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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. W1-11-3199  
  
ORDER TO INITIATE CONTESTED  
CASE

CONTESTED CASE NAME: *In re Artemisa Arbizo*  
  
HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report  
  
DESCRIPTIVE SUMMARY: Contested case W1-11-3199 initiated. ASARCO LLC shall file an amended Objection by **November 15, 2019**. Landowners shall file copies of any statement of claimant (“SOC”) filed with Arizona Department of Water Resources (ADWR”) by **November 27, 2019**.  
  
NUMBER OF PAGES: 16  
  
DATE OF FILING: October 24, 2019

This Order initiates a contested case regarding Watershed File Report 114-04-BDD-016 (“WFR”) published in the Final San Pedro River Watershed Hydrographic Survey Report (1991). The WFR identified potential water rights for domestic and irrigation uses for the land described in the WFR located in the southeastern quarter of section 09 Township 7S Range 16E.

1 The identified source of water is a well located in the NENESE section 9 T7S R16E on  
2 a parcel of land the Pinal County Assessor identifies as owned by Eva Lopez. Arizona  
3 Department of Water Resources has determined that the well is located in the subflow zone. A  
4 copy of the WFR is attached as Attachment A. A copy of the map prepared for the WFR is  
5 attached as Attachment B. The land in question is labelled as "(16)" on the map. A copy of the  
6 current tax parcel map is attached as Attachment C.

7  
8 **Landowners & Objectors**

9 According to the Office of the Pinal County Assessor, the current owners of the land  
10 included in the area mapped by ADWR are:

11  
12

<b>Landowner</b>	<b>Tax Parcel No.</b>
ARBIZO JOE ETAL	30033007P, 30033007S, 30033007T
ARBIZO JOSE J & GENEVIEVE	30033007N
ARBIZO RAYMOND	30033007R
ARBIZO JOE J & ISABEL	30033007S
CONTRERAS SONIA Y	30033007K, 30033028B
GAONA JOHN H & ANGELICA M	30033007G, 30033007H
LEON FRANCISCO A	30033028A, 30033007J, 30033007M,
LOPEZ EVA	3003007F
OCHOA RAMON M	30033009A
SDS FARMS	30033006A

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24 The WFR did not identify any relevant SOCs. The public records of ADWR do not  
25 contain a SOC filed by any of the persons listed above.

26 Multiple entities, including ASARCO Incorporated ("ASARCO"), filed objections to  
27 the potential water rights determined by ADWR. ASARCO filed an objection which stated  
28

1 in part: “Water Uses erroneously reported in this Watershed File Report related to ASARCO  
2 Incorporated (Major User Code 1263).” A copy of the Objection is attached as Attachment D.  
3 Given that the Court is currently in the process of adjudicating the water rights of ASARCO  
4 for use on that land labelled as “(2)” on the attached map and the fact that it is more efficient  
5 to adjudicate all water rights asserted by a claimant in the same or concurrent proceedings,  
6 this case is being initiated to determine if the SOCs filed by ASARCO include claims for  
7 water rights identified in the WFR.  
8

9 **IT IS ORDERED:**

- 10 1. Contested Case. This contested case shall be known as *In re Artemisa Arbizo*.
- 11 2. Filing by ASARCO. By November 15, 2019, ASARCO shall file an amended  
12 Objection that either:
- 13 (a) Identifies the portions of its SOCs listed in WFR 114-04-BDD-002  
14 that claim any water use or source identified in the attached WFR  
15 114-04-BDD-016; or
- 16 (b) Clarifies its objection that it makes no claim to the water uses or  
17 potential water rights included in WFR 114-04-BDD-016.
- 18 If it is ASARCO’s position that its objection to the WFR 114-04-BDD-016 is  
19 that the WFR erroneously listed documents in the “Applicable Filings and  
20 Decrees” that do not pertain to the land formerly owned by Artemisa Arbizo,  
21 then it shall clearly state such a position.
- 22
- 23 3. Filing by Landowners. If any landowner has filed a Statement of Claimant with  
24 ADWR for a right to water on the land or any part of the land shown on the map  
25 attached as Attachment A and labelled as “(16),” the landowner shall file a  
26 copy of the Statement of Claimant with the Court and mail copies to all persons  
27 listed on Attachment E by **November 27, 2019**.  
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4. Court-Approved Mailing List.

A. The initial Court-approved mailing list for this case shall include all persons listed on Attachment E to this order. The list may be modified only by filing a motion with the Special Master to amend the Court-approved mailing list.

B. A copy of any pleading filed with the Clerk of the Maricopa County Superior Court in this case shall be served upon each person listed on the Court-approved mailing list.

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

  
\_\_\_\_\_  
SUSAN WARD HARRIS  
Special Master

On October 24, 2019, the original of the foregoing was delivered to the Clerk of the Maricopa County Superior Court for filing and distributing a copy to all persons listed on the Court-approved mailing list for this contested case, a copy of which is attached hereto as Attachment D, and to all persons listed on the Court-approved mailing list for W-1, W-2, W-3, and W-4 (Consolidated).

  
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Barbara Brown

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# ATTACHMENT A

LAND OWNER	WATERSHED FILE
-----	REPORT NUMBER
ARBIZO, ARTEMISA C.	114-04-BDD-016

APPLICABLE FILINGS AND DECREES

CLEARLY STATED INFORMATION FROM FILINGS AND DECREES

WI-11-3199

FILING NUMBER	FILING STATUS	USES	QUANTITY IN AFA	USE LOCATION SECTION TWNP RNGE	CLAIM DATE	DIVERSION LOCATION SECTION TWNP RNGE
10-1101214.1100		IRRIGATION	5400.00	SE09 070S 160E SW09 070S 160E NE10 070S 160E	1878	NW08 070S 170E
10-1101386.1100		IRRIGATION	27000.00	SE09 070S 160E	1880	SE09 070S 160E
10-1103016.1100	SE09 070S 160E			1884	NE12 070S 160E	
	NE10 070S 160E					

DWR ANALYSIS OF FILINGS AND DECREES

FILING NUMBER	USES CLAIMED OR REFERENCED	USES FOUND BY DWR	APPLIES TO DIVERSIONS	APPLIES TO PWR NUMBERS
10-1101214.1100	IRRIGATION	NOT APPLICABLE		
10-1101386.1100				
10-1103016.1100	IRRIGATION	NOT APPLICABLE		

DIVERSIONS

DIV #	LOCATION SECTION TWNP RNGE	DIVERSION NAME	WATER SOURCE AND CLASSIFICATION
W01	NENESE09 070S 160E	UNNAMED	GROUNDWATER : ZONE 1 OF THE ARAVAIPA CREEK

USES

PWR #	LOCATION SECTION TWNP RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO SOURCE DATE	CHANGE FACILITY NAME
D0001	NENESE09 070S 160E SWNESE09 070S 160E		GROUNDWATER : ZONE 1		NO
I0001	NESE09 070S 160E NWSE09 070S 160E SESE09 070S 160E	W01	GROUNDWATER : ZONE 1	1955	NO
I0002	NESE09 070S 160E NWSE09 070S 160E SESE09 070S 160E	W01	GROUNDWATER : ZONE 1	1969	NO

PWR SUMMARY

PWR #	APPLICABLE ADJ FILINGS	APPLICABLE PRE FILINGS	*APPARENT FIRST USE DATE* DATE BASIS FOR DATE	WATER SOURCES AND CLASSIFICATIONS
D0001	NONE	NONE		GROUNDWATER : ZONE 1 OF THE ARAVAIPA CREEK
I0001	NONE	NONE	1955 1955 AERIAL PHOTO	GROUNDWATER : ZONE 1 OF THE ARAVAIPA CREEK
I0002	NONE	NONE	1969 1969 AERIAL PHOTO	GROUNDWATER : ZONE 1 OF THE ARAVAIPA CREEK
NONE	NONE	10-1101214.1100 10-1101386.1100 10-1103016.1100		

QUANTITIES OF USE

PWR #	QUANTIFICATION TYPE	ACRES	CROP TYPE	EFF	WATER DUTY	ESTIMATED VOLUME	REMARKS
D0001							SEE VOLUME 1 - GENERAL ASSESSMENT DEFICIT IRRIGATION
I0001	MAX. OBSERVED REGIONAL	9.0	PERM. PSTR	61%	3.3 AF/AC	29.7 AFA	
		9.0	AVE. CROP	50%	5.4 AF/AC	48.6 AFA	

PWR #	QUANTIFICATION TYPE	ACRES	CROP TYPE	EFF	WATER DUTY	ESTIMATED VOLUME	REMARKS
IROO1	MAX. POTENTIAL	9.0	ALFALFA	61%	5.4 AF/AC	48.6 AFA	
IROO2	MAX. OBSERVED	7.1	PERM. PSTR	61%	3.3 AF/AC	23.4 AFA	DEFICIT IRRIGATION
	REGIONAL	7.1	AVE. CROP	50%	5.4 AF/AC	38.3 AFA	
	MAX. POTENTIAL	7.1	ALFALFA	61%	5.4 AF/AC	38.3 AFA	

E X P L A N A T I O N

FILINGS AND DECREES

FILINGS 10-1101214-11 & 10-1103016-11 - CLAIM IRRIGATION WATER USES FROM ARAVAIPA CREEK.  
 THE CLAIMED IRRIGATION USES DO NOT APPLY TO ANY POTENTIAL WATER RIGHTS (P.W.R.'S) IN THIS  
 W.F.R.

FILING 10-1101386-11 - NO WATER USES ARE CLAIMED, THEREFORE NO P.W.R.'S COULD BE MATCHED TO  
 THIS FILING.

DIVERSIONS

W1 - WELL PROVIDES WATER FOR IRRIGATION USES.

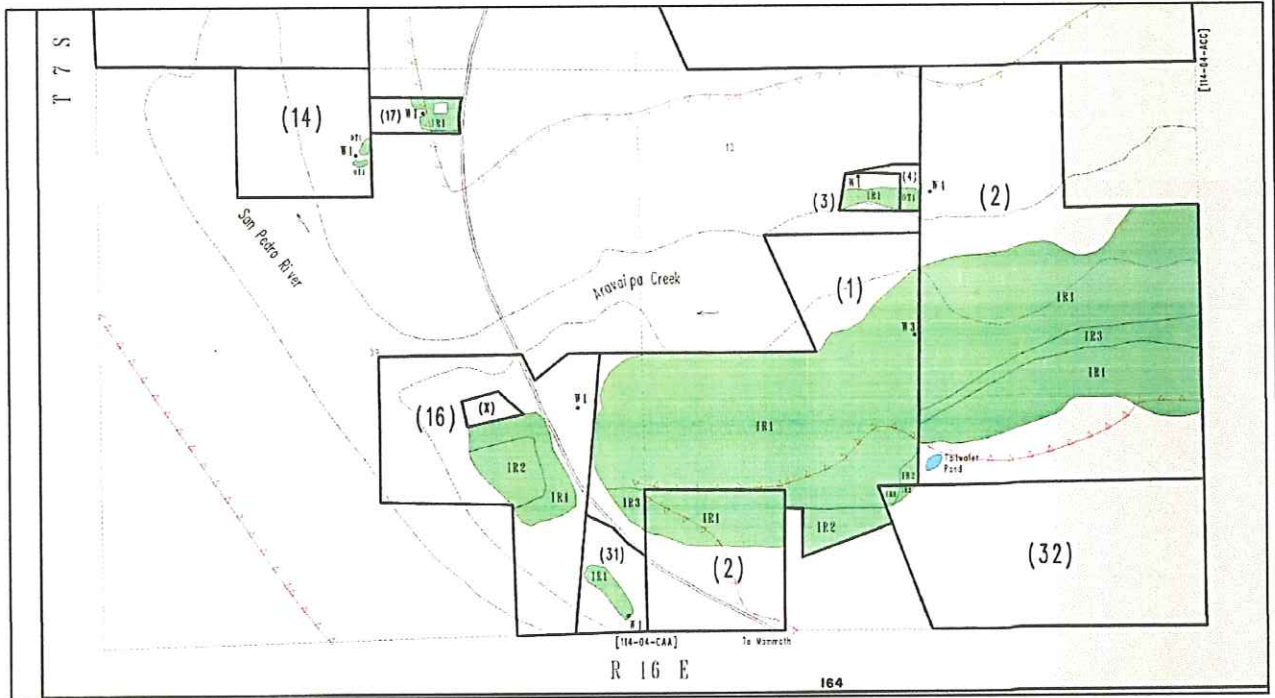
USES AND RESERVOIRS

DM1 - DOMESTIC USE.

IR1 & IR2 - IRRIGATED PASTURE.

# ATTACHMENT B

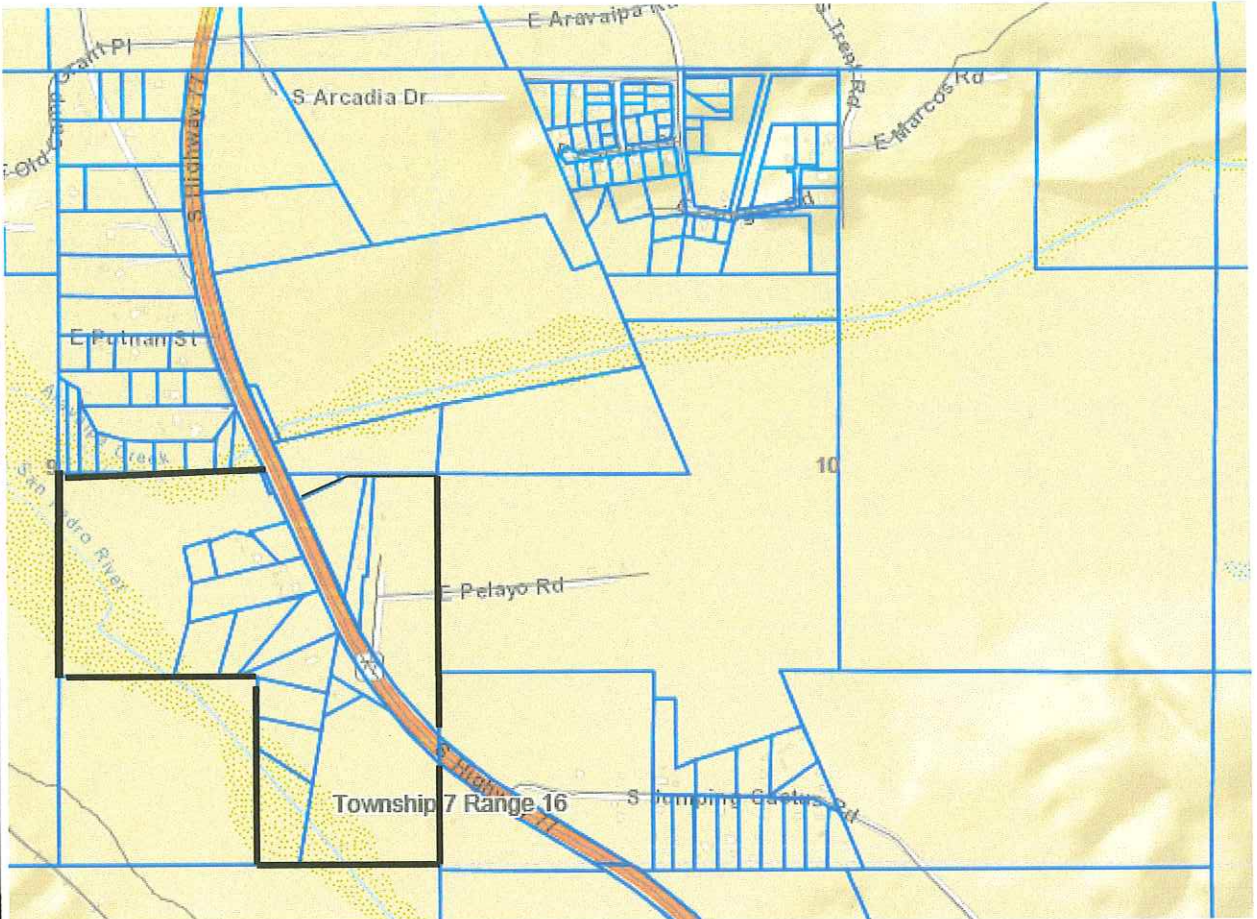
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# ATTACHMENT C

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**ATTACHMENT D**

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6-2-92

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

No. W1,W2,W3 & W4

MANDATORY FORM FOR OBJECTIONS TO  
The Hydrographic Survey Report for  
The San Pedro River Watershed

W1-11-003199

Please file a separate objection for each Watershed File Report, Zone 2 Well Report or Catalogued Well Report. Objections to information contained in Volume 1 of the HSR can be stated on one objection form. Objections must be written. Use of this form, or a computer facsimile, is required. Objections must be received on or before May 18, 1992.

92 MAY 11 PM 1:47

FILED  
JUDITH ALLEN, CLERK  
DEP

This objection is directed to Watershed  
File Report or Zone 2 Well Report No. 114 . 04 . BDD . 016  
(please insert no.)

or Catalogued Well No. \_\_\_\_\_  
(please insert no.)

OBJECTOR INFORMATION

Objector's Name: ASARCO Incorporated (1263)  
Objector's Address: P.O. Box 8, Hayden, AZ 85235  
Objector's Telephone No.: (602) 356-7811

The names, address and telephone number of Objector's attorneys are on the Attachment hereto.  
Objector's Watershed File Report or Zone 2 Well Report No. (if the Objector's claimed water rights are within the San Pedro River Watershed): 114 . 04 . BDD . 002 et al.

Or Objector's Catalogued Well Number (if the Objector's claimed water rights appear only in Volume 8 of the HSR): \_\_\_\_\_

Or Objector's Statement of Claimant No. (if the Objector's claimed water rights are located outside the San Pedro River Watershed):

39 - \_\_\_\_\_

STATE OF ARIZONA

COUNTY OF Maricopa

VERIFICATION (must be completed by objector)

I hereby make this Objection. I certify that, if required, a copy of the foregoing Objection was served upon the following Claimant(s) by mailing true and correct copies thereof on the 11th day of May, 1992, postage prepaid and addressed as follows:

Name: Artemisa C. Arbizo  
Address: P.O. Box 147  
Winkelman, AZ 85292

(The above section must be completed if you object to another claimant's Watershed File Report, Zone 2 Well Report, or Catalogued Well Report. It does not need to be completed if you file an objection to your own Watershed File Report, Zone 2 Well Report, Catalogued Well Report; or to information contained in Volume 1 of the Hydrographic Survey Report.)

I declare under penalty of perjury that I am a claimant in this proceeding or the duly-authorized representative of a claimant; that I have read the contents of this Objection (both sides and any attachments) and know the contents thereof; and that the information contained in the Objection is true based on my own personal knowledge, except those portions of the Objection which are indicated as being known to me on information and belief and, as to those portions, I believe them to be true.

Burt M. Cooper  
Signature of Objector or Objector's Representative  
Authorized Attorney

SUBSCRIBED AND SWORN to before me this 11th day of May, 1992.

Marianne Duncan Skipper

Notary Public for the State of Arizona  
Residing at Phoenix, Maricopa County  
My commission expires July 17, 1994

Objections must be filed with the Clerk of the Superior Court in and for Maricopa County, Maricopa County Courthouse Annex, 3345 W. Durango Street, Phoenix, AZ 85009, on or before May 18, 1992.



Attachment to Objection re Arbizo, Artemisa C., WFR #  
114-04-BDD-016

1. Artemisa C. Arbizo is not the owner of the property shown for Water Rights 10-1101214.1100 and 10-1103016.1100. ASARCO Incorporated is the owner of the property. This property is listed in ASARCO Incorporated WFR # 114-04-BDD-002, and is correctly shown therein. (310)

Artemisa C. Arbizo is not the owner of Water Rights 10-1101214.1100 and 10-1103016.1100. ASARCO Incorporated is the owner of these Water Rights. These Water Rights are listed in ASARCO Incorporated WFR # 114-04-BDD-002. (320)

As to Water Right 10-1101386.1100, there is insufficient data supplied in this WFR as to the point of diversion and/or place of use for Objector to identify the property, and Objector therefore cannot determine whether an objection should be filed as to the ownership of the property. (310)

As to Water Right 10-1101386.1100, there is insufficient data supplied in this WFR as to the point of diversion and/or place of use for Objector to identify the water right, and Objector therefore cannot determine whether an objection should be filed as to the ownership of the water right. (320)

11. Water uses erroneously reported in this Watershed File Report relate to ASARCO Incorporated (Major User Code 1263).

Attorneys for Objector:     Burton M. Apker, Id. No. 001258  
                                  Gerrie Apker Kurtz, Id. No. 005637  
                                  APKER, APKER, HAGGARD & KURTZ, P.C.  
                                  2111 E. Highland, Suite 230  
                                  P.O. Box 10280  
                                  Phoenix, Arizona 85064-0280  
                                  (602) 381-0085

# ATTACHMENT E

1  
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3  
4 Arizona Department of Water Resources  
Kimberly Parks  
5 P. O. Box 36020  
Phoenix, AZ 85067

6  
7 ASARCO Incorporated  
Lauren Caster, Brian Heiserman and Bradley Pew  
8 Fennemore Craig, P.C.  
2394 East Camelback Road  
9 Suite 600  
Phoenix, AZ 85016-3429

10  
11 BHP Copper, Inc.  
John D. Burnside  
12 Snell & Wilmer, L.L.P.  
400 E. Van Buren Street, Ste 1900  
13 Phoenix AZ 85004

14 Clerk of the Superior Court  
15 Maricopa County  
Attn: Water Case  
16 601 West Jackson Street  
Phoenix, AZ 85003

17  
18 Gila River Indian Community  
Linus Everling and Thomas L. Murphy  
19 Office of the General Counsel  
P. O. Box 97  
20 Sacaton, AZ 85147

21 Joe Arbizio  
22 4222 S. Highway 77  
Winkelman, AZ 85192

23  
24 Joe and Isabel Arbizio  
1707 E Calle Muleta  
25 Tucson, AZ 85714

26  
27 Jose J & Genevieve Arbizio  
4222 S Hwy 77  
28 Winkelman, AZ 85192

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Raymond Arbizo  
762 DESERT VIEW CT  
SPARKS, NV 89434

Sonia Y. Contreras  
P.O. Box 557  
Hayden, Az 85135

John H. & Angelica M. Gaona  
4478 S Highway 77  
Winkelman, AZ 85192

Francisco A. Leon  
PO Box 15391  
Phoenix, AZ 85060

Eva Lopez  
1707 E Calle Muleta  
Tucson, AZ 85714

Ramon M. and Sandra Ochoa  
4660 S HIGHWAY 77 MM123  
Winkelman, AZ 85192

SDS Farms  
1707 E Calle Muleta  
Tucson, AZ 85714

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

San Carlos Apache Tribe  
Joe P. Sparks and Laurel A. Herrmann  
The Sparks Law Firm, P.C.  
7503 First Street  
Scottsdale, Az 85251-4573

Special Master Susan Ward Harris  
Superior Court of Arizona  
201 W. Jefferson Street

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Courtroom 301  
Phoenix, AZ 85003

Tonto Apache Tribe  
Lucas T. Christian & Julian Nava  
Rosette, LLP  
565 W. Chandler Blvd. Suite 212  
Chandler, AZ 85225

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

U. S. Department of Justice  
R. Lee Leininger  
Natural Resources Section  
999 18<sup>th</sup> Street, So Terrace, Ste 370  
Denver, CO 80202

Yavapai-Apache Nation  
Camp Verde Reservation  
S. Montgomery, R. Interpreter, J. Tomkus  
Montgomery & Interpreter, Plc  
3301 E. Thunderbird Road  
Phoenix, AZ 85032