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FILED  
11-26-86 4:37pm  
C. O'Neil

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

IN RE: THE GENERAL ) W-1 (SALT), W-2 (VERDE,  
ADJUDICATION OF ALL RIGHTS ) W-3 (UPPER GILA),  
TO USE WATER IN THE GILA ) W-4 (SAN PEDRO)  
RIVER SYSTEM AND SOURCE )  
) PRE-TRIAL ORDER NO. 2  
) RE: PERPETUATION OF  
) TESTIMONY  
)  
) (Assigned to the Honorable  
) Stanley Z Goodfarb, Div. 11)

Pursuant to the authority vested in this Court by A.R.S. § 45-259 and Rule 16(b) of the Arizona Rules of Civil Procedure, the Court hereby enters the following Order providing additional guidelines for the further conduct of this litigation.

In entering this Order, the Court is guided by concerns of due process, judicial economy, efficiency and the need to resolve this adjudication in as short a time as the complexities of this case and its scope will allow.

I. Purpose of the Order

The purpose of this Order is to provide a means for the parties to perpetuate relevant testimony where a need exists because of the age or infirmity of a witness or other

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1 circumstances necessitating the taking of testimony prior to  
2 the adoption of a comprehensive discovery order and the com-  
3 mencement of discovery thereunder. This Order is necessary  
4 because of the potential that relevant testimony may be lost  
5 prior to all parties being joined in this litigation if a  
6 means for perpetuating testimony is not provided.

7 II. Perpetuation of Testimony: Procedure

8 A. Any party may notice a deposition for perpetuation  
9 of testimony by filing with the Court and serving a notice of  
10 deposition in accordance with the procedure for filing and  
11 serving papers set forth in paragraphs 5 and 6 of Pretrial  
12 Order No. 1. Said notice shall contain the following in  
13 addition to those matters required to be in such notice by  
14 the Arizona Rules of Civil Procedure:

- 15 1. A statement of the reasons why it is necessary  
16 to perpetuate the testimony of the person being  
17 deposed outside the normal course of discovery  
18 in this matter.
- 19 2. The facts which the noticing party desires to  
20 establish by the proposed testimony and his  
21 reasons for desiring to perpetuate it.
- 22 3. A listing of all written material to which the  
23 noticing party intends to refer during the  
24 course of the deposition.
- 25 4. A listing of all other written material,  
26 including testimony, given or prepared by the

1 deponent or under the deponent's direction  
2 or control relative to the facts referred to  
3 in item 2 above.

4 5. Notification of the times and places where  
5 the materials described in items 3 and 4 may  
6 be examined by an interested party, if said  
7 materials are in the possession or control of  
8 the noticing party. If not in the possession  
9 or control of that party, where said materials  
10 may be located. Alternatively, copies of said  
11 materials shall be deposited with D.W.R. not  
12 later than 30 days prior to the deposition  
13 and made available for inspection by any  
14 interested party during normal business hours.

15 B. Except for good cause shown, the notice shall be  
16 filed with the Court not later than the 20th day of the month  
17 prior to the regularly scheduled monthly hearing at which  
18 the Court will consider any objection to the deposition and  
19 shall set such deposition no sooner than 10 days after said  
20 hearing.

21 C. The Court will consider and rule upon any objection  
22 to a notice of deposition to perpetuate testimony at the  
23 regularly scheduled monthly hearing in the calendar month  
24 following the date of a notice filed and served prior to the  
25 20th day of the previous month. Except for good cause shown,  
26 all objections to the deposition shall be filed and served in

1 accordance with paragraphs 5 and 6 of Pretrial Order No. 1 not  
2 later than 5 days prior to the hearing. If no objection is  
3 made to the notice, the deposition will proceed as scheduled  
4 without further order of the Court.

5 D. The noticing party shall be responsible for  
6 subpoenaing the witness, arranging for a certified court  
7 reporter, and arranging for the deposition to be videotaped  
8 on VHS by a service who will make copies of said videotape  
9 available to the parties at a reasonable price.

10 DONE IN OPEN COURT 26th day of November,  
11 1986.

14 /Stanley Z. Goodfarb/  
15 Superior Court Judge

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