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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, W-2, W-3, W-4 (Consolidated)

Contested Case No. W1-11-2710

ORDER TO INITIATE CONTESTED  
CASE

CONTESTED CASE NAME: *In re El Potrero, Inc.*

HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report

DESCRIPTIVE SUMMARY: Contested case W1-11-2710 initiated and status conference set for **August 10, 2020 at 1:30 p.m.**

NUMBER OF PAGES: 12

DATE OF FILING: June 1, 2020

**General Explanation**

This Order begins the formal legal process necessary to determine rights for water from a well located on land that the Cochise County Assessor has identified as owned by The Sweetwater Center, an Arizona non-profit corporation. This contested case is one of the many

1 cases in the General Stream Adjudication for the San Pedro River watershed. Other cases in  
2 which claims have been made to water in the San Pedro River watershed have been completed,  
3 are in the process of determining water rights, or awaiting initiation.

4 The purpose of the General Adjudication is to determine the rights of those persons who  
5 filed statement of claimants for rights to use water from the San Pedro watershed. The General  
6 Adjudication will also determine water rights in the Upper Salt, Verde, Upper Gila, Lower Gila,  
7 Agua Fria and Upper Santa Cruz watershed. Persons who fail to timely file statements of  
8 claimant will forfeit any rights to the use of water in this river system and source.

9 In this case, Earl J. and Norma B. Kaul filed the original Statements of Claimant for the  
10 legal rights to use water on land that is in Section 4 Township 13S Range 19E that is more  
11 specifically shown on the map attached as Attachment A. The land involved in this case is  
12 labelled as "(14)". The Arizona Department of Water Resources investigated those claims and  
13 prepared a report known as Watershed File Report 113-12-DBC-014 ("WFR") published in the  
14 Final San Pedro River Watershed Hydrographic Survey Report (1991). The WFR identified one  
15 potential water right for domestic use and two potential water rights for irrigation use on the land  
16 described in the WFR. One well is listed as the source of the water, which ADWR has  
17 determined is located within the subflow zone of the San Pedro River. A copy of the WFR is  
18 attached as Attachment B.

19 After the Arizona Department of Water Resources issued the WFR, objections were filed  
20 to the findings made by the Arizona Department of Water Resources in the WFR. The purpose  
21 of this case to consider the claims made for water rights that were investigated in the WFR and  
22 resolve the objections to the WFR.  
23

#### 24 **Claimants & Landowners**

25 The WFR identified two Statements of Claimant (SOCs) relevant to the potential water  
26 right: 39-5822 and 39-5823. In 1990, Earl and Norma Kaul assigned the SOC to El Potrero,  
27 Inc., an Arizona corporation. The WFR named El Potrero Inc. as the owner of the property  
28

1 described in the WFR. By an assignment filed with the Arizona Department of Water Resources  
2 in 2015, El Potrero Inc. assigned the SOCs to Sweetwater Center. The records of the Cochise  
3 County Assessor identified the Sweetwater Center as the owner of tax parcel 209-31009 shown  
4 on Attachment C.

5  
6 **IT IS ORDERED:**

7  
8 1. Contested Case. This contested case shall be known as *In re El Potrero* and it  
9 will determine water rights asserted in the Statement of Claimant and objections that were filed  
10 to Watershed File Report 113-12-DBC-014 published in the Final San Pedro River Watershed  
11 Hydrographic Survey Report (1991). Copies of objections can be found under the case name  
12 and number on the following website:

13 [http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.  
14 asp](http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp)

15 2. Litigants. The litigants in this contested case are the Claimant and all persons who  
16 filed objections to the listed watershed file reports who are included on Attachment D, and  
17 claimants who are allowed to intervene by order.

18 3. Court-Approved Mailing List.

19 A. The initial Court-approved mailing list for this case shall include all  
20 persons listed on Attachment D to this order. The list may be modified  
21 only by filing a motion with the Special Master to amend the Court-  
22 approved mailing list. Litigants are responsible for using the current  
23 Court-approved mailing list.

24  
25 B. A copy of any pleading filed with the Clerk of the Maricopa County  
26 Superior Court in this case shall be served upon each person listed on the  
27 Court-approved mailing list. No pleadings, correspondence, or  
28

1 documents will be accepted by the Special Master that are not also filed  
2 with the Clerk of the Maricopa County Superior Court and mailed to each  
3 person listed on the Court-approved mailing list.

4 C. Claimants wishing to be added or removed from the mailing list shall file  
5 a motion with the Special Master. Parties allowed to intervene will be  
6 automatically added to the mailing list.  
7

8 4. Courtesy Email List.

9 The Special Master's office will email courtesy copies of orders and minute  
10 entries entered in this case to persons listed on Attachment D. Requests for  
11 inclusions on the email list should be sent to Barbara Brown at  
12 [brownb099@superiorcourt.maricopa.gov](mailto:brownb099@superiorcourt.maricopa.gov).  
13

14 5. Status Conference.

15 A. An initial status conference shall be held to determine whether objections  
16 to the WFR can be settled and the amount of time that the parties will  
17 require to discuss the resolution of the objections. If the objections  
18 cannot be settled as between the landowner and the Objectors, then a  
19 scheduling conference will be held at a later date to:  
20

- 21 a. identify issues;
- 22 b. set deadlines to file disclosure statements, conduct discovery,  
23 and submit prehearing motions; and,
- 24 c. fix a date for a trial on the claimed water rights.  
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1 The Status Conference shall be held on **August 10, 2020 at 1:30 p.m.** before:

2 Special Master Susan Ward Harris  
3 Superior Court of Arizona  
4 201 West Jefferson Street, Courtroom 301  
Phoenix, AZ 85003-2202

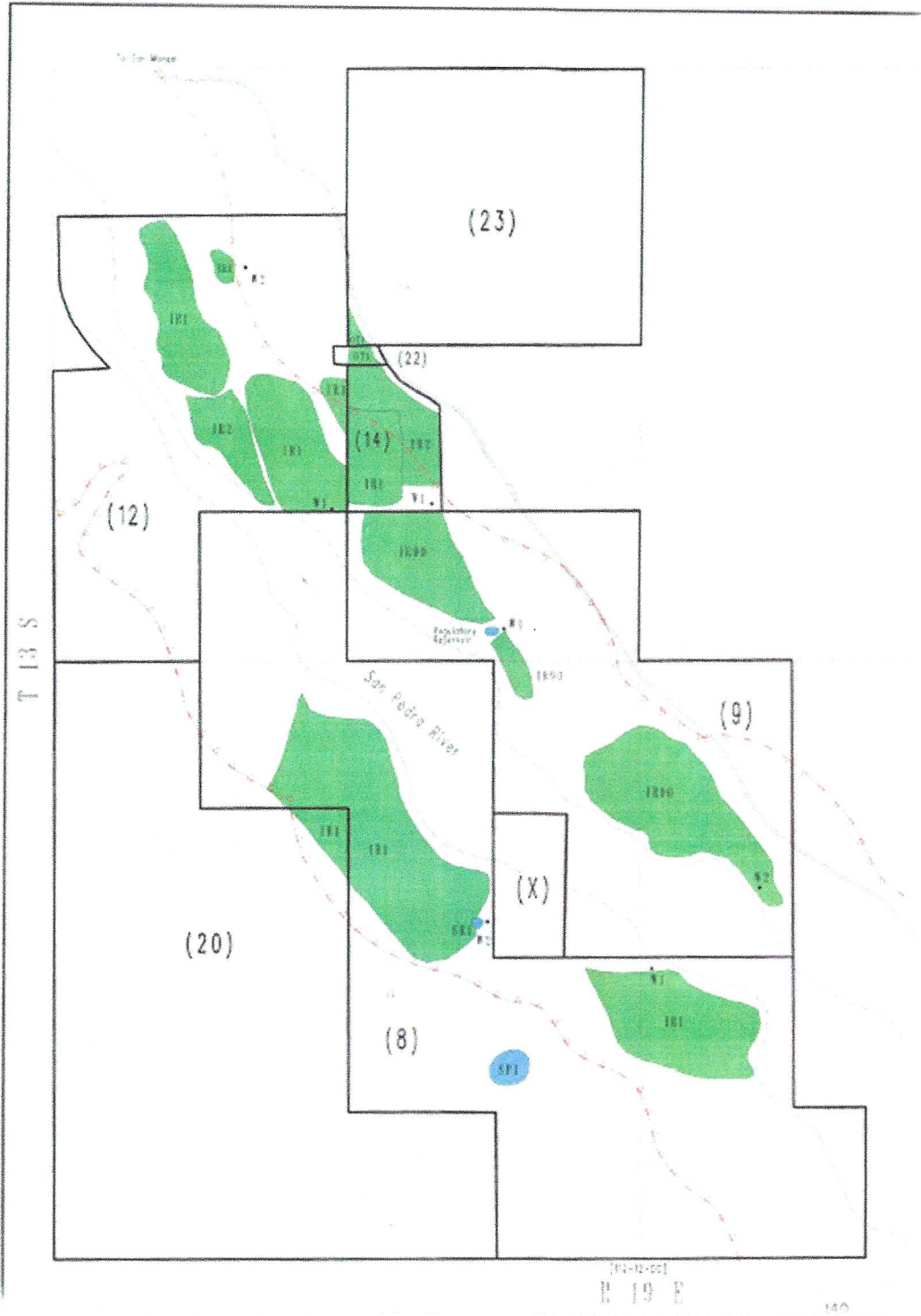
5 Instructions for telephonic appearance:  
6 Dial: 602-506-9695 (local)  
7 1-855-506-9695 (toll free long distance)  
8 Dial Participant Pass Code 357264#  
9

10  
11   
12 SUSAN WARD HARRIS  
13 Special Master

14 On June 1, 2020, the original of the foregoing was  
15 delivered to the Clerk of the Maricopa County Superior  
16 Court for filing and distributing a copy to all persons  
17 listed on the Court-approved mailing list for this contested  
18 case, a copy of which is attached hereto as Attachment D,  
19 and to all persons listed on the Court-approved mailing  
20 list for W-1, W-2, W-3, and W-4 (Consolidated).  
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# ATTACHMENT A

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**ATTACHMENT B**

|                  |                |
|------------------|----------------|
| LAND OWNER       | WATERSHED FILE |
| -----            | REPORT NUMBER  |
| EL POTRERO, INC. | 113-12-DBC-014 |

APPLICABLE FILINGS AND DECREES

CLEARLY STATED INFORMATION FROM FILINGS AND DECREES

| FILING NUMBER | FILING STATUS | USES       | QUANTITY IN AFA | USE LOCATION SECTION | TWNP | RNGE | CLAIM DATE | DIVERSION SECTION | LOCATION TWNP | RNGE |
|---------------|---------------|------------|-----------------|----------------------|------|------|------------|-------------------|---------------|------|
| 36-0029151    |               | IRRIGATION | 15.91           | NWSE04               | 130S | 190E | 1963       | NWSE04            | 130S          | 190E |
| 36-0029152    |               | DOMESTIC   | 1.12            | NWSE04               | 130S | 190E | 1950       | NWSE04            | 130S          | 190E |
| 39-0005822    |               | DOMESTIC   | 1.11            |                      |      |      | 1919       | NWNWSE04          | 130S          | 190E |
| 39-0005823    |               | STOCK      |                 |                      |      |      |            |                   |               |      |
|               |               | IRRIGATION | 15.91           | NWNWSE04             | 130S | 190E | 1919       | NWNWSE04          | 130S          | 190E |
|               |               | DOMESTIC   | .13             |                      |      |      |            |                   |               |      |
|               |               | STOCK      | .31             |                      |      |      |            |                   |               |      |

DWR ANALYSIS OF FILINGS AND DECREES

| FILING NUMBER | USES CLAIMED OR REFERENCED | USES FOUND BY DWR | APPLIES TO DIVERSIONS | APPLIES TO PWR NUMBERS |
|---------------|----------------------------|-------------------|-----------------------|------------------------|
| 36-0029151    | IRRIGATION                 | IRRIGATION        | WO1                   | IROO1                  |
| 36-0029152    | DOMESTIC                   | DOMESTIC          |                       | DMOO1                  |
| 39-0005822    | DOMESTIC                   | DOMESTIC          |                       | DMOO1                  |
| 39-0005823    | STOCK                      | INCIDENTAL        |                       |                        |
|               | IRRIGATION                 | IRRIGATION        | WO1                   | IROO1, IROO2           |
|               | DOMESTIC                   | DOMESTIC          |                       |                        |
|               | STOCK                      | INCIDENTAL        |                       |                        |

DIVERSIONS

| DIV # | LOCATION SECTION | TWNP | RNGE | DIVERSION NAME | WATER SOURCE AND CLASSIFICATION                    |
|-------|------------------|------|------|----------------|--|
| WO1   | SENWSE04         | 130S | 190E | UNNAMED        | GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER SHARED |

USES

| PWR # | LOCATION SECTION | TWNP | RNGE | SUPPLIED BY DIVERSIONS | WATER SOURCES        | PHOTO DATE | SOURCE CHANGE | FACILITY NAME |
|-------|------------------|------|------|------------------------|----------------------|------------|---------------|---------------|
| DMOO1 | SENWSE04         | 130S | 190E | WO1                    | GROUNDWATER : ZONE 1 |            | NO            |               |
| IROO1 | NWSE04           | 130S | 190E | WO1                    | GROUNDWATER : ZONE 1 | 1935       | NO            |               |
| IROO2 | NWSE04           | 130S | 190E | WO1                    | GROUNDWATER : ZONE 1 | 1987       | NO            |               |

SHARED USES AND DIVERSIONS

\*\* WATER FROM WO1 IS SHARED WITH THESE ADDITIONAL FILES:  
113-12DBC-22, 113-12DBC-23

PWR SUMMARY

| PWR # | APPLICABLE ADJ FILINGS | APPLICABLE PRE FILINGS | *APPARENT FIRST USE DATE* DATE BASIS FOR DATE | WATER SOURCES AND CLASSIFICATIONS           |
|-------|------------------------|------------------------|---|---|
| DMOO1 | 39-0005822             | 36-0029151             |   | GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER |
| IROO1 | 39-0005823             | 36-0029152             | 1919 FILING 39-5823                           | GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER |
| IROO2 | 39-0005823             | 36-0029151             | 1987 1987 AERIAL PHOTO                        | GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER |



| PWR # | QUANTIFICATION<br>TYPE | ACRES | CROP TYPE   | EFF | WATER DUTY | ESTIMATED<br>VOLUME | REMARKS                              |
|-------|------------------------|-------|-------------|-----|------------|---------------------|--------------------------------------|
| DM001 |                        |       |             |     |            |                     | SEE VOLUME 1 -<br>GENERAL ASSESSMENT |
| IROO1 | MAX. OBSERVED          | 9.2   | SUMMER PSTR | 33% | 6.2 AF/AC  | 57.0 AFA            |                                      |
|       | REGIONAL               | 9.2   | AVE. CROP   | 50% | 5.4 AF/AC  | 49.7 AFA            |                                      |
| IROO2 | MAX. POTENTIAL         | 9.2   | ALFALFA     | 33% | 10.0 AF/AC | 92.0 AFA            |                                      |
|       | MAX. OBSERVED          | 9.7   | PERM. PSTR  | 32% | 9.9 AF/AC  | 96.0 AFA            |                                      |
|       | REGIONAL               | 9.7   | AVE. CROP   | 50% | 5.4 AF/AC  | 52.4 AFA            |                                      |
|       | MAX. POTENTIAL         | 9.7   | ALFALFA     | 32% | 10.4 AF/AC | 100.9 AFA           |                                      |

E X P L A N A T I O N

FILINGS AND DECREES

FILINGS 36-29152 & 39-5822 - CLAIM DOMESTIC AND STOCKWATERING USES FROM AN ADDITIONAL WELL WHICH WAS NOT LOCATED DURING THE FIELD INVESTIGATION.

DIVERSIONS

W1 - WELL PROVIDES WATER FOR IRRIGATION, DOMESTIC, AND STOCKWATERING USES.

USES AND RESERVOIRS

DM1 - DOMESTIC USE.  
 IR1 & IR2 - IRRIGATED PASTURE.

SHARED USES AND DIVERSIONS

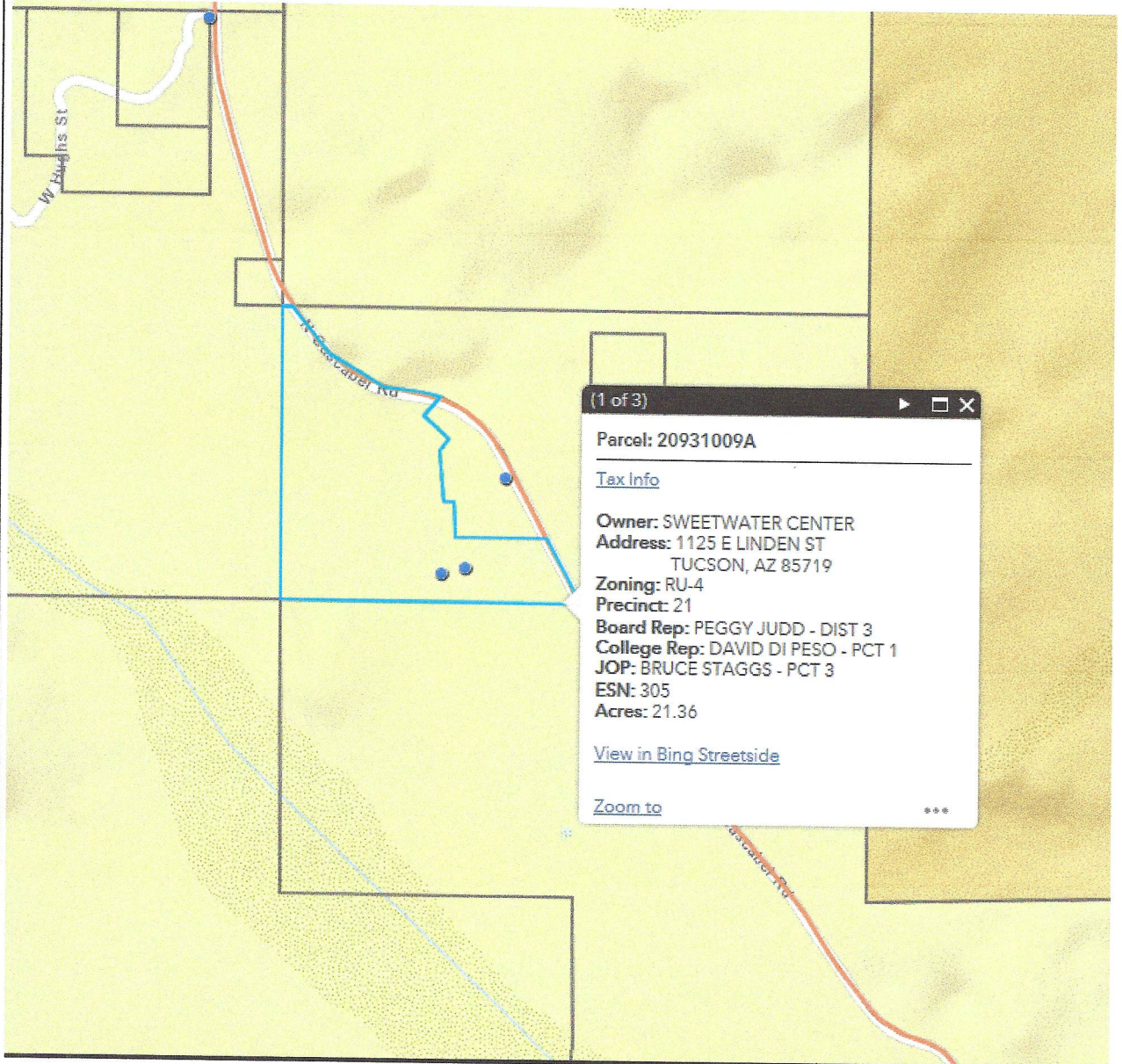
W1 - WELL IS SHARED WITH W.F.R.'S #113-12-DBC-22 & #113-12-DBC-23.

DISPOSITION OF LAND OWNER/CLAIMANT COMMENTS

A COMMENT WAS RECEIVED FROM THE LAND OWNER WHICH INDICATED THAT A CHANGE IN OWNERSHIP HAD OCCURRED.

# ATTACHMENT C

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Arizona Department of Water Resources  
Kimberly Parks  
Janet L. Miller  
P. O. Box 36020  
Phoenix, AZ 85067

ASARCO Incorporated  
Lauren J. Caster  
Fennemore Craig, P.C.  
2394 East Camelback Road  
Suite 600  
Phoenix, AZ 85016-3429

BHP Copper, Inc.  
John D. Burnside  
Snell & Wilmer, L.L.P.  
400 E. Van Buren Street, Ste 1900  
Phoenix AZ 85004

Clerk of the Superior Court  
Maricopa County  
Attn: Water Case  
601 West Jackson Street  
Phoenix, AZ 85003

Gila River Indian Community  
Linus Everling and Thomas L. Murphy  
Office of the General Counsel  
P. O. Box 97  
Sacaton, AZ 85147

Joe P. Sparks and Laurel A. Herrmann  
The Sparks Law Firm, P.C.  
7503 First Street  
Scottsdale, AZ 85251-4573

Lucas T. Christian, Julian Nava, and Richard Palmer  
Rosette, LLP  
565 W. Chandler Blvd. Suite 212  
Chandler, AZ 85225

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S. Montgomery, R. Interpreter, J. Tomkus  
Montgomery & Interpreter, Plc  
3301 E. Thunderbird Road  
Phoenix, AZ 85032

Salt River Valley Water Users Association,  
Salt River Project Agricultural Improvement and Power District  
John B. Weldon, Jr. and Mark A. McGinnis  
Salmon, Lewis & Weldon PLC  
2850 E Camelback Rd, Ste. 200  
Phoenix, AZ 85016

Special Master Susan Ward Harris  
Superior Court of Arizona  
201 W. Jefferson Street  
Courtroom 301  
Phoenix, AZ 85003

Sweetwater Center  
Thomas V. Orum, statutory agent  
1125 E Linden St  
Tucson, Az 85719

U. S. Department of Justice  
Patrick Barry, Yosef Negose and Emma Blades  
Environment and Natural Resources  
P. O. Box 7611  
Washington, D.C. 20044-7611