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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. **W1-106**

**ORDER GRANTING MOTION TO
INTERVENE
AND
ORDER LIMITING EXPERT
TESTIMONY**

CONTESTED CASE NAME: *In re Subflow Technical Report, Verde River Watershed*
TECHNICAL REPORT INVOLVED: Arizona Department of Water Resources, *Technical Report Concerning De Minimis Domestic, Stockpond, and Stock and Wildlife Watering Uses in the Verde River Watershed, August 2022*
DESCRIPTIVE SUMMARY: Order granting Motion to Intervene and limiting expert testimony.
NUMBER OF PAGES: 8

Every report filed with the Court by the Arizona Department of Water Resources (“ADWR”) is open to public comment. To limit the multitude of comments and opinions the Court must consider, only objections to the report filed with the Court pursuant to 45-256(B) will be considered, unless otherwise permitted by the Court. Furthermore, each report includes well-noticed deadlines for filing such objections. The deadline for filing objections to ADWR’s *Technical Report Concerning De Minimis*

1 *Domestic, Stockpond, and Stock and Wildlife Watering Uses in The Verde River*
2 *Watershed* (“Report”) was October 28, 2022. The Arizona State Land Department
3 (“ASLD”) did not file an objection, thus the Court, and likely the other parties, presumed
4 ASLD was in agreement with the Report. On December 12, 2022, ASLD did indicate
5 they would be presenting an expert witness. Since there was no objection on file,
6 presumably this witness was to support ADWR’s Report. On June 15, 2023, ASLD
7 asked for an extension for the expert witness’s report, which the Court granted.

8 On October 27, 2023, almost a year to the day of the deadline to file an objection,
9 ASLD filed a 26.1 disclosure statement indicating for the first time that ASLD was not
10 in agreement with ADWR and intended to present a counter opinion. On February 14,
11 2024, the Court issued an order which scheduled a status conference and indicated which
12 parties are currently included as objecting parties who may present controverting
13 evidence. ASLD was not included in that list. ASLD filed a motion to intervene in the
14 *de minimis* trial on February 16, 2024, and the Salt River Project Agricultural
15 Improvement and Power District and Salt River Valley Water Users’ Associations
16 (collectively “SRP”) filed a response on February 20, 2024.

17 The Court agrees that ASLD does indeed have a great interest in the Report and
18 the *de minimis* criteria. Further, where a party has no specific objection to a report but
19 has a valid interest in the controversy, a motion to intervene should be filed pursuant to
20 Arizona Rule of Civil Procedure. 24 and the Rules for Proceedings Before the Special
21 Master. To date the Court has been very amenable to fully articulated, properly filed
22 motions to intervene. However, as was properly noted in SRP’s Response, an intervenor
23 cannot bring with them new issues or expand a controversy.¹

24 **IT IS ORDERED** granting the Motion to Intervene filed by ASLD.

25 **IT IS FURTHER ORDERED** that because ASLD did not file any objections to
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28 ¹ *Salt River Project’s Response to Arizona State Land Department’s Motion for Intervention* at 7 (Feb. 20, 2024).

1 the Report, ASLD expert testimony is limited. ASLD may not raise new issues, but may
2 only sustain or oppose the positions of the parties.

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5 Signed this 21st day of February 2024

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8 Sherri L. Zendri
Special Master

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16 The original of the foregoing was delivered
17 to the Clerk of the Maricopa County Superior
18 Court on February 21, 2024 for
19 filing and distributing a copy to all persons
20 listed on the Court approved mailing list for
21 this contested case.

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Emily Natale

Court Approved Mailing List
In re Subflow Technical Report, Verde River Watershed, Case No. W1-106
W1-106 (60 Names)
Prepared by the Special Master
2/21/2024

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