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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)

**ORDER DENYING MOTION TO
INITIATE CONTESTED CASE AND
DESIGNATE ISSUE OF BROAD
LEGAL IMPORTANCE REGARDING
FORFEITURE OF PRE-1919 RIGHTS**

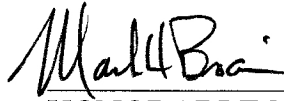
On December 14, 2017, the Salt River Project Agricultural Improvement and Power District and Salt River Valley Water Users' Association (SRP) filed a Motion to Initiate a Contested Case and to Designate an Issue Regarding the Forfeiture of Pre-1919 Water Rights as One of Broad Legal Importance. Various parties joined the motion, while others opposed it. The court heard oral argument on April 19, 2018.

The question presented, of course, is whether water rights which vested prior to 1919 can be lost through statutory forfeiture. That question is likely to arise in this case, and the Arizona Supreme Court arguably resolved it in *San Carlos Apache Tribe v. Superior Court*, 193 Ariz. 195 (1999). But the context of the current motion is that various parties (including SRP) disagree with the Ninth Circuit's interpretation of *San Carlos Apache Tribe* in *United*

1 *States v. Gila Valley Irrigation Dist.*, 859 F.3d 789 (9th Cir. 2017), and seek what amounts to
2 an indirect appeal. The court does not believe that this is appropriate—instead, the issue
3 should be resolved in due course in conjunction with a specific claim or claims.
4

5 Accordingly, SRP's Motion is DENIED.

6 DATED August 15, 2018.
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10 HONORABLE MARK H. BRAIN
11 Judge of the Superior Court
12

13 On August 15, 2018, the original of the foregoing was
14 delivered to the Clerk of the Maricopa County Superior
15 Court for filing and distributing a copy to all persons
16 listed on the Court approved mailing list for W-1, W-2,
17 W-3 and W-4 (Consolidated).

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19 Renee Ellison
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