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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. W1-11-3372

ORDER TO INITIATE CONTESTED CASE

AND

ORDER FOR ADWR REVIEW OF ABSTRACTS
FOR *DE MINIMIS* WATER RIGHTS

AND

ORDER FOR JOINT REPORT FROM ARIZONA
STATE LAND DEPARTMENT AND LESSEE

CONTESTED CASE NAME: *In re SLD – Argo Land and Cattle Company*

HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report

DESCRIPTIVE SUMMARY: Case W1-11-3372 initiated and three abstracts prepared for ADWR review to be filed by **January 7, 2022** and joint report to be filed by the Arizona Department of Water Resources and Lessee by **February 28, 2022**.

NUMBER OF PAGES: 19

DATE OF FILING: November 1, 2021

1 This Order initiates a contested case to consider the claims for water rights and resolve
2 objections to Watershed File Report 115-05-053 (“WFR”) published in the Final San Pedro River
3 Watershed Hydrographic Survey Report (1991). The WFR identified potential water rights for
4 stockponds and stock watering uses on land located in Township 6S, Range 19E and Township
5 7S, Range 19E. A copy of the watershed file report is attached as Attachment A. A copy of the
6 map prepared for the WFR is attached as Attachment B. The land that is the subject of the WFR
7 is labelled as “(53)” on the map. A discrepancy exists between the area mapped and the legal
8 description for three potential water rights.

9
10 **Claimants & Landowner**

11 The WFR identified Statements of Claimant 39-6947, 39-6948, and 39-6949 as the
12 relevant filings for the potential water rights filed by the Arizona State Land Department.
13 Arizona State Land Department (“ASLD”) is named in the WFR as the owner of the property
14 described in the WFR. The public records maintained by ASLD identify The Nature
15 Conservancy as the lessee of the relevant land.
16

17
18 **Adjudication of Claims**

19 Under current law, a claimant who has asserted claims for irrigation use and Small Water Use
20 Claims shall have the Small Water Uses Claims determined in conjunction with the claims for water
21 for irrigation use. A.R.S. §45-257(A)(1). The term “Small Water Use Claims” includes claims
22 for stock watering and stockponds with a capacity of not more than 15-acre feet. A.R.S. §45-251(9).
23 Claims have been asserted for potential water rights for irrigation use by The Nature Conservancy
24 in *In re Arizona Chapter of the Nature Conservancy – Aravaipa Creek II*, Contested Case No. W1-
25 11-3388 and by ASLD in *In re Lackner*, Contested Case W1-11-3401 (consolidated with W1-11-
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1 3326). Accordingly, it is appropriate to determine Small Water Use Claims asserted with respect to
2 land included within the boundaries of the WFR.

3 **Abstracts for *De Minimis* Claims**

4 In 1994, the Special Master issued a Memorandum Decision, Findings of Fact, and
5 Conclusions of Law for Group 1 Cases involving Stock watering, Stockponds, and Domestic Uses,
6 dated November 14, 1994, amended February 23, 1995, approved and modified September 27, 2002
7 (“Decision”). The Decision established the procedures for adjudicating *de minimis* water rights for
8 claims in the San Pedro watershed. This procedure applies to the water rights for stockponds and
9 stock watering.
10

11 As required by the Decision, proposed water right abstracts have been prepared for the *de*
12 *minimis* water rights analyzed by the WFR, which are attached as Attachment C. The abstracts will
13 be reviewed by Arizona Department of Water Resources who will provide comments and maps
14 designating the points of diversion and places of use. Upon receipt of a report from the Arizona
15 Department of Water, the draft abstracts will be revised as necessary and distributed to the parties
16 for suggested corrections.
17

18 Abstracts were not prepared for potential water rights for 115-05-053-SP002, 115-05-053-
19 SW003, or 115-05-053-SW004, because the legal descriptions provided in the WFR are outside the
20 boundaries of the area mapped as shown on Attachment B. The report filed by ADWR shall
21 provide the correct legal descriptions for the places of use and points of diversion for SP002,
22 SW003, and SW004.
23

24 **Ownership of Potential Water Rights**

25 Permits and certificates for rights to water used on state land are governed by A.R.S §37-
26 321.01. The statute requires that permits and certificates for the right to use water on state land for
27
28

1 stock watering uses or stockponds shall be issued in the name of the State of Arizona except in
2 three situations. Accordingly, if the current Lessee intends to assert rights to water for use on the
3 land, the Lessee and the Arizona State Land Department shall meet to discuss ownership of the
4 water rights for stock watering and stockponds on the land included within the boundaries of the
5 WFR and submit a joint report regarding their positions as to the ownership of the potential water
6 rights.
7
8

9 **IT IS ORDERED:**

10 1. Contested Case. This contested case shall be known as *In re SLD – Argo Land and*
11 *Cattle Company* and it will address the Statements of Claimant listed above and the objections to
12 Watershed File Report 115-05-053 published in the Final San Pedro River Watershed Hydrographic
13 Survey Report (1991). Copies of objections can be found under the case name and number on the
14 following website:

15 <http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp>

16 2. Litigants. The litigants in this contested case are the Claimant, the current lessee, all
17 persons who filed objections to the Watershed File Report, who are included on Attachment D, and
18 parties who are allowed to intervene by order.
19

20 3. Court-Approved Mailing List.

21 A. The initial Court-approved mailing list for this case shall include all persons
22 listed on Attachment D to this order. The list may be modified only by filing a motion
23 with the Special Master to amend the Court-approved mailing list. Litigants are
24 responsible for using the current Court-approved mailing list.
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1 B. A copy of any pleading filed with the Clerk of the Maricopa County Superior
2 Court in this case shall be served upon each person listed on the Court-approved
3 mailing list.

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

7
8 D. The Clerk of the Court will send copies of all minute entries and orders issued
9 in this case to the parties listed on the Court-approved mailing list. Upon request,
10 the Clerk of the Court will provide copies by email. Parties may request emailed
11 copies of minute entries and orders by completing and submitting a CONSENT FOR
12 ELECTRONIC RECEIPT OF WATER CASE DOCUMENTS, which is attached as
13 Attachment E.
14

15
16 4. By **January 7, 2022**, ADWR shall review and file a report with its comments on the
17 draft abstracts attached as Attachment C, the correct legal descriptions for the remaining potential
18 water rights, and prepare maps regarding the potential water rights.

19
20 5. By **February 28, 2022**, the Lessee who intends to assert water rights and Arizona
21 State Land Department shall file a joint report regarding ownership of the potential water rights
22 identified in the draft abstracts attached as Attachment C and in the report filed by ADWR.
23

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27 SUSAN WARD HARRIS
28 Special Master

1 On November 1, 2021 the original of the foregoing was
2 delivered to the Clerk of the Maricopa County Superior Court
3 for filing and distributing a copy to all persons listed on the
4 Court-approved mailing list for this contested case, a copy of
5 which is attached hereto as Attachment D, and to all persons
6 listed on the Court-approved mailing list for W-1, W-2, W-3,
7 and W-4 (Consolidated).

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Emily Natale

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ATTACHMENT A

LAND OWNER	WATERSHED FILE REPORT NUMBER	LESSEE/ALLOTTEE	LEASE-PERMIT ID
SLD	115-05-053	AGRO LAND AND CATTLE CO.	05-88191

APPLICABLE FILINGS AND DECREES

CLEARLY STATED INFORMATION FROM FILINGS AND DECREES

11-11-3372

FILING NUMBER	FILING STATUS	USES	QUANTITY IN AFA	USE LOCATION SECTION	TWNP	RNGE	CLAIM DATE	DIVERSION SECTION	LOCATION TWNP	RNGE
33-0036731.0002	CERTIF.	STOCK	.15	SENE34	060S	190E	1976	SENE34	060S	190E
33-0036732.0002	CERTIF.	STOCK	.20	SWSW03	070S	190E	1976	SWSW03	070S	190E
36-0036734.0001		STOCK	.36	SESE05	070S	190E	1910	SESE05	070S	190E
36-0100036		STOCK	.10	NWSE34	060S	190E	1883	NWSE34	060S	190E
36-0100037		REC/FISH/WLDFL								
		STOCK	.59	SWSW03	070S	190E	1883	SWSW03	070S	190E
36-0100038		REC/FISH/WLDFL								
		STOCK	.19	SWNE05	070S	190E	1883	SWNE05	070S	190E
		REC/FISH/WLDFL								
		STOCK		NESE05	070S	190E		NESE05	070S	190E
				NWSE05	070S	190E		NWSE05	070S	190E
38-0088427		STOCK	1.10	SWSW03	070S	190E	1968	SWSW03	070S	190E
38-0088428		REC/FISH/WLDFL								
		STOCK	1.10	NWSE34	060S	190E	1976	NWSE34	060S	190E
		REC/FISH/WLDFL								
39-0001973	QUE.RECD	STOCK	1.00	SWSW03	070S	190E	1968			
39-0003384		STOCK	.15	SESE05	070S	190E				
39-0003385	QUE.RECD	STOCK	.15	SWSW36	060S	190E		SWSW36	060S	190E
39-0006947	AMENDED	STOCK	1.00	NWSE34	060S	190E	1976	NWSE34	060S	190E
		REC/FISH/WLDFL	.01							
		OTHER	19.91							
39-0006948	AMENDED	STOCK	1.00	SWSW03	070S	190E	1968	SWSW03	070S	190E
		REC/FISH/WLDFL	.10							
		OTHER	46.00							
39-0006949		STOCK	.19	NESE05	070S	190E	1883	NESE05	070S	190E
		STOCK		NWSE05	070S	190E		NWSE05	070S	190E
		REC/FISH/WLDFL		SWNE05	070S	190E		SWNE05	070S	190E
4A-0001031	CERTIF.	STOCK	72.38		05	070S	1929		05	070S

DWR ANALYSIS OF FILINGS AND DECREES

FILING NUMBER	USES CLAIMED OR REFERENCED	USES FOUND BY DWR	APPLIES TO DIVERSIONS	APPLIES TO PWR NUMBERS
33-0036731.0002	STOCK	STOCK		SW001
33-0036732.0002	STOCK	STOCK		SW002
36-0036734.0001	STOCK	SPRING		SW003
36-0100036	STOCK	STOCK		SW001
	WILDLIFE	INCIDENTAL		
36-0100037	STOCK	STOCK		SW002
	WILDLIFE	INCIDENTAL		
36-0100038	STOCK	SPRING		SW003
38-0088427	STOCK	STOCK		SPO02
	WILDLIFE	INCIDENTAL		
38-0088428	STOCK	STOCK		SPO01
	WILDLIFE	INCIDENTAL		
39-0001973	STOCK	STOCK		SPO02
39-0003384	STOCK	SPRING		SW003
39-0003385	STOCK	STOCK		SW004
39-0006947	STOCK	STOCK		SPO01, SW001
	WILDLIFE	INCIDENTAL		
39-0006948	STOCK	STOCK		SPO02, SW002
	WILDLIFE	INCIDENTAL		
39-0006949	STOCK	SPRING		SW003
4A-0001031	STOCK	SPRING		SW003

USES

PWR #	LOCATION SECTION	TWNP	RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO DATE	SOURCE CHANGE	FACILITY NAME
SW001	NENWSE34	060S	190E		SURFACE WATER		NO	INSTREAM USE
SW002	SWSWSW03	070S	190E		SURFACE WATER		NO	INSTREAM USE
SW003	SWESE05	060S	190E		SURFACE WATER		NO	TURKEY CREEK SPRING
SW004	NESWSW36	060S	190E		SURFACE WATER		NO	INSTREAM USE

PWR #	SECTION	TWNP	RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO DATE	RESERVOIR NAME	STORAGE PURPOSE
SPO01	NENWSE34	060S	190E		SURFACE WATER	1976	VALENZUELA TANK	STOCKWATERING WILDLIFE
SPO02	SWSWSW03	060S	190E		SURFACE WATER	1984	MOORE CANYON TANK	STOCKWATERING WILDLIFE

PWR SUMMARY

PWR #	APPLICABLE ADJ FILINGS	APPLICABLE PRE FILINGS	*APPARENT FIRST USE DATE*	DATE BASIS FOR DATE	WATER SOURCES AND CLASSIFICATIONS
SPO01	39-0006947	38-0088428	1976 FILING	38-88428	SURFACE WATER: ARAVAIPA CREEK
SPO02	39-0001973 39-0006948	38-0088427	1968 FILING	38-88427	SURFACE WATER: ARAVAIPA CREEK
SW001	39-0006947	33-0036731.0002 36-0100036	1884 FILING	36-100036	SURFACE WATER: ARAVAIPA CREEK
SW002	39-0006948	33-0036732.0002 36-0100037	1884 FILING	36-100037	SURFACE WATER: ARAVAIPA CREEK
SW003	39-0003384 39-0006949	36-0036734.0001 36-0100038 4A-0001031	1884 FILING	36-100038	SURFACE WATER: ARAVAIPA CREEK
SW004	39-0003385	NONE			SURFACE WATER: ARAVAIPA CREEK

QUANTITIES OF USE

PWR #	QUANTIFICATION TYPE	ACRES	CROP TYPE	EFF	WATER DUTY	ESTIMATED VOLUME	REMARKS
SPO01	MAX. AREA/CAP	LT 2.0				LTE 15.0 AF	
SPO02	MAX. AREA/CAP	LT 2.0				LTE 15.0 AF	
SW001							SEE VOLUME 1 - GENERAL ASSESSMENT
SW002							SEE VOLUME 1 - GENERAL ASSESSMENT
SW003							SEE VOLUME 1 - GENERAL ASSESSMENT
SW004							SEE VOLUME 1 - GENERAL ASSESSMENT

EXPLANATION

FILINGS AND DECREES

FILINGS 39-1973, 39-3384 AND 39-3384 - UNIFORM QUESTIONNAIRES WERE RECEIVED WHICH REFLECTED INFORMATION PREVIOUSLY PROVIDED IN THE ORIGINAL STATEMENT OF CLAIMANT.

USES AND RESERVOIRS

- SP1 - VALENZUELA TANK STOCKPOND.
- SP2 - MOORE TANK STOCKPOND.
- SW1 - INSTREAM STOCKWATERING USE FROM VALENZUELA CANYON.
- SW2 - INSTREAM STOCKWATERING USE FROM 6948 WASH.
- SW3 - STOCKWATERING USE FROM TURKEY CREEK SPRING.
- SW4 - INSTREAM STOCKWATERING USE FROM ARAVAIPA CREEK.

QUANTITIES OF USE

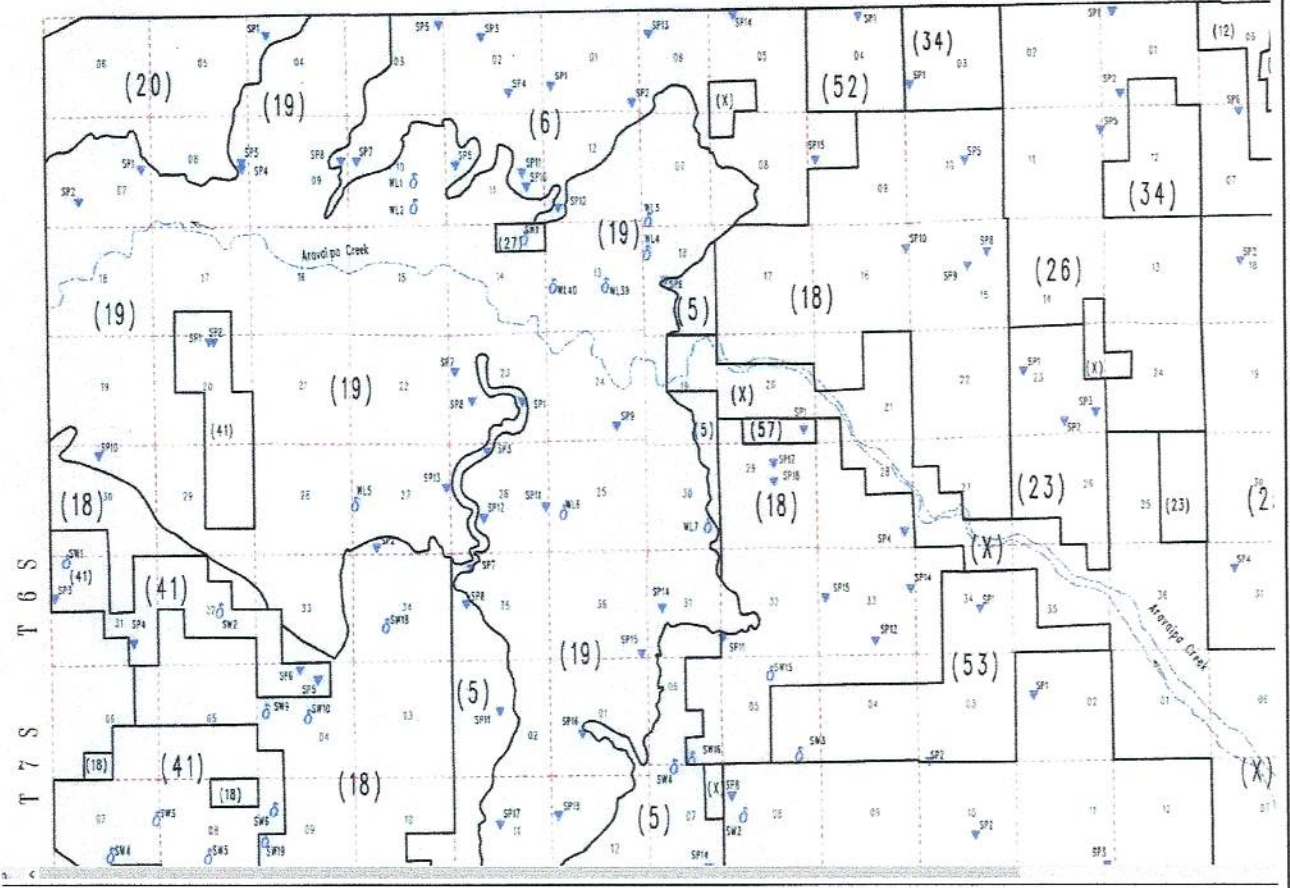
SP2 - FILING 33-37632 STATES A CERTIFICATED STOCKPOND CAPACITY OF 5.25 ACRE-FEET.

DISPOSITION OF LAND OWNER/CLAIMANT COMMENTS

COMMENTS WERE RECEIVED FROM THE LAND OWNER ON THE DISPOSITION OF FILINGS IN THIS W.F.R. A COMMENT WAS RECEIVED FROM THE LESSEE WHICH STATED THAT THERE WAS NOT ANY W.F.R. WHICH REPORTED THE CLAIMANT'S LEASE OF STATE LAND. THE LESSEE ALSO COMMENTED ON THE DISPOSITION OF FILINGS IN THIS W.F.R.

ATTACHMENT B

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ATTACHMENT C

**Proposed Abstract of Water Right
San Pedro Watershed**

Attribute	Proposed Abstract of Water Right	ADWR Comments
1. Proposed Water Right No.:	115-05-053-SP001	
2. Owner of Water Right:		
3. Landowner:	State of Arizona - Arizona State Land Department	
4. Statement of Claimant No.(s):	39-6947	
5. Statement of Claimant Name(s):	State of Arizona - Arizona State Land Department	
6. Lessee:	The Nature Conservancy	
7. Basis of Right:	38-88428	
8. Beneficial Use:	Stock and wildlife watering from a stock pond	
9. Priority Date:	December 31, 1976	
10. Quantity:	Not to exceed (\leq) 4-acre feet annually with continuous refill	
11. Place of Use:	NENWSE Sec. 34 T6S R19E of the Gila and Salt River Base and Meridian, Graham County, Arizona (see attached map)	
12. Point of Diversion:	NENWSE Sec. 34 T6S R19E of the Gila and Salt River Base and Meridian, Graham County, Arizona (see attached map)	
13. Source of Water:	San Pedro River	
14. Facility:	Valenzuela Tank	

**Proposed Abstract of Water Right
San Pedro Watershed**

Attribute	Proposed Abstract of Water Right	ADWR Comments
1. Proposed Water Right No.:	115-05-053-SW001	
2. Owner of Water Right:		
3. Landowner:	State of Arizona - Arizona State Land Department	
4. Statement of Claimant No.(s):	39-6947	
5. Statement of Claimant Name(s):	State of Arizona - Arizona State Land Department	
6. Lessee:	The Nature Conservancy	
7. Basis of Right:	33-36731 36-100036	
8. Beneficial Use:	Stock and wildlife watering	
9. Priority Date:	December 31, 1884	
10. Quantity:	Reasonable use	
11. Place of Use:	NENWSE Sec. 34 T6S R19E of the Gila and Salt River Base and Meridian, Graham County, Arizona (see attached map)	
12. Point of Diversion:	NENWSE Sec. 34 T6S R19E of the Gila and Salt River Base and Meridian, Graham County, Arizona (see attached map)	
13. Source of Water:	San Pedro River	

**Proposed Abstract of Water Right
San Pedro Watershed**

Attribute	Proposed Abstract of Water Right	ADWR Comments
1. Proposed Water Right No.:	115-05-053-SW002	
2. Owner of Water Right:		
3. Landowner:	State of Arizona - Arizona State Land Department	
4. Statement of Claimant No.(s):	39-6948	
5. Statement of Claimant Name(s):	State of Arizona - Arizona State Land Department	
6. Lessee:	The Nature Conservancy	
7. Basis of Right:	33-36732 36-100037	
8. Beneficial Use:	Stock and wildlife watering	
9. Priority Date:	December 31, 1884	
10. Quantity:	Reasonable use	
11. Place of Use:	SWSWSW Sec. 3 T7S R19E of the Gila and Salt River Base and Meridian, Graham County, Arizona (see attached map)	
12. Point of Diversion:	SWSWSW Sec. 3 T7S R19E of the Gila and Salt River Base and Meridian, Graham County, Arizona (see attached map)	
13. Source of Water:	6948 Wash	

ATTACHMENT D

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4 Arizona Department of Water Resources
5 Kimberly Parks
6 P. O. Box 36020
7 Phoenix, AZ 85067

8 Carla Consoli
9 Lewis, Roca, Rothgerber & Christie, LLP
10 The Nature Conservancy
11 201 E Washington Street
12 Ste. 1200
13 Phoenix, AZ 85004

14 Carrie Brennan and Kevin Crestin
15 Arizona Attorney General
16 Natural Resources Department
17 2005 N. Central
18 Phoenix, Az 85004

19 Clerk of the Superior Court
20 Maricopa County
21 Attn: Water Case
22 601 West Jackson Street
23 Phoenix, AZ 85003

24 Joe P. Sparks and Laurel A. Herrmann
25 The Sparks Law Firm, P.C.
26 7503 First Street
27 Scottsdale, Az 85251-4573

28 Richard Palmer, Jr., Jeremiah Weiner
and Lauren Mulhern
Rosette, LLP
565 W. Chandler Blvd. Suite 212
Chandler, AZ 85225

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

1 Salt River Valley Water Users Association,
2 Salt River Project Agricultural Improvement and Power District
3 John B. Weldon, Jr. and Mark A. McGinnis
4 Salmon, Lewis & Weldon PLC
5 2850 E Camelback Rd, Ste. 200
6 Phoenix, AZ 85016

7 Linus Everling and Thomas Murphy
8 Gila River Indian Community
9 Office of the General Counsel
10 P O. Box 97
11 Sacaton, AZ 85147

12 F. Patrick Barry
13 U.S. Department of Justice
14 P. O. Box 7611
15 Washington, D.C. 20044-7611

16 S. Montgomery, R.Interpreter, J. Tomkus,
17 Montgomery & Interpreter PLC
18 3301 E. Thunderbird Road
19 Phoenix, AZ 85032

20 Special Master Susan Ward Harris
21 Superior Court of Arizona
22 201 W. Jefferson Street
23 Courtroom 301
24 Phoenix, AZ 85003

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ATTACHMENT E

**CLERK OF THE COURT
SUPERIOR COURT OF ARIZONA**

Jeff Fine
Clerk

**MARICOPA COUNTY
Customer Service Center
601 West Jackson
Phoenix, AZ 85003**

602 372-4115
Water Case Clerk

CONSENT FOR ELECTRONIC RECEIPT OF WATER CASE DOCUMENTS

In an effort to provide more timely and cost effective distribution of copies of filed Water Case documents, the Clerk of the Superior Court would like implement electronic distribution via email. To do so, we require your consent to receive copies of documents electronically at an email address provided to our office.

This consent is voluntary and can be rescinded if you so choose. If you no longer wish to receive Water Case documents from the Clerk of Superior Court electronically, please send written notification to the Clerk of the Superior Court Water Case Specialist at the email address below requesting that all future records be sent in paper form.

Please note that if you consent to receive documents via email, you must notify the Clerk's Office of any change to your email address to avoid delay in receiving future filings. In the event there is no valid email address on file with the Clerk of the Superior Court Water Case Specialist, documents will be mailed to the address provided.

If you wish to consent to receive future documents via email, please either fill out the information below and mail to our office or provide the below information to Mayra.Antelo@Maricopa.Gov.

Preferred email address:

Alternate email address:

Physical address:

Phone number:

Firm Name:

Name [Printed]:

Signature:

Date:

Thank you,

Mayra Antelo
Clerk of the Superior Court
Water Case Specialist
(602) 372-5375 options 7,1,3,4