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11

12 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
13 **IN AND FOR THE COUNTY OF MARICOPA**  
14

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

19 W-1 (Salt)  
20 W-2 (Verde)  
21 W-3 (Upper Gila)  
22 W-4 (San Pedro)  
23 (Consolidated)

24 Contested Case No. W1-106

25 **ARIZONA DEPARTMENT OF WATER**  
26 **RESOURCES' REQUEST TO MODIFY**  
**SCHEDULE FOR ISSUANCE OF**  
**REPORTS**

Special Master Susan Ward Harris

27 **CONTESTED CASE NAME:** *In re Subflow Technical Report, Verde River Watershed*

28 **HSR INVOLVED:** None

29 **DESCRIPTIVE SUMMARY:** The Arizona Department of Water Resources hereby  
30 requests that the Court modify the existing schedule for the issuance of certain reports for  
31 the Verde River watershed.

1 **NUMBER OF PAGES:** Seven

2 **DATE OF FILING:** January 12, 2023

3 The Arizona Department of Water Resources (“ADWR”) hereby requests that the  
4 Court modify the existing schedule for the issuance of certain reports for the Verde River  
5 watershed to accommodate the schedule for resolution of objections to ADWR’s  
6 Technical Report Concerning *De Minimis* Domestic, Stockpond, and Stock and Wildlife  
7 Watering Uses in the Verde River Watershed.

8 **BACKGROUND**

9 ADWR filed its Technical Report Concerning *De Minimis* Domestic, Stockpond,  
10 and Stock and Wildlife Watering Uses in the Verde River Watershed on August 29, 2022  
11 (“*De Minimis* Report”).<sup>1</sup> Comments and objections to the report were received by the  
12 Court in October 2022,<sup>2</sup> and the Court set a scheduling conference to establish a schedule  
13 for a hearing on the objections.<sup>3</sup> During the December 12, 2022 hearing in this matter,  
14 several parties verbally, and for the first time, proposed a tentative litigation schedule for  
15 resolving objections. While several parties disagreed on the specific timing allotted for  
16 discovery and an evidentiary hearing on the objections, the consensus among most parties  
17 appeared to be that initial disclosures should be made within six to eight months with a  
18 hearing on the objections to be scheduled in early 2024.<sup>4</sup> Based on the discussion during  
19 the hearing, the Court issued an order on January 5, 2023 setting a litigation schedule  
20 which includes a trial date on July 10, 2024.<sup>5</sup>

21 \_\_\_\_\_  
22 <sup>1</sup>[https://infoshare.azwater.gov/docushare/dsweb/Get/Document-  
23 25303/2022\\_08\\_29\\_Technical\\_Report\\_DeMinimis\\_Uses\\_in\\_the\\_Verde\\_River\\_Watershe  
24 d.pdf](https://infoshare.azwater.gov/docushare/dsweb/Get/Document-25303/2022_08_29_Technical_Report_DeMinimis_Uses_in_the_Verde_River_Watershed.pdf)  
25 <sup>2</sup> Order Setting Scheduling Conference and Order Adding Parties to the Court-Approved  
26 Mailing List filed November 18, 2022 at 4-6.  
<sup>3</sup> *Id.* at 4.  
<sup>4</sup> Minute Entry Order filed January 5, 2023 at 2-3.  
<sup>5</sup> *Id.* at 3.

1 ADWR hereby requests that the Court modify the existing schedule for the  
2 issuance of certain reports for the Verde River watershed to accommodate the new  
3 schedule for resolution of objections to the *De Minimis* Report. Specifically, ADWR  
4 requests that the Court modify the existing schedule for issuance of the Preliminary and  
5 Final Hydrographic Survey Reports (“HSRs”) for the Sycamore subwatershed and the  
6 Lower Verde Valley subwatershed.

7  
8 **I. ADWR must incorporate the Court’s determinations on *de minimis* uses into**  
9 **its Hydrographic Survey Reports so that claimants receive a complete report**  
10 **of available information gathered for their individual water uses and claims.**

11 The Court has requested that ADWR issue its Preliminary HSR for the Sycamore  
12 subwatershed on January 2, 2024. Comments to the Preliminary HSR are due on July 3,  
13 2024, and the Final HSR is scheduled to be issued on January 10, 2025. The Court has  
14 also requested that ADWR issue its Preliminary HSR for the Lower Verde Valley on June  
15 6, 2025 with a Final HSR due on June 3, 2026. Ideally, each of the Preliminary reports  
16 will be an opportunity for ADWR to provide each claimant or water user all of the  
17 information that pertains to his or her water uses or claims.

18 ADWR estimates that there are over 1,200 self-supplied domestic uses and over  
19 700 stockponds in the Sycamore subwatershed. ADWR estimates that there are over  
20 6,000 self-supplied domestic uses and over 1,000 stockponds in the Lower Verde Valley  
21 subwatershed. If the Court reaches a determination that some portion of these water uses  
22 constitute *de minimis* uses and that some of the attributes can be determined uniformly,  
23 ADWR must incorporate the Court’s findings into each of its Preliminary reports. Failure  
24 to incorporate such information will result in an incomplete analysis and incomplete  
25 report, which will potentially cause confusion for thousands of water users in each  
26

1 subwatershed when the report is modified at a later date. ADWR also believes that  
2 issuing an HSR prior to the issuance of a *de minimis* decision by the Court unduly burdens  
3 small claimants in the watershed by requiring them to provide more details about their  
4 claims and uses that may not be necessary if summary procedures are implemented for  
5 any of those uses.

6 An evidentiary hearing on the objections to the *De Minimis* Report will be held in  
7 July 2024 with any resulting decision issued thereafter. ADWR's Preliminary HSR for  
8 the Sycamore subwatershed is currently scheduled to be issued on January 2, 2024; thus,  
9 ADWR will not be able to incorporate the Court's *de minimis* findings, if any, into the  
10 Preliminary HSR for the Sycamore subwatershed. ADWR will also have less than twelve  
11 months to incorporate any such determinations into the Preliminary HSR for the Lower  
12 Verde Valley, which is due on June 6, 2025. It is important to note that the HSR for the  
13 Lower Verde Valley subwatershed will address substantially more uses and claims than  
14 the Sycamore HSR, and ADWR may require considerably more time to incorporate any  
15 *de minimis* attributes into its reports for the Lower Verde Valley.

16 **II. ADWR's proposed modifications to the existing schedule for issuance of its**  
17 **reports leaves most of the existing schedule intact.**  
18

19 In order to accommodate the new litigation schedule set by the Court and also  
20 afford time for ADWR to incorporate the Court's findings on *de minimis* water uses into  
21 its reports, ADWR proposes modifications to the existing schedule for issuance of the  
22 Preliminary and Final HSRs for both the Sycamore and Lower Verde Valley  
23 subwatersheds as shown in the following chart:  
24  
25  
26



1 Hydrographic Survey Reports. Doing so will allow ADWR to provide water users and  
2 claimants a complete analysis of available information gathered for their individual water  
3 uses and claims. Therefore, ADWR respectfully requests that the Court modify the  
4 existing schedule for the issuance of the Preliminary and Final Hydrographic Survey  
5 Reports for the Sycamore and Lower Verde Valley subwatersheds as follows:

6 Sycamore Preliminary HSR: to be issued concurrently with Big Chino Preliminary HSR

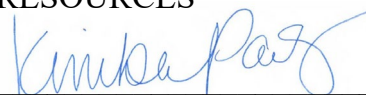
7 Sycamore Final HSR: to be issued concurrently with Big Chino Final HSR

8 Lower Verde Valley Preliminary HSR: to be issued June 2026

9 Lower Verde Valley Final HSR: to be issued September 2027

10 **RESPECTFULLY SUBMITTED** this 12th day of January, 2023.

11  
12 ARIZONA DEPARTMENT OF WATER  
RESOURCES

13 

14 \_\_\_\_\_  
Kimberly R. Parks, Deputy Counsel  
15 Kome O. Akpolo, Deputy Counsel

16  
17 **ORIGINAL** of the foregoing sent by  
18 first-class mail on January 12, 2023, to:

19 Clerk of the Maricopa Superior Court  
Attn: Water Case  
20 601 W. Jackson Street  
21 Phoenix, Arizona 85003

22 **COPIES** of the foregoing sent by  
23 first-class mail on January 12, 2023, to:

24 Special Master Susan Ward Harris  
25 Maricopa County Superior Court  
Central Court Building  
26 201 West Jefferson Street, Suite 3A

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Phoenix, AZ 85003-2205

**COPIES** of the foregoing sent by first-class mail  
On January 12, 2023 to all parties on the court-approved  
mailing list for Contested Case No. W1-106.

*Lizette Fuentes*

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