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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
11 TO USE WATER IN THE GILA
12 RIVER SYSTEM AND SOURCE
13

W1-00-001234

Contested Case No. W1-00-000106

**ORDER APPROVING WITH
MODIFICATIONS SPECIAL
MASTER REPORT**

14 CONTESTED CASE NAME: *In re Subflow Technical Report, Verde River*
15 *Watershed*

16 REPORTS INVOLVED: Arizona Department of Water Resources, *Subflow Zone*
17 *Delineation Report for Verde River Mainstem & Sycamore Canyon* (December 2021),
18 *Subflow Zone Delineation Technical Report for the Remainder of the Verde River*
19 *Watershed* (April 2023), *Addendum to the Verde River Watershed Subflow Zone*
20 *Delineation* (December 2025), *Supplemental Report to the 2025 Addendum to the*
21 *Verde River Watershed Subflow Zone Delineation* (May 2026).

20 DESCRIPTIVE SUMMARY: The Special Master's April 2, 2026, report, concerning
21 the subflow zone delineation for the Verde River Watershed is adopted with certain
22 modifications.

22 DATE OF FILING: October 1, 2026.

23 The Court has reviewed and considered the Report of the Special Master on the
24 Subflow Zone Delineation for the Verde River Watershed ("Final Report"), filed April
25 2, 2026. The Court has also considered objections to the Final Report filed by the City
26 of Prescott, the Salt River Project ("SRP"), the Town of Prescott Valley, and the Joint
27 Objectors (Freeport Minerals Corporation, the Arizona State Land Department, and the
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1 Town of Chino Valley).¹

2 For a full description of the lengthy procedural background regarding the subflow
3 zone delineation for the Verde River Watershed, the Court directs readers to the Final
4 Report. In the Final Report, the Special Master “approv[ed] ADWR’s delineation of the
5 subflow zone for the Verde River Watershed,” except for instructions for ADWR to
6 review its mapping cutoffs for a few tributaries.² ADWR provided its review of those
7 cutoffs in its Supplemental Report to the 2025 Addendum (“the Supplement”).³

8 Parties timely filed objections to the Final Report by June 1, 2026. Those
9 objections were the parties’ first opportunity to comment on ADWR’s Addendum to the
10 Verde River Watershed Subflow Zone Delineation⁴ (“the Addendum”) as well as the
11 Supplement. Objections to the Final Report concern the following issues:

- 12 I. The applicable evidentiary standard.
- 13 II. ADWR’s classifications of Big Chino Wash and Partridge Creek.
- 14 III. Mapping cutoffs for various tributaries.
- 15 IV. The breadth of the subflow zone for Sullivan Lake and Watson Lake.
- 16 V. The existence of a subflow zone for Granite Basin Lake.

17 18 **I. EVIDENTIARY STANDARD**

19 In this matter, parties generally seek two forms of relief: 1) orders directing
20 ADWR to include certain stream segments within its subflow zone delineation and 2)
21 orders directing ADWR to re-examine certain parts of its report or subflow delineation.

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23 ¹ City of Prescott’s Objections to the Special Master’s Report (“Prescott Objections”), Contested Case
24 No. W1-00-000106 (June 1, 2026); Salt River Project’s Objections to Report (“SRP Objections”),
25 Contested Case No. W1-00-000106 (June 1, 2026); Town of Prescott Valley’s Objections to the
26 Report (“Prescott Valley Objections”), Contested Case No. W1-00-000106 (June 1, 2026); Freeport
Minerals Corporation’s, Arizona State Land Department’s, and Town of Chino Valley’s Objections to
the Report (“Joint Objections”), Contested Case No. W1-00-000106 (June 1, 2026).

27 ² Final Report at 2.

28 ³ Supplemental Report to the 2025 Addendum to the Verde River Watershed Subflow Zone
Delineation, Contested Case No. W1-00-000106 (May 2026).

⁴ Addendum to the Verde River Watershed Subflow Zone Delineation, Contested Case No. W1-00-
000106 (Dec. 2025).

1 It is well established that “[o]ne who asserts that underground water is a part of a
2 stream's subflow must prove that fact by clear and convincing evidence.” *In re General*
3 *Adjudication of All Rights to Use Water in the Gila River System and Source (Gila IV)*,
4 198 Ariz. 330, 335 (2000) (citing *Maricopa County Mun. Water Conservation Dist. No.*
5 *One v. Southwest Cotton*, 39 Ariz. 65, 85 (1931)). By asserting that the subflow zone
6 extends to a certain stream segment, SRP seeks to prove that all wells within a certain
7 region are categorically presumed to be pumping subflow. Therefore, SRP must prove
8 that assertion by clear and convincing evidence.

9 By contrast, requests for ADWR to re-examine certain parts of its technical report
10 do not seek to prove ultimate facts pertaining to subflow zone delineation. They merely
11 seek to prove that ADWR either did not “use[] the proper test” or “rel[y] on appropriate
12 criteria.” *In re General Adjudication of All Rights to Use Water in the Gila River System*
13 *and Source (Gila II)*, 175 Ariz. 382, 392 (1993). Therefore, a “preponderance of the
14 evidence” standard applies to those inquiries.

15 **II. ADWR PROPERLY EXCLUDED BIG CHINO WASH AND** 16 **PARTRIDGE CREEK FROM THE SUBFLOW ZONE.**

17 Delineating the subflow zone for a watershed requires two steps: stream
18 classification and subflow mapping. First, ADWR must identify all streams that are
19 currently perennial or intermittent or that were perennial or intermittent under
20 predevelopment conditions. Second, if and only if a stream reach is so classified, ADWR
21 must delineate the subflow zone adjacent to the stream.

22 In classifying streams and reaches of streams, ADWR must abide by the
23 following hydrological definitions:⁵

- 24 • “Perennial streams discharge water continuously through the year. Their
25 source of supply is normally comprised of both direct runoff from
26 precipitation events or snow melt, and baseflow derived from the discharge
27 of groundwater into the stream.
28

⁵ Order (“1994 Order”) at 23–24, Contested Case No. W1-00-000103 (June 30, 1994).

- Intermittent streams discharge water for long periods of time, but seasonally. For example, an intermittent stream may flow all winter, every winter, but never flow continuously during the summer. During seasons when baseflow is maintained, groundwater is contributing to the stream. During seasons of discontinuous streamflow, natural and cultural losses may be greater than the contribution from groundwater, resulting in a losing stream. Or, the amount of groundwater discharge itself may have decreased due to natural or cultural uses.
- Ephemeral streams discharge water only in response to precipitation events or snowmelt, and do not have a baseflow component at any time of the year: they flow out sporadically. The groundwater system and surface water system do not establish a hydraulic connection in these systems.”

By classifying all of Big Chino Wash and Partridge Creek as ephemeral under predevelopment conditions, ADWR excluded those streams from its subflow zone delineation. At trial and in its objections to the Final Report, SRP asserts that “the portion of the Big Chino that extends from its confluence with Partridge Creek” and “the furthestmost downstream 1.5 miles of Partridge Creek” are intermittent under predevelopment conditions, and ADWR should have included those stream reaches in its subflow zone delineation.⁶

SRP argues, first, that a stream is, at the very least, intermittent if “it ever has a baseflow component.”⁷ SRP then argues that various lines of evidence “establish that the aquifer was at or near the surface of the Big Chino channel under predevelopment conditions.”⁸ These lines of evidence include, *inter alia*, USGS mapping, archaeological evidence, newspaper articles, notices of appropriation, statements of claim, homestead files, and aerial photography.⁹ From this evidence, SRP surmises that, at certain times,

⁶ SRP Objections at 16.

⁷ SRP Objections at 14.

⁸ SRP Objections at 16–17.

⁹ *Id.*

1 “recharge would have caused the water table to rise above the stream channel, such that
2 baseflow would enter the Big Chino channel.”¹⁰

3 4 **A. Standard of Review**

5 Rule 53(f)(3) of the Arizona Rules of Civil Procedure requires that the court
6 reviewing a special master’s report “must decide all objections to findings of fact . . .
7 under the clearly erroneous standard.” Rule 53(f)(4) requires the court to “decide de
8 novo all objections to conclusions of law.” Further, the trial court is not bound by the
9 Special Master’s “findings that combine both fact and law.” *Cf. Wilmot v. Wilmot*, 203
10 Ariz. 565, 569 (2002).

11 SRP asserts that “the Court must decide *de novo* whether the Special Master
12 correctly applied the facts to the definitions of ‘intermittent’ and ‘ephemeral’ set forth
13 in the 1994 order by Judge Goodfarb” on the basis that those determinations “combine
14 law and fact.”¹¹

15 With respect to the classification of Big Chino Wash and Partridge Creek, the
16 Court can distinguish between questions of fact and questions of law. The sole non-
17 trivial question of law presented by SRP is whether the Court should elide “long periods
18 of time” from Judge Goodfarb’s definition of “intermittent.” The Court reviews the
19 Special Master’s resolution of that question under a *de novo* standard.

20 By contrast, the Court will review for clear error the Special Master’s conclusion
21 that the various records presented by SRP at trial do not establish that Big Chino Wash
22 and Partridge Creek “discharge water for long periods of time, but seasonally.” That
23 inquiry, dealing exclusively with the existence of hydrological phenomena, is a matter
24 of factual investigation, not legal interpretation.

25 26 **B. Intermittency has a temporal component.**

27 In the report filed March 5, 2025 (“March 2025 Report”), the Special Master

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¹⁰ SRP Objections at 21.

¹¹ SRP Objections at 8.

1 ruled that, consistent with Judge Goodfarb's definition of intermittency, intermittent
2 streams must "exhibit sustained, seasonal flow."¹² SRP argues that the Special Master
3 erred in applying a "sustained flows" criterion.

4 Specifically, SRP cites Judge Goodfarb's definition of an ephemeral stream: a
5 stream where "the groundwater system and surface water system do not establish a
6 hydraulic connection." According to SRP, it follows that a stream that has even a fleeting
7 baseflow component at some time of the year cannot be ephemeral and therefore must
8 be at least intermittent. Judge Goodfarb's definition of intermittency, requiring
9 "discharge [of] water for long periods of time," contradicts SRP's proposed definition.

10 In interpreting Judge Goodfarb's stream classification definitions, the Court
11 applies the maxim that courts should harmonize provisions of law and "avoid
12 interpretations that result in contradictory provisions." *Columbus Life Insurance Co. v.*
13 *Wilmington Trust, N.A.*, 255 Ariz. 382, 385 (2023). Here, the Court interprets Judge
14 Goodfarb's definitions of intermittent and ephemeral streams to mean that, where a
15 stream has "a baseflow component," the stream necessarily flows "for long periods of
16 time."

17 SRP's proposed definition of intermittent stream not only seeks to erase language
18 from Judge Goodfarb's definition of intermittency, but it also contradicts Goodfarb's
19 definition of ephemerality. According to SRP, because "recharge" (in other words
20 precipitation) periodically caused "the water table to rise above the stream channel" for
21 Big Chino Wash and Partridge Creek, those streams were intermittent under
22 predevelopment conditions.¹³ Judge Goodfarb described ephemeral streams as
23 discharging water "only in response to precipitation events or snowmelt."¹⁴
24 Accordingly, SRP's proposed definition of intermittent stream would swallow Judge
25 Goodfarb's definition of ephemeral.

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27 ¹² Order for ADWR to Revise Subflow Zone Delineation for Portions of the Verde River Mainstem
28 and Tributaries, Contested Case No. W1-00-000106 (Mar. 5, 2025).

¹³ SRP Objections at 21.

¹⁴ 1994 Order at 23–24.

1 In sum, SRP's proposed definition of intermittent stream erases an express
2 element of Judge Goodfarb's definition, "discharge [of] water for long periods of time."
3 Moreover, the definition of intermittency proposed would render Judge Goodfarb's
4 definition of ephemerality a nullity. Hence, the Court affirms the Special Master's
5 conclusion that intermittent streams must exhibit sustained flows.

6
7 **C. ADWR properly excluded Big Chino Wash and Partridge Creek from its**
8 **subflow zone delineation.**

9 SRP objects to the Special Master's conclusion that ADWR properly excluded
10 Big Chino Wash and Partridge Creek from its subflow zone delineation. SRP posits,
11 instead, that "baseflow existed in the Big Chino and Partridge Creek during at least some
12 parts of the year under predevelopment conditions" on the basis of hydrological
13 principles, firsthand accounts of streamflow, archaeological evidence, historical
14 mapping, springs in the vicinity of the streams, notices of appropriation, statements of
15 claim, and aerial photography.¹⁵

16 At trial, SRP did not present clear and convincing evidence that Big Chino Wash and
17 Partridge Creek were intermittent or perennial under predevelopment conditions.
18 Therefore, the Special Master correctly concluded that ADWR properly excluded Big
19 Chino Wash and Partridge Creek from its subflow zone delineation. Here, the Court
20 examines each line of evidence presented by SRP at trial.

21
22 **1. SRP's Hydrologic Theory**

23 SRP's hydrological argument contains two parts. SRP argues that, given the Big
24 Chino's "incise[ment] into the surrounding land surface," the area surrounding Big
25 Chino Wash had a shallow depth to water under predevelopment conditions. It then
26 follows, according to SRP, that "[f]ollowing significant recharge events, the water table
27 would have risen above Big Chino channel and discharged as baseflow."¹⁶

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¹⁵ SRP Objections at 3.

¹⁶ SRP Objections at 18–19.

1 An intermittent stream, under the applicable definition, requires “discharg[e] [of]
2 water for long periods of time, but seasonally.”¹⁷ By contrast, ephemeral streams
3 “discharge water only in response to precipitation events or snowmelt, and . . . flow out
4 sporadically.”¹⁸ To the extent that SRP’s hydrologic theory is accurate, the precipitation-
5 dependent and sporadic flows alleged are inconsistent with Judge Goodfarb’s definition
6 of intermittency. Hence, SRP’s hydrologic theory does not support its assertion that Big
7 Chino Wash and Partridge Creek were intermittent under predevelopment conditions.

8 9 **2. Historical Observations of Water Conditions**

10 SRP also argues that the historical record establishes that Big Chino Wash was
11 intermittent under predevelopment conditions. Specifically, SRP cites an 1894
12 newspaper article stating that the Big Chino flowed “for several months in the year,” an
13 1868 report from the Palmer Expedition that “Partridge Creek, at its mouth, was pouring
14 a large stream out into the Val de Chino,” more than 15 notices of appropriation “that
15 claimed a right to divert water from the Big Chino,” and an affidavit by Barbara Fritsche
16 attached to a statement of claim asserting that “[u]p until I was nine or ten, the Big Chino
17 Wash flowed year around.”¹⁹

18 The historical records presented vary in terms of probative value. None of the
19 documents, however, provides clear and convincing evidence of intermittent
20 streamflow. Specifically, the 1868 Palmer report describes a one-time observation that
21 does not shed light on whether the Big Chino Wash “discharge[d] . . . water for long
22 periods of time.” Out of the 15 notices of appropriation cited by SRP, SRP itself
23 identifies only two “describ[ing] streamflows that are inconsistent with the Big Chino
24 being ephemeral.”²⁰

25 The two notices of appropriation were filed by Chino Valley Cattle Co. and H.W.
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27 ¹⁷ 1994 Order at 23.

28 ¹⁸ 1994 Order at 24.

¹⁹ SRP Objections at 23–25.

²⁰ SRP Objections at 24.

1 Fritsche. The notice recorded by Fritsche claims “all of the normal flow” of Big Chino
2 Wash.²¹ Chino Valley Cattle Co.’s notice of appropriation claims “all of the running
3 water,” as well as “surplus water” and “flood waters.”²² SRP also cites a letter mailed to
4 the Secretary of the Interior by H.W. Fritsche referencing spring-fed “normal flow” of
5 Big Chino Wash.²³ H.W. Fritsche’s daughter subsequently filed an affidavit stating that
6 “[u]p until I was nine or ten, the Big Chino Wash flowed year around.”²⁴

7 Together, the Chino Valley Cattle Co. and Fritsche documents do not present
8 clear and convincing evidence of intermittent conditions. For one, the Chino Valley
9 Cattle Company’s claim to “all of the running water” in Big Chino Wash is ambiguous
10 as to streamflow permanence. Further, the affidavit by Barbara Fritsche likely reflects
11 the influence of storage dams on the Fritsche property.²⁵

12 Ultimately, the most persuasive piece of evidence that SRP presents of
13 intermittency is H.W. Fritsche’s letter to the Secretary of the Interior referencing spring-
14 fed “normal flow” along Big Chino Wash. However, even if this document proves the
15 existence of intermittent flow along *some* reach of Big Chino Wash, it does not prove
16 the existence of intermittent flow along the entirety of the wash downstream of Partridge
17 Creek. Even if the document proves intermittent flow along some reach of Big Chino
18 Wash, SRP does not seek to identify the boundaries of that reach.

19 SRP’s historical evidence adduced to support an intermittent flow classification
20 is ambiguous at best. However, the historical record, taken as a whole, indicates that
21 streamflow along Big Chino Wash was ephemeral under predevelopment conditions.

22 First, the vast majority of newspaper articles presented by SRP at trial indicate
23 reliance on wells²⁶ or dryland farming along Big Chino Wash.²⁷ Some of the articles
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25 ²¹ [SRP Exhibit 373 at PDF 25].

26 ²² [SRP Exhibits 312 & 313].

27 ²³ [Day 4 at 63-64 (Ford)]; [SRP Exhibit 127 at PDF 10].

28 ²⁴ [Day 4 at 65-66 (Ford)]; [SRP Exhibit 373 at PDF 29].

²⁵ [SRP Exhibit 373 at PDF 27-29]; [Day 1 at 124:24-125:20 (Hadder)].

²⁶ [Day 3 at 81:6-16 (Nicholls)]; [CVPV Exhibit 28 at PDF 2, 4].

²⁷ [Day 3 at 86:3-88:23 (Nicholls)].

1 referencing dryland farming also reference the use of floodwaters from Big Chino
2 Wash.²⁸

3 Second, the homestead filings filed between the 1880s and 1930s in the Big Chino
4 Valley corroborate those observations. For instance, James Ashley's 1898 patent
5 application for land along the Big Chino Wash indicates that he did not cultivate the land
6 because of a lack of water, and that the land could be cultivated "if water could be had."²⁹
7 In 1894, Charles Ashley filed a patent application describing a "lack of water for
8 irrigation."³⁰ In Claude Aiken's 1929 homestead patent application, he wrote that the
9 claimed land featured "no streams, springs, or other bodies of water except dry
10 watercourses that have water in them only following precipitation."³¹ These and other
11 homestead filings imply a nearly universal reliance on groundwater and, in turn, the
12 absence of reliable surface water flows along Big Chino Wash.

13 14 **3. Archaeological Evidence**

15 SRP also cites an archaeological study from the 1930s that relates to conditions
16 "from about 900 to 1300 AD." As the Special Master has pointed out, this line of
17 evidence is irrelevant because that period "ended long before the arrival of the
18 predevelopment period, i.e. the 'year or range of years immediately prior to regular,
19 discernable diversion or depletion of stream flows resulting from human activity.'"³²

20 21 **4. Maps**

22 *Freethy and Anderson Map*

23 The *Freethy and Anderson* (F&A) map is a map published in 1986 identifying
24 stream reaches known to the cartographers to be perennial under predevelopment
25 conditions. That map depicts Big Chino Wash as perennial under predevelopment

26 ²⁸ [Day 3 at 89:11-92:25 (Nicholls)].

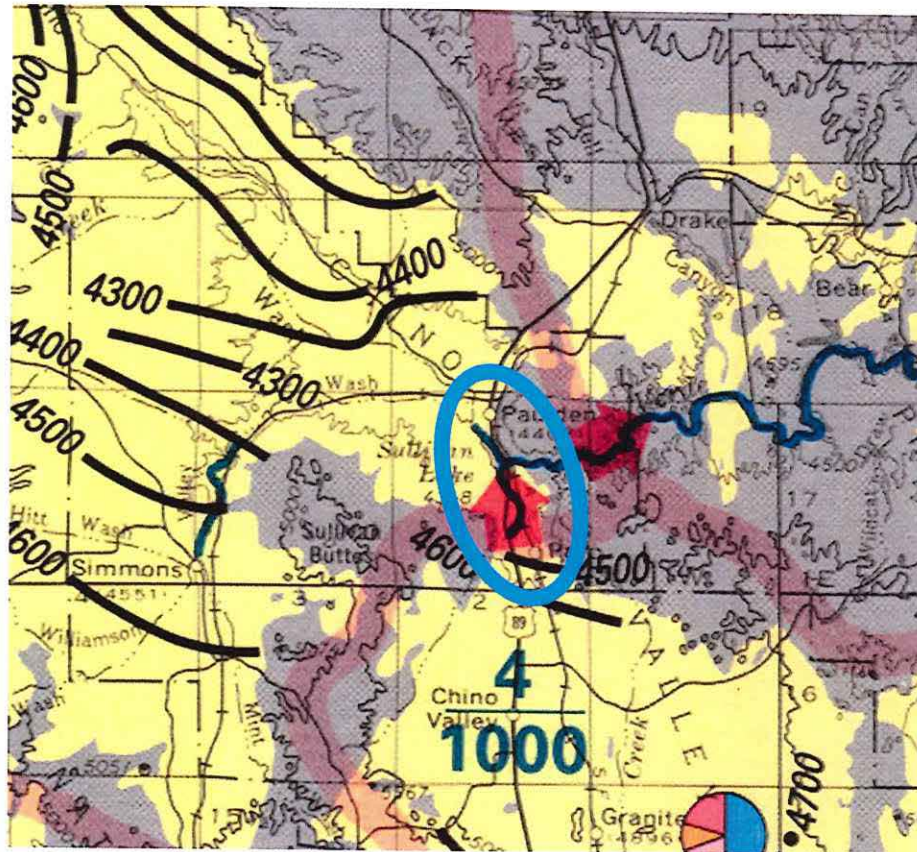
27 ²⁹ [COP Exhibit 14 at PDF 4].

28 ³⁰ [COP Exhibit 11 at PDF 2].

³¹ [SRP Exhibit 118 at PDF 18]

³² March 2025 Report at 16.

1 conditions between its confluence with Williamson Valley Wash and its downstream
2 terminus. ADWR included this segment in its subflow zone delineation.



Portion of *Freethy and Anderson* map in the vicinity of Big Chino Wash. Segment identified as perennial under predevelopment conditions is circled in blue.

19 SRP argues that, for at least some distance upstream of its confluence with the
20 Williamson Valley Wash, the Big Chino Wash must have been intermittent under
21 predevelopment conditions. Logically, SRP points out that “no feature . . . would cause
22 the Big Chino to transition from perennial to ephemeral . . . at the Williamson Valley
23 Wash confluence.”³³ Nonetheless, to the extent that the *Freethy and Anderson* map
24 implies that some portion of the Big Chino Wash upstream of its confluence with
25 Williamson Valley Wash was intermittent under predevelopment conditions, it does not
26 follow that *all* of Big Chino Wash upstream of Williamson Valley Wash was
27 intermittent. SRP does not identify the boundaries of the reach that must have been
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³³ SRP Objections at 29.

1 intermittent under its theory.

2 USGS Mapping

3 At trial, parties presented various maps prepared by the United States Geological
4 Survey (“USGS”). Five of the maps appear to depict Big Chino Wash, between the
5 confluence with Partridge Creek and the confluence with Williamson Valley Wash, as
6 intermittent,³⁴ two appear to depict Big Chino Wash as perennial,³⁵ and two do not depict
7 Big Chino Wash at all.³⁶ SRP cites these various maps to support its assertion that Big
8 Chino Wash, downstream of its confluence with Partridge Creek, was intermittent under
9 predevelopment conditions. These maps, however, paint an ambiguous picture as to
10 streamflow permanence.

11 The USGS’s historical definition of intermittent stream overlapped with Judge
12 Goodfarb’s definition of ephemeral stream. For instance, mapping instructions issued
13 by the USGS in 1918 classified intermittent streams as “those having alternating pools
14 and dry stretches, or those flowing for only part of the year.”³⁷ Instructions in 1928 are
15 no more helpful in identifying streams intermittent under the Goodfarb definition.³⁸
16 Hence, the depiction of Big Chino Wash as intermittent in historical USGS maps is weak
17 evidence of historical intermittence under the definition applicable to this case.

18 SRP, in response, emphasizes that “USGS maps that depict the Big Chino and
19 Partridge Creek as perennial are consistent with the maps that depict those watercourses
20 as [at least] intermittent.”³⁹ SRP specifically states that “[i]t is undisputed that the USGS
21 definition of a perennial stream corresponds to Judge Goodfarb’s definition of a
22 perennial stream.”⁴⁰

24 ³⁴ [SRP Exhibit 377] (1905 map); [SRP Exhibit 383] (1923 map); [COP Exhibit 40] (1947 map); [COP
25 Exhibit 54] (1965 map); [COP Exhibit 109] (1947 map).

26 ³⁵ [COP Exhibit 28] (1892 map); [SRP Exhibit 390] (1947 map).

27 ³⁶ [COP Exhibit 21] (1886 map); [COP Exhibit 22] (1891 map).

28 ³⁷ [Day 2 at 55:14-56:5 (Holmes)]; [SRP Exhibit 365 at PDF 156].

³⁸ These instructions define intermittent streams as those “dry for a considerable time each year, say
for three months or longer.” [SRP Exhibit 367 at PDF 277].

³⁹ SRP Objections at 36.

⁴⁰ *Id.*

1 SRP's citation to the "perennial maps," one published in 1892 and another in
2 1947, is unavailing for two reasons. First, the two maps purportedly depicting Big Chino
3 Wash as perennial are thoroughly contradicted by five other maps that either depict the
4 wash as intermittent or fail to depict the wash at all. The "perennial maps" do not resolve
5 the ambiguity presented by the other maps. Second, the "perennial map" issued in 1947
6 likely does not represent streamflow of Big Chino Wash under predevelopment
7 conditions. That map likely reflects the influence of an "extremely wet" period and the
8 imposition of dams along Big Chino Wash.⁴¹ Accordingly, the map likely reflects stored
9 runoff, as opposed to baseflow discharge.

10 ADWR Verde Watershed Study

11 Finally, SRP argues that ADWR's 2000 Verde Watershed study "repeatedly
12 maps both the Big Chino and Partridge Creek as intermittent."⁴² It is indisputable that,
13 today, the Big Chino Wash is a fully ephemeral stream; therefore, the 2000 study
14 depicting the relevant streams as *currently* intermittent is unreliable.

15
16 **5. SRP's "Standing Pools" Argument**

17 SRP argues that "the Weekly Journal-Miner published an article that described
18 property in the Big Chino Valley and stated that '[a] mile and a half west is Big Chino
19 Wash, where water enough for stock stands in pools except in the very dry seasons.'"⁴³

20 At trial, experts discussed the ability of "scour holes" in bedrock canyons to "retain
21 water for months out of the year."⁴⁴ Further, the description in this newspaper is also
22 consistent with the use of stockponds, which "are typically fed by ephemeral flow" and
23 "can be a reliable source of water throughout the year for watering stock."⁴⁵ Therefore,
24 to the extent that the article that SRP cites is accurate, the phenomenon described is
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26 ⁴¹ [Day 2 at 75:13-78:15 (Holmes)]; [Day 1 at 127:24-128:11 (Hadder)]; [*Id.* at 78:16-79:14 (Holmes)].

27 ⁴² SRP Objections at 30.

28 ⁴³ SRP Objections at 40.

⁴⁴ [Day 3 at 147:22-148:1 (Nicholls)]

⁴⁵ [Day 3 at 147-148 (Nicholls)].

1 nonetheless consistent with conditions on an ephemeral stream.

2 **6. Aerial Imagery**

3 SRP cites a 1940 aerial photograph of Big Chino Wash as evidence that the stream
4 was intermittent under predevelopment conditions.⁴⁶ Specifically, SRP, citing its expert
5 Jon Ford, asserts that “some of the water visible in the Big Chino is ‘coming from the
6 underground water table’ because ‘there is this kind of drainage coming from
7 nowhere.’”⁴⁷ Moreover, SRP points out “a large dark area interpreted as a large marsh
8 or cienega between Pine Creek and Big Chino Wash.”⁴⁸

9 SRP’s conclusion was significantly disputed at trial. At trial, Mr. Holmes pointed
10 out that the flow pictured was significantly influenced by a dam and recent precipitation.
11 Holmes found that the water pictured was actually “water sitting behind a spreader dam
12 [visible] in the upper left corner.”⁴⁹ Moreover, Holmes pointed out that the photograph
13 was taken “right after a . . . up to 2-inch rain event.”⁵⁰ Therefore, the photograph cited
14 by SRP likely sheds minimal light on predevelopment flow conditions on the Big Chino
15 Wash. Rather, it likely depicts storage of water after a significant precipitation event.

17 **D. SRP has not met its burden to prove intermittency of Partridge Creek.**

18 By SRP’s own admission, “[m]uch of the evidence during the hearing focused on
19 the Big Chino.”⁵¹ The types of evidence that SRP presented in support of Partridge
20 Creek’s intermittence are largely the same types of evidence that SRP presented in
21 support of Big Chino Wash’s intermittence.⁵² For the same reasons discussed above, that
22 evidence does not pass the clear and convincing evidentiary hurdle.

23 ⁴⁶ [SRP Exhibit 379].

24 ⁴⁷ [Day 4 at 69-70 (Ford)].

25 ⁴⁸ [SRP Exhibit 397 at PDF 21].

26 ⁴⁹ [Day 2 at 88 (Holmes)].

27 ⁵⁰ [Day 2 at 88-89 (Holmes)]

28 ⁵¹ SRP Objections at 16 note 13.

⁵² Specifically, SRP cites a one-time observation by the 1868 Palmer expedition. [Day 1 at 112–13 (Hadder)]; [ADWR Exhibit 4 at PDF 110]. SRP also cites various notes by the 1854 Whipple expedition: a botanical observation, an observation of a spring, and the observation of standing pools. [Day 3 at 115–16 (Nicholls)]; [Day 3 at 43 (Nicholls)]; [COP Exhibit 144 at PDF 30].

III. MAPPING CUTOFFS, INCLUDING WILLIAMSON VALLEY WASH

The subflow zone for the Verde River Watershed covers various smaller tributaries to the Verde River mainstem. SRP asserts that ADWR prematurely terminated its subflow zone delineation for many of these tributaries. With respect to some tributaries, SRP asserts that ADWR failed to investigate whether they were intermittent beyond ADWR's purported subflow zone termination points. With respect to others, SRP argues that the existence of bedrock canyons along one part of a tributary does not justify termination of the subflow zone for the entire tributary. Finally, with respect to Williamson Valley Wash, SRP argues that ADWR should not have terminated mapping of Williamson Valley Wash between river miles 2 and 10 solely based on 1) "termination of [historical] perennial stream classification" and 2) the absence of current "continuous riparian vegetation."

The Joint Objectors argue that SRP fails to prove by clear and convincing evidence that a subflow zone exists beyond the termination points for the tributaries that SRP identifies. In response to SRP, ADWR highlights the importance of "includ[ing] riparian vegetation as part of its analysis" and argues for the exercise of "professional judgment" in determining the extent of mappable alluvium.

The Joint Objectors' argument confuses evidentiary standards. As discussed above, to the extent that SRP seeks to prove that the subflow zone extends to a given area, it must prove that fact by clear and convincing evidence. To the extent that SRP requests that ADWR re-examine certain aspects of its technical report, SRP must show by a preponderance of the evidence that ADWR failed to "use the proper test" or "rel[y] on appropriate criteria."

In terminating subflow zones on the sole basis that "the perennial stream classification did not continue beyond the stopping point,"⁵³ ADWR did not rely on appropriate criteria. As discussed throughout this order, subflow zones are delineated

⁵³ Addendum at 13, 15, 18–20, 22, 23, 24.

1 for streams perennial *and intermittent* under predevelopment conditions. By evaluating
2 a stream segment solely for perennial flow, ADWR excluded an important criterion.

3 **IT IS ORDERED** that ADWR shall determine whether historically **intermittent**
4 reaches existed beyond the current subflow zone termination points for Dry Beaver
5 Creek, Granite Creek, Little Chino Wash, Pine Creek, Red Creek, Spring Creek, West
6 Fork Oak Creek, Clover Creek, Snake Draw, Ellison Creek, Lime Creek, Unnamed
7 Tributary to Pine Creek, North Fork Walnut Creek, Webber Creek, West Webber Creek,
8 and Sycamore Creek (B).

9 Moreover, ADWR may have improperly excluded certain stream segments from
10 the subflow zone on the basis that “geology changed to bedrock units.”⁵⁴ While it is
11 undisputed that ADWR properly excluded bedrock canyons from its subflow zone
12 delineation,⁵⁵ it does not appear that ADWR investigated whether floodplain Holocene
13 alluvium existed upstream of many of those canyons.

14 **IT IS ORDERED** that ADWR shall investigate whether mappable alluvium
15 exists upstream of the bedrock-lined canyons along Camp Creek, Walker Creek, West
16 Fork Oak Creek, Wet Bottom Creek, and a tributary to Clover Creek.

17 Finally, ADWR terminated the subflow zone for Williamson Valley Wash
18 improperly. In the Supplement, ADWR justified terminating the subflow zone
19 delineation for Williamson Valley Wash at mile 2 because “perennial stream
20 classifications did not continue along this reach” and because “this portion of lower
21 Williamson Valley Wash did not have continuous riparian vegetation.”⁵⁶ As discussed
22 above, the subflow zone must include intermittent reaches. Further, an absence of
23 *current* riparian vegetation is not dispositive of streamflow permanence under
24 predevelopment conditions.

25 _____
⁵⁴ Addendum at 11, 13, 20–22, 24.

26 ⁵⁵ The trial court and the Arizona Supreme Court have both affirmed that the “younger Holocene
27 alluvium . . . is beneath and adjacent to most rivers and streams, except those in the mountains where
28 bedrock surrounds the flow.” *In re General Adjudication of All Rights to Use Water in the Gila River
System and Source*, 198 Ariz. 330, 337 (2000) (citing Minute Entry, Contested Case No. W1-00-
001234 (June 30, 1994)).

⁵⁶ Supplement at 3.

1 **IT IS ORDERED** that ADWR shall re-examine whether Williamson Valley
2 Wash was historically intermittent between river miles 2 and 10.

3 **IT IS ORDERED** that, by April 1, 2027, ADWR shall issue a report
4 incorporating the previously ordered investigations.

5
6 **IV. SULLIVAN LAKE AND WATSON LAKE**

7 In its Remainder Report, ADWR delineated subflow zones for Sullivan Lake and
8 Watson Lake based on the high-water marks of those reservoirs, despite instructions
9 from the Special Master to “consider predevelopment conditions for [those]
10 reservoirs.”⁵⁷ Consideration of predevelopment conditions in this context requires
11 determination of “the lateral extent of the saturated floodplain Holocene alluvium”
12 underlying the stored water.⁵⁸ Citing “lack of detail” and the “amount of assumptions
13 that would be required” in the available data, ADWR retained its original mapping of
14 the reservoirs.⁵⁹

15 In the Final Report, the Special Master ultimately approved ADWR’s subflow
16 zone delineation for Sullivan Lake and Watson Lake based on the high-water marks of
17 those reservoirs. Specifically, the Special Master found in Conclusion of Law 10 that
18 “[g]iven the absence of reliable historical data indicating the extent of FHA beneath
19 Watson Lake . . . and Sullivan Lake, ADWR properly retained its original subflow zone
20 delineation for those reservoirs.”⁶⁰

21 In its objections, the Town of Prescott Valley argues that, for Watson Lake and
22 Sullivan Lake, “ADWR should have applied the same analysis . . . as it did with Bartlett
23 and Horseshoe reservoirs and *narrowed* the proposed subflow zone accordingly.”⁶¹ The
24 Town of Prescott Valley argues that, although “parties provided supporting evidence
25

26 ⁵⁷ Minute Entry, Contested Case No. W1-00-000106 (Jan. 22, 2024).

27 ⁵⁸ Order Granting Partial Summary Judgment at 12, Contested Case No. W1-00-000106 (Oct. 24,
2023).

28 ⁵⁹ Addendum at 30.

⁶⁰ Final Report at 14.

⁶¹ TPV Objections at 3.

1 concerning the predevelopment conditions for these reservoirs, ADWR discounts the
2 information in favor of its earlier proposal.”⁶²

3 The Joint Objectors “do not object to the site-specific subflow zone delineations”
4 for Watson Lake and Sullivan Lake, but request that the Special Master’s rationale for
5 approving those delineations should not serve as precedent in future matters.⁶³ However,
6 to the extent that the Court addresses the merits of ADWR’s delineations for Watson
7 Lake and Sullivan Lake, the Joint Objectors assert that the Court should not approve a
8 subflow zone delineation “in the area behind an impoundment without sufficient
9 evidence to establish the predevelopment existence and location of a perennial or
10 intermittent stream.”⁶⁴

11 In SRP’s Response, SRP states that ADWR’s delineation of the subflow zone for
12 Sullivan Lake and Watson Lake based on the high-water mark “was not unreasonable.”⁶⁵
13 However, to the extent that the Court requires ADWR to re-delineate a subflow zone for
14 Watson Lake and Sullivan Lake, SRP suggests that the Court “should direct ADWR to
15 use its professional judgment to delineate a predevelopment subflow zone at those lakes,
16 even if that delineation requires ADWR to make certain assumptions based upon the
17 available information.”⁶⁶

18 Ultimately, objectors’ briefing on this issue consists only of vague assertions of
19 error. Objectors have not met their burden to show that ADWR failed to “use[] the proper
20 test” or “rel[y] on appropriate criteria.” SRP provides a general assurance that “any
21 portion of the subflow zone that ADWR might need to delineate by extrapolation . . .
22 likely would be exceedingly small.”⁶⁷ The Town of Prescott Valley states that it is
23 unclear if “assumptions were more or less than those undertaken by ADWR with respect
24 to . . . Bartlett and Horseshoe reservoirs.” ADWR asserts that “it does not take a position
25

26 ⁶² *Id.*

27 ⁶³ Joint Objections at 3.

28 ⁶⁴ *Id.*

⁶⁵ SRP Response at 5.

⁶⁶ SRP Response at 6.

⁶⁷ *Id.* at 6.

1 on how to map” a subflow zone for a reservoir “when predevelopment imagery is
2 unavailable.”⁶⁸

3 The Town of Prescott Valley is the only party to have unconditionally objected
4 to the subflow delineation for Watson Lake and Sullivan Lake. The Town’s briefing
5 simply does not provide enough evidence to justify a re-examination of the subflow zone
6 underlying Watson Lake and Sullivan Lake. As discussed above, SRP and the Joint
7 Objectors have effectively withdrawn their objections regarding those lakes. The
8 propriety of the Special Master’s Conclusion of Law No. 10 is, therefore, a moot point.
9 Hence, the Court approves ADWR’s delineation of the subflow zone for Watson Lake
10 and Sullivan Lake.

11 **IT IS ORDERED** approving ADWR’s delineation of the subflow zone
12 underlying Watson Lake and Sullivan Lake.

13
14 **V. EXCLUSION OF GRANITE BASIN LAKE.**

15 In the Addendum, ADWR stated that “it is unlikely that subflow exists under
16 Granite Basin Lake.”⁶⁹ On this basis, all parties agree that Granite Basin Lake should be
17 “removed from the subflow delineation.”⁷⁰

18 **IT IS ORDERED** excluding Granite Basin Lake from the subflow zone
19 delineation for the Verde River Watershed.

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23 
24 The Honorable Scott A. Blaney

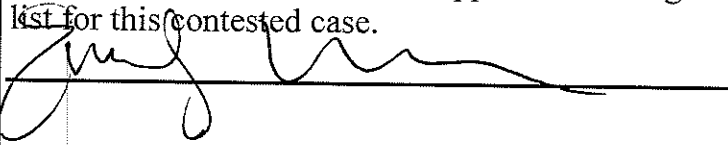
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26
27 ⁶⁸ ADWR’s Response to Objections to the Rule 53 Report for the Verde River Subflow Zone,
Contested Case No. W1-00-000106 (July 1, 2026).

28 ⁶⁹ Addendum at 32.

⁷⁰ Prescott Valley Objections at 3; Prescott Objections at 3; Joint Objections at 3; SRP’s Response to
Objections to Report at 3–4.

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On October 1, 2026, 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 handwritten signature in black ink, appearing to be "J. M. Smith", is written over a horizontal line. The signature is fluid and cursive, with the first letter of each name being capitalized and prominent.