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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

PRETRIAL ORDER NO. 5
RE: NOTICE OF HYDROGRAPHIC
SURVEY REPORTS

Pursuant to the authority vested in this Court by Section 45-259, ARIZ. REV. STAT., and Rule 16 of the ARIZONA RULES OF CIVIL PROCEDURE, the Court hereby enters the following order concerning the notice to be given by the Arizona Department of Water Resources (“Department”) of the issuance or filing of hydrographic survey reports (“HSRs”):

1. Definitions

A. “Claimant” means a person who has filed a statement of claimant in the Gila River adjudication under the provisions of ARIZ. REV. STAT. § 45-254, or a person to whom a previously filed statement of claimant has been assigned.

B. “Nonclaimant water user” means a person who has been identified by the Department as currently using water within the geographic area covered by the HSR.

1 **2. Notice of Preliminary HSR**

2 After the Department has completed a preliminary HSR for a watershed or
3 for an Indian or federal reservation, or any portion of such watershed or reservation
4 as specified by the Court, the Department shall provide notice thereof in the
5 following manner:

6 A. The Department shall file a notice with the clerk of the court.
7 The notice will specify where the preliminary HSR is available for inspection or
8 purchase, the deadline and procedure for submitting comments on the preliminary
9 HSR, and procedures for obtaining additional information.

10 B. The Department shall issue a press release containing the
11 information stated in the court notice. The Department shall publish the press
12 release on the Department's internet web site and in newspapers of general
13 circulation throughout the Gila River adjudication area.

14 C. The Department shall send a copy of the court notice by first-
15 class mail to those persons included on the court-approved mailing list and to each
16 claimant and non-claimant water user in the geographic area covered by the
17 preliminary HSR.

18 D. If the preliminary HSR was prepared for a watershed, the
19 Department shall send by first-class mail to each claimant and nonclaimant water
20 user that portion of the preliminary HSR describing each specific water use or claim
21 by that person.

22 E. If the preliminary HSR was prepared for an Indian reservation,
23 the Department shall provide a copy of the entire preliminary HSR to the tribal
24 representative for the Indian reservation and to the United States in its capacity as

1 trustee for the Indian tribe. If the preliminary HSR was prepared for another federal
2 reservation, the Department shall provide a copy of the entire preliminary HSR to
3 the United States.

4 F. Within a tribal or federal reservation, the Department shall
5 identify claims or water uses associated with allotted or fee land owned by persons
6 other than the tribe or the United States. For each specific water use or claim on
7 such allotted or fee land, the Department shall send by first-class mail to each
8 claimant and non-claimant water user that portion of the preliminary HSR
9 describing each specific water use or claim by that person. In the event that the
10 ownership of allotted or fee land within a reservation cannot be reasonably
11 ascertained, the Department shall publish a copy of the court notice in the manner
12 specified by Rule 4.2(f), ARIZONA RULES OF CIVIL PROCEDURE. The Department shall
13 also publish the notice in the county in which the land is located.

14 **3. Inspection of Preliminary Report**

15 After the Department has completed a preliminary HSR for a watershed or
16 reservation, or any portion of such watershed or reservation as specified by the
17 Court, the Department shall make copies of the preliminary HSR available for
18 inspection and purchase in the following manner:

19 A. The Department shall file a copy of the preliminary HSR with
20 the clerk of the court.

21 B. The Department shall provide copies of the preliminary HSR to
22 county court clerks and public libraries located throughout the Gila River
23 adjudication area.

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1 C. The Department shall make copies of the preliminary HSR
2 available for purchase at the Department's main office. The Department shall also
3 make copies of the preliminary HSR available for inspection at each of the
4 Department's active management area offices.

5 D. The Department shall undertake reasonable efforts to make the
6 preliminary HSR available in an electronic format.

7 **4. Comments on Preliminary HSR**

8 A. The Department shall establish a deadline for submitting
9 comments to the Department on a preliminary HSR. The deadline shall be
10 included in the notice of the preliminary HSR filed with the clerk of the court
11 pursuant to paragraph 2 of this order and shall be no less than 90 days after filing the
12 notice.

13 B. With the Court's approval, the Department may extend the
14 deadline for submitting comments on the preliminary HSR. The Department shall
15 provide notice of any approved extension of the comment period in the same
16 manner as the original notice under paragraph 2 of this order.

17 C. With the Court's approval, the Department may revise the
18 preliminary HSR and issue another preliminary HSR. The notice of additional
19 preliminary HSRs will comply with this order.

20 **5. Final Hydrographic Survey Report (HSR)**

21 After the Department has completed the procedures required under
22 paragraphs 2 through 4 of this order, the Department shall prepare a final HSR and
23 provide notice thereof in the following manner:
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1 A. At least 120 days before the final HSR is published, the
2 Department shall file a notice with the clerk of the court. This 120-day notice shall
3 state the date on which the final HSR is to be filed and the deadlines for filing a new
4 statement of claimant or amendment to an existing statement of claimant as
5 provided by ARIZ. REV. STAT. § 45-254. The Department shall send a copy of this 120-
6 day notice by first-class mail to all persons listed on the court-approved mailing list,
7 all claimants in the geographic area covered by the final HSR, and all non-claimant
8 water users in the geographic area covered by the final HSR.

9 B. Upon filing the final HSR with the clerk of the court, the
10 Department shall also file a notice of commencement of the objection period with
11 the clerk of the court. This objection notice shall specify where the final HSR will be
12 available for inspection or purchase, the deadline and procedure for submitting
13 objections to the final HSR, and the procedures for obtaining additional
14 information. If a special master has been appointed, the notice may be combined
15 with any additional information required by the master.

16 C. The Department shall issue a press release containing the
17 information stated in the objection notice. The Department shall publish the press
18 release on its internet web site and in newspapers of general circulation throughout
19 the Gila River adjudication area.

20 D. The Department shall send a copy of the objection notice by first-
21 class mail to those persons included on the court-approved mailing list, to each
22 claimant and nonclaimant water user in the geographic area covered by the final
23 HSR, and to every other claimant in the Gila River adjudication.

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1 E. If the final HSR was prepared for a watershed, the Department
2 shall send with the objection notice to each claimant and nonclaimant water user
3 that portion of the final HSR describing each specific water use or claim by that
4 person.

5 F. If the final HSR was prepared for an Indian reservation, the
6 Department shall provide a copy of the objection notice and the entire final HSR to
7 the tribal representative for the Indian reservation and to the United States in its
8 capacity as trustee for the Indian tribe. If the final HSR was prepared for another
9 federal reservation, the Department shall provide a copy of the objection notice and
10 the entire final HSR to the United States.

11 G. If the Department has identified claims or water uses associated
12 with allotted or fee land, as discussed in paragraph 2(F) of this Order, the
13 Department shall send by first-class mail to each claimant and non-claimant water
14 user a copy of the objection notice and that portion of the final HSR describing each
15 specific water use or claim by that person. In the event that the ownership of
16 allotted or fee land within a reservation cannot be reasonably ascertained, the
17 Department shall publish a copy of the objection notice in the manner specified by
18 Rule 4.2(f), ARIZONA RULES OF CIVIL PROCEDURE. The Department shall also publish
19 the objection notice in the county in which the land is located.

20 **6. Inspection of Final Hydrographic Survey Report (HSR)**

21 After the Department has completed a final HSR, the Department shall make
22 copies of the final HSR available for inspection and purchase in the same manner as
23 specified for preliminary HSRs by paragraph 3 of this order.
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7. Objections to Final Hydrographic Survey Report (HSR)

A. Claimants may file objections in the manner specified by statute, Pretrial Order No. 1 ¶ 12(D)(3)(b) & (c) (May 30, 1986), and the RULES FOR PROCEEDINGS BEFORE THE SPECIAL MASTER § 6.00 *et seq.* (Nov. 1, 1991).

B. The Department shall assist the Court and special master in determining the procedures and preparing the objection forms, instructions, and other documents necessary for filing objections to the final HSR.

C. The Department shall provide copies of objection forms and instructions upon request.

Dated this 29th day of March 2000.

/s/ Susan R. Bolton

SUSAN R. BOLTON
Judge of the Superior Court