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6 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
7 IN AND FOR THE COUNTY OF MARICOPA
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9 IN RE THE GENERAL
10 ADJUDICATION OF ALL RIGHTS TO
11 USE WATER IN THE GILA RIVER
12 SYSTEM AND SOURCE

**W-1, W-2, W-3, and W-4 (Consolidated)
and
CV 6417**

13 IN RE THE GENERAL
14 ADJUDICATION OF ALL RIGHTS TO
15 USE WATER IN THE LITTLE
16 COLORADO RIVER SYSTEM AND
17 SOURCE

**DECISION CONCERNING THE
SPECIAL MASTER'S MARCH 25,
2024, REPORT**

18 CONTESTED CASE NAME: In re HSR Sequencing

19 REPORT INVOLVED: *Future Report Recommendations*

20 DESCRIPTIVE SUMMARY: The Special Master's March 25, 2024, report, concerning
21 HSR and technical report planning, is adopted with certain modifications.

22 DATE OF FILING: February 18, 2025

23 The Court has reviewed and considered the following:

- 24 1. Report of the Special Master on Amendments to the Watershed Boundary Map
25 and the Sequence of Future HSRs ("Final Report") dated March 25, 2024;
26 2. Arizona Department of Water Resources' ("ADWR") Comments, filed
27 September 23, 2024;
28 3. Arizona Water Company's Objections, filed September 23, 2024;
4. Buckeye Water Conservation and Drainage District's ("Buckeye") Objections,
filed September 23, 2024;

- 1 5. City of Phoenix's Objections and Joinder in Salt River Project's Objections, filed
- 2 September 23, 2024;
- 3 6. The Cities' Objections, filed September 23, 2024;¹
- 4 7. Salt River Project's Objections, filed September 23, 2024;
- 5 8. Tonto Apache Tribe's Objections and Joinder in Salt River Project's Objections,
- 6 filed September 23, 2024;
- 7 9. Yavapai-Apache Nation's Objections and Joinder in Salt River Project's
- 8 Objections, filed September 23, 2024;

9 The goals of this proceeding are 1) to determine the subdivisions of the Gila
10 River and Little Colorado River Basins that will guide ADWR's development of
11 Hydrographic Survey Reports ("HSRs") and technical reports; and 2) to schedule the
12 development of currently unscheduled HSRs and technical reports. As part of the first
13 goal, the Court must determine whether to retain the current watershed map, originally
14 developed in the 1980s, adopt ADWR's May 2023 proposed revision of that map, or
15 adopt the Special Master's March 2024 proposed map.

16 For the reasons stated below, the Court adopts the Special Master's
17 recommendations, with some revisions to the Salt River Valley HSR area and the
18 Special Master's report schedule.

18 **FACTUAL AND PROCEDURAL BACKGROUND**

19 On January 18, 2023, the Court held a status conference in the Gila River
20 Adjudication to address which Hydrographic Survey Reports should be completed by
21 ADWR after the Verde River Watershed reports. During that conference, some parties
22 proposed that ADWR prepare technical reports concerning *de minimis* uses and the
23 subflow zones in the Upper Salt River, Upper Gila River, and Upper Little Colorado River
24 Watersheds simultaneously. W1-W4, Minute Entry (Jan. 18, 2023). In an order filed
25 February 22, 2023, the Special Master requested that ADWR estimate the time and
26 resources needed to prepare separate reports for those watersheds as well as estimate the
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28 ¹ "The Cities" refers to a group of cities filing jointly, i.e. the cities of Avondale, Glendale,
Mesa, Scottsdale, and Tempe.

1 time and resources needed to prepare the reports simultaneously. W1–W4, Order for
2 Technical Report (Feb. 22, 2023).

3 In May 2023, ADWR filed a report providing time and cost estimates for preparing
4 the previously mentioned reports, a proposed revision of the map of HSR investigation
5 areas, and a proposed schedule for the completion of unscheduled technical reports and
6 HSRs. W1–W4 and CV 6417, Future Report Recommendations (May 25, 2023).

7 Parties presented significant objections to the Special Master regarding the map
8 revisions during a June 23, 2023, status conference. The Court requested briefs from
9 interested parties, and the Court held oral argument on January 23, 2024. W1–W4 and
10 CV6417, Minute Entry (Jan. 23, 2024). On March 25, 2024, the Special Master filed a
11 report recommending adoption of ADWR’s proposed May 2023 map with certain
12 changes, i.e. a “Salt River Valley” HSR area and recommending a proposed ten-year
13 schedule for the completion of various reports by ADWR. W1–W4 and CV6417, Final
14 Report (Mar. 25, 2024).

15 Parties filed objections to the Final Report by September 23, 2024. Objections fell
16 into the following categories:

- 17 I. Both ADWR’s May 2023 and the Special Master’s March 2024 proposed maps
18 should be rejected. The current map, developed by Judge Goodfarb in the
19 1980s, should be preserved.²
- 20 II. ADWR’s May 2023 proposed map should not be preserved as a “hydrologic
21 reference.”³
- 22 III. If the Court does create a Salt River Valley HSR, the boundaries of the
23 investigation area should be expanded to include multiple SRP-operated
24 reservoirs.⁴

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26 ² Arizona Water Company Objections at 6–7 (Sept. 23, 2024); City of Phoenix Objections at 2–
3 (Sept. 23, 2024).

27 ³ Arizona Water Company Objections at 6.

28 ⁴ SRP Objections at 4–8 (Sept. 23, 2024); City of Phoenix Objections at 4; Cities’ Objections at
3 (Sept. 23, 2023); ADWR Comments at 2 (Sept. 23, 2024).

1 IV. If the Lower Verde Valley and Verde Canyon subwatersheds are investigated
2 simultaneously as the "Lower Verde Valley HSR," the Yavapai-Apache
3 Nation's claims should be investigated as part of that HSR.⁵

4 V. The recommendation to complete the Verde Valley HSR and Lower Verde
5 HSR simultaneously is not feasible.

6 VI. ADWR should prioritize the development of an HSR dealing with the Salt
7 River Valley.⁶

8 There were no objections to the Water Master's findings of fact. The Court
9 reviews the Water Master's conclusions of law and recommendations for implementation
10 *de novo*. Ariz. R. Civ. P. 53(f)(4).

11 12 **LEGAL ANALYSIS**

13 **I. The Special Master's Proposed Adjudication Map is Adopted with Certain** 14 **Modifications.**

15 The Court accepts the Special Master's approach to delineating HSR investigation
16 areas. By using the United States Geological Survey's Hydrologic Unit Code ("HUC")
17 system, the Special Master ensured that investigation boundaries were based on sound
18 hydrologic data. Further, the Special Master's proposed adjudication map encourages
19 procedural efficiency by unifying certain municipal service areas within a single "Salt
20 River Valley" investigation area. The "Salt River Valley" investigation area, however,
21 must also include the Salt River Project-operated storage reservoirs that supply those
22 service areas.

23 **A. The Special Master's Adjudication Map is Hydrologically Grounded**

24 General stream adjudications are legal efforts steeped in the science and practice of
25 hydrology. This is especially true with respect to the creation and application of "de
26 minimis" and "subflow" standards.

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28 ⁵ Yavapai-Apache Nation Objections at 2–3 (Sept. 23, 2024).

⁶ Buckeye Water Conservation and Drainage District Objections at 2 (Sept. 23, 2024).

1 To adjudicate all groundwater claims in a given area, ADWR must develop, and the
2 Court must approve, a test that quantifies wells' effects on nearby streamflow.⁷ Further,
3 to more efficiently adjudicate smaller water use claims in a given area, ADWR must
4 develop and the Court must approve a "de minimis standard." To create the models
5 underlying these standards, ADWR must use areas that are hydrologically defined.⁸

6 To avoid significant delays in adjudication, the subflow and de minimis standards
7 should be coextensive with the HSR investigation area and ideally finalized prior to the
8 issuance of the HSR. Because the subflow and de minimis standards are limited to
9 hydrologically-defined areas, an HSR that is coextensive with the area where those
10 standards apply must also be hydrologically defined. Therefore, the Court agrees with the
11 Special Master that an HSR investigation area must "follow some rational hydrologic
12 boundary." Special Master Report at 24.

13 The Special Master's proposed Adjudication Map delineates each HSR
14 investigation area according to "rational hydrologic boundaries." Specifically, each HSR
15 investigation area comprises an aggregation of "Hydrologic Units" identified by the
16 United States Geological Survey ("USGS"). USGS defines Hydrologic Units as
17 "identified area[s] of surface drainage," i.e. approximations of watershed areas. W1-W4,
18 Special Master Report at 16 (citing USGS, Federal Standards and Procedures for the
19 National Watershed Boundary Dataset at 59 (2013)). ADWR itself has attested to the
20 validity of the Hydrologic Unit Code system, stating that "it [is] scientifically appropriate
21 to use the USGS' HUC system to identify watershed boundaries." W1-W4 and CV6417,
22 ADWR Report at 2 (May 25, 2023).

23 In sum, the Court agrees with the Special Master and ADWR that hydrologic
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25 ⁷ W1-11-19, Order (Sept. 26, 2002); CV 6417-33-9005, Memorandum Decision (Apr. 20,
26 1994); In re General Determination of All Rights to Use Water in the Gila River System and
Source, 198 Ariz. 330 (2000).

27 ⁸ See, e.g., W1-W4, Future Report Recommendations at 7 fn. 9 (May 5, 2023); W1-103,
Groundwater Flow Model for the Upper San Pedro Groundwater Basin at 2-1 (Feb. 20, 2024);
28 W1-106, Technical Report: De Minimis Domestic, Stockpond, and Stock and Wildlife
Watering Uses in the Verde River Watershed (Aug. 29, 2022).

1 models guide the Adjudications, and that HSR investigations should therefore follow
2 hydrologic boundaries. Because robust scientific data underlies the Hydrologic Unit Code
3 system, the Court approves the Special Master and ADWR's general approach to
4 delineating HSR investigation areas.

5 **B. The Special Master's Proposed Adjudication Map Properly Balances**
6 **Hydrologic Accuracy with Procedural Efficiency**

7 More than 900,000 acre-feet of water supply the Phoenix Metropolitan Area every
8 year. Buckeye Comments at 10 (Sept. 23, 2024). A complex patchwork of regulations,
9 settlements, judgments, and agreements governs water distribution in the region. For
10 instance, at least twelve separate settlements, stipulations, agreements, and judgments
11 govern the supply of water to the Buckeye Water Conservation and Drainage District
12 alone. Buckeye Comments at 5 (Sept. 23, 2024). This complexity is present throughout
13 the Phoenix Metropolitan Area, creating the possibility of protracted, complicated
14 litigation. Minimizing complexity and promoting efficiency are therefore key objectives
15 in the adjudication of this area.

16 ADWR's proposed Adjudication Map adds an additional layer of complexity to
17 an already intricate process. Metropolitan Phoenix lies in four of the watersheds proposed
18 in ADWR's May 2023 proposed map: The Lower Gila-Agua Fria River Watershed, the
19 Middle Gila River Watershed, the Salt River Watershed, and the Verde River Watershed.
20 Special Master Report at 19 (March 25, 2024). In many cases, boundaries between these
21 watersheds divide water providers' service areas into two or more chunks. *Id.* For
22 instance, the service area for the City of Phoenix lies in the Lower Gila-Agua Fria
23 Watershed, the Salt River Watershed, and the Middle Gila River Watershed. *Id.* at fig. 5.
24 If the Court fully adopted ADWR's mapping proposal, the Court would likely have to
25 split the adjudication of many enormous, unified claims. This would likely lead to the
26 rehashing of settled issues and the possibility of inconsistent conclusions.

27 In addition, water stored in Salt River Project-operated reservoirs in the Verde
28 River Watershed and Salt River Watershed supplies various entities in Metropolitan

1 Phoenix located in the Lower Gila-Agua Fria River, Middle Gila River, and Salt River
2 Watersheds. SRP Comments on ADWR's Future Report Recommendations at 6–7 (Sept.
3 1, 2023). The water from those reservoirs is often commingled. *Id.* If the Court fully
4 accepts ADWR's proposed Adjudication Map, rights to store water for use in
5 Metropolitan Phoenix would be adjudicated separately from the rights to use that water.
6 Further, the proposed map would separate reservoirs whose stored water is commingled.
7 Both separations would likely lead to the redundant litigation of highly complex issues.

8 The Special Master's Proposed Adjudication Map promotes judicial economy by
9 grouping most large water uses within Metropolitan Phoenix into a "Salt River Valley"
10 HSR Area. This grouping helps minimize the possibility of drawn-out, duplicative
11 litigation of water rights in Metropolitan Phoenix.

12 Nonetheless, as ADWR, SRP, and the Cities of Phoenix, Avondale, Mesa,
13 Glendale, Scottsdale, and Tempe point out, the Special Master's Proposed Adjudication
14 Map separates six storage reservoirs from the areas that those reservoirs supply. SRP
15 Objections at 4–8 (Sept. 23, 2024); City of Phoenix Objections at 4; Cities' Objections
16 at 3 (Sept. 23, 2023); ADWR Comments at 2 (Sept. 23, 2024). To prevent repetitious
17 litigation and potentially inconsistent determinations, the Court accepts those parties'
18 recommendation to expand the Salt River Valley HSR Area boundaries to include
19 Horseshoe Reservoir, Bartlett Reservoir, Saguaro Lake, Canyon Lake, Apache Lake,
20 and Theodore Roosevelt Lake.

21 **C. The Court Denies Arizona Water Company's Objections.**

22 Like SRP and the Metropolitan Phoenix municipalities, Arizona Water Company
23 also worries about the splitting of its claims. Arizona Water Company argues that the
24 current adjudication map should be maintained because both the Special Master's and
25 ADWR's proposed adjudication maps would 1) increase the number of watersheds that
26 Arizona Water Company "must participate in and monitor" and 2) bisect certain of
27 Arizona Water Company's service areas and split certain places of use from sources of
28 water supply. Arizona Water Company Objections at 4–5 (Sept. 23, 2024).

1 First, the Court acknowledges that either proposed Adjudication Map would
2 increase the number of watersheds in which the Arizona Water Company has an interest.
3 However, AWC does not explain how that would increase its burden of participating in
4 the Adjudication as an objector to technical reports or other parties' claims.

5 While the proposed division of the Lower Gila Watershed could increase the
6 number of proceedings concerning technical reports, each proceeding will be
7 significantly narrower in scope than a single proceeding for the Lower Gila Watershed.
8 Further, dividing the Lower Gila Watershed will not increase the number of water right
9 claims in the region. As a result, AWC will likely be monitoring the same number of
10 contested cases whether the Lower Gila watershed remains intact or is divided. All things
11 considered, the Court does not see how "increasing the number of watersheds [that] AWC
12 must participate in and monitor" will increase Arizona Water Company's burden of
13 participating in the Adjudications an objector. AWC Objections at 4.

14 The Arizona Water Company ("AWC") also objects to the adoption of either
15 ADWR's or the Special Master's proposed map because the maps divide AWC's Pinal
16 Valley Service Area into two or more HSR investigation areas. While the Court agrees
17 that splitting the Pinal Valley Service area would likely cause some duplication of effort,
18 the Court cannot correct every instance of "use splitting" in the Adjudications while also
19 maintaining a stable map that ADWR can rely on for planning. The Court surely cannot
20 correct any instance of use splitting that it is unaware of.

21 Arizona Water Company brought up its concerns regarding the Pinal Valley Water
22 System for the first time in September 2024, nearly a year and a half after ADWR
23 published its proposed adjudication map. Further, Arizona Water Company did not
24 provide a copy of a map of its service areas by September 1, 2023, as directed by the
25 Special Master in her June 2023 Minute Entry. W1-W4 and CV 6417, Minute Entry (June
26 23, 2023). Because Arizona Water Company did not timely inform the Special Master of
27 any issue related to the Pinal Valley Water System, it did not preserve the issue for review
28 by the Court.

1 **II. ADWR’s proposed May 2023 Watershed Map and the Current Adjudication**
2 **Map Should Both Be Preserved.**

3 The Court concurs with ADWR that it has a duty to produce “robust technical
4 analys[es].” W1–W4 and CV 6417, ADWR Report at 7 fn. 9 (May 25, 2023). Further,
5 the Court agrees with the Special Master that “it is important for the Court to be working
6 with the best hydrological data possible.” Special Master Report at 27 (March 25, 2024).
7 The assumption of a valid hydrological map undergirds ADWR’s work in the
8 Adjudications. Therefore, the Court adopts the Special Master’s conclusion that the
9 Proposed May 2023 Watershed Map, based on USGS expertise, is a reliable hydrological
10 reference for ADWR’s technical investigations. *Id.*

11 Further, the Court understands that parties in the Adjudications and the Court itself
12 have routinely referenced the boundaries of the current map since that map was drawn in
13 the 1980s. To avoid disputes regarding the meaning of past references to the current map,
14 the Court adopts the Special Master’s proposal to preserve the current map as a “Map of
15 Historical Hydrographic Survey Area Boundaries.” *Id.*

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17 **III. The Lower Verde Valley HSR and Verde Canyon HSR Should Not Be**
18 **Completed Simultaneously.**

19 The Verde Watershed comprises five subwatersheds: the Big Chino, Sycamore,
20 Little Chino, Lower Verde Valley, and Verde Canyon subwatersheds. An order issued
21 February 27, 2023, sets a September 5, 2028, deadline for a Lower Verde Valley HSR,
22 and ADWR’s May 2023 Report recommends a September 30, 2032 deadline for a
23 Verde Canyon HSR. W1-106, Order Regarding ADWR’s Request to Modify Schedule
24 for Issuance of Reports at 5 (Feb. 27, 2023); W1–W4, Future Report Recommendations
25 at Appendix A (May 25, 2023). Because the Special Master’s proposed Salt River
26 Valley HSR area absorbs a significant chunk of what is currently the Verde Canyon
27 subwatershed, the Special Master recommended a deadline of September 30, 2028, for a
28 combined Verde Canyon and Lower Verde Valley HSR. W1–W4, Special Master Final

1 Report at 32 (Mar. 25, 2024).

2 ADWR objected to this recommendation indicating that because of the age and
3 complexity of many Lower Verde Valley claims, adding the additional claims from the
4 Verde Canyon would prevent ADWR from meeting the proposed publication deadline.
5 W1–W4, ADWR Comments at 3 (Sept. 23, 2024). This would require ADWR to
6 prepare four HSRs simultaneously, which it does not have the staff to do. *Id.*

7 Additionally, the Tonto Apache Tribe (“Tribe”) contends that such an accelerated
8 schedule for the Verde Canyon HSR would prejudice the Tribe, whose claims are in the
9 Verde Canyon subwatershed. Given the more distant plans for the Verde Canyon HSR,
10 the Tribe has not prepared to litigate its claims as soon as 2028. W1–W4, Tonto Apache
11 Tribe’s Objection at 4 (Sept. 23, 2024). Specifically, the Tribe has not begun work to
12 amend its claims for federal reserved water rights in the Verde Canyon subwatershed.
13 *Id.*

14 Because a September 2028 deadline for a combined Lower Verde Valley and
15 Verde Canyon HSR is unworkable for ADWR, ADWR should pursue separate HSRs
16 for those subwatersheds. The deadlines for the Lower Verde Valley HSR should remain
17 as they are described in the Special Master’s February 27, 2023, scheduling order. W1-
18 106, Order Regarding ADWR’s Request to Modify Schedule for Issuance of Reports at
19 5 (Feb. 27, 2023). The deadlines for the Verde Canyon HSR will be those recommended
20 in ADWR’s May 2023 report. ADWR May 2023 Report at Appendix A. The Verde
21 Canyon HSR will investigate the Tonto Apache Tribe’s water claims and those of the
22 United States on behalf of the Tribe simultaneously with all state law claims in the
23 Verde Canyon subwatershed. The Lower Verde Valley HSR will investigate the
24 Yavapai-Apache Nation’s water claims and those of the United States on behalf of the
25 Nation simultaneously with all state law claims in the Lower Verde Valley
26 subwatershed.⁹

27 ⁹ The Yavapai-Apache Nation’s sole objection to the Special Master’s report was to remind the
28 Court to incorporate the Special Master’s April 2024 clarification of her report into this order.
The Special Master clarified that “the Yavapai-Apache Nation’s and the Tonto Apache Tribe’s

1 **IV. The Development of the Salt River Valley HSR Should Not Be Expedited.**

2 Buckeye Water Conservation and Drainage District urges the Court to consider
3 prioritizing development of the Salt River Valley HSR. Buckeye Objections at 2 (Sept.
4 23, 2024). Buckeye notes that addressing the larger claims of the various water districts
5 and service providers earlier in the process could facilitate state-wide water resource
6 allocation. Further, Buckeye notes that small water users, such as those in the San Pedro
7 River Watershed, should not bear the burden of litigating issues of first impression,
8 especially against large claimants like SRP. Buckeye states that large claimants should
9 litigate these important issues among themselves in watersheds where they have genuine
10 interests.

11 The Court finds great merit in Buckeye's comments but does not accept Buckeye's
12 recommendation. Simply put, the current limited size of the Water Court and resource
13 constraints on ADWR would make adjudicating the Salt River Valley exceedingly slow
14 and burdensome. At this point, the Court and ADWR should devote their resources to
15 developing a successful and scalable adjudication strategy in watersheds with less
16 complex and smaller water uses.

17 The foregoing discussion constitutes the Court's findings of fact and conclusions
18 of law with respect to the Special Master's Report. Based upon these findings and
19 conclusions:

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21 **IT IS ORDERED**, that with respect to the findings of fact and conclusions of
22 law set forth in the Special Master's Report:

- 23 1. The Court approves and adopts Findings of Fact 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11,
24 and 12.

25
26
27 water claims, and those of the United States on behalf of the Nation and the Tribe, should be
28 adjudicated along with all state law claims" in the combined Verde Canyon and Lower Verde
Valley HSR. W1-W4, Order Clarifying the Special Master's March 25, 2024 Report at 2 (Apr.
23, 2024).

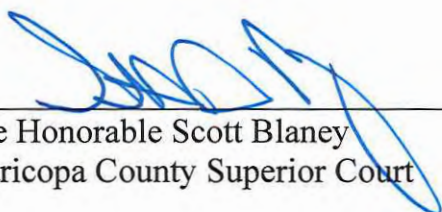
2. The Court approves and adopts Conclusions of Law 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, and 14.
3. The Court does not approve and adopt Conclusion of Law 16. ADWR will not prepare a combined Verde Canyon Watershed and Lower Verde Valley Watershed HSR.
4. The Court does not approve and adopt Conclusion of Law 17, as clarified by the Special Master in her April 23, 2024, order. ADWR will investigate the Tonto Apache Tribe's claims in an independent Verde Canyon HSR, and ADWR will investigate the Yavapai-Apache Nation's claims in an independent Lower Verde Valley HSR.
5. The Court approves and adopts Conclusions of Law 12 and 15, revising deadlines associated with the Verde Canyon HSR. Deadlines for ADWR technical reports and HSRs are listed below. The relative sequence of the reports listed shall guide ADWR's planning.
 - a. Lower Little Colorado River Subflow – September 5, 2025
 - b. Silver Creek subflow – September 4, 2026
 - c. Sycamore Canyon HSR – March 12, 2027
 - d. Lower Verde Valley HSR – September 5, 2028
 - e. Upper Little Colorado River subflow – September 30, 2028
 - f. Upper Little Colorado River de minimis – September 30, 2029
 - g. Little Chino Wash HSR – March 8, 2030
 - h. Big Chino Wash HSR – March 8, 2030
 - i. Upper and Lower Little Colorado River HSR – June 29, 2031
 - j. Verde Canyon HSR – September 30, 2032
 - k. Salt River HSR – beyond planning horizon
 - l. Upper and Middle Gila River HSR – beyond planning horizon
 - m. Lower Gila – Agua Fria River HSR – beyond planning horizon
 - n. Lower Gila River HSR – beyond planning horizon

1 o. Salt River Valley HSR – beyond planning horizon

2 p. Santa Cruz River HSR – beyond planning horizon

3
4 **IT IS FURTHER ORDERED** that ADWR will file with the Court by March 13,
5 2025 a revised Adjudication Map that expands the Salt River Valley HSR investigation
6 area to include the following 10-digit HUCs, which contain Horseshoe Reservoir,
7 Bartlett Reservoir, Saguaro Lake, Canyon Lake, Apache Lake, and Theodore Roosevelt
8 Lake.

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10 • 1506010601
11 • 1506010309
12 • 1506010505.

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17 
18 The Honorable Scott Blaney
19 Maricopa County Superior Court

20 On February 18, 2025, the original of the foregoing
21 was delivered to the Clerk of the Maricopa County
22 Superior Court for filing and distributing a copy to all
23 persons listed on the Court-approved mailing list for
24 this contested case.
25 