DEADLINE: DECEMBER 28, 2009

Name Carmen J. Miller for Quentin H. Miller, Miller Bros., Miller Ranch Trust, El Quen LLC, et. al.
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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. W1-103 Assigned to the Honorable George A. Schade, Jr.

OBJECTION TO SUBFLOW ZONE DELINEATION REPORT FOR THE SAN PEDRO RIVER WATERSHED DATED JUNE 30, 2009

1. I affirm that I am a claimant in the Gila River adjudication and that I am entitled to file an objection in this matter because I hold the following Statement(s) of Claimant for water rights in the San Pedro River Watershed: 634705, et. al., multiple claims

2. This objection is based on the following reasons (attach additional pages if necessary) : Supplemental information for previously submitted and filed objections. Four pages attached.

3. The original copy of this objection is being sent by first class mail for receipt no later than December 28, 2009 to:

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

4. Also, copies of this objection are being sent by first class mail to each person on the attached mailing list, which includes the Judge and Special Master assigned to this matter.

Carmen J. Miller
Signature

January 26, 2011
Date

This supplement to our original information/objection is submitted with the permission of Special Master George A. Schade, Jr. with a deadline of January 31, 2011.

The following comments are intended to identify concerns regarding some technical aspects of Arizona Department of Water Resources' Subflow Zone Delineation Report for the San Pedro Watershed dated June 30, 2009.

COMMENT #1: While presenting a fascinating array of information, the starting premise is the flawed supposition that the Holocene alluvium is saturated ground with all following investigation determining approximately where the Holocene aged alluvium and Pleistocene sediments merge.

Roughly 1 mile on either side of the San Pedro River, the Holocene layer is delineated as 'saturated ground' and then construed to be subflow for the river. A casual and uninformed observer walking most anywhere along our sector of 1.5 to 2 miles of the river within our subwatershed from 10 feet to 5, 280 feet on either side of the river can discern the afore mentioned subflow zone is most definitely NOT saturated. In point of fact, is not even moist, barring an immediate precipitation occurrence. Supplemental irrigation is required even to have a stand of native drought tolerant grasses.

The attempt is made to establish that the wells in the lower reaches of this watershed are in the subflow zone and impacting that subflow. Broaching the topic of cone of depression in these unsaturated areas is offensive to consider. That effort starts adding double negatives to create a positive-ly manipulabule definition.

The actual purpose of this report is to determine if the established definition of our ground water, that the underground waters are percolating, could be overcome and therefore move from non-appropriable to appropriable status.

COMMENT #2: The predevelopment suppositions are based on an inconsistent timeline and do not acknowledge multiple impacts that precipitated fundamental change to the San Pedro watershed function.

The Holocene alluvium,"10,000 years old to present" is mapped ecologically with no acknowledgement of natural evolving change in the watershed function; fundamental change directed by seismic and climactic occurrences.

In discussing historical evidence or accounts, only sparse records of less than 100 years can be garnered. There needs to be some compatibility with the timeline based on Holocene alluvium age for continuity and logic to dominate this investigation.

On parts of our property, approximately 2 miles from the river, we have discovered a fossilized sea turtle verified by the University of Arizona as well as parts of an Eohippus (a little horse: a marsh grazer back in his day) dated to between 1.5 to 2.5 million years

ago by the University of Arizona anthropology department. Also of record are the Mastodon remains in the hills along the San Pedro River uncovered in the 20's or 30's (stuck in the mud at the edges of a mud bog). So from this alone we know the entire watershed was significantly more humid.

There was very minimal human impact on the watershed as they, when present, were hunters and gatherers dependant upon the natural system for survival.

It appears 'waters' were receding before the documented earthquake of 1877 which by all accounts further radically and suddenly changed the functionality of the San Pedro Watershed. Prior to the earthquake of 1877 historical accounts depicted only marsh areas, not the entire lower valley.

Is the San Pedro River 'evolving' into an ephemeral, (by definition)?

Significant evidence has not been considered that indicates changes within the San Pedro Watershed have been the result of a variety of factors in a drying trend for many thousands of years.

The earthquake, a relatively recent impact in terms of geologic time (1877), by all accounts shifted large portions of surface and subsurface structure in the San Pedro Watershed. Waters that were observable in marshes and cienegas were impacted in such a way as to drain and move northward through the watershed beginning the formation of our present day drainage. How long does it take to move from a truly saturated expression of the Holocene alluvium to the progressively drying floodplain, changing surface and subsurface, caused by this event (1877 earthquake) alone?

The concept that this present state in which we find ourselves is the result of over exploitation of surface water starting in the mid 1800's is flawed.

By previous testimony a decrease in frequency, magnitude and duration of storms across the watershed may also explain the decline of the annual river flows. Perennial and intermittent streams are only evidenced as such based upon the amount, frequency and infiltration of precipitation; hence, saturated to unsaturated ground can be one and the same relative to climate as well as geology. And then what gradient or elevation is proper to consider for the water table? The river surface water is shallow and thin at best, supporting only minnows, and alternately dry or moist in observable reality.

It is necessary to consider that Arizona has been in a drought for approximately 35 years and has not reaped the benefit of natural recharge. The scarcity of precipitation in conjunction with the ever increasing demand for water has tapped the reserve that predevelopment would have continued on it's 'newly' (1877 earthquake) realigned drainage to the river. The affect on all ground water levels have been impacted at an accelerated rate.

The presupposition of the saturated Holocene alluvium is a grievous assumption and has no bearing on our present day state of watershed.

COMMENT #3: We are in an arid environment and logic would necessitate an understanding of living within that "environmental budget", but modern civilization seeks to ignore the obvious and there is no such acknowledgement of reality.

These attempts to manipulate and amend definitions and define subflow zones distort the natural functions of time, climate and earth changes so that the most essential ingredient for **ALL** life may be appropriated with administrators that could dictate and control this resource and are themselves farther and farther removed from the natural world, making decisions and allocations based on their 'collective wisdom' is a dehabilitating possibility.

Nowhere in governance has this obvious overextension of our water resource been addressed. That we have to be fiscally responsible is not a foreign concept to most and should one slip up in the fiscal arena the repercussions come fairly quickly for most, but with our most essential ingredient of life there is not the same recognition. We are subjected to legal maneuvering to gain control of our water resources by impacting the land holders who are the most appreciative and aware of the natural ecosystem with no responsibility taken by those who would use the lion's share, oblivious to the watersheds far from their centers of operation.

We respectfully suggest a more comprehensive approach to water issues then this present approach: population/development limits, mandatory rainwater harvesting (passive and active), closing the spigots of Phoenix to only essential and productive use, require full disclosure on realty transactions of water issues, brush management, watershed scale erosion/passive rainwater structures, cultivate an appreciation and respect for agriculture/domestic food production.

This expediency of process for the purpose of appropriation is an unconscionable disservice to the accuracy and relevancy of responsible and reliable management of water in the San Pedro Watershed and beyond. It affects most drastically those few people fortunate enough to live close to the river who pay taxes and attempt to maintain productive open space for all life. It is tantamount to a taking prefaced with inadequate and inaccurate science and is a less than comprehensive approach and timeline.

In conclusion, we respectfully request the court to reconsider, revisit, and revise the predevelopment timeline and conditions to be compatible with the depositional alluvium upon which the entire supposition of saturated Holocene alluvium is based. This could include recognition of the predevelopment processes that created our present day watershed as well as acknowledge upland development and wells that

intercept groundwater and impact surface water movement that supplies the river in the most basic sense.

Due to infirmities of evidence the report does not justify the legal presumption that the entire Holocene alluvium is saturated, part of the subflow zone, nor is it appropriable water.

We sincerely appreciate this opportunity to clarify our objections to this Subflow Report for the San Pedro Watershed dated June 30, 2009 and appreciate your efforts to provide correct science and interpretation of that science for the future.