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5

6 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA
7

8 IN RE THE GENERAL ADJUDICATION
OF ALL RIGHTS TO USE WATER IN THE
9 GILA RIVER SYSTEM AND SOURCE

DATE: August 26, 2009

W-1 (Salt)
W-2 (Verde)
W-3 (Upper Gila)
W-4 (San Pedro)
(Consolidated)

11 REPORT OF THE SPECIAL MASTER
12 CONCERNING THE GILA RIVER
13 ADJUDICATION STEERING COMMITTEE

14 CONTESTED CASE NAME: None.

15 HSR INVOLVED: None.

16 DESCRIPTIVE SUMMARY: The Special Master files his report concerning the Gila River
17 Adjudication Steering Committee pursuant to the order of the Court filed on June 12, 2009. The
report discusses membership and proposals concerning changes to Paragraph 9 of Pre-Trial Order
18 No. 1.

19 NUMBER OF PAGES: 4.

20 DATE OF FILING: August 26, 2009.

21 In an order filed on June 12, 2009, the Court stated “it is an appropriate time to review the
22 current membership of the Steering Committee and consider modifications that should be made to
23 Paragraph 9 of Pre-Trial Order No. 1 (May 30, 1986) (“Pre-Trial Order No. 1”) concerning the
24 committee.” The Court indicated it wanted to know “which current members wish to remain on the

1 committee and which other counsel wish to become members.” The Court intends to follow
2 Paragraph 9’s directive that provides the steering committee “shall include a representative of Salt
3 River Project, the mining industry, the municipalities, intervening Indian Tribes, the State of
4 Arizona, the United States of America and private non-Indian claimants.” The Court stated it “will
5 appoint members who represent claimants in this adjudication and agree to devote the necessary time
6 to accomplish the committee’s work [and] may appoint members for a specific period of time.”
7 Current members who wish to remain on the committee and those who wish to be appointed were
8 asked to indicate their wishes. The Court invited claimants and the Arizona Department of Water
9 Resources (“ADWR”) to submit proposed modifications to Paragraph 9 of Pre-Trial Order No. 1.

10 **I. CURRENT MEMBERS OF THE STEERING COMMITTEE**

11 The Special Master received letters from all current committee members. The following
12 counsel wrote letters stating they wish to remain members of the Steering Committee:

- 13 1. William H. Anger
- 14 2. Christopher E. Avery
- 15 3. F. Patrick Barry
- 16 4. David A. Brown
- 17 5. M. James Callahan, Chair
- 18 6. Lauren J. Caster
- 19 7. Cynthia M. Chandley
- 20 8. Theresa M. Craig
- 21 9. Judith M. Dworkin
- 22 10. L. Anthony Fines
- 23 11. Cynthia J. Haglin
- 24 12. John T. Hestand
13. Douglas C. Nelson
14. Carlos D. Ronstadt
15. Joe P. Sparks
16. L. William Staudenmaier
17. Lee A. Storey, and
18. Duane C. Wyles.

23 Mr. M. Byron Lewis indicated he did not wish to remain a member of the committee. Mr.
24 John B. Weldon, Jr. requested he be appointed as Mr. Lewis’ replacement as counsel for the Salt

1 River Project. Ms. Jennele M. O’Hair indicated she did not wish to remain a member.

2 **II. COUNSEL INTERESTED IN MEMBERSHIP ON THE STEERING COMMITTEE**

3 Messrs. William W. Quinn and L. Richard Mabery requested consideration for appointment
4 to the committee. Mr. Quinn is the Field Solicitor of the United States Department of the Interior in
5 Arizona. He stated that “the property interests, including water, administered by the Department of
6 the Interior in Arizona are so extensive,” that a member of the Solicitor’s office should replace Mr.
7 Daniel Jackson. Mr. Jackson, a member of the Steering Committee, retired from federal service.

8 Mr. Mabery is willing to serve on the committee, if the Court believes his membership would
9 be helpful, although he knows several attorneys currently on the committee serve Verde Valley
10 interests.

11 **III. PROPOSED MODIFICATIONS TO PARAGRAPH 9 OF PRE-TRIAL ORDER NO. 1**

12 ADWR submitted comments. Paragraph 9(B) provides that ADWR will perform certain
13 administrative and technical responsibilities as follows:

14 The DWR shall act as moderator of each steering committee, provide meeting
15 space if requested, provide technical and administrative support to the committee, act
16 as reporter for the committee for the purpose of preparing reports and other
17 documents produced by the committee. The DWR shall have no voting power in the
18 committee, nor shall the DWR assert any position regarding the recommended
19 resolution of any issue raised within the committee, except as to how any proposed
20 committee recommendation would affect its responsibilities and duties in this case.

21 All committee meetings shall be open to the parties and to the public.
22 Participation in the meetings by persons other than committee members shall be at the
23 discretion of the committee.

24 The DWR shall file a notice of each steering committee meeting with the
Court and shall mail a copy of the notice to each member of the committee. Notice of
the committee meetings shall be given to all parties in the same manner as notice must
be given of other documents filed in this action pursuant to section 5 [of Pre-Trial
Order No. 1].

ADWR suggested “it would be more appropriate” for the chair of the committee to be the
moderator, reporter, and person who prepares and distributes the notice of committee meetings. If

1 requested, ADWR will continue to provide meeting space. ADWR will continue to provide technical
2 and administrative support “but only to the extent that it has the necessary resources, and such
3 support is consistent with the Court’s directives to ADWR.” The Department believes these
4 suggestions would be appropriate “so that ADWR maintains its neutral role.”

5 No other comments were submitted.

6 **IV. COMMENTS OF THE SPECIAL MASTER**

7 The Special Master recommends that the Court consider reducing the current size of the
8 Steering Committee to an optimal working unit, consider the level of counsel’s representation in
9 determining the membership of the committee, and provide for a scheduled rotation of the chair and
10 membership. Concerning ADWR’s comments, the Special Master believes that notice of committee
11 activities is important. The Court should consider the best manner of assuring that notice is proper
12 and timely in accordance with other requirements of Pre-Trial Order No. 1, and the committee’s
13 activities are properly and sufficiently reported.

14 Submitted this 26th day of August, 2009.

15
16 /s/ George A. Schade, Jr.
17 GEORGE A. SCHADE, JR.
18 Special Master

19 On August 26, 2009, the original of the foregoing
20 was delivered to the Clerk of the Maricopa County
21 Superior Court for filing and distributing a copy to
22 all persons listed on the Court approved mailing list
23 for the Gila River Adjudication Nos. W-1, W-2, W-
24 3, and W-4 (Consolidated) dated July 27, 2009.

23 /s/ Barbara K. Brown
24 Barbara K. Brown