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6 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
7 **IN AND FOR THE COUNTY OF APACHE**
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9 **IN RE THE GENERAL**
10 **ADJUDICATION OF ALL RIGHTS**
11 **TO USE WATER IN THE LITTLE**
12 **COLORADO RIVER SYSTEM AND**
13 **SOURCE**

CV 6417-400

ORDER APPROVING AND ADOPTING
STIPULATION REGARDING
OBJECTIONS TO SUBFLOW ZONE
DELINEATION FOR LOWER LITTLE
COLORADO RIVER SUBWATERSHED
AND MOTION FOR APPROVAL

And

DIRECTING ARIZONA DEPARTMENT
OF WATER RESOURCES TO
PREPARE REVISED SUBFLOW ZONE
DELINEATION MAPS

19 **CONTESTED CASE NAME:** *In re Lower Little Colorado River Subwatershed*

20 **REPORT INVOLVED:** Arizona Department of Water Resources, *Subflow Zone*
21 *Delineation Report for the Lower Little Colorado River*, September 2025

22 **DESCRIPTIVE SUMMARY:** Order approving and adopting the Parties' stipulation
23 regarding objections to the Arizona Department of Water Resources' September 5, 2025,
24 Subflow Zone Delineation Report for the Lower Little Colorado River Subwatershed and
25 directing ADWR to prepare an addendum to its Delineation Report by no later than
October 5, 2026, and to file and serve a notice to the Court when that addendum has
been completed.

26 **NUMBER OF PAGES:** 5 + Attachments

27 On August 24, 2026, Arizona Public Service Company, the Arizona State Land
28 Department, the City of Flagstaff, the United States of America, the Salt River Project

1 Agricultural Improvement and Power District, and the Little Colorado River Coalition¹,
2 (collectively, “Parties”) filed a stipulation (“Stipulation”) regarding their respective
3 objections (“Objections”) to the Arizona Department of Water Resources’ (“ADWR”)
4 September 25, 2025, Subflow Zone Delineation Report for the Lower Little Colorado
5 River Subwatershed (“LLCR Report”). A copy of the Stipulation is attached to this Order
6 as **Exhibit 2**.

7 The Parties have stated that the Stipulation, if approved and adopted, will resolve all
8 their pending Objections to the LLCR Report. Because there are no remaining disputed
9 issues, the Parties desire to enter into the Stipulation “to promote judicial efficiency, avoid
10 unnecessary delays in adjudicating water rights claims in the [Lower Little Colorado River
11 (“LLCR”)] Subwatershed, and avoid the further expenditure of public and private
12 resources litigating the Objections.” Stipulation, ¶ 10.

13 **THEREFORE, IT IS ORDERED** approving and adopting the Stipulation in its
14 entirety as presented, including, but not limited to, the following matters:

15 1. If this Order is reversed or vacated in whole or in part by the Superior Court or
16 any appellate court, the Parties shall retain all rights and preserve all arguments with
17 regard to the matters addressed in the Stipulation, as if they had not entered into the
18 Stipulation.

19 2. This Order, the Stipulation, any resulting addendum to the LLCR Report
20 (including any revised maps of the subflow zone in the LLCR Subwatershed), and any
21 order issued by the Superior Court pursuant to this Order apply only to the delineation of
22 the subflow zone in the LLCR Subwatershed and determining whether wells in the LLCR
23 Subwatershed are withdrawing appropriable water. Such filings shall have no value as
24 precedent in any proceedings regarding any other issue in this Case No. CV6417-400
25 relating to the LLCR Subwatershed.

26 3. As ADWR correctly stated in the LLCR Report, there are “important
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¹ The members of the LCR Coalition are identified in **Exhibit 1** attached hereto.

1 differences between the geology of the LLCR Watershed and that of the San Pedro and
2 Verde River Watersheds,” and those “important differences” resulted in ADWR using a
3 different methodology for the subflow zone delineation for the LLCR Subwatershed than it
4 had used for other watersheds and subwatersheds. *See* LLCR Report, at 25.

5 4. No portion of this Order, the Stipulation, any resulting addendum to the LLCR
6 Report (including any revised maps of the subflow zone in the LLCR Subwatershed), or
7 any order issued by the Superior Court pursuant to this Order shall have any value as
8 precedent in any proceeding relating to the subflow zone delineation or the determination
9 of whether wells are withdrawing appropriable water in any other watershed or
10 subwatershed in this Adjudication or any other Arizona general stream adjudication.

11 5. This Order, the Stipulation, and any order issued by the Superior Court
12 pursuant to this Order shall not preclude any party from requesting that the Court direct
13 ADWR to delineate a subflow zone on any Reservations or other tribal lands in the LLCR
14 Subwatershed if present circumstances change (e.g., the pending settlement of tribal claims
15 set forth in the Northeastern Arizona Indian Water Rights Settlement Agreement, executed
16 by Governor Hobbs on November 19, 2024, does not become enforceable) in the future
17 and a need arises for such delineation. This Order, the Stipulation, and any order issued by
18 the Superior Court pursuant to this Order shall not preclude any party from opposing such
19 a request to delineate a subflow zone on any Reservations or other tribal lands in the LLCR
20 Subwatershed.

21 **IT IS FURTHER ORDERED** deeming the LLCR Report to be modified by this
22 Order as follows:

23 1. Section I of the LLCR Report is deemed modified to state that, under Arizona
24 law, underground waters are initially presumed to be percolating groundwater and not
25 appropriable subflow. *See* LLCR Report, at 1-10.

26 2. Section 2.2.1 of the LLCR Report is deemed modified to state that there are
27 shallow aquifers overlying the C-Aquifer on the Reservations that might contribute to
28 intermittent flows in the LLCR Subwatershed. *See id.* at 19.

1 3. Section 3.1 of the LLCR Report is deemed modified by referencing the
2 municipal and recreational use of Upper and Lower Lake Mary on p. 29; and, Appendix E
3 of the LLCR Report is deemed modified by striking the paragraph regarding Upper and
4 Lower Lake Mary on p. 2 and striking the notes regarding Upper and Lower Lake Mary on
5 p. 6. *See id.* at 29 & Appendix E.

6 4. Appendix E of the LLCR Report is deemed modified by adding the following
7 language to the “Notes” column of the table row that contains ADWR's analysis of the
8 Puerco River, which row appears on Page 25 of Appendix E: “ADWR reviewed data from
9 USGS Gage No. 09396100 and concluded that the data did not support deeming Selection
10 Criteria No. 1 to be satisfied.” *See* Transcript: Status Conference, at 9-12 (May 19, 2026).
11 Table 3-3 of the LLCR Report is deemed modified by adding USGS Gage No. 09396100
12 as a currently-operating streamgage. References to specific numbers of gages on pages 41
13 and 73 of the LLCR Report are deemed modified to refer to eight and eighteen gages,
14 respectively.

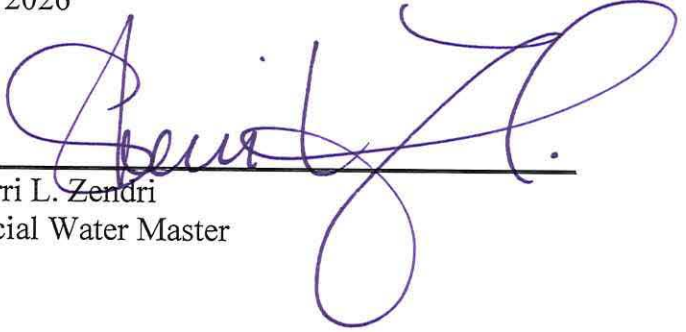
15 5. No subflow zone will be delineated in the “Middle Reaches” of Clear Creek
16 and Chevelon Canyon Creek, as those reaches are defined in **Exhibit 3** attached to this
17 Order. *See id.* at 107 & Appendix I.

18 **IT IS FURTHER ORDERED** that ADWR shall prepare an addendum to the
19 LLCR Report that includes the modifications described above and revised maps
20 delineating the subflow zone of the LLCR Subwatershed consistent with this Order no
21 later than **October 5, 2026**, and shall file and serve a notice to the Court when the
22 addendum has been completed. The revised maps included in the addendum will include
23 no subflow zone for the Middle Reaches of Clear Creek and Chevelon Canyon Creek. Any
24 objections to the addendum shall be filed no later than **October 19, 2026**. Any objections
25 to the addendum by Parties to the Stipulation shall be limited to the extent the revisions
26 included in the addendum are inconsistent with the substance of the Stipulation and this
27 Order. Any objections to the addendum by other individuals or entities that are not Parties
28 to the Stipulation shall be limited to the portions of the addendum that were not included in

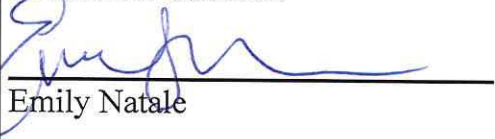
1 the LLCR Report. Any responses to such objections shall be filed no later than **November**
2 **2, 2026**. The Special Master will review any objections and responses and decide on next
3 steps. Following completion of those steps, the Special Master will issue a Rule 53 report
4 in this matter.

5 **IT IS FURTHER ORDERED** all objections to the LLCR Report are hereby
6 deemed withdrawn or resolved and dismissed except as provided in this Order and the
7 remainder of the LLCR Report is accepted by the Special Master for inclusion in the final
8 Rule 53 report for this matter as issued and submitted by ADWR.

9
10 Signed this 3rd day of September 2026

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14 _____
15 Sherri L. Zendri
16 Special Water Master

17 On September 3, 2026, the original of
18 the foregoing was delivered to the Clerk of the
19 Apache County Superior Court for filing and
20 distributing a copy to all persons listed on the Court
21 approved mailing list for this contested case, a copy
22 of which is attached.

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_____ Emily Natale

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EXHIBIT 1

LCR Coalition Members	
Town of Eagar	City of Holbrook
City of Show Low	Town of Springerville
Town of Snowflake	Town of Taylor
City of Winslow	City of St. Johns
Flying M Ranch	Barnes, Euell (claims pending)
Forest Lakes Domestic Water Improvement District	Show Low/Pinetop-Woodland Irrigation Company
Silver Creek Irrigation District	Little Colorado Water Conservation District
Lakeside Irrigation Company	Bar T Bar Ranch, Inc.
Grover's Hill Irrigation District	Pinetop-Lakeside Sanitary District
Aztec Land & Cattle Company Ltd.; Aztec Land Company LLC	Round Valley Water Users Association (now Pioneer Irrigation Company)

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EXHIBIT 2

1 Mark A. McGinnis, 013958
2 Michael K. Foy, 032736
3 Katrina L. Wilkinson, 037195
4 Kathryn M. Ust, 037042
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13 *Attorneys for Salt River Project Agricultural*
14 *Improvement and Power District*

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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF APACHE

IN RE: THE GENERAL
ADJUDICATION OF ALL RIGHTS
TO USE WATER IN THE LITTLE
COLORADO RIVER SYSTEM AND
SOURCE

Contested Case No. CV6417-400

**STIPULATION REGARDING
OBJECTIONS TO SUBFLOW ZONE
DELINEATION FOR LOWER LITTLE
COLORADO RIVER
SUBWATERSHED AND MOTION FOR
APPROVAL**

(Assigned to the Hon. Scott Blaney)

(Referred to Special Master Sherri L.
Zendri)

Contested Case Name: *In re Lower Little Colorado River Subwatershed.*

Descriptive Summary: The parties submit their Stipulation regarding their objections to the Arizona Department of Water Resources' September 5, 2025 Subflow Zone Delineation Report for the Lower Little Colorado River Subwatershed and their request that the Court approve this Stipulation.

Statement of Claimant Nos.: (SRP) 39-82193 through 39-82206, 39-84543, 39-87365 through 39-87370, 39-87393, 39-89038, and 39-95385.

Date of Filing: August 24th, 2026.

Number of Pages: 15 + 5 (attachments) = 20 (total).

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2 This Stipulation Regarding Objections to Subflow Zone Delineation for Lower Little
3 Colorado River Subwatershed and Motion for Approval (“Stipulation”) is entered into by and
4 among Arizona Public Service Company (“APS”), the Arizona State Land Department
5 (“ASLD”), the City of Flagstaff (“Flagstaff”), the Little Colorado River Coalition (“LCR
6 Coalition”),¹ the Salt River Project Agricultural Improvement and Power District (“SRP”),
7 and the United States of America (“United States”). The Parties hereby stipulate as follows:

8 **The Parties**

- 9 1. The entities listed above are referred to herein as “Parties.”
10 2. The Arizona Department of Water Resources (“ADWR”), the statutory
11 technical adviser to the Court, is not a party to this Stipulation. The Parties have, however,
12 communicated with counsel for ADWR regarding the content of this Stipulation.

13 **Procedural Background of This Contested Case**

14 3. On December 6, 2022, the Special Master issued an order in this case
15 instructing ADWR to file a technical report delineating a subflow zone for the Lower Little
16 Colorado River Subwatershed (“LLCR Subwatershed”) by September 5, 2025 and setting a
17 March 4, 2026 deadline for objections to that report. Order to Determine Subflow Zone for
18 Lower Little Colorado River Subwatershed and Order Establishing Deadlines for Filing
19 Report and Objections (Dec. 6, 2022).

20 4. On September 5, 2025, ADWR filed its Technical Report on Subflow Zone
21 Delineation for the Lower Little Colorado River Subwatershed (“LLCR Report”).

22 5. Each of the Parties filed objections to the LLCR Report on or about March 4,
23 2026 (collectively, “Objections”). Those filings are referred to herein individually as “[Party]
24 Objections.”
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1 The members of the LCR Coalition are identified in **Exhibit 1** attached hereto.

1 6. The Parties' Objections are set forth in their various March 4 filings, and each
2 Party reserves its right to continue to assert and pursue any and all such Objections if this
3 Stipulation is not approved or otherwise does not become effective in its entirety.

4 7. The Parties' Objections speak for themselves. Any waiver of those Objections
5 pursuant to this Stipulation is expressly subject to the provisions of this Stipulation, including
6 but not limited to Paragraphs 6 and 22-27 herein. For purposes of this Stipulation, however,
7 the content of the Parties' Objections can be grouped into nine general categories:

8 a. Issue 1: Improper stream classification methodology (SRP, United
9 States);

10 b. Issue 2: Improper determination of subflow zone termination points
11 (SRP, United States);

12 c. Issue 3: Failure to fully explain the burden of proof in the LLCR Report
13 (LCR Coalition);

14 d. Issue 4: Failure of the LLCR Report to note that aquifers other than the
15 C Aquifer might contribute to intermittent stream flows (Flagstaff);

16 e. Issue 5: Vague and unsupported language in the LLCR Report regarding
17 Lake Mary (Flagstaff);

18 f. Issue 6: Failure of the LLCR Report to fully explain ADWR's "Step 3"
19 subflow boundary delineation for the reach of the Little Colorado River ("LCR") mainstem
20 west of Joseph City between River Miles 181 and 208 (APS);

21 g. Issue 7: Delineation of a subflow zone in portions of Clear Creek and
22 Chevelon Canyon Creek (ASLD, LCR Coalition);

23 h. Issue 8: Unexplained failure of the LLCR Report to map a subflow zone
24 on the Reservation and tribal lands (Flagstaff, SRP); and

25 i. Issue 9: Failure of the LLCR Report to extend or consider extending the
26 subflow zone on the Puerco River above River Mile 10 and the abrupt termination of the
27 delineated subflow zone at River Mile 10 (United States).

1 8. On March 31, 2026, the Special Master issued an order dismissing certain of the
2 objections to the LLCR Report filed by other individuals who are not Parties to this
3 Stipulation and setting a status conference to discuss the Parties' Objections for May 19,
4 2026. Order Dismissing Objections and Setting Status Conference (March 31, 2026).
5 Therefore, all parties with pending objections to the LLCR Report are Parties to this
6 Stipulation.

7 9. During a status conference held in this case on May 19, 2026, pursuant to the
8 Parties' request or consent, the Special Master set another status conference for July 20, 2026
9 to allow the Parties time to engage in discussions and attempt to informally resolve their
10 respective Objections. *See* Minute Entry (May 21, 2026) ("05/21/26 Minute Entry");
11 Transcript: Status Conference, at 24 (May 19, 2026) ("Tr.").

12 10. In an effort to promote judicial efficiency, avoid unnecessary delays in
13 adjudicating water rights claims in the LLCR Subwatershed, and avoid the further
14 expenditure of public and private resources litigating the Objections, the Parties have engaged
15 in such discussions to resolve the issues raised in their respective Objections.

16 11. This Stipulation is the result of those discussions. A proposed order approving
17 and adopting this Stipulation is attached hereto.

18 **Resolution of Objections**

19 12. The stipulations in the following paragraphs refer to the issues as generally
20 grouped and described in Paragraph 7 above. Each of those stipulations is expressly
21 conditioned upon the provisions of Paragraphs 6 and 22 through 27 herein.

22 13. Issue 1

23 a. Chapter 3 of the LLCR Report and certain appendices to the LLCR
24 Report discuss ADWR's stream classification methodology. *See* LLCR Report, at 28-49.

25 b. SRP objected to various components of ADWR's stream classification
26 methodology as stated and applied in the LLCR Report. *See* SRP Objections, at 3-15.
27

1 c. The United States also raised similar issues, specifically as to how that
2 methodology was applied with respect to the Puerco River. *See* U.S. Objections; *see also*
3 Paragraph 21, *infra*.

4 d. Although SRP and the United States maintain that ADWR's stream
5 classification methodology is impermissibly narrow and reserve their rights to continue to
6 object to that methodology in other proceedings if and when such methodology is applied in
7 other watersheds or subwatersheds, those Parties recognize that there are important geological
8 differences between the LLCR Subwatershed and other watersheds and subwatersheds that
9 are subject to the Adjudications. *See* Paragraph 26, *infra*.

10 e. Pursuant to this Stipulation and for the reasons set forth in Paragraph 10,
11 SRP withdraws its Objections to those components of ADWR's stream classification
12 methodology as applied in the LLCR Report.

13 f. Pursuant to this Stipulation and for the reasons set forth in Paragraph 10,
14 the United States also withdraws its Objections to those components of ADWR's stream
15 classification methodology as applied to the Puerco River.

16 14. Issue 2

17 a. Section 4 of the LLCR Report discussed, among other things, ADWR's
18 methodology for determining the specific points on watercourses at which ADWR's subflow
19 zone delineation terminated. *See* LLCR Report, at 50-75.

20 b. SRP objected to various aspects of ADWR's methodology in
21 determining subflow zone termination points as stated and applied in the LLCR Report. *See*
22 SRP Objections, at 15-18.

23 c. The United States also raised similar issues, specifically as to how that
24 methodology was applied with respect to the Puerco River. *See* U.S. Objections; *see also*
25 Paragraph 21, *infra*.

26 d. Although SRP and the United States maintain that ADWR's
27 methodology for determining subflow zone termination points is incorrect and improper and

1 reserve their rights to continue to object to that methodology in other proceedings if and when
2 such methodology is applied in other watersheds or subwatersheds, those Parties recognize
3 that there are important geological differences between the LLCR Subwatershed and other
4 watersheds and subwatersheds that are subject to the Adjudications. *See* Paragraph 26, *infra*.

5 e. Pursuant to this Stipulation and for the reasons set forth in Paragraph 10,
6 SRP withdraws its Objections to ADWR's methodology in determining subflow zone
7 termination points as applied in the LLCR Report.

8 f. Pursuant to this Stipulation and for the reasons set forth in Paragraph 10,
9 the United States also withdraws its Objections to those components of ADWR's termination
10 point methodology as applied to the Puerco River.

11 15. Issue 3

12 a. Section 1 of the LLCR Report contains a general discussion of the
13 burden of proof on subflow issues. *See* LLCR Report, at 1-10.

14 b. In its Objections, the LCR Coalition asserted that the burden of proof
15 discussion in the LLCR Report should be expanded and clarified. *See* LCR Coalition
16 Objections, at 1-2.

17 c. Among other things, the LCR Coalition contended that the LLCR Report
18 should recognize and state that underground waters are initially presumed to be percolating
19 groundwater and not appropriable subflow. *See id.*

20 d. Arizona law provides that underground waters are initially presumed to
21 be percolating groundwater and not appropriable subflow, and Section 1 of the LLCR Report
22 should have discussed that initial presumption.

23 e. Pursuant to this Stipulation and for the reasons set forth in Paragraph 10,
24 the LCR Coalition withdraws its Objections to the discussion of the burden of proof in
25 Section 1 of the LLCR Report.

1 16. Issue 4

2 a. Section 2.2.1 of the LLCR Report states that only the C-Aquifer
3 contributes reliable perennial or intermittent streamflow in the LLCR Subwatershed. *See*
4 LLCR Report, at 19.

5 b. In its Objections, Flagstaff asserted that there are shallow aquifers
6 overlying the C-Aquifer on the Reservations that might contribute to intermittent flows in the
7 LLCR Subwatershed. *See* Flagstaff Objections, at 3 and 4.

8 c. There are shallow aquifers overlying the C-Aquifer on the Reservations
9 that might contribute to intermittent flows in the LLCR Subwatershed, and Section 2.2.1 of
10 the LLCR Report should have discussed that possibility.

11 d. Pursuant to this Stipulation and for the reasons set forth in Paragraph 10,
12 Flagstaff withdraws its Objections to Section 2.2.1 of the LLCR Report.

13 17. Issue 5

14 a. Section 3.1 and Appendix E of the LLCR Report includes various
15 statements regarding Upper and Lower Lake Mary, including that Lake Mary is a “unique
16 case.” *See* LLCR Report, at 29, and Appendix E, at pp. 2 and 6.

17 b. In its Objections, Flagstaff asserted that certain of those statements
18 regarding Upper and Lower Lake Mary are incorrect and could be potentially construed as a
19 conclusion of law by ADWR. *See* Flagstaff Objections, at 5 and 6.

20 c. The statement regarding Upper and Lower Lake Mary on page 29 in
21 paragraph 2 of the LLCR Report addressed in the Flagstaff Objections is incomplete and
22 should be modified to state “municipal and recreational uses in Upper and Lower Lake Mary
23 near Flagstaff” *See* Flagstaff Objections, at 5.

24 d. The statements regarding Upper and Lower Lake Mary in Appendix E at
25 pp. 2 and 6 of the LLCR Report addressed in the Flagstaff Objections were not necessary for
26 ADWR’s delineation of the subflow zone in the LLCR Subwatershed and should not have
27 been included in the LLCR Report. In Appendix E, the first paragraph on p. 2, and the notes

1 on p. 6, should both be stricken in their entirety from Appendix E of the LLCR Report. *See*
2 *also* Tr. at 19-20. *See* Flagstaff Objections, at 6.

3 e. Pursuant to this Stipulation and for the reasons set forth in Paragraph 10,
4 Flagstaff withdraws its Objections to Section 3.1 and Appendix E of the LLCR Report.

5 18. Issue 6

6 a. The LLCR Report delineates a continuous “Step 3” subflow zone that
7 extends for more than twenty miles on the LCR mainstem from River Mile 184 to River Mile
8 208. *See* LLCR Report, Appendix G, Maps 8-10.

9 b. In its Objections, APS asserted that the LLCR Report failed to provide
10 supporting data, documentation, or explanation of the “Step 3” analysis along that reach of the
11 LCR mainstem. *See* APS Objections, at 1-2.

12 c. Pursuant to this Stipulation and for the reasons set forth in Paragraph 10,
13 APS withdraws its Objections to the “Step 3” subflow zone delineation along that reach of the
14 LCR mainstem.

15 19. Issue 7

16 a. The LLCR Report delineated a subflow zone along Clear Creek and
17 Chevelon Canyon Creek. *See* LLCR Report, at 107 & Appendix I.

18 b. In its Objections, the LCR Coalition asserted that no subflow zone
19 should be delineated along the middle reaches of Clear Creek and Chevelon Canyon Creek.
20 *See* LCR Objections, at 2-6. The pertinent reaches of those creeks at issue (“Middle
21 Reaches”) are depicted on the first figure attached to the consultant’s report that was attached
22 as Exhibit C to the LCR Coalition’s Objections. A copy of that map is also attached hereto as
23 **Exhibit 2.**

24 c. In its Objections, ASLD asserted that the LLCR Report provided
25 insufficient support for the delineation of a subflow zone along the Middle Reaches of Clear
26 Creek and Chevelon Canyon Creek. *See* ASLD Objections, at 2-3. ASLD also joined in the
27 LCR Coalition’s Objections on that issue. *Id.* at 3.

1 d. Although the Parties disagree regarding whether ADWR applied the
2 proper methodology in determining whether a subflow zone should be delineated along the
3 Middle Reaches of Clear Creek and Chevelon Canyon Creek, the Parties have agreed, for
4 purposes of this Stipulation and for the reasons set forth in Paragraph 10, that no subflow
5 zone will be delineated along those reaches.

6 e. Pursuant to this Stipulation and for the reasons set forth in Paragraph 10,
7 the LCR Coalition and ASLD withdraw their Objections to the subflow zone delineations on
8 Clear Creek and Chevelon Canyon Creek.

9 20. Issue 8

10 a. Section 2.2 of the LLCR Report states: “The Navajo Nation Reservation,
11 Hopi Tribe Reservation, and San Juan Southern Paiute Tribe lands are not part of the study
12 area for this report.” LLCR Report, at 14.

13 b. In its Objections, SRP requested that the Special Master direct ADWR to
14 explain its decision to exclude the Reservation and tribal lands from the LLCR Report. *See*
15 SRP Objections, at 18-19.

16 c. In its Objections, Flagstaff reserved its right to assert that all areas of the
17 LLCR Subwatershed, including the Reservation and tribal lands, should be evaluated for
18 possible subflow zone delineation. *See* Flagstaff Objections, at 2.

19 d. During the May 19 status conference, ADWR stated that its decision to
20 exclude the tribal lands from the LLCR Report was based upon the fact that the ADWR report
21 on *de minimis* uses in the LLCR Subwatershed had excluded those lands from the definition
22 of the LLCR Subwatershed and that report had been approved by and adopted by Judge Brain
23 in a minute entry filed on May 28, 2021. *See* 05/21/26 Minute Entry, at 2; Tr. at 5-6.

24 e. No subflow zone needs to be delineated on the Reservation and tribal
25 lands in the LLCR Subwatershed at this time.

26 f. Each Party reserves its right to request that the Court direct ADWR to
27 delineate a subflow zone on the Reservation and tribal lands if present circumstances change

1 in the future (e.g., if the pending settlement of tribal claims set forth in the Northeastern
2 Arizona Indian Water Rights Settlement Agreement, executed by Governor Hobbs on
3 November 19, 2024 does not become enforceable) and a need arises for such delineation.

4 g. Pursuant to this Stipulation and for the reasons set forth in Paragraph 10,
5 SRP and Flagstaff withdraw their Objections to the exclusion of the Reservation and tribal
6 lands from the LLCR Report.

7 21. Issue 9

8 a. The LLCR Report delineated a subflow zone along the Puerco River
9 from River Mile 0 through River Mile 10, but it did not delineate a subflow zone beyond
10 River Mile 10. *See* LLCR Report.

11 b. In its Objections, the United States asserted that a subflow zone should
12 have been delineated beyond River Mile 10 on the Puerco River. *See* United States
13 Objections, at 1-4.

14 c. During the May 19 status conference, ADWR stated that its decision to
15 not delineate a subflow zone beyond River Mile 10 on the Puerco River was supported by
16 ADWR's review of data from United States Geological Survey Stream Gage No. 09396100,
17 but that ADWR inadvertently failed to note in the relevant portion of Appendix E that it
18 reviewed data from that gage. *See* Tr. at 9-12.

19 d. Appendix E to the LLCR Report should have noted that ADWR
20 reviewed data from United States Geological Survey Stream Gage No. 09396100. Therefore,
21 Appendix E to the LLCR Report should be modified by adding the following language to the
22 "Notes" column of the table row that contains ADWR's analysis of the Puerco River, which
23 row appears on Page 25 of Appendix E: "ADWR reviewed data from USGS Gage No.
24 09396100 and concluded that the data did not support deeming Selection Criteria No. 1 to be
25 satisfied." Additionally, Figure 2-5 and Table 3-3 should be modified to include Gage No.
26 09396100 as a currently-operating streamgage. Finally, page 41 of the LLCR Report should
27 be corrected to state that "ADWR evaluated streamgage information for all currently

1 operating (8) and historic (10) USGS streamgages within the Subwatershed” and page 73
2 should be corrected to state that “ADWR reviewed streamflow data collected by eighteen
3 USGS streamgages in the LLCR Subwatershed.”

4 e. The Parties have agreed, for purposes of this Stipulation and for the
5 reasons stated in Paragraph 10, that the subflow zone on the Puerco River will not be
6 extended beyond River Mile 10.

7 f. Pursuant to this Stipulation and for the reasons set forth in Paragraph 10,
8 the United States withdraws its Objections to the subflow zone delineation on the Puerco
9 River.

10 **Effect of this Stipulation**

11 22. This Stipulation and all provisions hereof shall be of no force or effect unless
12 and until approved in its entirety by the Special Master.

13 23. If this Stipulation is not approved in its entirety or is approved and subsequently
14 rejected in whole or in part by the Superior Court or any appellate court, the Parties shall
15 retain all rights and preserve all arguments with regard to the matters addressed herein, as if
16 they had not entered into the Stipulation.

17 24. All objections to the LLCR Report have now been waived, dismissed, or
18 resolved by this Stipulation. Each Party reserves its right to file objections to or otherwise
19 contest or challenge any addendum to the LLCR Report (including revised subflow zone
20 delineation maps) issued by ADWR pursuant this Stipulation, but only to the extent such
21 addendum is inconsistent with the substance of this Stipulation. Any objections to the
22 addendum by other individuals or entities that are not Parties to this Stipulation should be
23 limited to the revisions to or portions of the addendum that were not included in the LLCR
24 Report.

25 25. This Stipulation, any resulting addendum to the LLCR Report (including
26 revised maps of the subflow zone in the LLCR Subwatershed), and any order by the Special
27 Master or the Superior Court pursuant to this Stipulation apply only to the delineation of the

1 subflow zone in the LLCR Subwatershed and determining whether wells in the LLCR
2 Subwatershed are withdrawing appropriable water. Such filings shall have no value as
3 precedent in any proceedings regarding any other issue in this Case No. CV6417-400,
4 regardless of whether this Stipulation is approved and becomes effective.

5 26. As ADWR correctly stated in the LLCR Report, there are “important
6 differences between the geology of the LLCR Watershed and that of the San Pedro and Verde
7 River Watersheds,” and those “important differences” resulted in ADWR using a different
8 methodology for the subflow zone delineation for the LLCR Subwatershed than it had used
9 for other watersheds and subwatersheds. *See* LLCR Report, at 25; *see also* 05/21/26 Minute
10 Entry, at 2; Tr. at 21.

11 27. No portion of this Stipulation, any resulting addendum the LLCR Report
12 (including any revised maps of the subflow zone in the LLCR Subwatershed), or any order by
13 the Special Master or the Superior Court pursuant to this Stipulation shall have any value as
14 precedent in any proceeding relating to the subflow zone delineation or the determination of
15 whether wells are withdrawing appropriable water in any other watershed or subwatershed in
16 this Adjudication or any other Arizona general stream adjudication, regardless of whether this
17 Stipulation is approved and becomes effective.

18 **Requested Relief**

19 28. Pursuant to the stipulations set forth above, the Parties request that the Special
20 Master enter the proposed order attached hereto approving and adopting this Stipulation and
21 directing ADWR to prepare an addendum to the LLCR Report that includes revised maps
22 delineating the subflow zone in the LLCR Subwatershed for final approval.
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1 DATED this 24th day of August, 2026.

2
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Trial Attorneys, Tribal Resources Section

Environment & Natural Resources Division
United States Department of Justice

By Michael Jey For:
Counsel for the United States

1 ORIGINAL of the foregoing mailed for
2 filing to the Clerk of the Apache County
3 Superior Court this 24th day of August, 2026

4 AND COPY hand-delivered this 24th day
5 of August, 2026 to:

6 Sherri L. Zendri
7 Special Master
8 Central Court Building, Ste. 3A
9 201 West Jefferson
10 Phoenix, AZ 85003-2205

11 Hon. Scott Blaney
12 Judge of the Superior Court
13 East Court Building
14 101 West Jefferson Street, Suite 411
15 Phoenix, AZ 85003

16 Arizona Department of Water Resources
17 Legal Division
18 Karen J. Neilsen
19 1110 W. Washington Street, Suite 310
20 Phoenix, AZ 85007

21 AND COPY mailed to all persons appearing on
22 the Court-approved mailing list in Case No.
23 CV6417-400 dated March 3, 2026.

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EXHIBIT 3

Figure 1

