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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. **W1-11-1505**

13 **ORDER INITIATING CONTESTED**
14 **CASE AND SETTING INITIAL**
15 **CONFERENCE**

16 CONTESTED CASE NAME: *In re Guy F. and Sara B. McAfferty*

17 HSR INVOLVED: San Pedro Hydrographic Survey.

18 DESCRIPTIVE SUMMARY: The Clerk of Maricopa County Superior Court is directed
19 to initiate W1-11-1505. Initial conferenceset for **Tuesday, October 8, 2024, at 9:30 am.**

20 NUMBER OF PAGES: 14

21 **General Explanation**

22 This order opens a case to determine rights to use water on land that the Cochise
23 County Assessor has identified as owned by the individuals or entities listed on
24 Attachment A to this order. The first step in this case is an initial conference with the
25 Court, scheduled for **Tuesday, October 8, 2024, at 9:30 am.**, to determine if each
26 landowner is interested in pursuing water rights claims. Each current landowner **MUST**
27 attend the scheduled initial conference if they plan to pursue water rights claims. Failure
28

1 to appear at the initial conference could result in the dismissal of the case and the loss of
2 potential surface water rights.

3 In this case, Guy F. McCafferty (“Claimant”) filed Statement of Claimant (“SOC”)
4 39-3810 to assert claims to use water on land that appears to comprise the Cochise County
5 tax parcels listed on Attachment A to this order.

6 During the initial conference, each current landowner must state whether he or she
7 intends to pursue water rights claims.

8 **Additional background information on the process for determining water**
9 **rights in Arizona can be found on Attachment B.**

10 **Details of the Case**

11 SOC # 39-3810 contains the following claim(s):

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Use	Quantity	Source
Irrigation	20 acre-feet annually	Groundwater
Stockwater	5 acre-feet annually	Groundwater

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15 The Arizona Department of Water Resources (“ADWR”) investigated the claims
16 made by the Claimant and prepared Watershed File Report (“WFR”) # 112-14-DDB-004,
17 published in the Final 1991 San Pedro Watershed Hydrographic Survey Report (“HSR”).
18 The WFR recorded that water was being used for the following purposes:

19

Use	Quantity	Source
Irrigation	Not reported	Groundwater

20

21 A copy of the WFR is attached as Attachment C. A map, prepared by ADWR,
22 showing the area investigated is attached as Attachment D.

23 After ADWR issued the WFR, objections were filed to the findings made in the
24 WFR by the Gila River Indian Community, the San Carlos Apache Tribe, the Tonto
25 Apache Tribe, the Yavapai-Apache Nation, Magma Copper, ASARCO, Salt River
26 Project, and the United States of America. The objections are summarized in the table
27 below:
28

Objector	Summary of Objection(s)
Gila River Indian Community, San Carlos Apache Tribe, Tonto Apache Tribe, and Yavapai-Apache Nation	Water-use rate, well registration filing missing from WFR.
Magma Copper (now BHP) and ASARCO	Groundwater is not subject to the adjudication.
Salt River Project	WFR does not quantify irrigation use and does not include diversion rate.
United States of America	• Basis of right missing from WFR. • The WFR shows a use discontinued for ≥ 5 years. • The well listed by the WFR is inactive.

The purpose of this case is to consider the claims in SOC 39-3810 and to resolve the objections to WFR No. 112-14-DDB-004.

Claimant and Landowners

WFR 112-14-DDB-004 lists Guy F. and Sara B. McAfferty as the owners of the property investigated in 1990. According to maps obtained from the Cochise County Assessor's ("Assessor") website, the land investigated appears to comprise the parcels listed on Attachment B to this order.

A copy of the map showing the relevant tax parcels and current ownership is attached as Attachment A. The public records of ADWR do not contain any assignments of the SOC listed in the WFR. Landowners appear to have filed one or more SOC's since the issuance of the HSR. The additional SOC(s) are described in the table below:

SOC	Date	Claimant	Summary
39-14998	12/05/2001	Steve Ellis	2 acre-feet annually claimed for domestic use and related irrigation
39-15531	01/05/2005	Nelson M. and Doris K. Weaver	0.34 acre-feet annually for domestic use

1 In order to obtain a decreed water right, each property owner must present to the
2 Court an SOC claiming a water right and evidence of that right. This evidence may
3 include the relevant WFRs. Further, property owners must ensure that all water right
4 claims are paired with the appropriate basis of right, e.g. a statement of claim, decree,
5 stockpond registration, or water rights certificate.

6 If either the property owner proves to the Court the existence of a water right on
7 their property or enters into a valid settlement approved by the Court, the court will
8 recognize an enforceable water right in a “Final Decree.” Ariz. Rev. Stat. § 45-257(B).

9 This is an order from the Court, and all parties must comply with the following
10 instructions. The failure to obey this, or any, court order may result in the dismissal of
11 this case and the loss of potential surface water rights. If you have questions regarding
12 this Order or any of the attachments, please contact the General Stream Adjudication,
13 Office of the Special Water Master, at (602) 372-4115. Please note that staff can only
14 answer administrative questions and cannot provide legal advice.

15 **IT IS ORDERED:**
16

17 **1. Case Initiation.** This order initiates contested case W1-11-1505, *In re Guy F.*
18 *and Sara B. McAfferty*. This case will resolve claims to use appropriable water
19 asserted in Statement(s) of Claimant 39-3810 and objections that were filed to
20 Watershed File Report No. 112-14-DDB-004.

21 **2. Initial Conference.** An initial conference shall be held on **Tuesday, October**
22 **8, 2024, at 9:30 am.** to determine whether each current landowner intends to
23 pursue claims for water rights. The conference will be held using the Court
24 Connect program. Instructions for Court Connect are attached as Attachment E. If
25 you receive this Order by email, click on the red box “Join Court Connect Hearing”
26 on the attached instructions to make an appearance. If you do not receive this
27 Order by email, log into the Court Connect program on the internet by typing
28

1 <https://tinyurl.com/specialwatermaster>. If you do not have access to the internet,
2 you may attend telephonically using the telephone number and access code
3 included in the instructions for Court Connect.

4
5 **3. Parties.** The litigants in this contested case are the claimant(s), the current
6 landowner(s), and all parties who filed objections to the Watershed File Report.
7 The objector(s) in this case are the Gila River Indian Community, San Carlos
8 Apache Tribe, Tonto Apache Tribe, Yavapai-Apache Nation, Magma Copper
9 (now BHP), ASARCO, Salt River Project, and the United States of America.

10 **4. Objections.** Copies of objections filed to this case can be found under the
11 respective case names and numbers on the following website:
12 [http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudicati](http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp)
13 [on/whatsNew.asp](http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/whatsNew.asp).

14 **5. Court-Approved Mailing List.**

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16 A. The initial Court-approved mailing list for this case shall include
17 all persons listed on Attachment F to this order. The list may be
18 modified only by filing a motion with the Special Master to amend
19 the Court-approved mailing list. Litigants are responsible for using
20 the current Court-approved mailing list.

21 B. A copy of any pleading filed with the Clerk of the Maricopa
22 County Superior Court in this case shall be served upon each person
23 listed on the Court-approved mailing list.

24 C. Claimants wishing to be added or removed from the mailing list
25 shall file a motion with the Special Master. Parties allowed to
26 intervene will be automatically added to the Court-approved mailing
27 list.

28 D. The Clerk of the Court will send copies of all minute entries and

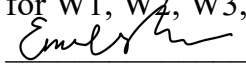
1 orders issued in this case to the parties listed on the Court-approved
2 mailing list.

3 E. Claimants who would like to receive courtesy copies of minute
4 entries and orders may request inclusion on an email list by sending
5 a request to emily.natale@jbazmc.maricopa.gov.

6
7 Signed this 11th day of September, 2024.

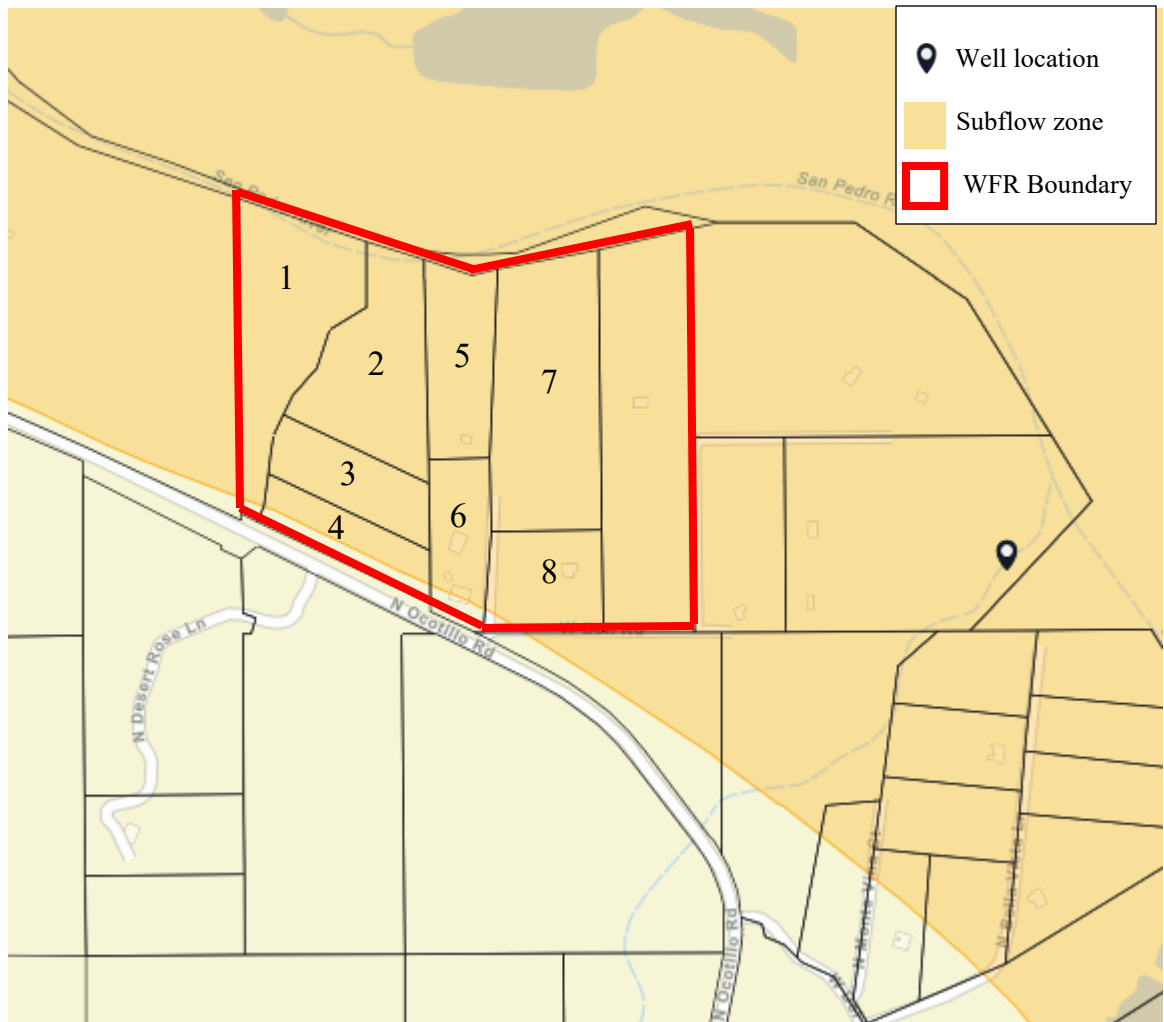
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11 Sherri L. Zendri
12 Special Master

13 On September 11, 2024, the original of the
14 foregoing was delivered to the Clerk of the
15 Maricopa County Superior Court for filing and
16 distributing a copy to all persons listed on the
17 Court-approved mailing list for this contested
18 case, a copy of which is attached, and to all
19 persons listed on the Court-approved mailing list
20 for W1, W2, W3, and W4.

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30 Emily Natale

ATTACHMENT A

Assessor Map



	Parcels	Owner
1	20830002M	John S. Szilasi
2	20830002X	Tom Christinck Living Trust Valerie Christinck Living Trust
3	20830002W	Michael J Christinck
4	20830002V	Michael J & Tina Ann Christinck, Tom Christinck Living Trust et al.
5	20830002R	Jeanella Ruiz
6	20830002N	Cielo Casi Revocable Trust
7	20830002Q	Maryleta Ganoung
8	20830002P	Holly & Andrew Douglas Hersey

ATTACHMENT B

General Background on the Water Rights Determination Process in Arizona

A general stream adjudication is a judicial proceeding to determine the quantity and priority of all water rights in a river system. Arizona is undertaking general stream adjudications of both the Gila River and the Little Colorado River systems. A river system includes surface water flowing “in streams or other natural channels,” groundwater sufficiently connected to that surface water, and water subject to claims by the federal government. Ariz. Rev. Stat. § 45-251(7). Recognizing and respecting water rights and the priority of such rights is important in Arizona where times of drought or water scarcity can occur.

All cases begin with the filing of a “Statement of Claimant,” (“SOC”) in which a property owner makes a claim for a right to use surface water on their property. Ariz. Rev. Stat. § 45-254(A). This person is the “claimant.” The SOC contains, among other characteristics, a description of the source and quantity of the water used, the location of use, the location from which the water was diverted, and the date when the water was first put to use. *Id.* § 45-254(C).

After the property owner files the SOC, the Arizona Department of Water Resources (“ADWR”) prepares a “Watershed File Report,” (“WFR”) in which ADWR investigates the claims in the SOC and recommends water rights associated with the property. *Id.* § 45-256(B). ADWR compiles all WFRs for a watershed into a comprehensive Hydrographic Survey Report (“HSR”) and publishes the report for public review and comment. In response, other claimants in the Adjudication may file “objections” disputing the information or recommendations in the WFR. The individuals who file objections are called “objectors.”

This “contested case”, one of thousands in the Gila River System, will evaluate claims asserted in specific Statements of Claimant while considering objections to the WFR that reported ADWR’s initial inspection of those claims.

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ATTACHMENT C
Watershed File Report

LAND OWNER	WATERSHED FILE
-----	REPORT NUMBER
MCCAFFERTY, GUY F.	112-14-DDB-004
& SARA B.	

A P P L I C A B L E F I L I N G S A N D D E C R E E S

CLEARLY STATED INFORMATION FROM FILINGS AND DECREES

FILING NUMBER	FILING STATUS	USES	QUANTITY IN AFA	USE LOCATION SECTION	TWNP	RNGE	CLAIM DATE	DIVERSION LOCATION SECTION	TWNP	RNGE
39-0003810		IRRIGATION	20.00	SE07	160S	200E	1888	SESE07	160S	200E
		STOCK	5.00	SW08	160S	200E		NESE07	160S	200E
								NWSW08	160S	200E

D W R A N A L Y S I S O F F I L I N G S A N D D E C R E E S

FILING NUMBER	USES CLAIMED OR REFERENCED	USES FOUND BY DWR	APPLIES TO DIVERSIONS	APPLIES TO PWR NUMBERS
39-0003810	IRRIGATION	DISCONTINUED		IR090
	STOCK	INCIDENTAL		

D I V E R S I O N S

DIV #	LOCATION SECTION	TWNP	RNGE	DIVERSION NAME	WATER SOURCE AND CLASSIFICATION
WO1	SESWSE08	160S	200E	UNNAMED	GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER SHARED

U S E S

PWR #	LOCATION SECTION	TWNP	RNGE	SUPPLIED BY DIVERSIONS	WATER SOURCES	PHOTO SOURCE DATE	CHANGE	FACILITY NAME
IR090	SESW08	160S	200E	WO1	GROUNDWATER : ZONE 1	1955	NO	
	SWSW08	160S	200E					

S H A R E D U S E S A N D D I V E R S I O N S

** WATER FROM WO1 FOUND IN FILE (112-14-DDB-5) IS USED IN THIS FILE

P W R S U M M A R Y

PWR #	APPLICABLE ADJ FILINGS	APPLICABLE PRE FILINGS	*APPARENT FIRST USE DATE*	DATE BASIS FOR DATE	WATER SOURCES AND CLASSIFICATIONS
IR090	39-0003810	NONE	1955	1955 AERIAL PHOTO	GROUNDWATER : ZONE 1 OF THE SAN PEDRO RIVER

Q U A N T I T I E S O F U S E

PWR #	QUANTIFICATION TYPE	ACRES	CROP TYPE	EFF	WATER DUTY	ESTIMATED VOLUME	REMARKS
IR090	REGIONAL	18.5	NO CROP				DISCONTINUED IRRG.

E X P L A N A T I O N

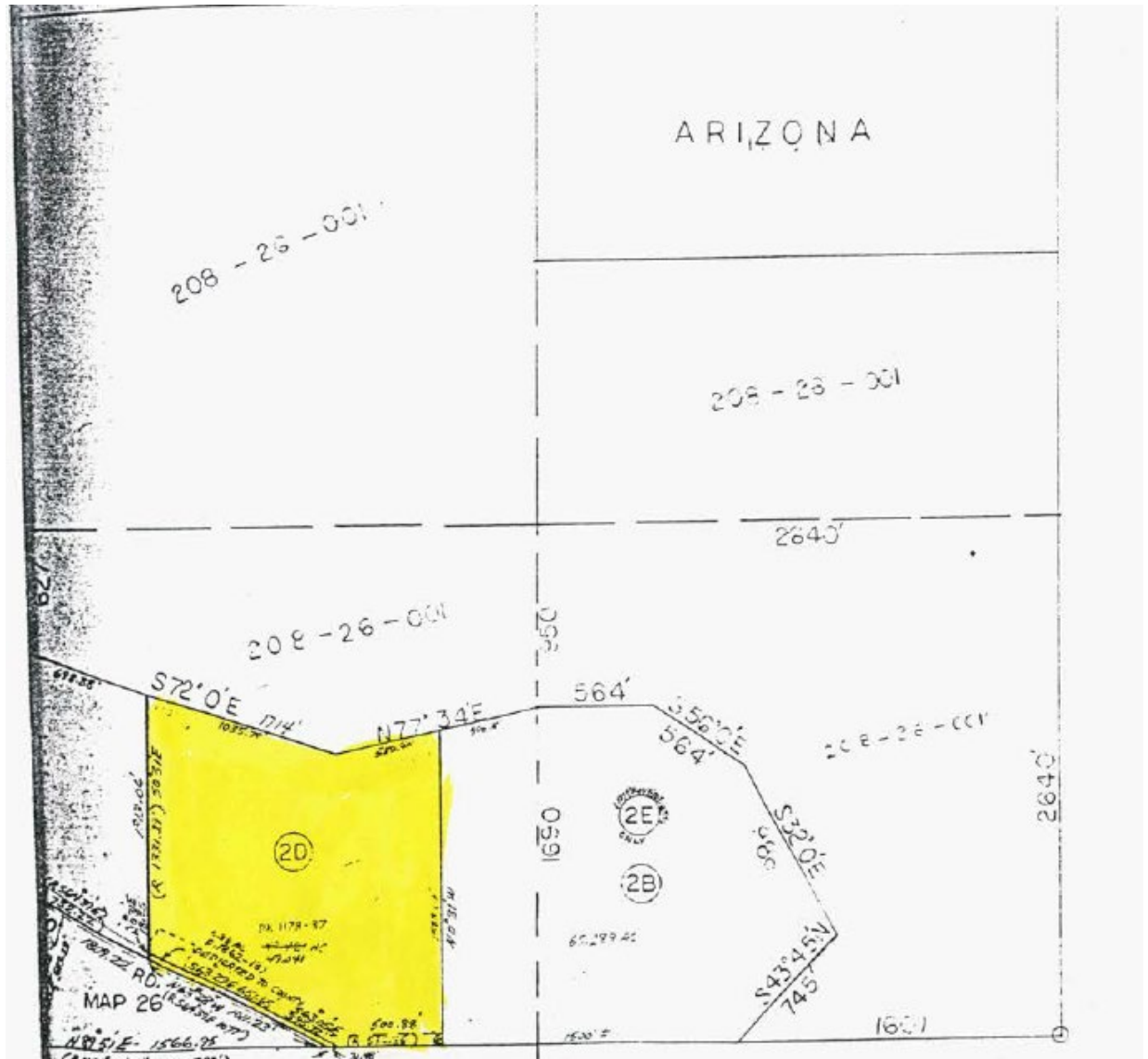
DIVERSIONS

W1 - WELL PROVIDES WATER FOR IRRIGATION AND STOCKWATERING USES.

USES AND RESERVOIRS

IR90 - DISCONTINUED IRRIGATION: D.W.R. HAS DETERMINED THAT NO IRRIGATION HAS OCCURRED ON THIS PROPERTY IN THE LAST FIVE YEARS, BUT THERE HAS BEEN IRRIGATION WITHIN THE PAST TEN YEARS BASED UPON A REVIEW OF HISTORICAL AERIAL PHOTOGRAPHY AND FIELD INVESTIGATIONS.

ADWR Map



ATTACHMENT E



Court Connect Hearing Notice for In re Guy F. and Sara B. McAfferty

This hearing will be conducted through the new Court Connect program offered by the Superior Court of Arizona in Maricopa County. This new and innovative program allows Court participants to appear online, rather than in a physical courtroom. Hearings are preferably conducted by videoconference but can also be conducted by phone. Lawyers (and self-representing litigants) are responsible for distributing this notice to anyone who will be appearing on their behalf.

All participants must use the JOIN COURT CONNECT HEARING button or the dial in information below to participate.

Participants: Please follow the steps below to participate in the remote proceeding.

1. Click the JOIN COURT CONNECT HEARING button below.
2. Enter your full name and role in name field.
3. Wait for the facilitator to admit you to the proceeding.

Remember to keep this email handy so you can use it to participate in the following proceeding.

Case Name: In re Guy F. and Sara B. McAfferty

Contested Case No. W1-11-1505

Start Date/Time: Tuesday, October 8, 2024 at 9:30 am.

JOIN COURT CONNECT HEARING

Dial-in Information: +1 917-781-4590

Private Dial-in Information: for privacy purposes, you can block your phone number by dialing *67 +1 917-781-4590

Dial-in Access Code: 688 970 203#

Tiny URL: <https://tinyurl.com/specialwatermaster>

To ensure an optimal experience, please review the brief Court Connect training prior to the hearing: [Here](#)

ATTACHMENT F

Initial Court-Approved Mailing List

Arizona Department of Water Resources Kimberly R. Parks and Karen J. Nielsen 1110 West Washington, Suite 310 Phoenix, AZ 85007	Guy F. McCafferty P.O. Box 757 Benson, AZ 85602
Clerk of the Superior Court Maricopa County Attn: Water Case 601 West Jackson St. Phoenix, AZ 85003	Nelson M. and Doris K. Weaver 1210 W. Bell Rd. Benson, AZ 85602
Special Master Sherri Zendri Superior Court of Arizona 201 W. Jefferson Street Courtroom 301 Phoenix, AZ 85003	Steve Ellis 2195 N. Ocotillo Rd. Benson, AZ 85602
Laura Boyer & Maggie Woodward U. S. Department of Justice – ENRD P.O. Box 7611, Ben Franklin Station Washington, DC 20044	Holly & Andrew Douglas Hersey 2191 N PK Ranch Rd Benson, Az 85602-8217
Alexander B. Ritchie San Carlos Apache Tribe Office of the Attorney General PO Box 40 San Carlos, AZ 85550	Susan B. Montgomery, Robyn Interpreter Montgomery & Interpreter PLC 3301 E Thunderbird Road Phoenix, AZ 85032
Joe P. Sparks and Laurel A. Hermann The Sparks Law Firm, P.C. 7503 First Street Scottsdale, AZ 85251-4573	Gila River Indian Community Javier Ramos and Sunshine Manuel Office of the General Counsel P.O. Box 97 Sacaton, AZ 85147
Jeremiah Weiner, Brett Stavin, and Jay Lee Rosette, LLP. 120 S. Ash Avenue, Suite 201 Tempe, AZ 85281	Merrill C. Godfrey and Brette A. Pena Akin Gump Straus Hauer & Feld LLP 2001 K Street, N.W. Washington, DC 20006
Maryleta Ganoung PO Box 101 Elfrida, Az 85610-0101	BHP Copper c/o John D. Burnside Snell and Wilmer, L.L.P. One E. Washington Street Suite 2700 Phoenix, AZ 85004-2556

1 Salt River Project
2 J. B. Weldon, M. A. McGinnis, M. K. Foy
3 Salmon, Lewis & Weldon
4 2850 E. Camelback Rd. Suite 200 Phoenix,
5 AZ 85016

6 Lauren Caster
7 Fennemore Craig, P.C.
8 2394 East Camelback Road
9 Ste 600
10 Phoenix, AZ 85016

11 John S. Szilasi
12 2223 N Ocotillo Rd.
13 Benson, AZ 85602-8231

Tom, Michael J., Tina Ann, and Valerie
Christinck Living Trust
2647 State Highway 34
Wheatland, WY 82201-8205

Jeanella Ruiz
PO Box 1635
Benson, Az 85602-1635

Cielo Casi Revocable Trust
2198 N PK Ranch Rd
Benson, Az 85602-8217