

1 2. Individuals Permitted Access to Protected Information. Except as provided in
2 paragraphs 6 and 7 below, the only individuals who may be given access to Protected
3 Information are: any counsel for a “Litigant” to this adjudication as defined in *Rules for*
4 *Proceedings Before the Special Master*, dated November 1, 1991, at §1.14¹, whether
5 employed by the Litigant or by a firm retained by the Litigant that is representing the Litigant
6 in this adjudication; and, consultants and experts assisting such counsel in connection with
7 this adjudication. Other entities listed on the Court’s approved mailing list, who are not
8 Litigants or counsel representing such Litigants, will not be given access to Protected
9 Information subject to this Protective Order.

10 3. Disputes Involving What Constitutes Protected Information. The Litigants
11 will cooperate in good faith to resolve any disputes regarding whether information should be
12 subject to this Protective Order. The Litigants may seek judicial intervention in resolving a
13 dispute only after good faith efforts are undertaken to resolve the dispute. Motions involving
14 such disputes will be governed by the Arizona Rules of Civil Procedure and other orders and
15 rules applicable to this adjudication.

16 4. Restrictions on the Use and Dissemination of Protected Information. Except
17 as provided herein, no person having access to Protected Information shall disclose Protected
18 Information to the public or other persons, without further Order of the Court. Protected
19 information may be used solely for the purposes of this adjudication, including any
20 settlement negotiations between the parties, and may not be given, shown, made available,
21 discussed, or otherwise disclosed, conveyed, disseminated, or published in any form except
22 as provided herein.

23 5. No Public Release by ADWR. Documents produced subject to this Protective
24 Order will not be collected and stored in Arizona Department of Water Resources’
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26 ¹ Pursuant to §1.14, “Litigants’ means those persons who are involved in a specific contested case. They
27 typically include the landowner upon whose land a water use has been found, the claimant who filed a
28 Statement of Claimant form asserting the water use, other claimants who have filed objections to all or portions
of a Hydrographic Survey Report or to a catalog of proposed water rights, and other claimants who have
successfully intervened in the contested case. A litigant who is not a natural person may appear in contested
case proceedings through its counsel or another agent having authority to act for the litigant.”

1 (ADWR's) Central Repository, internet accessible website, or any other publicly accessible
2 facility, database, or technology maintained by ADWR.

3 6. Access to Protected Information by Department of the Army, Department of
4 Defense, Department of Justice, and Court Personnel. Personnel, including contractors, of
5 the United States Department of the Army, United States Department of Defense, United
6 States Department of Justice, and the Court (including court reporters, clerks, etc.) requiring
7 access to the Protective Information in the ordinary course of business are not subject to the
8 terms of this Protective Order and are entitled to access Protected Information without further
9 action.

10 7. Access to Protected Information by Support Personnel. Paralegal, clerical,
11 and administrative support personnel assisting any counsel for a Litigant may be given access
12 to protected information by such counsel, to the extent necessary to render professional
13 services in this case, if those personnel have first been informed by counsel of the obligations
14 imposed by this Protective Order.

15 8. Identifying and Marking Protected Information. Protected information may
16 be provided only to the Court and to individuals permitted under this Protective Order and
17 must be identified and marked, at a minimum, as follows:

18 a. The first page of each document containing protected information
19 must contain a header or footer or be otherwise stamped or marked stating: "**SUBJECT TO**
20 **PROTECTIVE ORDER**" and any portions of any such document that are separated from
21 the complete document, must be clearly identified.

22 b. If provided in electronic form, the subject line of the electronic
23 transmission shall read: "**CONTAINS INFORMATION SUBJECT TO PROTECTIVE**
24 **ORDER**";

25 c. If provided in paper form, the document must be sealed in a parcel
26 containing the legend: "**INFORMATION SUBJECT TO PROTECTIVE ORDER**
27 **ENCLOSED**";

1 9. Using or Filing Protected Information in Court. If a Litigant wishes to disclose
2 or use Protected Information in open court, either orally or through documents, it must first
3 obtain the written consent of the Litigant who produced the information. If the Litigant who
4 produced the information does not agree to the disclosure or use of the Protected Information
5 in open court, it may be disclosed or used either: (a) through *in camera* review by the Court
6 or (b) after the Court is closed and after all non-Litigants and Litigants that have not signed
7 the attached Acknowledgement of Protective Order Form have been removed from the Court.
8 If the Protected Information is reviewed *in camera* or if the Court is closed for the disclosure
9 or use of such Protected Information, any transcript or record of such portions of the
10 proceedings will be sealed. Further, if a Litigant wishes to file documents or exhibits that are
11 subject to this Protective Order, it must either obtain written consent of the Litigant who
12 produced the information or file those documents under seal. Pursuant to this Order, leave is
13 granted to file such documents under seal.

14 10. Protecting Documents Not Previously Designated or Sealed. The disclosure
15 or production of any Protected Information which was not marked and identified as described
16 in paragraph 8 above will not be deemed to waive a Litigant's claim to its protected nature or
17 estop that Litigant holder from designating the information or document as Protected
18 Information at a later date. If a Litigant determines that a previously produced, served, or
19 filed document contains protected information, the Litigant may give notice in writing to the
20 other Litigant that the document is to be thereafter treated as protected. Any Litigant
21 receiving any such information or document shall promptly destroy the copies of the
22 document not marked in accordance with paragraph 8 above, regardless of whether the
23 receiving Litigant agrees with the claim of Protected Information. The producing Litigant
24 will promptly mark the subject document consistent with paragraph 8 above before making it
25 available to the other Litigants in accordance with this Protective Order. Thereafter, the

1 designated document will be treated in accordance with this Protective Order. Disclosure of
2 information or documents by the receiving Litigant prior to such later designation as
3 Protected Information shall not be deemed a violation of the provisions of this Order. 11. 11.

4 11. Waiving Protection of Information. A Litigant may at any time waive the
5 protection of this Protective Order with respect to any information it has designated as
6 protected, by advising the other litigants (and, in the event that the information has been filed
7 under seal pursuant to paragraph 9, the Court) in writing and identifying with specificity the
8 information to which this Protective Order will no longer apply.

9 12. Safeguarding Protected Information. All individuals to whom Protected
10 Information is disclosed shall be informed of and shall agree with the terms of this Protective
11 Order and shall not otherwise disclose the Protected Information to the public or to any
12 person or entity, and shall, before receiving Protected Information, acknowledge their
13 agreement to comply with the provisions of this Order by signing a copy of the attached
14 *Acknowledgment of Protective Order* form. Each Litigant's counsel will retain copies of the
15 acknowledgment forms until such time as this adjudication is concluded. Any individual
16 obtaining protected information under this Protective Order must take all necessary
17 precautions to prevent disclosure of protected information, including but not limited to
18 physically securing, safeguarding, and restricting access to the protected information.

19 13. Breach of the Protective Order. If a Litigant discovers any breach of any
20 provision of this Protective Order, the Litigant must promptly report the breach to the
21 Litigant who produced the Protected Information and immediately take appropriate action to
22 cure the violation and retrieve any Protected Information that may have been disclosed to
23 individuals not permitted access under this Protective Order. Litigants must reasonably
24 cooperate in determining the reasons for any such breach.

25 14. Seeking Relief from the Protective Order. Nothing contained in this
26 Protective Order shall preclude a Litigant from seeking relief from this Protective Order
27 through the filing of an appropriate motion with the Court setting forth the basis for the relief
28 sought.

1 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
2 **IN AND FOR THE COUNTY OF MARICOPA**

3 IN RE THE GENERAL) Nos. W-1 - W-4
4 ADJUDICATION OF ALL RIGHTS)
5 TO USE WATER IN THE GILA) Contested Case No. W1-11-605
6 RIVER SYSTEM AND SOURCE) In re Fort Huachuca
7)
8) ACKNOWLEDGMENT OF
) PROTECTIVE ORDER
)

9 **ACKNOWLEDGMENT OF PROTECTIVE ORDER**

10 I, _____, hereby acknowledge that I have read and
11 understand the Protective Order entered in this action on September __, 2013. I
12 hereby agree to be bound by the terms of the Protective Order.
13

14
15 _____
16 [signature]

17
18 _____
19 [print name]

20 _____
21 [party represented]

22 DATED: _____
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