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

IN RE THE GENERAL  
ADJUDICATION OF ALL RIGHTS TO  
USE WATER IN THE GILA RIVER  
SYSTEM AND SOURCE

W-1 (Salt)  
W-2 (Verde)  
W-3 (Upper Gila)  
W-4 (San Pedro)  
(Consolidated)

Contested Case No. W1-103

**ARIZONA DEPARTMENT OF  
WATER RESOURCES'  
CLARIFICATION OF COMMENTS  
DURING SEPTEMBER 13, 2017  
STATUS CONFERENCE**

(Assigned to Special Master Susan Ward-  
Harris)

**DESCRIPTIVE SUMMARY:** The Arizona Department of Water Resources hereby clarifies certain comments made during the September 13, 2017 status conference.

**NUMBER OF PAGES:** Three

**DATE OF FILING:** September 14, 2017

On September 13, 2017, the Special Master conducted a status conference concerning "proposals to initiate a third stage of this subflow process" pursuant to Case Management Order dated April 6, 2017. In response to a question from the Special

1 Master during the September 13, 2017 status conference, counsel for the Arizona  
2 Department of Water Resources (“ADWR”) stated that the water right characteristics for  
3 wells determined to be subject to the jurisdiction of the court in the second stage of the  
4 subflow process could be determined without a depletion analysis. This position is  
5 based on the following language in *Gila IV*:

6 And, as we stated in *Gila River II*, although a cone of depression may  
7 result *in only part of a well’s production* being appropriable subflow, ‘that  
8 well should be included in the general adjudication.’ 175 Ariz. at 391, 857  
P. 2d at 1245.

9 *In re the General Adjudication of All Rights to Use Water in the Gila River System and*  
10 *Source*, 198 Ariz. 330, 343, ¶ 40, 9 P.3d 1069, 1082 (2000) (*Gila IV*) (emphasis added).

11 This conclusion is founded on Judge Goodfarb’s Order dated June 30, 1994,  
12 which the Arizona Supreme Court in *Gila IV* affirmed “in all respects.” *See Gila IV*, 198  
13 Ariz. at 344, ¶ 48, 9 P.3d at 1083. Judge Goodfarb stated:

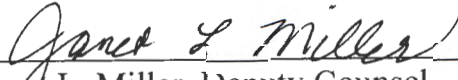
14 The Court finds, subject to any *de minimis* standard later to be adopted by  
15 the Court, that any well located outside the ‘subflow’ zone that now pumps  
16 *any percentage* of water either from the stream itself or its ‘subflow’ zone,  
17 should be included in the adjudication and *the total amount of water*  
*withdrawn subjected to this proceeding.*

18 Order at pp. 62-63 (emphasis added).

19 ADWR submits this information for clarification purposes and to provide the  
20 Special Master with citations to authority for the Special Master’s consideration.

21 **DATED** this 14th day of September, 2017.

22 ARIZONA DEPARTMENT OF WATER  
23 RESOURCES

24   
25 Janet L. Miller, Deputy Counsel  
26 Kimberly R. Parks, Deputy Counsel

1 **ORIGINAL** of the foregoing sent by  
2 first-class mail on September 14, 2017 to:

3 Clerk of the Maricopa County Superior Court  
4 Attention: Water Case  
5 601 W. Jackson Street  
6 Phoenix, AZ 85003

7 **COPY** of the foregoing hand-delivered  
8 on September 14, 2017 to:

9 Special Master Susan Ward-Harris  
10 Maricopa County Central Court Building  
11 201 West Jefferson, Suite 3A  
12 Phoenix, AZ 85003-2205

13 **COPIES** of the foregoing sent by  
14 first-class mail on September 14, 2017  
15 to all parties on the court-approved mailing list  
16 for Contested Case No. W1-103

17 *Sharon Jean Hebury*  
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