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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**

W-1, W-2, W-3, W-4 (Consolidated)

Contested Case No. W1-11-2801; W1-207

13 **DENIAL OF ARIZONA DEPARTMENT**
14 **OF WATER RESOURCES' REQUEST**
15 **FOR DIRECTION**

16 **CONTESTED CASE NAME:** In re ASARCO-Irrigation; In re Proposed Gila River
Indian Community Water Rights Settlement

17 **HSR INVOLVED:** San Pedro River Watershed Hydrographic Survey Report

18 **DESCRIPTIVE SUMMARY:** Denial of the Arizona Department of Water
Resources ("ADWR") request for direction on how to proceed.

19 **NUMBER OF PAGES:** 9

20 On April 2, 2024, the Gila River Indian Community ("Community") sent a letter to
21 the Director of ADWR ("Director") requesting "Enforcement against ASARCO's
22 diversion of San Pedro River water in violation of the Gila River Indian Community's
23 time immemorial right to Gila River water." Community Letter to ADWR at 1 (April 2,
24 2024). On July 24, 2024, notably almost four months later, ADWR requested direction
25 from the Court regarding the letter from the Community, claiming that "this Court is given
26 specific authority over decreed water rights in A.R.S. § 45-257(B)(3) and therefore
27 ADWR believes it is inappropriate for the [agency] to take any investigation or
28 enforcement actions related to the complaint without referral and direction from the Court.

1 ADWR's Request for Direction at 2 (July 24, 2024). On August 8, 2024, ASARCO, LLC
2 filed a Response to Arizona Department of Water Resources' Request for Direction,
3 supporting ADWR's request for direction from the Court and requesting oral arguments.

4 The current complaint from the Community before ADWR is, at this point in time,
5 an administrative matter that has not been properly brought before this Court as a result of
6 an appealable agency action or other final administrative decision of the Director.
7 Irrespective of what jurisdiction this Court may have with respect to enforcement of water
8 rights, ADWR is not relieved from their statutory duties to investigate, and respond as
9 appropriate, to public complaints. Any advice from the Court, including entertaining oral
10 arguments on the matter, at this juncture would be premature, inappropriate, and
11 potentially prejudicial. Therefore,

12 **IT IS ORDERED** denying ADWR's request for direction on how to proceed
13 regarding a demand for the agency to enforce the Community's decreed water right.

14 **IT IS FURTHER ORDERED** denying ASARCO, LLC's request for oral
15 arguments.

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17 Signed this 9th day of August 2024

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19 
20 Sherri L. Zendri
21 Special Master

22 The original of the foregoing was delivered to
23 the Clerk of the Maricopa County Superior
24 Court on August 9, 2024 for
25 filing and distributing a copy to all persons
26 listed on the Court approved mailing list for
27 these contested cases.

28 
Emily Natale

Court Approved Mailing List
In re ASARCO-Irrigation, Contested Case No. W1-11-2801
W1-11-2801 (25 Names)
Prepared by the Special Master
8/9/2024

Alexander B. Ritchie
San Carlos Apache Tribe
Office of the Attorney General
PO Box 40
San Carlos, AZ 85550

Frederick E. Davidson
P.O. Box 556
Grand Saline, TX 75140

Carla Consoli & Stanley Lutz
Lewis Roca Rothgerber
Christie, LLP
The Nature Conservancy
201 East Washington Street,
Ste 1200
Phoenix, AZ 85004

J. B. Weldon, M. A. McGinnis,
M. K. Foy
Salmon, Lewis & Weldon
2850 E. Camelback Rd. Suite
200
Phoenix, AZ 85016

Charles L. Cahoy, Asst. City
Attorney
Phoenix City Attorney's Office
200 W. Washington 13th Flr.
Phoenix, AZ 85003

Javier Ramos & Sunshine
Manuel
Gila River Indian Community
Office of the General Counsel
P. O. Box 97
Sacaton, AZ 85147

Charmayne G. Staloff
United States Dept. of Justice -
ENRD
Indian Resources Section
PO Box 7611, Ben Franklin
Station
Washington , DC 20044

Jeremiah Weiner, Kent
Millward,
Brett J. Stavin, & Lauren
Mulhern
ROSETTE, LLP.
120 S. Ash Avenue, Suite 201
Tempe, AZ 85281

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

Joe P. Sparks and Laurel A.
Herrmann
The Sparks Law Firm, P.C.
7503 First Street
Scottsdale, AZ 85251-4573

David Gehlert
United States Dept. of Justice -
ENRD
999 18th Street, South Terrace
Ste 370
Denver, CO 80202

John D. Burnside
Snell & Wilmer, L. L. P.
One E. Washington Street,
Suite 2700
Phoenix, AZ 85004-2556

Josh Edelstein Phoenix Field
Solicitor
Office of the Solicitor
U.S. Department of the Interior
Sandra Day O'Connor U.S.
Courthouse
401 W. Washington St., Ste.
404, SPC 44
Phoenix, AZ 85003

Kimberly R. Parks and Karen J.
Nielsen
Arizona Department of Water
Resources
1110 West Washington, Suite
310
Phoenix, AZ 85007

L. William Staudenmaier
Snell & Wilmer, L. L. P.
One E. Washington Street
Suite 2700
Phoenix, AZ 85004

Lauren Caster & Bradley Pew
Fennemore Craig, P.C.
2394 East Camelback Road
Ste 600
Phoenix, AZ 85016-3429

Lee Storey
TSL Law Group, PLC
8767 E. Via De Ventura, Suite
126
Scottsdale, AZ 85258

Lucas J. Narducci
Snell & Wilmer, L.L.P.
One E. Washington Street,
Suite 2700
Phoenix, AZ 85004-2556

Merrill C. Godfrey and
Brette A. Pena
Akin Gump Straus Hauer & Feld LLP
2001 K Street, N.W.
Washington, DC 20006

Palo Verde RV Park LLC
Charles Tracy Jordan, Jr.
9880 S Malpais Rd
Winkelman, AZ 85192

Susan B. Montgomery, Robyn
Interpreter
Montgomery & Interpreter PLC
3301 E. Thunderbird Road
Phoenix, AZ 85032

Sean Hood, Rhett Billingsley,
Nyla Knox
Fennemore Craig, P.C.
2394 E. Camelback Road
Phoenix, AZ 85016

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

Sonia M. Blain & Janis L. Bladine
Tempe City Attorney's Office
21 E. Sixth Street #201
Tempe, AZ 85281

William H. Anger
Engelman Berger, P.C.
2800 N. Central Ave. Ste. 1200
Phoenix, AZ 85004

Court Approved Mailing List
In re Proposed Gila River Indian Community Water Rights Settlement
W1-207 (58 Names)
Prepared by the Special Master
8/9/2024

Gregg De Bie
McElroy, Meyer, Walker &
Condon, P.C.
1007 Pearl Street, Suite 220
Boulder, CO 80302

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

Arlinda F. Locklear
Native American Rights Fund
4113 Jenifer Street, NW
Washington, D.C. 20015

D. Brown, J. Brown, A. Brown
G Perkins, B. Heiserman, B.
Pew
Brown & Brown Law Offices
P.C.
PO Box 1890
St. Johns, AZ 85936

Burch & Cracchilo, P.A.
1850 North Central, Suite 1700
Phoenix, Az 85004

D. Lee Decker
Gallagher & Kennedy, P.A.
2575 East Camelback Road,
Suite 11
Phoenix, AZ 85016-9225

Charles L. Cahoy, Asst. City
Attorney
Phoenix City Attorney's Office
200 W. Washington 13th Flr.
Phoenix, AZ 85003

Dara Mora
Liberty Utilities, Inc.
1225 West Frontage Road
Rio Rico, AZ 85648

Christopher E. Avery
City of Tucson
City Attorney's Office
P. O. Box 27210
Tucson, AZ 85726-7210

Daryl Manhart
Burch & Cracchiolo, P.A.
702 East Osborn Road,
Suite 200
P.O. Box 16882
Phoenix, AZ 85011-6882

Christopher W. Payne &
Amanda Jenkins
Town of Gilbert
50 East Civic Center Dr.
Gilbert, AZ 85296

David F. Jacobs and Kevin P.
Crestin
Arizona Attorney General
Natural Resources Section
2005 North Central
Phoenix, AZ 85004

David Negri
United States Dept. of Justice
c/o US Attorney's Office - Dist
of Idaho
1290 West Myrtle Street Ste.
500
Boise , ID 83702

Diandra D. Benally
Fort McDowell Yavapai Nation
Legal Department
P. O. Box 17779
Fountain Hills, AZ 85269-7779

Douglas C. Nelson
Douglas C. Nelson, P.C.
7000 North 16th Street
Suite 120, PMB 307
Phoenix, AZ 85020

Duane C. Wyles
205 Farm Circle Drive
P. O. Box 1537
Cornville, AZ 86325-1537

Edwin Robert Spear
Arizona Water Company
P. O. Box 29006
Phoenix, AZ 85038-9006

Emily Jurmu
City of Peoria, City Attorney
Office
8401 West Monroe Street,
Room 280
Peoria, AZ 85345-6560

Eric C. Anderson
City of Scottsdale
City Attorney's Office
3939 North Drinkwater Blvd.
Scottsdale, AZ 85251

Gregory L. Adams
Central Arizona Water
Conservation District
P. O. Box 43020
Phoenix, AZ 85080-3020

J. B. Weldon, M. A. McGinnis,
M. K. Foy
Salmon, Lewis & Weldon
2850 E. Camelback Rd. Suite
200
Phoenix, AZ 85016

Jack D. Campbell
Ash Fork Cattle Company
P.O. Box 313
Ash Fork, AZ 86320

Jason Simon
Lewis Roca Rothgerber
Christie L.L.P.
One South Church Avenue,
Ste. 2000
Tucson, AZ 85701-1611

Javier Ramos & Sunshine
Manuel
Gila River Indian Community
Office of the General Counsel
P. O. Box 97
Sacaton, AZ 85147

Jenny J. Winkler & Michelle N.
Stinson
Pierce Coleman P.L.L.C.
7730 East Greenway Road,
Suite 105
Scottsdale, AZ 85260

Jeremiah Weiner, Kent
Millward,
Brett J. Stavin, & Lauren
Mulhern
ROSETTE, LLP.
120 S. Ash Avenue, Suite 201
Tempe, AZ 85281

Joe P. Sparks and Laurel A.
Herrmann
The Sparks Law Firm, P.C.
7503 First Street
Scottsdale, AZ 85251-4573

John C. Lacy and Paul M.
Tilley
2525 East Broadway Blvd,
Suite 200
Tucson, AZ 85716-5303

John C. Lemaster
CLARK HILL PLC
3200 North Central Ave., Suite
1600
Phoenix, AZ 85012

John D. Burnside
Snell & Wilmer, L. L. P.
One E. Washington Street,
Suite 2700
Phoenix, AZ 85004-2556

Jon M. Paladini
City of Prescott
221 S. Cortez Street
Prescott, AZ 86303

Josh Edelstein Phoenix Field
Solicitor
Office of the Solicitor
U.S. Department of the Interior
Sandra Day O'Connor U.S.
Courthouse
401 W. Washington St., Ste.
404, SPC 44
Phoenix, AZ 85003

Judith M. Dworkin
Sacks Tierney P.A.
4250 North Drinkwater Blvd.,
4th Floor
Scottsdale, AZ 85251-3693

Judy Mikeal
San Pedro NRCD
P. O. Box 522
St. David, AZ 85630

K. Russell Romney
City of Glendale
Office of the City Attorney
5850 West Glendale Avenue
Glendale, AZ 85301-2563

Kelly Schwab & Daniel L.
Brown
City of Chandler
City Attorney's Office
Mail Stop 602, P. O. Box 4008
Chandler, AZ 85244-4008

Kimberly R. Parks and Karen J.
Nielsen
Arizona Department of Water
Resources
1110 West Washington, Suite
310
Phoenix, AZ 85007

KLUMP RANCHES, L.L.C.
c/o Wayne D. Klump
P. O. Box 357
Bowie, AZ 85605

L. Richard Mabery
L. Richard Mabery, P.C.
234 North Montezuma Street
Prescott, AZ 86301

L. William Staudenmaier
Snell & Wilmer, L. L. P.
One E. Washington Street
Suite 2700
Phoenix, AZ 85004

Lee Storey
TSL Law Group, PLC
8767 E. Via De Ventura, Suite
126
Scottsdale, AZ 85258

Lucas J. Narducci
Snell & Wilmer, L.L.P.
One E. Washington Street,
Suite 2700
Phoenix, AZ 85004-2556

Merrill C. Godfrey and Brette A.
Pena
Akin Gump Straus Hauer &
Feld LLP
2001 K Street, N.W.
Washington, DC 20006

Michael J. Pearce
Gammage & Burnham PLC
40 North Central Avenue 20th
Flr
Phoenix, AZ 85004

Nicholle Harris
City of Avondale
City Attorney
11465 West Civic Center Drive
Avondale, AZ 85323

Paul R. Orme
Law Offices
of Paul R. Orme, P.C.
H.C. 63, Box 3042
Mayer, AZ 86333

R. Lee Leininger
United States Dept. of Justice -
ENRD
Natural Resources Section
999 18th Street, So Terrace,
Suite 370
Denver, CO 80202

Riney B. Salmon, II
Salmon, Lewis & Weldon PLC
2850 East Camelback Road,
Suite 200
Phoenix, AZ 85016

Robert B. Hoffman
6035 North 45th Street
Paradise Valley, AZ 85253

Steve Wene
Moyes Sellers & Sims
1850 North Central Avenue,
Suite 1100
Phoenix, AZ 85004

Roric V. Massey
City of Goodyear
Office of the City Attorney
1900 N. Civic Sq
Goodyear, AZ 85395-2012

Tony Gioia
P. O. Box 464
Camp Verde, AZ 86322

Susan B. Montgomery, Robyn
Interpreter
Montgomery & Interpreter PLC
3301 E. Thunderbird Road
Phoenix, AZ 85032

Wilbert J. Taebel
City of Mesa
City Attorney's Office
P. O. Box 1466
Mesa, AZ 85211-1466

Sean Hood
Fennemore Craig, P.C.
2394 E Camelback Rd, St 600
Phoenix, AZ 85016-3429

William H. Anger
Engelman Berger, P.C.
2800 N. Central Ave. Ste. 1200
Phoenix, AZ 85004

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

Stanley M. Pollack and Doreen
N. McPaul
Navajo Nation Department of
Justice
P. O. Drawer 2010
Window Rock, AZ 86515-2010