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**BEFORE THE ARIZONA NAVIGABLE STREAM ADJUDICATION
COMMISSION**

IN THE MATTER OF THE
NAVIGABILITY OF THE SALT
RIVER FROM THE CONFLUENCE
OF THE WHITE AND BLACK
RIVERS TO THE GILA RIVER
CONFLUENCE, MARICOPA
COUNTY, ARIZONA

Nos. 03-005-NAV
04-008-NAV
(Consolidated)

**FIRST ADDENDUM TO THE REPORT, FINDINGS AND DETERMINATION
REGARDING THE NAVIGABILITY OF THE SALT RIVER FROM GRANITE
REEF DAM TO THE GILA RIVER CONFLUENCE (SEPTEMBER 21, 2005) AND
THE REPORT, FINDINGS AND DETERMINATION REGARDING THE
NAVIGABILITY OF THE UPPER SALT RIVER FROM THE CONFLUENCE OF
THE WHITE AND BLACK RIVERS TO GRANITE REEF DAM (DEC. 13, 2007)**

The Arizona Navigable Stream Adjudication Commission (“ANSAC” or
“Commission”), having considered all of the historical and scientific data and
information, documents and other evidence (collectively, “Evidence in the Record”)
regarding whether the Salt River from the confluence of the White and Black Rivers to its
confluence with the Gila River (“Salt River” or the “Salt” or the “River”) was navigable

1 for title purposes as of February 14, 1912, the date of Arizona’s statehood, and being fully
2 advised by counsel, hereby submits this addendum to the *Report, Findings and*
3 *Determination Regarding the Navigability of the Salt River from Granite Reef Dam to the*
4 *Gila River Confluence* (September 21, 2005) (“the 2005 Report”) and *Report Findings*
5 *and Determination Regarding the Navigability of the Upper Salt River from the*
6 *Confluence of the White and Black Rivers to Granite Reef Dam* (Dec. 13, 2007) (“the
7 2007 Report”) (collectively, “the Salt River Reports”).

8 While the Commission’s navigability determination remains unchanged, unless
9 otherwise discussed herein, this report supersedes the 2005 Report and the 2007 Report in
10 their entirety.

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1 **I. PROCEDURAL HISTORY**

2 Over more than a decade, the Commission gathered evidence, testimony, and legal
3 memoranda from both proponents and opponents of the navigability of the Salt River.¹ On
4 September 21, 2005, the Commission found that the Lower Salt “was not used or
5 susceptible of use for commercial trade or travel as of February 14, 1912, and therefore
6 was not navigable as of that date nor was it susceptible to navigation.”² And on December
7 13, 2007, the Commission found that the Upper Salt was not navigable, or susceptible to
8 navigation, for commercial purposes at the time Arizona became a state.³

9 Proponents of navigability appealed the Commission’s decision regarding the
10 Lower Salt to the Arizona Court of Appeals. The Court of Appeals held that the
11 Commission did not evaluate the River in its ordinary (*i.e.*, usual, absent major flooding or
12 drought) *and* natural (*i.e.*, without man-made dams, canals, or other diversions)
13 condition.” *State ex rel. Winkleman v. Ariz. Navigable Stream Adjudication Comm’n*, 224
14 Ariz. 230, 229 P.3d 242 (Ct. App. 2010) (emphasis added).

15 **A. 2003-2005 Hearings on the Navigability of the Upper and Lower Salt**
16 **and Subsequent Lower Salt Appeal**

17 The Commission held hearings regarding the navigability of the Lower Salt on
18 April 7-8, 2003, in Phoenix. It held hearings regarding the navigability of the Upper Salt
19 on November 15, 2004, in Globe, and on October 20, 2005, in Phoenix. A list of evidence
20 considered by the Commission in those hearings (attached to the 2005 Lower Salt

21 _____
22 ¹ For the purposes of this report, “Upper Salt” refers to the Salt River from the confluence
23 of the White and Black Rivers to Granite Reef Dam, and “Lower Salt” refers to the Salt River
24 from Granite Reef Dam to the Gila River Confluence.

25 ² ANSAC, *Report, Findings and Determination Regarding the Navigability of the Salt*
26 *River from Granite Reef Dam to the Gila River Confluence*, at 45-46 (Sept. 21, 2005) (“2005
Lower Salt Decision”).

³ ANSAC, *Report, Findings and Determination Regarding the Navigability of the Upper*
Salt River from the Confluence of the White and Black Rivers to Granite Reef Dam, at 64-65
(Dec. 13, 2007) (“2007 Upper Salt Decision”).

1 Decision as Exhibit E and to the 2007 Upper Salt Decision as Exhibit F) is attached as
2 Exhibit A to this Report.

3 On June 19, 2006, the Arizona State Land Department (“ASLD”) appealed the
4 Commission’s determination that the Lower Salt River was nonnavigable at the time of
5 statehood. ASLD alleged that the Commission misapplied the federal test for navigability-
6 for-title by concluding that the Lower Salt River’s “ordinary and natural condition . . .
7 includes irrigation diversions, canals, and other human impacts,” which “dramatically and
8 drastically altered” the River. Complaint for Judicial Review of Administrative Decision
9 regarding Lower Salt River, *State ex rel. Winkleman v. Ariz. Navigable Stream*
10 *Adjudication Comm’n*, 2006 WL 6616118 (Ariz. Super. June 19, 2006), at ¶ 22(A).

11 The superior court affirmed the Commission’s determination regarding the Lower
12 Salt River by order dated August 7, 2007. The determination was further appealed to the
13 court of appeals, which vacated the order affirming the Commission’s determination and
14 remanded to the superior court with instructions to determine “what the [Lower Salt]
15 River would have looked like on February 14, 1912, in its ordinary (i.e., usual, absent
16 major flooding or drought) *and* natural (i.e., without man-made dams, canals, or other
17 diversions) condition.” *State ex rel. Winkleman v. Ariz. Navigable Stream Adjudication*
18 *Comm’n*, 224 Ariz. 230, 229 P.3d 242 (Ct. App. 2010) (emphasis added).

19 After the initial appeal of the Lower Salt River determination, four other appeals
20 were filed regarding the Commission’s determinations of nonnavigability of the Santa
21 Cruz, Verde, Upper Salt, and Gila Rivers. These four cases were stayed pending
22 completion of the Lower Salt River appeal.

23 In October 2011, the six cases that had been appealed were returned to the
24 Commission to reassess the Evidence in the Record in light of the principles addressed in
25 *Winkleman*.

26

1 **B. U.S. Supreme Court Ruling in *PPL Montana, LLC v. Montana***

2 In February 2012, after the remand but before the Commission had voted to reopen
3 the record, the U.S. Supreme Court issued a decision that impacted the way navigability
4 determinations are made in Arizona, requiring the Commission to resolve as appropriate
5 whether individual segments of the affected watercourses were navigable at the time of
6 statehood. *PPL Montana, LLC v. Montana*, 132 S.Ct. 1215 (2012).

7 On October 22, 2012, the Commission voted to reopen the record for the Salt River
8 and the five other watercourses that had been remanded. The Commission also announced
9 that it would hold additional public hearings for the six remanded cases for consideration
10 of the principles addressed in *Winkleman* and *PPL Montana*.

11 **C. 2015-16 Hearings**

12 On remand, the Upper and Lower Salt were consolidated and hearings were held
13 on October 20-23, 2015; on November 17-20, 2015; on January 26-29, 2016; on February
14 23-26, 2016; on March 10-11, 2016; on March 30-31, 2016; and, on May 17-19, 2016
15 (Phoenix). The hearings held in 2015 and 2016 are referred to herein as the “2015-2016
16 Hearings.” In accordance with A.R.S. §§ 37-1123(B) and 37-1126, the Commission gave
17 proper public notice (copies of which are attached as Exhibit B to this Report) of its intent
18 to reopen the record and hold additional public hearings for consideration of the principles
19 addressed in *Winkleman* and *PPL Montana*. The notices advised that anyone could appear
20 at the public hearings and give testimony regarding the navigability of the Salt River, and
21 that the Commission would consider all new and existing Evidence in the Record in
22 making its determination. Notice was also given by mail to all those requesting individual
23 notice and by means of Commission website (<http://www.ansac.az.gov/>)

24 At the conclusion of the public hearings in 2016, the Commission invited interested
25 parties to file post-hearing legal briefs pursuant to Commission Rules. Cemex Cement,
26 Inc., the City of Phoenix (“Phoenix”), Freeport Minerals Corporation (“Freeport”), the

1 Gila River Indian Community, the City of Mesa, the Salt River Pima-Maricopa Indian
2 Community (“SRPMIC”), the Salt River Project Agricultural Improvement and Power
3 District and the Salt River Valley Water Users Association (collectively, “SRP”), the San
4 Carlos Apache Tribe, and the City of Tempe (collectively, “Opponents”) submitted briefs
5 opposing navigability. The Arizona Center for Law in the Public Interest and the Arizona
6 State Land Department (collectively, “Proponents”) submitted briefs in favor of
7 navigability.⁴

8 At the final public hearing on August 30, 2016, at a properly noticed public hearing
9 in Phoenix, Arizona, after considering all the new and existing Evidence in the Record,
10 including the parties’ briefs, and the testimony, comments, and oral arguments made at the
11 2003-2005 and 2015-16 Hearings, and having been fully advised by counsel, the
12 Commission determined by a majority vote that the Salt River was nonnavigable in both
13 its “ordinary” and “natural” condition at the time of statehood.⁵

14 **II. BURDEN OF PROOF**

15 Arizona Revised Statute § 37-1128(A) provides:

16 [i]f the preponderance of the evidence establishes that the watercourse was
17 navigable, the commission shall issue its determination confirming that the
18 watercourse was navigable. If the preponderance of the evidence fails to
19 establish that the watercourse was navigable, the commission shall issue its
20 determination confirming that the watercourse was nonnavigable.

21 The proponent of navigability bears the burden of proof of establishing navigability by a
22 preponderance of the evidence. *Winkleman*, 224 Ariz. at 238-39, 229 P.3d at 250-51.

23 The “preponderance of the evidence” standard is sometimes referred to as requiring
24 “fifty percent plus one” in favor of the party with the burden of proof. If the evidence on
25 each side weighs exactly even, then the party without the burden of proof necessarily

26 ⁴ The parties’ legal memoranda are available on the Commission’s website at
<http://www.ansac.az.gov/RemandCaseLegalMems.asp>.

⁵ Minutes, ANSAC hearing held on August 30, 2016.

1 prevails. Proponents, as the party with the burden of proof, must convince the
2 Commission that the Evidence in the Record, considered in its totality, weighs in favor of
3 a finding of navigability. *See generally United States v. Fatico*, 458 U.S. 388, 403-06
4 (E.D.N.Y. 1978), *aff'd*, 603 F.2d 1053 (2d Cir. 1979), *cert. denied*, 444 U.S. 1073 (1980);
5 *United States v. Schipani*, 289 F.Supp. 43, 56 (E.D.N.Y. 1968), *aff'd*, 414 F.2d 1262 (2d
6 Cir. 1969).

7 While the Proponents bear the burden of proof as to navigability, the Commission
8 “may not begin its determination with any presumption against navigability.” *Winkleman*,
9 224 Ariz. at 239, 229 P.3d at 251. Indeed, “determinations regarding the title to beds of
10 navigable watercourses in equal footing cases must begin with a strong presumption
11 *against* defeat of state’s title.” *Def. of Wildlife v. Hull*, 199 Ariz. 411, 426, 18 P.3d 722,
12 737 (Ct. App. 2001) (emphasis added). A presumption, however, only applies “in the
13 absence of any evidence to the contrary,” *In re Westfall’s Estate*, 74 Ariz. 181, 186, 245
14 P.2d 951, 955 (1952), and “should never be placed in the scale to be weighed as
15 evidence,” *In re Hesse’s Estate*, 62 Ariz. 273, 282, 157 P.2d 347, 351 (1945). *See also*
16 *Sheehan v. Pima County*, 135 Ariz. 235, 238, 660 P.2d 486, 489 (Ct. App. 1982) (“a
17 presumption disappears entirely upon the introduction of any contradicting evidence and
18 when such evidence is introduced the existence or non-existence of the presumed fact is to
19 be determined exactly as if no presumption had ever been operative”).

20 **III. NAVIGABILITY STANDARD**

21 “The standard of navigability for equal footing claims is established by federal
22 law.” *Def. of Wildlife*, 199 Ariz. at 419, 18 P.3d at 730 (citing *Utah v. United States*, 403
23 U.S. 9, 10 (1971)); *accord PPL Montana*, 132 S.Ct. 1227 (“questions of navigability for
24 determining state riverbed title are governed by federal law”). The federal standard has
25 remained virtually unchanged since 1870, when the U.S. Supreme Court provided the
26 classic definition of navigability in *The Daniel Ball*, 77 U.S. (10 Wall.) 557 (1870):

1 Those rivers must be regarded as public navigable rivers in law which are
2 navigable in fact. And they are navigable in fact when they are used, or are
3 susceptible of being used, in their ordinary condition, as highways for
commerce, over which trade and travel are or may be conducted in the
customary modes of trade and travel on water.

4 *Id.* at 563; *see PPL Montana*, 132 S.Ct. at 1228 (collecting cases applying the *Daniel Ball*
5 formulation to determine navigability-for-title under the equal-footing doctrine).

6 In Arizona, the federal test for navigability-for-title is codified at A.R.S. § 37-
7 1101(5), which states:

8 “[n]avigable” or “navigable watercourse” means a watercourse that was in
9 existence on February 14, 1912, and at that time was used or was
10 susceptible to being used, in its ordinary and natural condition, as a highway
for commerce, over which trade and travel were or could have been
conducted in the customary modes of trade and travel on water.

11 “‘Watercourse’ means the main body or a portion or reach of any lake, river, creek,
12 stream, wash, arroyo, channel or other body of water. Watercourse does not include a
13 man-made water conveyance system described in paragraph 4 of this section, except to the
14 extent that the system encompasses lands that were part of a natural watercourse as of
15 February 14, 1912.” A.R.S. § 37-1101(11). “‘Highway for commerce’ means a corridor
16 or conduit within which the exchange of goods, commodities or property or the
17 transportation of persons may be conducted.” *Id.*; and § 37-1101(3).⁶

18
19
20 ⁶ The Commission also considered the following definitions in A.R.S. § 37-1101 in
21 making this determination:

22 2. “Bed” means the land lying between the ordinary high watermarks of a
watercourse.

23 6. “Ordinary high watermark” means the line on the banks of a watercourse
24 established by fluctuations of water and indicated by physical characteristics, such
25 as a clear natural line impressed on the bank, shelving, changes in the character of
the soil, destruction of terrestrial vegetation or the presence of litter and debris, or
26 by other appropriate means that consider the characteristics of the surrounding
areas. Ordinary high watermark does not mean the line reached by unusual floods.

1 As relevant here, the Commission’s task is to determine: (1) the characteristics of
2 the Salt River at the time of statehood “in its ordinary and natural condition”; and (2)
3 whether, at the time of statehood, the Salt was used or was susceptible of being used as a
4 highway for commerce in that condition. *Winkleman*, 224 Ariz. at 239, 229 P.3d at 251.

5 In *Winkleman*, the court of appeals clarified that the phrase “ordinary and natural
6 condition” means that a river must be evaluated at the time of statehood in “both its
7 ‘ordinary’ and ‘natural’ condition.” *Id.* at 241, 229 P.3d at 253. It thus directed the
8 Commission to determine “what the River would have looked like on February 14, 1912,
9 in its ordinary (i.e., usual, absent major flooding or drought) and natural (i.e., without
10 man-made dams, canals, or other diversions) condition.” *Id.*

11 In *PPL Montana*, the U.S. Supreme Court held that, with *de minimis* exception, a
12 watercourse’s navigability must be determined on a segment-by-segment basis, even
13 where only “short interruption[s] of navigability in a stream otherwise navigable” exist.
14 132 S.Ct. at 1229, 1230. As to determining the segment in question, the Court observed
15 that shifts in physical conditions, and topographical and geographical indicators provide a
16 means to determine start and end points. *Id.* at 1230. The Court acknowledged that a “*de*
17 *minimis* exception” may exist where some nonnavigable segments are “so minimal that
18 they merit treatment as part of a longer, navigable reach for purposes of title,” and
19 identified the types of considerations that would warrant such an exception as “those
20 related to principles of ownership and title, such as the inadministrability of parcels of
21 exceedingly small size, or worthlessness of the parcels due to overdivision.” *Id.* at 1230-
22 31.

23 The Court in *PPL Montana* also addressed the relevance of evidence of present-
24 day, primarily recreational use to the issue of a river’s susceptibility to use as a highway
25 for commerce. Specifically, the Court ruled that evidence of “present-day use may be
26 considered to the extent it informs the historical determination whether the river segment

1 was susceptible of use for commercial navigation at the time of statehood.” *PPL*
2 *Montana*, 132 S.Ct. at 1233. However, because navigability-for-title is determined at the
3 time of statehood and concerns a river’s usefulness for “trade and travel,” rather than for
4 other purposes, the Court ruled that such evidence “must be confined to that which shows
5 the river could sustain the kinds of commercial use that, *as a realistic matter*, might have
6 occurred at the time of statehood.” *Id.* at 1233 (emphasis added). Thus, before this type of
7 evidence can be considered in a navigability-for-title determination, “the party seeking to
8 use present-day evidence for title purposes must show: (1) the watercraft are meaningfully
9 similar to those in customary use for trade and travel at the time of statehood; and (2) the
10 river’s post-statehood condition is not materially different from its physical condition⁷ at
11 statehood.” *Id.*

12 **IV. EVIDENCE RECEIVED AND CONSIDERED BY THE COMMISSION**

13 Pursuant to A.R.S. § 37-1123, the Commission undertook to receive, compile, and
14 review evidence in the record regarding the issue of whether the Salt River was navigable
15 for title purposes as of statehood in its ordinary and natural condition. A list of evidence
16 and records submitted in connection with the 2015-2016 Hearings, together with a
17 summarization, is attached as Exhibit C. The minutes from the 2015-2016 Hearings are
18 attached as Exhibit D. Documents and testimony submitted in connection with the 2003-
19 2005 Hearings were also considered by the Commission in making this report.

20 Several experts submitted evidence and testimony in connection with the 2015-
21 2016 Hearings, the details of which are described as relevant below. Jack August, who has
22 his Ph.D. in history, offered his opinion on the history of the region. Richard Burtell, a
23 registered geologist and principal at Plateau Resources, LLC, prepared a report on behalf

24 _____
25 ⁷ In light of *Winkleman* and our obligation to consider a river’s “ordinary and
26 natural condition” at the time of statehood, we interpret the phrase “physical condition” in *PPL*
Montana to mean “ordinary and natural condition.”

1 of Freeport Minerals Corporation. Jonathan E. Fuller, a hydrologist and civil engineer,
2 also offered his professional opinion on navigability and boating on the Salt River for the
3 ASLD. Hjalmar W. Hjalmarson, a retired engineer with the United States Geological
4 Survey, provided his assessment of navigability as well on behalf of Maricopa County.
5 Robert A. Mussetter, a professional engineer with Tetra Tech, Inc., who has a Ph.D. in
6 Hydraulic Engineering, along with Douglas R. Littlefield, a forensic historian with
7 Littlefield Historical Research, who provided a historical assessment of navigation on the
8 Salt River, provided evidence on behalf of SRP.

9 V. ANALYSIS OF THE EVIDENCE

10 A. Segmentation

11 The Commission agrees with ASLD that segmentation is necessary in this case
12 under *PPL Montana*. As noted above, the Court in *PPL Montana* instructed that shifts in
13 physical conditions, topographical and geographical indicators, and other physical
14 features characteristic of navigability or nonnavigability provide a means to determine
15 appropriate start and end points for the segments. *See PPL Montana, LLC*, 565 U.S. at 595
16 (shifts in physical conditions); *see also United States v. Utah*, 283 U.S. 64, 77-80 (1931)
17 (gradient changes); and, *Oklahoma v. Texas*, 258 U.S. 574, 589 (1922) (location of
18 tributary providing additional flow). With those considerations in mind, the Commission
19 will analyze the navigability of the Salt River based on the segments proposed by the
20 ASLD. *See PPL Montana*, 565 U.S. at 595. This segmentation is based on the ordinary
21 and natural condition of the river. *See Tr. 10/20/15:53* (Fuller); Fuller PowerPoint, slide
22 51.

23 ASLD's Segment 1 runs from the White/Black River Confluence to Apache Falls.
24 Mr. Fuller testified that it includes Class II-V rapids over 17% of the reach, or 69
25 "significant rapids," 44 of which are Class III-V. *See Tr. 10/20/15:54-55* (Fuller); Fuller
26 PowerPoint, slides 52, 54.

1 ASLD's Segment 2 goes from Apache Falls down to Sleeper Rapid. See Tr.
2 10/20/15:61 (Fuller); Fuller PowerPoint, slide 58. ASLD's Segment 2 is a "whitewater"
3 section of the River and includes Quartzite Falls. See Tr. 10/20/15:61 (Fuller); Fuller
4 PowerPoint, slide 58. Segment 2 also includes 45 rapids in thirty-three miles; 19 Class III
5 Rapids, 4 Class IV rapids, including Sleeper Rapid, a Class III rapid; and Quartzite Falls.
6 See Tr. 10/20/15:62-67 (Fuller); Fuller PowerPoint, slide 58.

7 ASLD Segment 3 extends from Sleeper Rapid to approximately the location of
8 Roosevelt Dam where the canyon begins. See Tr. 10/20/15:97-98 (Fuller); Fuller
9 PowerPoint, Slide 66. ASLD Segment 3 includes Roosevelt Lake. See Tr. 10/20/15:98
10 (Fuller). Segment 3 contains 5 named Class II rapids. See Tr. 10/20/15:100 (Fuller).

11 ASLD's Segment 4 runs from Roosevelt Dam to Stewart Mountain Dam. See Tr.
12 10/20/15:108-109 (Fuller); Fuller PowerPoint, slide 74. Segment 4 has a pool and riffle
13 pattern within a bedrock canyon. See Tr. 10/20/15:109-10 (Fuller); Fuller PowerPoint,
14 slide 76. Historic descriptions describe some rapids in Segment 4. Some of these include
15 accounts of boaters that encountered difficulty dealing with rapids, or discussing drops in
16 the River, indicating that there were rapids in Segment 4. See Tr. 10/20/15:118 (Fuller);
17 Fuller PowerPoint, slide 86.

18 ASLD's Segment 5 runs from Stewart Mountain Dam to the Verde River
19 Confluence. See Tr. 10/20/15: 131 (Fuller); Fuller PowerPoint, slide 87. Segment 5 has a
20 pool and riffle pattern, through an alluvial valley with some local bedrock control and
21 contains 1 rapid. See Tr. 10/20/15: 131-32 (Fuller); Fuller PowerPoint, slide 88.

22 ASLD Segment 6 runs from the Verde River Confluence to the Gila Confluence.
23 See Tr. 10/20/15:147 (Fuller); Fuller PowerPoint, slide 97.

24 **B. Physical Characteristics and Geomorphology of the Salt River**

25 The Commission also received a substantial amount of evidence regarding the
26 geomorphology of the Salt and natural impediments to navigation. The upper ninety-three

1 miles of the Upper Salt (Segments 1, 2, and most of 3) between the head of Roosevelt
2 Lake and the Black and White Rivers Confluence, and flows through a narrow, bedrock
3 canyon. *See* Mussetter Declaration, at ¶ 4. The slope in this portion of the River is very
4 steep, ranging from approximately twenty-two feet per mile to fifty-four feet per mile. *Id.*
5 Moreover, it contains numerous rapids that would have made navigation “impossible, or
6 at the very least, extremely dangerous” in statehood-era craft. *Id.* at ¶¶ 4, 8.

7 The area now inundated by Roosevelt Lake⁸ was a wide, alluvial floodplain with “a
8 wide, braided character that also would have made navigation impractical” in statehood-
9 era craft. *See* Mussetter Declaration, at ¶ 28. According to pre-dam maps, Dr. Mussetter
10 testified: “There’s, again, a constriction. This is called Windy Hill at this location,
11 according to the map. And then you go up and there’s a fairly broad floodplain here, and
12 you see multiple fingers and several flow splits, the way they’ve sketched it in, as we
13 move farther up in the reservoir.” Tr. 1/28/16:2320 (Mussetter); Mussetter Presentation, at
14 56. The Reclamation Service map of Roosevelt Reservoir from 1915 shows the channel
15 splitting in multiple locations. *See* Tr. 1/28/16:2321 (Mussetter); Mussetter Presentation,
16 at 58-59. Pre-dam historical photographs also support this conclusion. *See* Tr.
17 1/28/16:2340-43 (Mussetter); Historical Photos, at 8-20, 27-28.

18 The fifty-three mile reach now inundated by Apache, Canyon, and Saguaro Lakes
19 (Segment 4) is also canyon-bound, similar to the upstream canyon containing “rapids and
20 shallow riffles that would have made navigation impractical” in statehood-era craft. *See*
21 Mussetter Declaration, at 4.

22
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24 ⁸ Due to the Commission’s duty to adjudicate the navigability of the Salt River in its
25 ordinary and natural condition, the Commission finds that it does have jurisdiction over the
26 portions of Segment 3 that are inundated by Roosevelt Lake. In the Salt River’s ordinary and
natural condition, Roosevelt Lake would not exist and therefore all of Segment 3 must be
considered.

1 The thirteen-mile portion of the Upper Salt between Stewart Mountain Dam and
2 Granite Reef Dam (Segment 5) is less confined than the upstream, bedrock controlled
3 canyon, and takes on a wide, braided character across the entire alluvial valley. *See*
4 *Mussetter Declaration*, at ¶ 4. A number of large floods occurred during the period
5 between the late-1890s and 1912, which scoured the area of its riparian vegetation and
6 eroded banks, changing the channel into a wide, braided, multi-channel configuration, “a
7 condition that would have made navigation impossible, or at least very impractical, during
8 significant portions of the year when flows in the River were low.” *Id.* The effects of
9 floods like these are part of the ordinary and natural condition of the Salt. *Id.* at 10, 28; *Tr.*
10 *10/22/15:671 (Fuller)*. Pre-dam historical photographs also support this conclusion. *See*
11 *Tr. 1/28/16:2377 (Mussetter); Historical Photos*, at 162-63, 175-79.

12 Segment 6 runs through a “very broad miles-wide” alluvial valley. *See Tr.*
13 *10/20/15:153 (Fuller); Fuller PowerPoint*, slide 108. Segment 6 was subject to vast
14 periodic flooding, which produced a disturbance regime that created a braided channel.
15 *See Mussetter Declaration*, at ¶ 4. In low-flow conditions, the River consisted of one to
16 several “relatively small, shallow low-flow channels.” *Id.*

17 **i. Segment 1**

18 Neither the Opponents nor Proponents of navigability argue that any portion of
19 Segment 1 is navigable. Mr. Fuller, the State’s witness, concluded that the Salt River from
20 the confluence of the White and Black Rivers to below Apache Falls was not navigable.
21 *Tr. 10/20/15*, at 52, 61 (Fuller); *Fuller PowerPoint*, slide 57; C028-349 (Segment
22 *Boundaries*). Segment 1 consists of perennial flow, although some diversions deplete the
23 flow. *Tr. 10/20/15*, at 57-58 (Fuller); *Fuller PowerPoint*, slide 53. Segment 1 is a narrow
24 bedrock canyon and no flats. *Tr. 10/20/15*, at 58-59; *Fuller PowerPoint*, slides 54-55. Its
25 channel has a pool and riffle pattern in some areas, and a distinct pool and drop pattern in
26 other areas with vertical drops or rapids. *Tr. 10/20/15*, at 57; *Fuller PowerPoint*, slide 53.

1 The condition of Segment 1 today is similar to its ordinary and natural condition at the
2 time of statehood. Fuller PowerPoint, slide 252.

3 **ii. Segment 2**

4 ASLD's Segment 2 goes from Apache Falls down to Sleeper Rapid. See Tr. 3
5 10/20/15:61 (Fuller); Fuller PowerPoint, slide 58. This segment has the most rapids of all
6 the segments that the State claims are navigable (Segments 2 through 6), but fewer and
7 smaller rapids than Segment 1. Tr. 10/20/15, at 62. Segment 2 also includes 45 rapids in
8 thirty-three miles; 19 Class III Rapids, 4 Class IV rapids, including Sleeper Rapid, a Class
9 III rapid; and Quartzite Falls. See Tr. 10/20/15:62-67 (Fuller); Fuller PowerPoint, slide 58.

10 The State's witness acknowledged that "Segment 2 has more significant rapids,
11 which are more of an issue for boating in a historic wooden craft, than any other segment
12 of any river" that Mr. Fuller has opined is navigable. 5/19/16 Trans. 5128:8-17 (Fuller).
13 The rapids in Segment 2 are sought out by recreational boaters who use modern watercraft
14 to navigate the River, but these same rapids pose a significant impediment to the use of
15 traditional craft for commercial purposes. 2/23/2016 Trans. 2821:9-2823:11 (Burtell); *see*
16 *also* Burtell Declaration ¶¶ 63-68. Mr. Fuller testified that there are limited diversions
17 affecting flow in Segment 2 and that it is currently similar to its ordinary and natural
18 condition. See Tr. 10/22/15:588 (Fuller); Fuller PowerPoint, slide 255.

19 **iii. Segment 3**

20 Segment 3 extends from Sleeper Rapid to approximately the location of Roosevelt
21 Dam where the canyon begins. See Tr. 10/20/15:97-98 (Fuller); Fuller PowerPoint, slide
22 66. Significant rapids exist in Segment 3, although they are not as prevalent in Segment 3
23 as they are in Segment 2. Burtell Declaration ¶ 64, and Table 4. Mr. Burtell testified before
24 the Commission, that he "counted no less than about 14 locations within Segment 3 where
25 there were multi-channels, where the river split either into two or more channels."
26 2/23/2016 Trans. 2826:7-2831:18 (Burtell); *see also* Burtell Declaration ¶¶ 69-72.

1 Because the stream discharge is split among two or more channels in Segment 3, the
2 stream depth is reduced, creating addition difficulty for anyone trying to navigate the River
3 by watercraft. *See* 2/23/2016 Trans. 2826:7-2831:18 (Burtell); *see also* Burtell Declaration
4 ¶¶ 69 -72.

5 **iv. Segment 4**

6 ASLD's Segment 4 runs from Roosevelt Dam to Stewart Mountain Dam. *See* Tr.
7 10/20/15:108-109 (Fuller); Fuller PowerPoint, slide 74. Segment 4 has a pool and riffle
8 pattern within a bedrock canyon. *See* Tr. 10/20/15:109-10 (Fuller); Fuller PowerPoint,
9 slide 76. Historic accounts indicated the presence of rapids in Segment 4. *See* Tr.
10 10/20/15:118 (Fuller); Fuller PowerPoint, slide 86. These rapids would present a
11 challenge to any commercial boating enterprise.

12 Segment 4 is canyon-bound, presenting a number of issues to those attempting to
13 navigate it. For example, rapids or other obstacles present a challenge within a canyon as
14 opportunities to portage are physically limited:

15 Obstacles can be surmounted in many cases by portaging the boat around
16 the obstacle. This is possible where the floodplain is wide enough, and clear
17 enough of vegetation and rocks to make walking possible. If there are only
18 a few portages needed, the river remains boatable. When, however, the
19 canyon walls rise steeply from the river, the area, is too rocky or vegetation
too dense for long stretches, the river becomes unboatable.

20 *See* Stantech Consulting Inc., in Association with JE Fuller/Hydrology &
21 Geomorphology, Inc., *Criteria/or Assessing Characteristics of Navigability for Small*
22 *Watercourses in Arizona*, at 38 (1998) ("Stantech 1998") [Upper Salt Ell 1].

23 **v. Segment 5**

24 ASLD's Segment 5 runs from Stewart Mountain Dam to the Verde River
25 Confluence. *See* Tr. 10/20/15: 131 (Fuller); Fuller PowerPoint, slide 87. Segment 5 passes
26 through an alluvial valley and exhibits a pool and riffle pattern, it does contain 1 rapid.

1 See Tr. 10/20/15: 131-32 (Fuller); Fuller PowerPoint, slide 88. Segment 5 is the portion of
2 the Salt River where people go tubing. See Tr. 10/20/15:133 (Fuller). Other than the
3 sheriff and fish and wildlife activities, Mr. Fuller could not think of any boating activity
4 on Segment 5 that was not recreational. See Tr. 10/22/15: 692 (Fuller). Mr. Fuller testified
5 that Segment 5 is between fifty and one hundred fifty feet wide. See Tr. 10/20/15:138
6 (Fuller). Mr. Fuller testified that his depth estimates for Segment 5 may be lower than
7 Segment 4 because "Segment 5 is probably a little wider than - almost definitely, it's a
8 little wider than Segment 4 was." See Tr. 5/19/16:5079 (Fuller).

9 **vi. Segment 6**

10 ASLD Segment 6 runs from the Verde River Confluence to the Gila Confluence.
11 See Tr. 10/20/15:147 (Fuller); Fuller PowerPoint, slide 97. Mr. Fuller testified that
12 Segment 6 is most like Segment 5 and has a pool and riffle pattern, a compound channel,
13 through a "very broad miles-wide" alluvial valley. See Tr. 10/20/15:148 (Fuller); Fuller
14 PowerPoint, slide 98. Mr. Fuller testified that the reach between Stewart Mountain Dam
15 and Granite Reef Dam is "very similar" and "substantively similar" to what it looked like
16 in its ordinary and natural conditions. And, "there are places there where there are splits in
17 the main channel." See Tr. 10/20/15:29 (Fuller).

18 Mr. Fuller testified: "[t]here's certainly bedrock in the vicinity of the channel near
19 Tempe Butte that affects some characteristics of the flow, and perhaps a little bit of the
20 freedom of the channel to move around." See Tr. 10/21/15:486 (Fuller); Fuller
21 PowerPoint, slide 210. Mr. Fuller testified that parts of Segment 6 are losing reaches.
22 Specifically, it is losing from "Granite Reef down to Tempe Butte, where there's some
23 gain, and then, again, losing again as it gets down closer to the Gila River Confluence."
24 See Tr. 10/21/15:491 (Fuller); Fuller PowerPoint, slide 223.

25 The bedrock at Tempe Butte "forces some ground water to the surface." See Fuller
26 PowerPoint, slide 223. Mr. Fuller testified: "[i]n Segment 6, the active channel, which

1 includes areas outside the boating channel, become quite a bit wider in the downstream
2 direction. The flood channel becomes more braided, has a ... more obviously compound
3 channel geometry than it is in Segment 5.” See Tr. 10/22/15:658 (Fuller).

4 “In keeping with this characteristic of the desert stream, the flow of the Salt River
5 through the Basin and Range regions, except in times of flood, was (even prior to dam
6 construction) generally underground through the Quaternary elastic deposits. In the area
7 of Tempe, however, bedrock lies close to the surface and the water may flow at the
8 surface, but elsewhere be subsurface.” See Troy L. Pewe, *Morphology of the Salt River:
9 Stewart Mountain Dam to Phoenix, Arizona*, at 1 (Oct. 24, 1996) [C026-E] (“Pewe
10 1996”).

11 There are no large tributaries in Segment 6. See Tr. 2/26/16:3444 (Gookin). Mr.
12 Gookin testified that 200 cfs is lost from the top of Segment 6 to Hayden’s Ferry because
13 it seeps into the ground as a result of “gravelly sand, which means it’s mostly coarse sand
14 with some gravel mixed in, very porous material.” See Tr. 2/26/16:3488-89 (Gookin). “At
15 this location [Jointhead Dam], the Salt River is a braided channel and is noteworthy
16 because of the shallow depth to bedrock and because of the radical increase in width from
17 points immediately upstream.” See William L. Graf, *The Salt and Gila Rivers in Central
18 Arizona A Geographic Field Guide*, at 113 (1988) [Lower Salt EI 23] (“Graf 1988”).

19 Modern photographs of Segment 6 show “evidence of the multiple channels, the
20 braided channels and so on, the very wide river. And that’s created by the flood flows that
21 comes through.” See Tr. 1/28/16:2443 (Mussetter); Mussetter Presentation, slides 115-16.

22 Historical aerial photographs of Segment 6 show “[c]learly a very heavily braided
23 reach, wide, many channels, bars all the way across the River.” See Tr. 1/28/16:2446
24 (Mussetter); Mussetter Presentation, slide 123. Modern photographs show “more or less a
25 single-thread channel carrying the flow, a few sort of ponded areas, a lot of vegetation in
26 the channel, and some, clearly, some shallow riffles in areas where it’s constricted down

1 from the deeper ponded areas.” See Tr. 1/28/16:2446-47 (Mussetter); Mussetter
2 Presentation, slides 124-25.

3 1. **Hydrology of the Salt River**

4 The hydrologic evidence shows that the Salt was not susceptible to being used as a
5 “highway for commerce” in its ordinary and natural condition. Historical records indicate
6 that the Salt was “erratic,” fluctuating between flood, even flow, and dryness. See Tr.
7 1/26/16:1978 (August). Early government reports such as the Thirteenth Annual Report of
8 the U.S. Geological Survey (by hydrologist Fredrick H. Newell, who studied the River in
9 1891-92) found the Salt to be “[a]n extremely difficult stream from which to divert a
10 canal, owing to the irregularity of its discharge. As a consequence of this erratic
11 discharge, the riverbed itself is very wide, and a long and expensive diversion weir is
12 required in order to procure stability and permanence.” August 2015, at 49.

13 The scientific record supports the historical record. Snowmelt and monsoon
14 discharge in the Salt River watershed varied erratically from year to year. Dr. Mussetter
15 compared the annual and seasonal discharge of several years, and although they had
16 similar total annual discharge, the seasonal variation was erratic. See Tr. 1/27/16:2295
17 (Mussetter); Mussetter Presentation, at 31-47. For instance, Mr. Fuller’s annual median
18 discharge of 511,000 acre-feet per year (“AFY”) is based on the period of record from
19 1913 to 1986. See Tr. 1/27/16:2283 (Mussetter); Mussetter Presentation, at 31. The full
20 period of record up until 2016, however, provides a median of 462,000 AFY – ten percent
21 lower due to variability in annual discharge. *Id.* In some years, the annual discharge was
22 as high as 2.4 million AFY. *Id.*

23 2. **Impact of Human Development on the Salt River**

24 According to *Winkleman*, a river is in its “natural condition” when it is “untouched
25 by civilization, i.e., man-made diversion.” 224 Ariz. at 241,229 P.3d at 253. Mr. Fuller
26 testified that the Salt existed in its “natural condition” between the 1800s and the 1860s.

1 See Tr. 10/20/15:46 (Fuller); Fuller PowerPoint, slide 40. The ninety-three mile, canyon-
2 bound reach between the White and Black River Confluence and the head of Roosevelt
3 Lake has changed little since statehood because there is little in the way of diversions and
4 it is bedrock controlled, meaning it is less prone to flood-driven changes evident in the
5 alluvial reaches of the Salt. See Mussetter Declaration, at 12. In contrast, the condition of
6 Segments 3 through 6 have been significantly altered by the construction of Roosevelt,
7 Horse Mesa, Mormon Flat, Stewart Mountain, and Granite Reef Dams, and other human
8 activities.

9 The portions of the Salt now inundated by reservoirs are considerably more
10 navigable because they are now calm reservoirs, rather than box canyon river. Segments 5
11 and 6 also have become more navigable for a variety of reasons. First, as detailed above,
12 Segments 5 and 6 were dominated by sandy, shifting, braided channels driven by floods in
13 their natural condition. See Section II(D), *supra*. The upstream dams regulate the flow in
14 Segments 5 and 6 that significantly reduce the large peak discharges that maintained the
15 disturbance regime, removed vegetation, and drove the braiding process. See Mussetter
16 Declaration, at ¶ 22. According to gage data, however, the total amount of water that
17 flows through Segment 5 each year has not significantly changed. *Id.* While the peak
18 flows have reduced, the consistency and duration of flows in the intermediate range have
19 increased. *Id.*; Tr. 10/23/15:973 (Fuller). Under natural conditions, flows were elevated
20 above baseflow during March, April, and early-May because of snowmelt upstream, while
21 monsoonal events periodically increased discharge for short periods during the late-
22 summer and early-fall. See Mussetter Declaration, at 32. Under modern conditions, the
23 dams capture the snowmelt, and storm events after which the water is released at lower
24 rates (above natural baseflow) but for a longer period of time from early-March to late-
25 November. *Id.* This prolonged flow can be steady, around 1,000 to 1,500 cfs through
26

1 much of the spring and summer. *See* Tr. 1/28/16:2423-24 (Mussetter); Mussetter
2 Presentation, at 96.⁹

3 The same prolonged and sustained flow creates a condition that promotes
4 significant riparian vegetation that is no longer blown out by the peak flows trapped
5 behind the dams. *See* Mussetter Declaration, at ¶ 28. This vegetation helps to stabilize the
6 banks of the river, causing it to channelize. *Id.* at ¶ 32. Historical photographs,
7 topographical maps, and GLO surveys from 1870 confirm this. *Id.* at ¶ 39; Tr.
8 10/23/15:975 (Fuller). The effect of increased vegetation has been compounded by the
9 arrival of invasive species like Tamarisk that have thrived on the Lower Salt. *See* Tr.
10 10/23/15:977 (Fuller); Tr. 11/19/15:1549-50 (Gookin). This creates “much more of a
11 tendency for a single thread, less ... laterally dynamic channel.” Tr. 1/28/16:2431-2
12 (Mussetter). Moreover, large flood events are responsible for providing the finer sediment,
13 such as sand and silt that created the sandbars and unstable streambeds responsible for the
14 braiding. *See* Tr. 13 1/28/16:2428 (Mussetter); Mussetter Presentation, at 97. After dams
15 are built and the peak flows are dampened, that fine sediment gets trapped behind the
16 dams. *See* Tr. 11/19/15:1475-76 (Gookin).¹⁰ The large quantity of sediment stored behind
17 the dams has “a substantial impact on the morphology of the channel down in [Segment
18 5].” Tr. 1/28/16:2427 (Mussetter); Mussetter Presentation, at 97. While downstream
19 reaches are deprived of the fine sediment necessary to create the unstable, braided channel
20 that occurred under natural conditions, the water released from the dam in an elevated,
21

22 ⁹ Mr. Fuller agreed that the dams have raised the median daily flow, meaning that there
23 are more days per year that are above the natural and ordinary median than before the dams were
24 constructed. *See* Tr. 5/19/16:5091-92 (Fuller); Fuller Rebuttal, at 118. He testified: “I will fully
25 grant you that there are more days, on average, in the modern conditions.” Tr. 5/19/16:5091-92
26 (Fuller).

¹⁰ There is currently nearly 200,000 acre-feet of sediment stored behind Roosevelt that
would have been carried downstream under natural conditions. *See* Tr. 1/28/16:2426 (Mussetter);
Mussetter Presentation, at 97.

1 sustained manner strips the downstream reaches of any remaining fine sediment that it
2 may have had. *See* Tr. 11/19/15:1475-76 (Gookin); Tr. 11/18/15:1332 (Fuller). As a result
3 of this process, Segments 5 and 6 now have primarily gravel and cobble streambeds that
4 are much less dynamic and resistant to braiding. The combination of less dynamic flows,
5 along with sediment deprivation, encourages the formation of a single channel. *See* Tr.
6 1/28/16:2433 (Mussetter); Mussetter Presentation, at 101. The removal of the fine
7 sediment also makes the River deeper due to downcutting. *See* Tr. 11/19/15: 1551, 1475-
8 76 (Gookin).

9 “While there is little doubt that modern, shallow-draft watercraft can, and are, used
10 for recreational purposes on portions of the Lower Salt River today, the natural river was
11 considerably less boatable than it is under modern conditions.” Mussetter Declaration, at ¶
12 39. “Thus, the River may well be easier to navigate now than at statehood.” Tr.
13 11/19/15:1551 (Gookin); *see also* Tr. 1/28/16:2555 (Mussetter).

14 **B. Salt River’s Susceptibility to Commercial Navigation**

15 The River was not actually used as a “highway for commerce.” The only way it can
16 be considered navigable is if it was “susceptible” to such use. Insufficient evidence exists
17 in the record to show that the River, in any condition, at any time, was capable of acting
18 as “a corridor or conduit within which the exchange of goods, commodities or property or
19 the transportation of persons may be conducted.” A.R.S § 37-1101(3) (defining “highway
20 for commerce”).

21 **1. The Lack of Navigation Strongly Supports the Conclusion that** 22 **the Salt River was not Susceptible to Navigation**

23 Although the Salt existed in close proximity to much of the exploration and
24 settlement in early Arizona, it was never used for any type of regular trade or travel. In
25 order for the Commission to determine that the River was susceptible to being used as a
26 highway of commerce, it must find that the prehistoric inhabitants, the Spanish explorers,

1 the American trappers and mountain men, the military personnel in the area, and the
2 thousands of citizens who resided along the River and in the general area prior to
3 statehood simply failed to comprehend the potential usefulness of the River as an avenue
4 for navigation. No evidence exists to support such a finding. Efficiency and ease of
5 transportation was a constant concern for civilizations along the Salt for thousands of
6 years. *See* Section II(A), *supra*.

7 It might be theoretically possible that, on one or more occasions in particular years,
8 it would have been feasible for a person to float a small boat down some portion of the
9 River. Occasional use in exceptional times does not, however, support a finding of
10 navigability. “The mere fact that a river will occasionally float logs, poles and rafts
11 downstream in times of high water does not make the river navigable.” *United States v.*
12 *Crow, Pope & Land Ents., Inc.*, 340 F. Supp. 25, 32 (N.D. Ga. 1972) (*citing United States*
13 *v. Rio Grande Dam & Irr. Co.*, 174 U.S. 690 (1899)). “The waterway must be susceptible
14 for use as a channel of useful commerce and not merely capable of exceptional
15 transportation during periods of high water.” *Id.* (*citing Brewer-Elliott Oil & Gas Co. v.*
16 *United States*, 260 U.S. 77 (1922)).

17 **2. Modern Recreational Boating Does Not Meet the Criteria for**
18 **Navigability for Purposes of Title**

19 In *PPL Montana*, the Supreme Court specifically found that post-statehood use of
20 the river can be considered in determining navigability for title only if that use involves
21 the same river conditions and the same types of boats that existed at statehood. 132 S. Ct.
22 at 1233; Sections II & IV, *supra*. As part of the evidence Mr. Fuller used to determine that
23 the Salt was navigable, he relied heavily upon his opinion that the River is still navigable.
24 Modern recreational boating on the Salt is not evidence of navigability for title under the
25 *PPL Montana* standard for several reasons.

26

1 Boating and boat building technology is lightyears ahead of where it was in 1912.
2 “Boat making technology has improved since the times of statehood, with the use of
3 inflatable rafts, inflatable and hard-shell kayaks becoming one of the preferred modes of
4 travel.” See Fuller Lower Salt Report 2003, at 8-4 [Lower Salt EI 30]. Modern boating
5 technology is so advanced that contemporary kayakers can slide off roofs into swimming
6 holes, jump wakes while being towed by a speedboat, and navigate Class VI rapids and
7 drops of over forty feet. When asked why modern recreational boats are capable of such
8 activity, Mr. Fuller testified: “Because of its durability and design ... some of them are
9 designed to take high impact.” Tr. 5/19/16:5054 (Fuller).

10 Durability is one of the major reasons why modern recreational craft are not
11 meaningfully similar to historical craft in 1912. Modern recreational craft are significantly
12 more durable than the craft used in 1912. 10/22/15 Trans. 624-25 (Fuller); 1998 Final
13 Report, Criteria for Assessing Characteristics of Navigability for Small Watercourses in
14 Arizona, Item No. C021, Freeport 6, p. 32. Not only are modern plastic boats more
15 durable, they also move over rocks and sand easier. Mr. Slingsluff, who previously
16 testified on behalf of the ASLD, in an article written for The Southwestern Sportsman
17 National Magazine, wrote:

18 Shallow creeks and rivers are boatable in many different canoes, but
19 aluminum, canvas, and wood boats are easily damaged and difficult to
20 repair. Plastic canoes are durable, slide easily over rocks, slip quietly
21 through the water, and do not conduct heat or cold. Plastic canoes can open
areas to sportsmen that are otherwise only a wish.

22 Slingsluff, *Shallow Streams: Liquid Paths Into Wilderness*, The Southwestern Sportsman
23 National Magazine, at 16 (Winter 1990-91) [C059] (emphasis added); Tr. 5/19/16:5051-
24 52 (Fuller).

25
26

1 Mr. Mickel testified: “[t]he customers want rapids ... they want splashes and
2 waves.” Tr. 10/21/15:420-21 (Mickel). Mr. Fuller agreed that recreational boaters might
3 have a different standard for success than “someone who’s trying to ship precious cargo or
4 take passengers down a river.” Tr. 5/19/16:5048-49 (Fuller). Mr. Fuller also agreed that, if
5 a person hired a commercial transportation on a river, a boat flipping over would not be
6 part of the experience the person paid for. *See* Tr. 5/19/16:5050 (Fuller). Mr. Fuller
7 testified: “I don’t think, if you were being transported, you would be specifically looking
8 to get flipped out.” *Id.*

9 Finally, modern recreational boating on Segments 5 and 6 is not evidence of
10 navigability because the Salt in those segments is considerably more navigable now than
11 it was in its ordinary and natural condition. *See* Section II(E), *supra*. Dr. Mussetter
12 testified: “[i]n my view, the recreational boating that occurs in Segment 5 of the Salt River
13 is not particularly informative with respect to the question of navigability. . . . Partly
14 because or largely because the flows that occur in that reach during the recreational
15 boating season are certainly on the high end of anything that could be considered an
16 ordinary flow under natural conditions. The flows are quite elevated because of the
17 releases from Stewart Mountain Dam.” Tr. 1/29/16:2693 (Mussetter).

18 C. History of the Salt River

19 a. Federal Surveys

20 After acquiring a vast territory in the Southwest following the Mexican-American
21 War, federal officials were eager to determine the value of the land they had obtained,
22 including the area around the Salt. *See* Littlefield 2015, ¶ 18. The U.S. General Land
23 Office (“GLO”) sent surveyors across the territory to take detailed surveys of the newly
24 acquired land. *Id.* The surveys and accompanying field notes provide a “wealth of
25 information about the nature of the stream and its navigability or non-navigability.” *Id.*
26 Under the guidance of survey manuals, the GLO surveyors were tasked with specifically

1 delineating navigable rivers by “meandering” or detailing the sinuosity of navigable
2 waterways. *Id.* ¶ 20.

3 Prior to Arizona statehood, the GLO conducted surveys of the Lower Salt in 1868,
4 1888, 1899, and 1910-11. *See* Littlefield 2015, ¶ 21. As for the Upper Salt, surveys were
5 conducted in the area around Granite Reef Dam in 1868, some of the area now inundated
6 by Roosevelt Lake in 1881, and the Verde Confluence in 1911. *Id.*

7 In 1868, a time when Mr. Fuller testified that the Salt was “probably” close to its
8 ordinary and natural condition, the Ingalls brothers surveyed the area along the Salt
9 between Granite Reef and the Gila Confluence. *See* Littlefield 2015, ¶ 22. Those
10 surveyors would have had to cross the Salt “somewhere around 30 times” just to survey
11 one township. *See* Tr. 3/30/16:4136-39 (Littlefield); Littlefield 2015, at B-3. Dr.
12 Littlefield estimated there were seventy-five to one hundred crossings of the Salt in the
13 Ingalls brothers’ surveys. *Id.* “Rather than noting any characteristics that might have been
14 consistent with navigability, the Ingalls brothers described the Salt River as being in some
15 places relatively shallow and having multiple channels.” Littlefield 2015, ¶ 23. Moreover,
16 they did not conduct any meanders on any of their surveys of the Salt. *Id.*

17 **b. Land Patents and State Grants**

18 Following the Mexican War, which ended in 1848, the U.S. Congress passed a
19 variety of homestead laws designed to facilitate settlement of the lands in the West that
20 had been acquired from Mexico. August Report, at 54 [C023]. Under the homestead laws,
21 federal officials would not grant private parties title to the bed of any stream or river
22 considered navigable at the time. *Id.* Consequently, a patent to a quarter section through
23 which the stream ran would have been recorded as less than 160 acres. *Id.* Further, had the
24 River been considered navigable, an irregularly shaped parcel next to the River would
25 have been identified as belonging to the government instead of an even division of a 640
26 acre section. *Id.*

1 As Dr. August observed, “none of the federal patents that overlay the Salt River—
2 regardless of the filing dates—contain any provision for reserving the bed of the stream to
3 the State of Arizona.” August Report, at 54 [C023]. And “the State made no effort to
4 obtain in-lieu selections for the acreage covered by the stream’s bed—as it would have
5 been entitled to do had the Salt River been navigable at the time of statehood.” Littlefield
6 Declaration, ¶ 63. Dr. Littlefield did not find anything in the patents or patent files that
7 suggested that anyone considered the Salt River navigable. “[I]n some cases the patentee
8 expressly either acknowledged that he or she was getting part of the bed of the river, or in
9 a few cases they actually indicated that they wanted the bed of the river for gravel or sand
10 or something like that.” See Tr. 2/25/2016:3336-37 (Littlefield).

11 On the Lower Salt, Samuel Mahan filed a patent application for lands that contained
12 the bed of the river in May 1913. See Littlefield Lower Salt, at 89 [C001]. The application
13 was disputed and one witness testified that: “[t]he 40 acres is traversed by the Salt River,
14 and when flood waters come, as they frequently do, when it rains, the pits made in taking
15 the sand out, are filled up, the sand restored, and *as the sand and gravel is the only thing*
16 *of value that the ground furnished ... it being simply River Bed Wash.*” *Id.* at 90 (emphasis
17 added). Another witness had a similar view of the nature of the river bed: “We know the
18 land in controversy, and we know that is River Bottom land, and *chiefly valuable for the*
19 *sand and gravel upon it*, it is not valuable or to any extent useful for farminfg [sic]
20 purposes, *its value is in the grade of sand and gravel it furnishes, and it is inexhaustible,*
21 *because the River floods restore the sand and gravel removed.*” *Id.* (emphasis added).

22 Further, under the terms of the *Desert Land Act of 1877*, settlers had to reclaim and
23 cultivate desert lands through irrigation before the federal government would award a
24 final patent. Littlefield Declaration, ¶ 35. Importantly, desert land being claimed had to be
25 irrigated from a non-navigable stream. See Tr. 2/25/16:3339 (Littlefield). There were over
26 40 applications for land under the *Desert Land Act* on the Lower Salt, every single one

1 claimed the Salt River as the irrigation source. Littlefield Declaration, ¶ 36. The
2 acceptance of the applications and the related files indicate that applicants and federal
3 officials did not believe the Lower Salt to be navigable. Littlefield Declaration, ¶ 40.

4 **c. Federal Land Grants to the State of Arizona**

5 Arizona also obtained land by Congressional grants to support various public
6 interest objectives (for example, supporting public schools) prior to and following
7 statehood. Littlefield Declaration, ¶ 41. Arizona was able to select “in-lieu” or indemnity
8 acreage if mineral lands, Indian reservations or other conflicting claims overlay various
9 sections. Littlefield Declaration, ¶ 63. Notably, Arizona made no in-lieu selections to
10 compensate for the area covered by the Lower Salt’s bed. *Id.*

11 **D. Instances of Boating on the Salt River**

12 The boats available in the Southwest at the time of Arizona’s statehood were
13 dugout canoes, wood and canvas canoes, flatboats, pirogues, skiffs, rowboats, bateaus,
14 keelboats, mountain boats, barges, steamboats, and ferries. *See Newell*, at 7-17. Although
15 there are some isolated accounts of dugout canoes, canoes, flatboats, skiffs, rowboats on
16 the Salt, these incidents were either failures or trips for local transportation, recreation,
17 and subsistence. *Id.* at 11; *see also Cemex Memorandum*. Moreover, just because a certain
18 type of craft was used in a commercial manner at some prior point in history does not
19 mean that the craft was a customary mode of trade and travel in 1912. *See PPL Montana*,
20 132 S.Ct. at 1233 (requiring that craft be meaningfully similar “to those in customary use
21 for trade and travel at the time of statehood”). “Temporal context and economics are ...
22 factors influencing the function and design of riverine craft in the American colonies and
23 emerging states.” *Newell*, at 5-6.

24 Due to the growth in mature and frontier economies, as well as the change over
25 time in demand for goods, the nature of commercial transportation changed. *Id.* As
26 population centers developed along with commercial transportation, the cargo loads in

1 riverine craft necessary to sustain a “commercial reality” grew larger and larger. *Id.*; *PPL*
2 *Montana*, 132 S.Ct. at 1234. “As the States pushed the frontier westward, ... [t]he types of
3 small craft used for subsistence and exploration on rivers in eastern States in the
4 eighteenth century were employed for the same purposes in the rivers of new territories in
5 the nineteenth century.” Newell, at 6.

6 Mr. Fuller and the ASLD seem particularly fixated on canoes, but canoes were not
7 the type of craft that was used as customary modes of trade or travel on February 14, 1912.
8 “Canoes ... were not the customary modes of travel at the time of statehood or before it in
9 Arizona. There’s no evidence that they used them for that purpose.” Tr. 11/20/15:1735
10 (Gookin).

11 Dr. Newell testified: “[i]n terms of time, in the colonial period a smaller cargo
12 could be profitable. In the late 19th century you would pretty much need a large cargo to
13 be profitable, when of course, the evidence bears that out.” Tr. 3/31/16:4302 (Newell).
14 But, Dr. Newell saw “no evidence of small cargos ever being used on the Salt.” *Id.*
15 According to Dr. Newell, by the late 1800s in the Southwest, keelboats, steamboats, and
16 mountain boats would have been typical for commercial trade and travel. *Id.* at 4223-24.
17 There is no evidence that boats of this size were ever used on any portion of the Salt. *Id.*

18 VI. FINDINGS AND DETERMINATION

19 Relying on all of the Evidence in the Record (collected from 2004-2016) and the
20 Commission’s review of the applicable law, including the principles addressed in
21 *Winkleman* and *PPL Montana*, the Commission determined as a matter of law and fact,
22 that on February 14, 1912, no segment of the Salt River was used or was susceptible to
23 being used in its ordinary *and* natural condition, as a highway for commerce, over which
24 trade and travel were or could have been conducted in the customary modes of trade and
25 travel on water. The proponents of navigability discount the natural obstructions and other
26

1 impediments to navigation on the Salt, contending that, under the liberal interpretation of
2 the federal test, the river was navigable in its “ordinary and natural condition.” The *PPL*
3 *Montana* opinion makes clear, however, that natural obstructions to navigation that would
4 require portages can and often do make the river nonnavigable:

5 Even if portage were to take travelers only one day, its significance is the
6 same; it demonstrates the need to bypass the river segment, all because
7 that part of the river is nonnavigable. Thus, the Montana Supreme Court
8 was wrong to state, with respect to the Great Falls reach and other
9 stretches of the rivers in question, that portages “are not sufficient to defeat
10 a finding of navigability.” 355 Mont., at 438, 229 P.3d at 446. In most
11 cases, they are, because they require transportation over land rather than
12 over the water

13 132 S. Ct. at 1231.

14 While there are instances of historic navigation under unique circumstances or
15 within brief windows of time, the Commission determines that any susceptibility of the
16 Salt River to navigation is “so brief that it that it is not a commercial reality.” 132 S. Ct. at
17 1234. Proponents rely heavily on examples of modern boating, but the Commission finds
18 modern examples unpersuasive because modern boats are much more durable than boats
19 of a similar size that were in use at the time of statehood. This reliance on modern
20 recreation boating is misplaced. *PPL Montana*, 132 S.Ct. at 1233, 1233-34 (“If modern
21 watercraft permit navigability where the historical watercraft would not, ... then the
22 evidence of present-day use has limited or no bearing on navigability at statehood.”).

23 Based on the foregoing and the evidence reviewed by the Commission, there is
24 insufficient evidence in the record to show that the Salt River, in any condition at any
25 time, was capable of acting as “a corridor or conduit within which the exchange of goods,
26 commodities or property or the transportation of persons may be conducted.” A.R.S § 37-
1101(3) (defining “highway for commerce”). Proponents of navigability bear the burden
of proving that the River is navigable. See *Land Dep’t v. O’Toole*, 154 Ariz. 43, 46 n.2

1 (App. 1987); *Arizona Ctr. for Law in the Public Interest v. Hassell*, 172 Ariz. 356, 363
2 n.10 (App. 1991); *Defenders of Wildlife v. Hull*, 199 Ariz. 411, 420 (App. 2001);
3 *Winkleman*, 224 Ariz. at 238. In the absence of sufficient evidence demonstrating
4 navigability, the Commission must find that the Salt River is non-navigable. A.R.S. § 37-
5 1128(A)

6 In view of the foregoing, the Commission, pursuant to A.R.S. § 37-1128(A), finds
7 and determines that the Salt River from the confluence of the White and Black Rivers to
8 its confluence with the Gila River, is not and was not navigable in its ordinary and natural
9 condition for purposes of title as of February 14, 1912. The Commission further finds that
10 all notices of these hearings and proceedings were properly and timely given.

11 **VII. DISSENT BY COMMISSIONER ALLEN REGARDING SEGMENTS 3, 4, 5,**
12 **AND 6 OF THE SALT RIVER**

13 The evidence in the Record demonstrates that Segments 3, 4, 5, and 6 of the Salt
14 River could have supported navigation. Of particular interest are the historical accounts of
15 boating on these segments.

16 **A. Segment 3: Below Sleep Rapid to Upstream of Roosevelt Dam**

17 Segment 3 today consists of two sections with a total length of 37.9 miles. Fuller
18 PowerPoint, slides 65-66; C028-349 (Segment Boundaries). The upper part of Segment 3
19 is located on a stretch of the River that is similar geologically and hydrologically today as
20 it was in its ordinary and natural condition, and is frequently boated. Fuller PowerPoint,
21 slides 257-258; Tr. 10/22/15, at 591-92. The lower part of Segment 3 is inundated
22 beneath what is now Roosevelt Lake and differs significantly from its ordinary and natural
23 condition. *Id.*

24 Historical boating accounts confirm that Segment 3 was actually navigated. Logan
25 (a carpenter and employee of Charles Hayden) and his three boat mates continued their
26 trip from Fort Apache through this Segment in a wooden boat in 1873, during spring

1 runoff. C053- 392. In 1883, Jim Meadows traveled with three others in a boat between
2 Livingston (Segment 3) and Tempe (Segment 6). C028-320. In 1909, the Arizona
3 Republic published the story as a recollection of Mr. Meadows who was in town.
4 Livingston was located in the Tonto basin in Segment 3, beneath what is now Lake
5 Roosevelt, 10 miles above the Salt's confluence with Tonto Creek. Fuller PowerPoint,
6 slide 115; U027, at 3-17; 2/24/16, at 2974.

7 In late May and early June of 1885, William Burch and four other men traveled
8 successfully on the Salt River from Eddy's Ranch in the Tonto basin, four miles above the
9 mouth of Tonto Creek (Segment 3), to the dam of the Grand Canal in Tempe (Segment 6).
10 See C018-132; see also C018-133; C018-134; C018-135; and, C018-196. "The object of
11 the expedition combined business and [sic] well as pleasure." C018-196. Late May and
12 early June is typically near the median daily flow of the Salt in Segment 3. C053-396 at
13 11 (Fuller Rebuttal Hydrology). The party had a "staunch craft" of 18 feet long by five
14 feet wide, built by Mr. Logan, who was also a member of the boating party. C018-132.
15 Logan wrote a detailed journal of the trip which was published in the Daily Phoenix
16 Herald on June 5, 1885. C018-196. The trip details provide a first-hand understanding of
17 the River beneath Roosevelt Lake (Segment 3), and beneath the inundated River
18 downstream underneath Apache, Canyon, and Saguaro Lakes (Segment 4). The men
19 began four miles above the point where Tonto Creek enters the Salt and encountered four
20 or five "smooth rapids" between that point and the mouth of Tonto Creek, where they
21 landed for the night. C018-196. There is no mention of any additional rapids between
22 Tonto Creek and the entrance to the first canyon, which is the beginning of Segment 4.
23 C018-196. The remaining detailed descriptions of the River in Segments 4, 5, and 6 are
24 discussed below in the applicable sections. See *infra*. The exploratory trip to determine if
25 logs could be floated down the River was deemed a "successful attempt here recorded,"
26 C018-134, "successfully accomplished," C018-133, and the boatmen's "undisputed

1 conclusion is that such work can be successfully carried on,” C018-196. This was not the
2 same trip as the prior 1883 Meadows trip. Fuller Tr. 5/17/16, at 4574-78.

3 The historical descriptions of the River’s physical characteristics in Segment 3
4 describe a river that can support small boats. In 1864, F.A. Cook recorded crossing the
5 River twice between the mouths of Pinto and Tonto Creeks, and recorded fishing in the
6 River on June 14th where “in some places it was up to our necks . . .” C021-1, at 7. June
7 typically has flow rates below the median daily flow across a year. C053-396, at 11.
8 Hiram Hodge, reporting about the Salt in 1877, wrote that “[a]t low water it is a clear,
9 beautiful stream, having an average width of two hundred feet for a distance of one
10 hundred miles above its junction with the Gila, and a depth of two feet or more.” Fuller
11 PowerPoint, slide 129. The Salt River 100 miles above the Gila would be Segment 3.
12 C028-349 (Segment Boundaries). In 1883, Archeologist Bandelier visited the Upper Salt
13 in Segment 3 and recorded in his journal on May 26th that the Salt “is very swift, and as
14 broad as the Gila at San Carlos, but only ‘belly deep.’” C021-1, at 8. In April of 1904, the
15 River was described as “a shallow, rather broad stream, 10 to 50 ft. or more in width, and
16 from a few inches to a foot or more in average depth. The bottom is sand or gravel with
17 large boulder in places. The water is roily Throughout this stretch are small pools of
18 enough depth to protect fish . . . Just below Roosevelt the Salt River enters a canyon and
19 there forms good size pools.” C021-1, at 8. 1904 was a drought year, which may explain
20 the anomaly of that description. Tr. 2/24/16, at 3017 (Burtell).

21 **B. Segment 4: Upstream of Roosevelt Dam to Below Stewart Mountain**
22 **Dam**

23 Segment 4 is the reach of the River that today is beneath Apache, Canyon, and
24 Saguaro reservoirs and spans a length of 35.5 miles. Tr. 10/20/15, at 108-110 (Fuller);
25 Fuller PowerPoint, slides 74-75; C028-349 (Segment Boundaries). The surrounding land
26 is USFS. *Id.* This Segment had perennial flow, a pool and riffle pattern, and a sinuous to

1 straight channel located within bedrock canyons and small flats. *Id.* Today's hydrology is
2 not reflective of the natural hydrology due to the reservoirs. *Id.*

3 Based on the geology, canyon morphology, information from historical boating
4 accounts, historical maps and descriptions, and an assessment of Segment 4's
5 characteristics compared to other Segments of the River, it is likely that only Class II
6 rapids were present in Segment 4. Tr. 10/20/15, at 108- 119 (Fuller); Fuller PowerPoint,
7 slides 76-86. Class II rapids, like those in Segment 3, can be boated by a novice,
8 according to the American Whitewater Association. C018-219. Additional maps presented
9 by SRP's expert Dr. Mussetter of the near-natural River in Segment 4 before it was
10 inundated show a predominantly single channel, with a few areas where the channel splits
11 and a main channel is indicated, and no notations of rapids. C039-1, at 67-73.

12 Historical boating accounts also indicate that Segment 4 was navigable in its
13 ordinary and natural condition. Mr. Logan and his three boat mates continued their trip
14 from Fort Apache to Tempe through this Segment in their wooden boat during the spring
15 runoff of 1873. C053-392. The Meadows party of 1883, traveled through this Segment on
16 their way to Tempe. C028-320. It is within one of the box canyons of this Segment that
17 the party became temporarily stuck on rocks until they could float off. *Id.*; C018-196
18 (Burch trip describing box canyons in Segment 4). The boat may have become stuck on a
19 sleeper rock in the middle of a pool due to the unfamiliarity of the boaters with the River
20 during their first ascent. Fuller Tr. 10/20/15, at 214-219; Fuller Tr. 5/17/16, at 4566-4574.

21 The Burch trip of late May 1885, continued through Segment 4, and the journal of
22 one of the boaters provides additional information about the conditions of this Segment at
23 that time. C018-196. Upon first entering Segment 4, they passed over several rapids. *Id.*
24 The River was then "deep, smooth and placidly winds and deviates in its onward course."
25 *Id.* Fish of two to three feet in length were seen repeatedly swimming past the boat. *Id.*
26 After spending the night camped beside the River, the boatmen continued through a more

1 winding channel the next day, which occasionally had large rocks in mid-channel. *Id.* The
2 boat passed over several rapids, “bumping on rocks occasionally, but never breaking, only
3 shipping a little sea occasionally.” *Id.* The boat shot on top of a large rock in mid-channel
4 and was pried off with poles the next day. *Id.* Not only was this trip a first attempt for
5 these boatmen, C018-133, but also occurred in late May and early June, which is near the
6 time of the year with the lowest flow. Fuller Tr. 10/20/15, at 220; C053-396 (Fuller
7 Rebuttal Hydrology).

8 **C. Segment 5: Below Stewart Mountain Dam to Above the Verde**
9 **Confluence**

10 Segment 5 is part of the frequently boated reach of the lower Salt River that begins
11 where water is released from below Stewart Mountain Dam and ends at the point just
12 above the Verde River Confluence, a length of 9.2 miles. Fuller PowerPoint, slides 87-88;
13 Fuller Tr. 10/20/15, at 131-32; C028-349 (Segment Boundaries). It is a standalone
14 segment because of the change in geology from the upstream bedrock canyon of Segment
15 4, and the significant change in flow rate where the Verde River joins the Salt River in
16 Segment 6. *Id.* This is a perennial segment, with pool and riffle characteristics, and a
17 sinuous to straight channel in a mostly alluvial valley with occasional bedrock. *Id.* The
18 surrounding land is USFS and the Salt River Pima Maricopa Indian Community. *Id.* There
19 is only one minor Class II rapid in this Segment. *Id.* Based upon a comprehensive
20 evaluation of the modern conditions of the River compared to its likely historical
21 conditions, the River in this Segment remains in a substantially similar condition to its
22 ordinary and natural condition, both hydrologically and geomorphologically. Fuller Tr.
23 5/18/16, at 4822-49; Fuller Rebuttal PowerPoint, slides 116-130 [C053-385]. This
24 assessment confirms that the modern boating that occurs in Segments 5 and part of 6
25 would likely have been the same conditions historic boaters would have encountered prior
26 to man-made dams and diversions. *Id.*

1 Historical boating accounts that began in upstream segments continued through
2 Segment 5. Mr. Logan and his three boat mates continued through this Segment on their
3 way to Tempe in 1873. C053-392. The Meadows expedition of 1883 also traveled through
4 this Segment on its way to Tempe. C028-320. The 1885 Burch trip exited the box canyons
5 of Segment 4 and continued through Segment 5. C018-196. The journal of one of the five
6 boaters described the trip through Segment 5 as “floated quietly and pleasantly along till
7 we arrived at Dr. W. W. Jones ranch above the mouth of the Verde.” *Id.* That account is
8 consistent with the modern condition of the River that has only one mild Class II rapid.
9 Thorpe and Crawford boated through Segment 5 in their rowboat in June, 1910, at a flow
10 rate that was likely below the ordinary range of the River. L012-3-22; Fuller Tr. 5/17/16,
11 at 4629.

12 **D. Segment 6: Below the Verde Confluence to the Confluence with the Gila**
13 **River**

14 Segment 6 is the last segment of the River, where substantial flow is added by the
15 Verde River before the Salt ends at its confluence with the Gila, a length of 41.3 miles.
16 Fuller PowerPoint, slide 98; Fuller Tr. 10/20/15, at 147- 48; C028-349 (Segment
17 Boundaries). It is a standalone segment because of the difference in hydrology from the
18 added water from the Verde River. *Id.*

19 Historical descriptions of this Segment confirm its historical susceptibility for
20 navigation. In July of 1852, Commissioner John Bartlett found the River 12 miles above
21 the Gila “eighty to one hundred and twenty feet wide, from two to three feet deep, and
22 both rapid and clear.” C053-393, at 240. That was not a description of the River during a
23 flood. Fuller Tr. 5/18/16, at 4874-78. Hiram Hodge noted that “[a]t low water, it is a clear,
24 beautiful stream, having an average width of two hundred feet for a distance of one
25 hundred miles above its junction with the Gila, and a depth of two feet or more.” Fuller
26 PowerPoint, slide 129.

1 Numerous historical boating accounts occurred in Segment 6, many more than any
2 other segment. Fuller Rebuttal PowerPoint, slides 43-46. Moving chronologically through
3 the accounts, in the spring of 1873, Logan and his three boat mates ended their trip at
4 Hayden's Ferry in Tempe, having traveled from Fort Apache down five segments of the
5 River, and about half of Segment 6.

6 The Meadows expedition of 1883 successfully ended the trip at their destination in
7 Tempe, in Segment 6 of the Salt River. C028-320. No difficulties were reported in
8 Segment 6. *Id.* Similarly, the 1885 Burch trip completed its flatboat trip in Tempe, and the
9 journal of one of the four men provided some insight about boating in Segment 6 at a time
10 when the River had diversion dams. C018-196; C018-133. The journal described boating
11 down the River from the confluence with the Verde with the men having to lift the boat
12 over the dam of the Arizona canal, and having "shot over two others, then entered the
13 head of the Tempe canal and sailed down within four miles of Tempe." C018-196. No
14 other difficulties are described. *Id.* The June trip likely occurred during a very low flow.
15 Fuller Tr. 5/17/16, at 4578-86; Fuller Rebuttal PowerPoint.

16 On April 2, 1892, the Arizona Sentinel reported that J.K. Day and his brother
17 George had arrived in Yuma after a six-month trapping expedition, boating down the
18 Verde, Salt, and Gila rivers. C002-8; Fuller Rebuttal PowerPoint, slides 28-32; Fuller Tr.
19 5/17/16, at 4591-4605. It was the fifth trip for J.K., and the brothers planned on repeating
20 the trip next September after returning to Prescott by rail. They used a "small boat" to
21 transport beaver and otter furs. Trapping was described as a profitable enterprise as it was
22 reported that "it required only experience and a little patience to make a very remunerative
23 profit out of the business" and that the furs "always command good prices, the demand for
24 such pelts being always greater than the supply." Segment 6 of the Salt River was
25 certainly boated because the newspaper reported, "After leaving the Verde, the Rio
26 Salado, or Salt River was entered" *Id.* Several years later, J.K. Day became Fish and

1 Game Commissioner for Arizona. C018-226. In his obituary, Mr. Day was described as a
2 “greatly respected man, of quiet habits and never indulged in liquor” and “an experienced
3 mountaineer and trapper.” C018-225.

4 **E. Importance of Historical Boating**

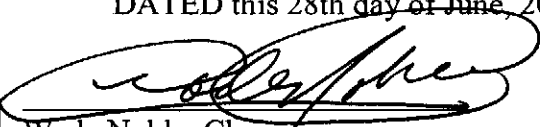
5 In my view, the accounts of historical boating demonstrate that the Salt River was
6 navigable in Segments 3, 4, 5, and 6. Because I feel that the evidence of historical boating
7 in these Segments should be afforded greater weight in the determination of navigability, I
8 cannot concur with the opinion of the other Commissioners as to these Segments.

9
10 NOW, THEREFORE, the Commission, pursuant to A.R.S. § 37-1128(A), finds
11 and determines that the Salt River from the confluence of the White and Black Rivers, to
12 its confluence with the Gila River, was not navigable for purposes of title as of February
13 14, 1912.


14 **VIII. ADOPTION AND RATIFICATION**

15 The Commission, having considered all of the historical and scientific data and
16 information, documents and other evidence, including the oral and written presentations
17 made by persons appearing at the public hearings and being fully advised in the premises,
18 hereby adopts and ratifies this report containing its findings and determination regarding
19 the Salt River.

20 DATED this 28th day of June, 2018.

21
22 
Wade Noble, Chair

23
24 
Jim Horton

25
26 
Jim Henness
Deceased, May 10, 2018


Bill Allen

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Commission Staff:


George Mehnert
Executive Director

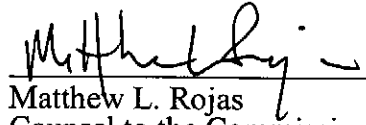

Matthew L. Rojas
Counsel to the Commission

Exhibit A

Evidence Log

Hearing No. 03-005-NAV

Page No.

1

Arizona Navigable Stream Adjudication Commission

Maricopa County, Lower Salt River
April 7—April 8, 2003

Item Number	Received Date	Source to ANSAC	Description	Entry By
1	05/15/96	Evidence on Hand-Arizona SLD, CH2M Hill, SWCA Environmental Consultants, and Arizona Geological Survey.	December 1993 Arizona Stream Study for the Salt River: Granite Reef Dam to the Gila River Confluence. December 1993 final report.	George Mehnert
2	05/16/96	Evidence on Hand-Bob Hoffman.	May 7, 1996 letter from Bob Hoffman to Henry Evans.	George Mehnert
3	06/10/96	Evidence on Hand-Dorothy Riddle.	June 7, 1996 letter.	George Mehnert
4	06/12/96	Evidence on Hand-William W. Quinn, Attorneys for Salt River Pima-Maricopa Indian Community.	Pleadings and other documents in two separate acco fastened volumes.	George Mehnert
5	06/20/96	Evidence on Hand-Sally Worthington, Helm & Kyle.	Letter and other documents including maps.	George Mehnert
6	08/27/96	Evidence on Hand-Mark McGinnis, Salmon, Lewis & Weldon.	Letter and other documents.	George Mehnert
7	08/29/96	Evidence on Hand-Arizona SLD, CH2M Hill, SWCA Environmental Consultants, and Arizona Geological Survey.	September 1996 updated report of December 1993 Arizona Stream Study for the Salt River: Granite Reef Dam to the Gila River Confluence.	George Mehnert
8	08/30/96	Evidence on Hand-Burton Levinson, Chicago Title Ins Co., etal.	August 30, 1996 cover letter and various documents.	George Mehnert

Ex E

Evidence Log Continuation Page

Hearing No. 03-005-NAV

Page No.

2

Arizona Navigable Stream Adjudication Commission

Maricopa County, Lower Salt River
April 7—April 8, 2003

Item Number	Received Date	Source	Description	Entry By
9	08/30/96	Evidence on Hand-David Baron, Arizona Center for Law in the Public Interest.	August 30, 1996 cover letter and exhibits.	George Mehnert
10	08/30/96	Evidence on Hand-Arizona Center for Law in the Public Interest.	Title: Material Relevant to both Salt and Gila Rivers.	George Mehnert
11	08/30/96	Evidence on Hand-Arizona Center for Law in the Public Interest.	Exhibits submitted by Arizona Center for Law in the Public Interest.	George Mehnert
12	09/25/96	Evidence on Hand-James Callahan, attorney, City of Phoenix.	Exhibits submitted on behalf of the City of Phoenix, one manila file folder and 2 expanding file folders.	George Mehnert
13	10/11/96	Evidence on Hand-E. Kent Foree, attorney, City of Tempe.	Exhibits submitted on behalf of the City of Tempe.	George Mehnert
14	10/08/96	Evidence on Hand-Duane L. Shroufe, Director, AZ Game & Fish.	Exhibits submitted by the Game and Fish Department.	George Mehnert
15	10/02/96	Evidence on Hand-Snell and Wilmer	Various items submitted, contained in 2 expanding folders.	George Mehnert
16	12/09/96	Evidence on Hand-Douglas Littlefield	Assessment of the Salt River's Navigability Prior to and on the Date of Arizona's Statehood, February 14, 1912.	George Mehnert
17	12/11/96	Evidence on Hand-James Callahan, attorney, City of Phoenix.	Exhibits submitted on behalf of the City of Phoenix.	George Mehnert
18	12/11/96	Evidence on Hand-James Callahan, attorney, City of Phoenix	Updated resume of Doug Kupel and resume of Thomas Buschatzke, and exhibits submitted on behalf of the City of Phoenix.	George Mehnert
19	02/13/97	Evidence on Hand-William P. Burger, Arizona Game and Fish Department.	Letter.	George Mehnert

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Hearing No. 03-005-NAV

Page No.

3

Arizona Navigable Stream Adjudication Commission

Maricopa County, Lower Salt River
April 7—April 8, 2003

Item Number	Received Date	Source	Description	Entry By
20	02/18/97	Evidence on Hand-David Baron, Arizona Center for Law in the Public Interest.	Testimony Relevant to Salt River, Granite Reef Dam to the Gila River Confluence.	George Mehnert
21	03/18/97	Evidence on Hand-Jack & Mary Smallhouse.	Tape and transcript of taped testimony of Kingston Smallhouse.	George Mehnert
22	03/13/03	Sally Worthington, Helm & Kyle for Maricopa County Department of Trans.	Letter and attached exhibits. Added CV of Hjalmar W. Hjalmarson, P.E. given by John Helm at hearing on 4/7/03.	George Mehnert
23	03/28/03	Mark McGinnis for SRP	Letter and attachments - The Salt & Gila Rivers in Central Arizona.	George Mehnert
24	04/01/03	Mark McGinnis for SRP	Salt River Centennial by Tammy LeRoy.	George Mehnert
25	04/01/03	Mark McGinnis for SRP	Information Regarding Navigability of Selected Watercourses.	George Mehnert
26	04/02/03	Mark McGinnis for SRP	Geomorphic Character of the Lower Salt River.	George Mehnert
27	04/03/03	Thomas McKinley, and Diane Brossart	Letter from Valley Forward-one page	George Mehnert
28	04/03/03	Charlotte Benson for the City of Tempe	Letter and 10 documents plus book "Vision in the Desert" by Jack August.	George Mehnert
29	04/03/03	James Callahan for the City of Phoenix	Joint report by Dr. Doug Kupel and Ellen Endebrook.	George Mehnert
30	04/07/03	Jon Fuller, engineer, witness.	Submitted at hearing—April 2003 updated report.	George Mehnert
31	04/07/03	Jack August, historian, witness.	Submitted at hearing—The Lower Salt: A Non-navigable Stream.	George Mehnert

Evidence Log Continuation Page

Hearing No. 03-005-NAV

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Arizona Navigable Stream Adjudication Commission

Maricopa County, Lower Salt River
April 7—April 8, 2003

Item Number	Received Date	Source	Description	Entry By
32	04/07/03	Stephanie Nowack, Tempe Convention & Visitors Bureau.	Submitted at hearing—Letter from Tempe Convention & Visitors Bureau.	George Mehnert
33	04/07/03	Charles L. Cahoy, Mesa City Attorney's Office.	Submitted at hearing—Pleading entitled City of Mesa's Submission of Evidence and attached documents.	George Mehnert
34	04/07/03	Alan Gookin, engineer, witness.	Submitted at hearing—Document entitled Presentation to Arizona Stream and Navigability Commission.	George Mehnert
35	04/07/03	Mark McGinnis, attorney, SRP.	Submitted at hearing—Accounts of Salt River Boating.	George Mehnert
36	04/07/03	David Roberts, SRP.	Submitted at hearing—PowerPoint printouts, "The Historical Development and Use of Water from the Salt River in the Salt River Valley.	George Mehnert
37	04/07/03	Michael J. Pearce for Arizona Chamber of Commerce	Submitted at hearing—Letter, one page.	George Mehnert
38	04/07/03	Michael J. Pearce for Home Builders Association of Central Arizona.	Submitted at hearing—Letter, two pages.	George Mehnert
39	04/08/03	John Helm, for Maricopa County.	Submitted at hearing—Deposition of Douglas R. Littlefield	George Mehnert
40	04/08/03	Patrick Quinn, for Qwest.	One page letter.	George Mehnert
41	04/08/03	Ted Mullen, for Stockyards Restaurant	One page letter.	George Mehnert
42	04/08/03	Jay Kaprozy, for Greater Phoenix C of C.	One page letter.	George Mehnert
43	04/08/03	Roc Arnett, for East Valley Partnership.	One page E-mail submission.	George Mehnert

Evidence Log Continuation Page

Hearing No. 03-005-NAV

Page No.

5

Arizona Navigable Stream Adjudication Commission

Maricopa County, Lower Salt River
April 7—April 8, 2003

Item Number	Received Date	Source	Description	Entry By
44	04/09/03	Richard Foreman, for Southwest Gas Corp	One page letter postmarked 04/04/03.	George Mehnert
45	04/09/03	Deborah Abele, for Papago Salado Assn., Inc.	One page letter postmarked 04/07/03.	George Mehnert
46	04/11/03	Charlotte Benson, for City of Tempe.	Copies of PowerPoint slides offered by Chris Anaradian during testimony on 04/07/03.	George Mehnert
47	04/11/03	Don Keuth, for Phoenix Community Alliance.	One page letter postmarked 04/07/03.	George Mehnert
48	04/11/03	Dave Iwanski, for Arizona Association of Conservation Districts.	Two page letter with one page map, postmarked 04/07/03.	George Mehnert
49	04/11/03	Diane B. McCarthy, for Westmarc, Western Maricopa Coalition.	One page letter postmarked 04/08/03.	George Mehnert
50	04/15/03	Roger Baele, for Friends of West Valley Recreation Corridor.	One page letter not postmarked, but bearing a date of April 9, 2003, a date following the CLOSE OF EVIDENCE, April 8, 2003.	George Mehnert
51	04/24/03	Mark McGinnis	Slides presented by Stanley Schumm at the hearing on April 7, 2003. Submitted following the hearing per the Commission.	George Mehnert

Evidence Log

Hearing No. 04-008-NAV

Page No.

1

Arizona Navigable Stream Adjudication Commission

Upper Salt River

Gila County November 14, 2004—Maricopa County October 20, 2005

Item Number	Received Date	Source to ANSAC	Description	Entry By
1	6/10/96	Evidence on Hand	Central AZ Paddlers Club 1992 Boating Survey	George Mehnert
2	8/30/96	Evidence on Hand	ACLPI Material Relevant to Salt & Gila.	George Mehnert
3	2/18/97	Evidence on Hand	ACLPI Testimony relevant to all watercourses.	George Mehnert
4	5/30/97	Evidence on Hand	Final Report SFC Engineering.	George Mehnert
5	9/19/97	Evidence on Hand	Ltr From James T. Braselton.	George Mehnert
6	12/30/97	Evidence on Hand	Ltr From Dorothy Riddle.	
7	1/5/98	Evidence on Hand	Filing from Maricopa Cy DOT.	George Mehnert
8	2/5/98	Evidence on Hand	U.S. Forest Service.	George Mehnert
9	2/12/98	Evidence on Hand	Ltr Fr Eastern AZ Counties Org, 1 page.	George Mehnert
10	2/18/98	Evidence on Hand	Packet from Marty Moore, Eastern AZ Counties.	George Mehnert
11	9/98	Evidence on Hand	Criteria for Assessing Small & Minor Watercourses.	George Mehnert
12	9/99	Evidence on Hand	3 County Small & Minor Watercourse Pilot Study.	George Mehnert
13	4/03 & 9/29/05	Evidence Used for Lower Salt & included in Upper Salt	Salt River Centennial by Tammy LeRoy.	George Mehnert

Evidence Log Continuation Page

Hearing No. 04-008

Page No.

2

Arizona Navigable Stream Adjudication Commission

Upper Salt River

Gila County November 14, 2004—Maricopa County October 20, 2005

Item Number	Received Date	Source to ANSAC	Description	Entry By
14	4/03 & 9/29/05	Mark McGinnis	Roosevelt Dam, a History by Earl Zarbin.	George Mehnert
15	4/03 & 9/29/05	Mark McGinnis	Arizona Cavalcade of History by Marshall Trimble.	George Mehnert
16	4/03 & 9/29/05	Mark McGinnis	The Magnificent Experiment by Karen L. Smith.	George Mehnert
17	4/03 & 9/29/05	Evidence Used for Lower Salt & included in Upper Salt	Information Regarding Navigability of Selected U.S. Watercourses.	George Mehnert
18	4/03 and 9/29/05	Evidence Used for Lower Salt Ex No. 23 & included in Upper Salt	The Salt & Gila Rivers in Central Arizona, William L. Graf, and including documents by Wendy Bigler and Paul R. Ruff.	George Mehnert
19	5/4/04	Richard Rupp	Letter.	George Mehnert
20	5/24/04	Noel Fitzgerald	Letter.	George Mehnert
21	6/15/04	Douglas Rhodes	Letter.	George Mehnert
22	6/15/94	Chuck Kranz	Letter.	George Mehnert
23	7/11/04	Nancy Orr	Letter.	George Mehnert
24	7/20/04	Coby Muckelroy	Letter.	George Mehnert

Evidence Log Continuation Page

Hearing No. 04-008

Page No.

3

Arizona Navigable Stream Adjudication Commission

Upper Salt River

Gila County November 14, 2004—Maricopa County October 20, 2005

Item Number	Received Date	Source to ANSAC	Description	Entry By
25	7/23/04	Jeanne Keller	Letter.	George Mehnert
26	7/26/04	Lori Russell	Letter.	George Mehnert
27	10/26/04	Jon Fuller	Draft Final Report.	George Mehnert
28	1/05	Stanley Schumm	Geomorphic Character of the Upper Salt River.	George Mehnert
29	10/17/05	Mark McGinnis	Douglas Littlefield Report.	George Mehnert
30	10/17/05	Mark McGinnis	Deeds and Maps.	George Mehnert
31	10/17/05	Mark McGinnis	Kent Decree, from Item No. 6 of Lower Salt River Hearing.	George Mehnert
32	10/17/05	Mark McGinnis	Kibbee Decree, from Item No. 6 of Lower Salt River Hearing.	George Mehnert
33	10/18/05	Terrence Colver	Letter.	George Mehnert
34	10/20/05	Douglas Littlefield	Map, Reclamation Withdrawals.	George Mehnert
35	10/20/05	Douglas Littlefield	List of Historical Charts used during hearing.	George Mehnert

Exhibit B

Affidavit of Publication

Payson Roundup

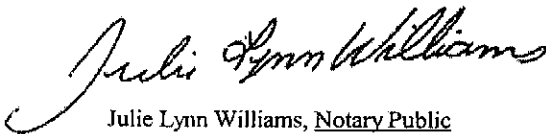
STATE OF ARIZONA 10069206
COUNTY OF GILA 3/25/2014

I, Paula VanBuskirk, do solemnly swear that I am Assistant Bookkeeper of the Payson Roundup, that the same is a newspaper printed, in whole or in part, and published in the COUNTY OF GILA, State of Arizona, and has a general circulation therein; that said newspaper has been published continuously and uninterruptedly in said COUNTY OF GILA for a period of more than fifty-two weeks prior to the first publication of the annexed legal notice or advertisement; that said newspaper has been admitted to the United States mails as second-class matter under the provisions of the Act of March 3, 1879, or any amendments thereof, and that said newspaper is a newspaper duly qualified for publishing legal notices and advertisements within the meaning of the laws of the State of Arizona. That the annexed legal notice or advertisement was published in the regular and entire issue of every number of said daily newspaper for the period of 1.00 consecutive insertions; and that the first publication of said notice was in the issue of said newspaper dated March 25 A.D., 2014, and that the last publication of said notice was in the issue of said newspaper dated March 25 A.D., 2014. In witness whereof I have hereunto set my hand this March 25 A.D., 2014.

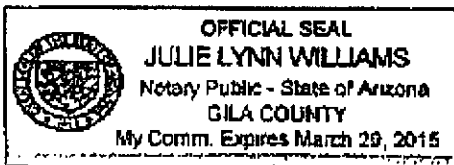


Paula VanBuskirk

Subscribed and sworn to before me, a Notary Public in and for the COUNTY OF GILA, State of Arizona March 25 A.D., 2014.



Julie Lynn Williams, Notary Public



15288: 3/25/2014
NOTICE OF PUBLIC HEARING
Hearing Date: April 24, 2014
State of Arizona
Navigable Stream Adjudication
Commission

Pursuant to A.R.S. § 37-1126, notice is hereby given that the Navigable Stream Adjudication Commission will hold a public hearing to receive physical evidence and testimony on two narrow issues: (1) navigability or non-navigability of the Upper Salt River in its "ordinary and natural condition" at the time of the State of Arizona's admission to the United States on February 14, 1912, consistent with the Arizona Court of Appeals decision in *State v. Arizona Navigable Stream Adjudication Comm'n*, 224 Ariz. 230, 229 P.3d 242 (App. 2010); and (2) segmentation of the Upper Salt River consistent with the United States Supreme Court's decision in *PPL Montana, LLC v. Montana*, 558 U.S. ___, 132 S.Ct. 1215 (2012).

The hearing will begin at 9:00 a.m. at the Gila County Board of Supervisors Board Room, 1400 E. Ash Street, Globe, Arizona 85501. This is the only hearing date scheduled for the Upper Salt River in Gila County. It is anticipated that the hearing will not be completed on April 24, 2014, and will be continued on a future date in Phoenix.

Interested parties may submit evidence to the commission office prior to the hearing. During the public hearing, the commission will receive additional evidence including testimony. The commission will conduct its hearing informally without adherence to judicial rules of procedure or evidence.

Evidence submitted in advance of the hearing will be available for public inspection during regular commission hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, except on holidays. The commission office is located at 1700 West Washington Street, Room B-54, Phoenix, AZ 85007. Please call first to review evidence at (602) 542-9214.

Individuals with disabilities who need reasonable accommodation to communicate evidence to the commission or who require this information in an alternate format may contact the commission office at (602) 542-9214 to make their needs known.

George Mehnert, Executive Director,
March 20, 2014

STATE OF ARIZONA
COUNTY OF PINAL

} SS.

Affidavit of Publication

RUTH A. KRAMER first being duly sworn deposes and says: That he/she is a native born citizen of the United States of America, over 21 years of age, that I am an agent and/or publisher of the Casa Grande Dispatch, a daily newspaper published at Casa Grande, Pinal County, Arizona, Tuesday through Sunday of each week; that a notice, a full, true and complete printed copy of which is hereunto attached, was printed in the regular edition of said newspaper, and not in a supplement thereto, for ONE issues the first publication thereof having been on the

25TH day of MARCH A.D., 2014
Second publication _____
Third publication _____
Fourth publication _____
Fifth publication _____
Sixth publication _____

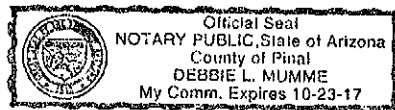
NOTICE OF PUBLIC HEARING
Hearing Date: April 24, 2014
State of Arizona
Navigable Stream
Adjudication Commission
Pursuant to A.R.S. § 37-1126, notice is hereby given that the Navigable Stream Adjudication Commission will hold a public hearing to receive physical evidence and testimony on two narrow issues: (1) navigability or non-navigability of the Upper Salt River in its "ordinary and natural condition" at the time of the State of Arizona's admission to the United States on February 14, 1912, consistent with the Arizona Court of Appeals decision in State v. Arizona Navigable Stream Adjudication Comm'n, 224 Ariz. 230, 229 P.3d 242 (App. 2010); and (2) segmentation of the Upper Salt River consistent with the United States Supreme Court's decision in PPL Montana, LLC v. Montana, 556 U.S. 132 S.Ct. 1215 (2012).
The hearing will begin at 9:00 a.m. at the Gila County Board of Supervisors Board Room, 1400 E. Ash Street, Globe, Arizona 85501. This is the only hearing date scheduled for the Upper Salt River in Gila County. It is anticipated that the hearing will not be completed on April 24, 2014, and will be continued on a future date in Phoenix.
Interested parties may submit evidence to the commission office prior to the hearing. During the public hearing, the commission will receive additional evidence including testimony. The commission will conduct its hearing informally without adherence to judicial rules of procedure or evidence.
Evidence submitted in advance of the hearing will be available for public inspection during regular commission hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, except on holidays. The commission office is located at 1700 West Washington Street, Room B-54, Phoenix, AZ 85007. Please call first to review evidence at (602) 542-9214.
Individuals with disabilities who need reasonable accommodation to communicate evidence to the commission or who require this information in an alternate format may contact the commission office at (602) 542-9214 to make their needs known.
George Mehnert, Executive Director.
March 20, 2014
No. of publications: 1, date of publication: March 25, 2014.

CASA GRANDE DISPATCH

By Ruth Kramer
agent and/or publisher of the Casa Grande Dispatch

Sworn to before me this 31st
day of March A.D. 2014
Debbie L. Mumme

Notary Public in and for the County of Pinal, State of Arizona



THE ARIZONA REPUBLIC

NOTICE OF PUBLIC HEARING
Hearing Date: April 24, 2014
State of Arizona
Navigable Stream Adjudication Commission
Pursuant to A.R.S. § 37-1126 notice is hereby given that the Navigable Stream Adjudication Commission will hold a public hearing to receive physical evidence and testimony on two narrow issues: (1) navigability or non-navigability of the Upper Salt River in its ordinary and natural condition at the time of the State of Arizona's admission to the United States on February 14, 1912, consistent with the Arizona Court of Appeals decision in State of Arizona v. Navigable Stream Adjudication Comm'n, 224 Ariz. 230, 229 P.3d 242 (App. 2010); and (2) segmentation of the Upper Salt River consistent with the United States Supreme Court's decision in Pihl Montana, LLC v. Montana, 556 U.S. 132, 50 L. 1215 (2014). The hearing will begin at 9:00 a.m. at the Gila County Board of Supervisors Board Room, 1400 E. Ash Street, Globe, Arizona 85501. This is the only hearing date scheduled for the Upper Salt River in Gila County. It is anticipated that the hearing will not be completed on April 24, 2014, and will be continued on a future date in Phoenix. Interested parties may submit evidence to the commission office prior to the hearing. During the public hearing, the commission will receive additional evidence including testimony. The commission will conduct its hearing informally without adherence to judicial rules of procedure or evidence. Evidence submitted in advance of the hearing will be available for public inspection during regular commission hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, except on holidays. The commission office is located at 1700 West Washington Street, Room 8-54, Phoenix, AZ 85007. Please call first to review evidence at (602) 542-9214. Individuals with disabilities who need reasonable accommodation to communicate evidence to the commission or who require this information in an alternate format may contact the commission office at (602) 542-9214 to make their needs known. George Mehnert, Executive Director
March 20, 2014
Pub: March 25, 2014

STATE OF ARIZONA }
COUNTY OF MARICOPA } SS.


Tabitha Weaver, being first duly sworn, upon oath deposes and says: That she is a legal advertising representative of the Arizona Business Gazette, a newspaper of general circulation in the county of Maricopa, State of Arizona, published at Phoenix, Arizona, by Phoenix Newspapers Inc., which also publishes The Arizona Republic, and that the copy hereto attached is a true copy of the advertisement published in the said paper on the dates as indicated.

The Arizona Republic

March 25, 2014



Sworn to before me this
26th day of
March A.D. 2014

 BRIAN BILLINGS
Notary Public - Arizona
Maricopa County
My Comm. Expires Jul 25, 2014


Notary Public

AFFP
SQUAAPRIL24HEARING

Affidavit of Publication

STATE OF ARIZONA }
COUNTY OF YUMA } SS

NOTICE OF PUBLIC HEARING
Hearing Date: April 24, 2014
State of Arizona
Navigable Stream Adjudication Commission

Joni Brooks or Kathy White, being duly sworn, says:

That she is Publisher or Business Manager of the Yuma Sun, a daily newspaper of general circulation, printed and published in Yuma, Yuma County, Arizona; that the publication, a copy of which is attached hereto, was published in the said newspaper on the following dates:

March 26, 2014

Pursuant to A.R.S. § 37-1128, notice is hereby given that the Navigable Stream Adjudication Commission will hold a public hearing to receive physical evidence and testimony on two narrow issues: (1) navigability or non-navigability of the Upper Salt River in its "ordinary and natural condition" at the time of the State of Arizona's admission to the United States on February 14, 1912, consistent with the Arizona Court of Appeals decision in State v. Arizona Navigable Stream Adjudication Comm'n, 224 Ariz. 230, 229 P.3d 242 (App. 2010); and (2) segmentation of the Upper Salt River consistent with the United States Supreme Court's decision in PPL Montana, LLC v. Montana, 556 U.S. ___, 132 S.Ct. 1215 (2012).

The hearing will begin at 9:00 a.m. at the Gila County Board of Supervisors Board Room, 1400 E. Ash Street, Globe, Arizona 85501. This is the only hearing date scheduled for the Upper Salt River in Gila County. It is anticipated that the hearing will not be completed on April 24, 2014, and will be continued on a future date in Phoenix.

Interested parties may submit evidence to the commission office prior to the hearing. During the public hearing, the commission will receive additional evidence including testimony. The commission will conduct its hearing informally without adherence to judicial rules of procedure or evidence.

That said newspaper was regularly issued and circulated on those dates.

SIGNED:

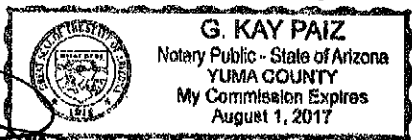
Evidence submitted in advance of the hearing will be available for public inspection during regular commission hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, except on holidays. The commission office is located at 1700 West Washington Street, Room B-54, Phoenix, AZ 85007. Please call first to review evidence at (602) 542-9214.




Publisher or Business Manager

Individuals with disabilities who need reasonable accommodation to communicate evidence to the commission or who require this information in an alternate format may contact the commission office at (602) 542-9214 to make their needs known.

Subscribed to and sworn to me this 26th day of March 2014.



George Mehnert, Executive Director.
March 20, 2014
Daily March 26, 2014 - 00026475



G. Kay Paiz, Notary, Yuma County, Arizona

My commission expires: August 01, 2017

00005316 00026475

LEGAL PUBLICATIONS
MK CONSULTANTS, INC
ONE DEER VALLEY RD, STE# 103
PHOENIX, AZ 85027

Affidavit of Publication

**State of Arizona
County of Gila**

Marc Marin, or his authorized representative being first duly sworn deposes and says: That he is the Publisher of the Arizona Silver Belt and the San Carlos Apache Moccasin newspapers, located at 298 North Pine Street, Globe, Arizona 85501, or mail: P.O. Box 31, Globe, Arizona 85502.

The above stated newspapers are published weekly in Globe, in the State of Arizona, County of Gila and that the following described √ legal, or advertising was duly published.

NOTICE OF PUBLIC HEARING

Hearing Date: April 24, 2014
State of Arizona
Navigable Stream Adjudication Commission
Pursuant to A.R.S. § 37-1126, notice is hereby given that the Navigable Stream Adjudication Commission will hold a public hearing to receive physical evidence and testimony on two narrow issues: (1) navigability or non-navigability of the Upper Salt River in its "ordinary and natural condition" at the time of the State of Arizona's admission to the United States on February 14, 1912, consistent with the Arizona Court of Appeals decision in *State v. Arizona Navigable Stream Adjudication Comm'n*, 224 Ariz. 230, 229 P.3d 242 (App. 2010); and (2) segmentation of the Upper Salt River consistent with the United States Supreme Court's decision in *PPL Montana, LLC v. Montana*, 556 U.S. ___, 132 S.Ct. 1215 (2012).

A printed copy of said legal or advertising is attached hereto and was published in a regular weekly edition of said newspaper (and not a supplement thereof) for 1 consecutive weeks in the √ Arizona Silver Belt newspaper, and/or the √ San Carlos Apache Moccasin newspaper. The dates of publication being as follows, to wit:

March 26, 2014

Marc Marin

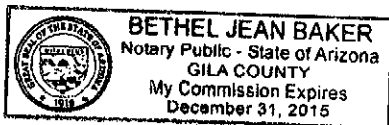
Marc Marin
Publisher

State of Arizona)
) ss:
County of Gila)

The foregoing instrument was acknowledged before me March 26, 2014, by Marc Marin.

Bethel Jean Baker

Bethel Jean Baker
Notary Public



My Commission Expires:
December 31, 2015

NOTICE OF PUBLIC HEARING
Hearing Date: April 24, 2014
State of Arizona
Navigable Stream Adjudication Commission
Pursuant to A.R.S. § 37-1126, notice is hereby given that the Navigable Stream Adjudication Commission will hold a public hearing to receive physical evidence and testimony on two narrow issues: (1) navigability or non-navigability of the Upper Salt River in its "ordinary and natural condition" at the time of the State of Arizona's admission to the United States on February 14, 1912, consistent with the Arizona Court of Appeals decision in *State v. Arizona Navigable Stream Adjudication Comm'n*, 224 Ariz. 230, 229 P.3d 242 (App. 2010); and (2) segmentation of the Upper Salt River consistent with the United States Supreme Court's decision in *PPL Montana, LLC v. Montana*, 556 U.S. ___, 132 S.Ct. 1215 (2012).
The hearing will begin at 9:00 a.m. at the Gila County Board of Supervisors Board Room, 1400 E. Ash Street, Globe, Arizona 85501. This is the only hearing date scheduled for the Upper Salt River in Gila County. It is anticipated that the hearing will be held on a date in Phoenix.
Interested parties may submit evidence to the commission office prior to the hearing. During the public hearing, the commission will receive additional evidence including testimony. The commission will conduct its hearing informally without adherence to judicial rules of procedure or evidence.
Evidence submitted in advance of the hearing will be available for public inspection during regular commission hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, except on holidays. The commission office is located at 1700 West Washington Street, Room B-54, Phoenix, AZ 85007. Please call first to review evidence at (602) 542-9214.
Individuals with disabilities who need reasonable accommodation to communicate evidence to the commission or who require this information in an alternate format may contact the commission office at (602) 542-9214 to make their needs known.
George Mehnert, Executive Director
March 20, 2014
One Pub. 3-26-2014, Bet. 8971

STATE OF ARIZONA)
)
) ss.
)
COUNTY OF GREENLEE)

AFFIDAVIT OF PUBLICATION

STEPHANIE JONES being first
duly sworn, deposes and says: That (he) (she) is the Agent to the Publisher of the
COPPER ERA newspaper printed and published weekly in the County of Greenlee,
State of Arizona, and of general circulation in the city of Clifton, County of Greenlee,
State of Arizona and elsewhere, and the hereto attached

NOTICE OF PUBLIC HEARING
Hearing Date: April 24, 2014
State of Arizona
Navigable Stream Adjudication Commission
Pursuant to A.R.S. § 37-1126, notice is hereby given that the Navigable Stream Adjudication Commission will hold a public hearing to receive physical evidence and testimony on two narrow issues: (1) navigability or non-navigability of the Upper Salt River in its "ordinary and natural condition" at the time of the State of Arizona's admission to the United States on February 14, 1912, consistent with the Arizona Court of Appeals decision in *State v. Arizona Navigable Stream Adjudication Comm'n*, 224 Ariz. 230, 229 P.3d 242 (App. 2010); and (2) segmentation of the Upper Salt River consistent with the United States Supreme Court's decision in *PPL Montana, LLC v. Montana*, 556 U.S. 132 S.Ct. 1215 (2012).
The hearing will begin at 9:00 a.m. at the Gila County Board of Supervisors Board Room, 1400 E. Ash Street, Globe, Arizona 85501. This is the only hearing date scheduled for the Upper Salt River in Gila County. It is anticipated that the hearing will not be completed on April 24, 2014, and will be continued on a future date in Phoenix.
Interested parties may submit evidence to the commission office prior to the hearing. During the public hearing, the commission will receive additional evidence including testimony. The commission will conduct its hearing informally without adherence to judicial rules of procedure or evidence.
Evidence submitted in advance of the hearing will be available for public inspection during regular commission hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, except

on holidays. The commission office is located at 1700 West Washington Street, Room B-54, Phoenix, AZ 85007. Please call first to review evidence at (602) 542-9214.

Individuals with disabilities who need reasonable accommodation to communicate evidence to the commission or who require this information in an alternate format may contact the commission office at (602) 542-9214 to make their needs known.

George Mehnerl,
Executive Director
March 20, 2014

Req: MK Consultants the
published April 2, 2014. In the
Copper Era, Clifton, Arizona
85501.

MK CONSULTANTS
PUBLIC NOTICE
NAVIGABLE STREAM
ADJUDICATION
COMMISSION

was printed and published correctly in the regular and entire issue of said
THE COPPER ERA for 1 issues, that the first was

made on the 2nd day of APRIL 20 14

and the last publication thereof was made on the 2nd day of

APRIL 20 14 that said

publication was made on each of the following dates, to wit:

04/02/14

Request of MK CONSULTANTS INC

THE COPPER ERA

By *Stephanie Jones*

Subscribed sworn to before me this 2nd day of APRIL

20¹⁴

Maria L. Water
Notary Public in and for the County of Graham, State of Arizona

My Commission Expires: *Dec. 11 2014*

Affidavit of Publication

Payson Roundup Newspaper
708 N. Beeline Highway, Payson, AZ 85541
928-474-5251 – Fax: 928-474-2541

Order No: 10077445
MK Consultants

NOTICE: NOTICE OF PUBLIC HEARINGS

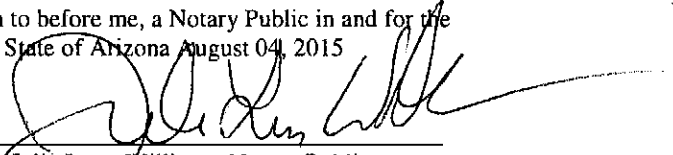
STATE OF ARIZONA

09/04/2015

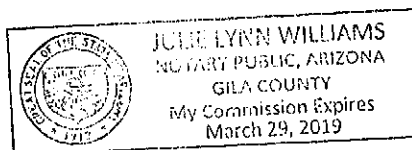
I, Paula VanBuskirk, do solemnly swear that I am Assistant Bookkeeper of the **Payson Roundup Newspaper**, that the same is a newspaper printed, in whole or in part, And published in the COUNTY OF GILA, State of Arizona, and has a general Circulation therein; that said newspaper has been published continuously and uninterruptedly in said COUNTY OF GILA for a period of more than fifty-two weeks prior to the first publication of the annexed legal notice of advertisement; that said newspaper has been admitted to the United States mails as second-class matter under the provisions of the Act of March 3, 1879, or any amendments thereof, and that said newspaper is a newspaper duly qualified for publishing legal notices and advertisements within the meaning of the laws of the State of Arizona. That the annexed legal notice or advertisement was published in the regular and entire issue of every number of said daily newspaper for the period of (1) insertion; and that the publication of said notice was in the issue of said newspaper dated **August 04 A.D., 2015**. In witness whereof I have hereunto set my hand this **August 04 A.D., 2015**.


Paula VanBuskirk

Subscribed and sworn to before me, a Notary Public in and for the COUNTY OF GILA, State of Arizona August 04, 2015


Julie Lynn Williams, Notary Public

My commission expires March 29, 2019.



NOTICE OF PUBLIC HEARINGS
Hearing Date: October 20, 2015
Date of Release
Hearings Division, Department
No. 02-000 and 02-000-100
Consolidated (2015)

Pursuant to A.R.S. § 21-1106, notice of hearing shall be published in the **Payson Roundup Newspaper** ("Newspaper") and held a public hearing on October 20, 2015 and November 12, 2015 beginning at 9:00 a.m. at the Payson Roundup Newspaper, 708 N. Beeline Highway, Payson, Arizona 85541. Additional public hearing dates are scheduled for January 19, 2016 and February 12, 2016 beginning at 9:00 a.m. at the office of Bryan Patten (Judge) 1321 N. 1st Street, Payson, Arizona 85541. The hearing may not have without having read all relevant notices and documents. It may be necessary.

The purpose of the hearing is to receive proposed evidence and testimony on two separate topics: (1) regarding the incorporation of the **Payson Roundup Newspaper** and (2) regarding the proposed annexation of the **Payson Roundup Newspaper** to the United States on February 14, 2015, associated with the Arizona Court of Appeals decision in **Payson v. Arizona Newspaper Group, Inc.**, 2015 AZ 131, 348 P.3d 1041 (Ariz. 2015), and (3) regarding the proposed incorporation of the **Payson Roundup Newspaper** to the United States on February 14, 2015, associated with the Arizona Court of Appeals decision in **Payson v. Arizona Newspaper Group, Inc.**, 2015 AZ 131, 348 P.3d 1041 (Ariz. 2015).

The **Payson Roundup Newspaper** and **Payson Roundup Newspaper, Inc.** are parties to the hearing. The hearing may not have without having read all relevant notices and documents. It may be necessary.

Interested parties may submit evidence to the Commission at any time prior to the hearing. During the public hearing, the Commission will receive additional evidence including testimony. The Commission will conduct a hearing, identify relevant evidence and conduct a public hearing. The Commission will conduct a public hearing.

Evidence submitted in advance of the hearing will be available for public inspection during regular Commission hours of 9:00 a.m. to 5:00 p.m., Monday through Friday, except on holidays. The Commission will also be located at 1700 West Washington Street, Suite 101, Payson, AZ 85541. Please call 928-474-5251 to receive evidence at 928-474-5251.

Individuals with disabilities who need reasonable accommodations to successfully attend the Commission or who require this information in an alternate format may contact the Commission at 928-474-5251 to make their needs known.

George Hanson, Executive Director
August 28, 2015

THE RECORD REPORTER

~ SINCE 1914 ~

2025 N THIRD ST #160, PHOENIX, AZ 85004-1425
Telephone (602) 417-9900 / Fax (602) 417-9910

Publishing for Maricopa
and Pima Counties

MK CONSULTANTS
1 W DEER VALLEY RD #103
PHOENIX, AZ - 85027

RR# 2790298

NOTICE OF PUBLIC HEARINGS
Hearing Date: October 20, 2015
State of Arizona
Navigable Stream Adjudication
Commission
No. 03-005 and 04-008-NAV
(Consolidated) (Salt)

(602) 542-9214 to make their needs
known.

George Mehnert, Executive Director,
August 28, 2015
9/4/15

RR-2790298#

AFFIDAVIT OF PUBLICATION

Reference #:

Notice Type: MN - MISCELLANEOUS NOTICE

Ad Description: 10/20/2015 Upper Salt and Lower Salt River

Pursuant to A.R.S. § 37-1126, notice is hereby given that the Navigable Stream Adjudication Commission ("Commission") will hold a public hearing on October 20-23, 2015 and November 17-20, 2015 beginning at 9:00 a.m. at the Arizona State Senate Building, Hearing Room Number 1, 1700 West Washington, Phoenix, Arizona 85007. Additional public hearing dates are scheduled for January 26-29, 2016 and February 23-26, 2016 beginning at 9:00 a.m. at the offices of Squire Patton Boggs (US) LLP, 1 East Washington Street, Suite 2700, Phoenix, Arizona 85004. The hearing may adjourn without having used all scheduled hearing dates. The hearing may also be continued further if necessary.

The purpose of the hearing is to receive physical evidence and testimony on two narrow issues: (1) navigability or non-navigability of the Salt River in their "ordinary and natural condition" at the time of the State of Arizona's admission to the United States on February 14, 1912, consistent with the Arizona Court of Appeals decision in *State v. Arizona Navigable Stream Adjudication Comm'n*, 224 Ariz. 230, 229 P.3d 242 (App. 2010); and (2) segmentation of the Salt River consistent with the United States Supreme Court's decision in *FPL Montana, LLC v. Montana*, 556 U.S. 132 S.Ct. 1215 (2012). The Upper Salt River and Lower Salt River cases were consolidated by the Commission on May 20, 2015, and physical evidence and testimony pertaining to both the upper and lower portions of the Salt River will be taken at this hearing.

Interested parties may submit evidence to the Commission office prior to the hearings. During the public hearings, the Commission will receive additional evidence including testimony. The Commission will conduct its hearings informally without adherence to judicial rules of procedure or evidence.

Evidence submitted in advance of the hearings will be available for public inspection during regular Commission hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, except on holidays. The Commission office is located at 1700 West Washington Street, Room B-54, Phoenix, AZ 85007. Please call first to review evidence at (602) 542-9214.

Individuals with disabilities who need reasonable accommodation to communicate evidence to the Commission or who require this information in an alternate format may contact the Commission office at

I, Heather Clayton, am authorized by the publisher as agent to make this affidavit. Under oath, I state that the following is true and correct.

THE RECORD REPORTER is a newspaper of general circulation published Monday, Wednesday and Friday except legal holidays, in the County of Maricopa (also publishing for Pima County), State of Arizona. The copy hereto attached is a true copy of the advertisement as published on the following dates:

09/04/2015

Heather Clayton
State Of Arizona)
)ss.
County Of Maricopa)

Subscribed and sworn to before me on the 4th day of September, 2015

Cathy L Fisher



CATHY L FISHER
Notary Public — Arizona
Maricopa County
Expires 07/31/2016



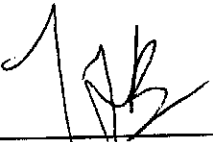
AFFIDAVIT OF PUBLICATION

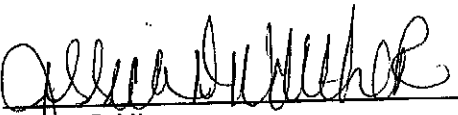
STATE OF ARIZONA)
County of Yavapai) ss.

I, **Teri Bryant**, being first duly sworn on her oath, say:
That she is the Asst. Legals Clerk of **PRESCOTT NEWSPAPERS, INC.**,
an Arizona corporation, which owns and publishes **THE DAILY
COURIER**, a Daily Newspaper published in the City of Prescott, County
of Yavapai that the notice attached hereto, namely,

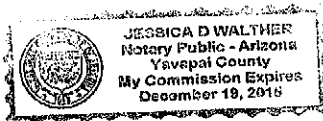
**MK CONSULTANTS
PUBLIC HEARING
OCTOBER 20-23, 2015**

has, to the personal knowledge of affidavit, been published in the news
paper aforesaid, according to law, on 4 day of **SEP, 2015** to 4 day of
SEP, 2015 both inclusive without change, interruption or omission,
amounting in all 1 insertions, made on the following dates:
SEP 4, 2015

By: 
Dated this 4 Day of **SEP, 2015**

By: 
Notary Public

My commission expires:



NOTICE OF PUBLIC HEARINGS

Hearing Date: October 20, 2015
State of Arizona
Navigable Stream Adjudication
Commission
No. 03-005 and 04-009-NAV
(Consolidated) (Salt)

Pursuant to A.R.S. § 37-1126, notice is hereby given that the Navigable Stream Adjudication Commission ("Commission") will hold a public hearing on October 20-23, 2015 and November 17-20, 2015 beginning at 9:00 a.m. at the Arizona State Senate Building, Hearing Room Number 1, 1700 West Washington, Phoenix, Arizona 85007. Additional public hearing dates are scheduled for January 26-29, 2016 and February 23-26, 2016 beginning at 9:00 a.m. at the offices of Squire Patton Boggs (US) LLP, 1 East Washington Street, Suite 2700, Phoenix, Arizona 85004. The hearing may adjourn without having used all scheduled hearing dates. The hearing may also be continued further if necessary.

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Individuals with disabilities who need reasonable accommodation to communicate evidence to the Commission or who require this information in an alternate format may contact the Commission office at (602) 542-9214 to make their needs known.

George Mehnert, Executive Director.

August 28, 2015

ITC PUB Sept. 4, 2015

THE ARIZONA REPUBLIC

NOTICE OF PUBLIC HEARINGS
 Hearing Date: October 20, 2015
 State of Arizona
 Navigable Stream Adjudication Commission
 No. 03-009 and 04-008-NAV (Consolidated) (Salt)
 Pursuant to A.R.S. § 37-1126, notice is hereby given that the Navigable Stream Adjudication Commission ("Commission") will hold a public hearing on October 20-23, 2015 and November 27-28, 2015 beginning at 9:00 a.m. at the Arizona State Senate Building, Hearing Room Number 1, 1700 West Washington, Phoenix, Arizona, 85007. Additional public hearing dates are scheduled for January 26-29, 2016 and February 23-26, 2016 beginning at 9:00 a.m. at the offices of Squire Patton Boggs (US) LLP, 1 East Washington Street, Suite 2700, Phoenix, Arizona 85004. The hearing may adjourn without having used all scheduled hearing dates. The hearing may also be continued further if necessary. The purpose of the hearing is to receive physical evidence and testimony on two narrow issues: (1) navigability or non-navigability of the Salt River in their ordinary and natural condition at the time of the State of Arizona's admission to the United States on February 14, 1912, consistent with the Arizona Court of Appeals decision in State v. Arizona Navigable Stream Adjudication Comm'n, 224 Ariz. 230, 229 P.3d 242 (App. 2010); and (2) segmentation of the Salt River consistent with the United States Supreme Court's decision in PPL Montana, LLC v. Montana, 556 U.S. 137, S.Ct. 1215 (2012). The Upper Salt River and Lower Salt River cases were consolidated by the Commission on May 20, 2015 and physical evidence and testimony pertaining to both the upper and lower portions of the Salt River will be taken at this hearing. Interested parties may submit evidence to the Commission office prior to the hearings. During the public hearings, the Commission will receive additional evidence including testimony. The Commission will conduct its hearings informally without adherence to judicial rules of procedure or evidence. Evidence submitted in advance of the hearings will be available for public inspection during regular Commission hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, except on holidays. The Commission office is located at 1700 West Washington Street, Room B-54, Phoenix, AZ 85007. Please call first to review evidence at (602) 542-9214. Individuals with disabilities who need reasonable accommodation to communicate evidence to the Commission or who require this information in an alternate format may contact the Commission office at (602) 542-9214 to make their needs known. George Mehnert, Executive Director, August 28, 2015
 Pub: September 4, 2015

STATE OF ARIZONA }
 COUNTY OF MARICOPA } SS.

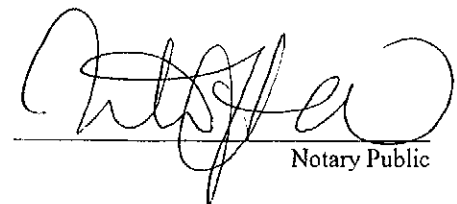
Brian Billings, being first duly sworn, upon oath deposes and says: That he is a legal advertising representative of the Arizona Business Gazette, a newspaper of general circulation in the county of Maricopa, State of Arizona, published in Phoenix, Arizona, by Phoenix Newspapers Inc., which also publishes The Arizona Republic, and that the copy hereto attached is a true copy of the advertisement published in the said paper on the dates as indicated.

The Arizona Republic

September 4, 2015



Sworn to before me this
 4TH day of
 September A.D. 2015

Notary Public

Exhibit C

Remand Case Evidence - Upper Salt River

Item Number	Submitted By	Description	Link
X001	ASLD	<i>Salt River Ferry</i> , Ariz. Citizen (June 14, 1873)	PDF
X001	ASLD	<i>Salt River Ferry</i> , Ariz. Republican (May 26, 1911)	PDF
X001	ASLD	<i>Hon. Callaway Tells Startling Story of Dam Investigation</i> , Ariz. Sentinel (May 9, 1912)	PDF
X001	ASLD	<i>Hayden's Ferry</i> , Ariz. Sentinel (Aug. 9, 1873)	PDF
X001	ASLD	<i>Maricopa County</i> , Weekly Ariz. Miner (May 3, 1873)	PDF
X001	ASLD	<i>Salt River Valley</i> , Weekly Ariz. Miner (June 28, 1873)	PDF
X001	ASLD	<i>From Friday's Daily</i> , Tombstone Epitaph (Feb. 21, 1909)	PDF
X001	ASLD	<i>A Long Journey</i> , Ariz. Sentinel (Apr. 2, 1892)	PDF
X001	ASLD	Brad Dimock, <i>Sunk Without a Sound</i> (1912) (excerpts)	PDF
X001	ASLD	Brad Dimock, <i>The Case for James White's Raft Trip Through Grand Canyon: The Story of White's Story</i> , in <i>Reflections of Grand Canyon Historians</i> (Todd R. Berger ed. 2008)	PDF
X001	ASLD	Brad Dimock, <i>The James White Debate</i> , in <i>Reflections of Grand Canyon Historians</i> (Todd R. Berger ed. 2008)	PDF
X001	ASLD	Tom Myers, <i>Why James Whites Raft Trip Doesn't Float - At Least Through Grand Canyon</i> , in <i>Reflections of Grand Canyon Historians, Ideas, Arguments, and First-Person Accounts</i> (2008)	PDF
X001	ASLD	<i>Hunter Trader Trapper</i> (excerpts from Dec. 1908-Mar. 1909)	PDF
X001	ASLD	<i>Hunter Trader Trapper</i> (July 1912) (excerpts)	PDF
X001	ASLD	<i>Hunter Trader Trapper</i> (Oct. 1912) (excerpts)	PDF
X001	ASLD	1897 Sears Roebuck & Co. Catalog 1895 Montgomery Ward & Co. Catalog	PDF
X001	ASLD	Sears, Roebuck & Co. Catalogue No. 124 (1912) (excerpts)	PDF
X001	ASLD	<i>A Portable Folding Boat</i> , 6 Manufacturer & Builder (July 1874)	PDF
X001	ASLD	<i>How to Construct a Row-Boat</i> , 7 Manufacturer & Builder (Aug. 1875)	PDF
X001	ASLD	Kennebec Canoe Company, Dragonfly Canoe Works, http://dragonflycanoe.com/wood-canoe-identification-guide/kennebec-canoe-company/	PDF
X001	ASLD	<i>Water Storage</i> , Phoenix Herald (Aug. 16, 1889)	PDF
X001	ASLD	Ambrose Canoes, About Canoes, www.ambrosecanoes.com/about-canoes/	PDF
X001	ASLD	Ariz. State Parks, <i>Arizona Rivers & Streams Guide</i> (1989) (excerpts)	PDF

Supplemental Evidence - Upper Salt River

Item Number	Submitted By	Description	Link
X001	ASLD	Arthur Powell Davis, USGS, <i>Water Storage on Salt River, Arizona</i> (1903)	PDF
X001	ASLD	Dan Beard, <i>How to Build a Cheap Boat</i> , Outing (May 1905)	PDF
X001	ASLD	Michelle Bearden-Mason, <i>River Guide Rafts White Water Rapids of the Salt</i> , Phoenix Gazette (Mar. 24, 1986)	PDF
X001	ASLD	William Draper Brinckle, <i>Just a Boat</i> , Country Life in America (July 1909)	PDF
X001	ASLD	USGS, Water Supply and Irrigation Papers of the United States Geological Survey No. 2 (1897)	PDF
X001	ASLD	Canvas Canoes, Why Wood and Canvas, www.canvascanoes.co.uk (last visited July 2013)	PDF
X001	ASLD	Grand Canyon Historical Boat Drawings May 2013, including: Edith, Glen, and Stone	PDF
X001	ASLD	Boats in the Grand Canyon Collection	PDF
X001	ASLD	Photo of Builder Plate of Stone Boat and Company Information	PDF
X001	ASLD	Photo, Emery and Ellsworth Kolb, Dave Rust in Canoe, NAU Cline Library Kolb Collection, NAU.PH.568-966	PDF
X001	ASLD	Goode P. Davis, <i>Man and Wildlife in Arizona: The American Exploration Period 1824-1865</i> (1982) (excerpts)	PDF
X001	ASLD	Donal Hamilton Haines, <i>A Back-Yard Wilderness</i> , Outing (July 1915)	PDF
X001	ASLD	Keith C. Wilbur, <i>Dugout Canoes</i> , Indian Handcrafts (Jan. 2001)	PDF
X001	ASLD	A.G. Holmes, <i>Ducking Boats of Many Waters</i> , Outing (Oct. 1901)	PDF
X001	ASLD	Herman Hoops, <i>The History of Rubber Boats and How They Saved Rivers</i> (2009)	PDF
X001	ASLD	King Folding Boat Company (May 16, 2013)	PDF
X001	ASLD	Jerry MacMullen, <i>Paddle-Wheel Days in California</i> (1944) (excerpts)	PDF
X001	ASLD	A. William Masters, <i>Outing With a Portable Equipment</i> , American Homes & Gardens (July 1911)	PDF
X001	ASLD	Earl Zarbin, <i>Pioneers Tried to Float Logs Down Salt River for Sawmill in Valley</i> , Ariz. Republic (Dec. 22, 1985)	PDF
X001	ASLD	W.E. Partridge, <i>Rowboats and Boating</i> , Country Life in America (June 1910)	PDF

Supplemental Evidence - Upper Salt River

Item Number	Submitted By	Description	Link
X001	ASLD	B.W. Thomsen & J.J. Porcello, Predevelopment Hydrology of Salt River Indian Reservation (1991)	PDF
X001	ASLD	W.P. Stephens, <i>Sport in All Kinds of Water Craft</i> , Country Life in America (Aug. 1908)	PDF
X001	ASLD	SRP, Taming of the Salt (1979) (excerpts)	PDF
X001	ASLD	<i>The Layman Pneumatic Sporting and Outing Boat</i> , 72 Scientific American (May 1895)	PDF
X001	ASLD	St. Nicholas, <i>The Small Water Craft of the American's of Yesterday and Today</i> , Nature and Science for Young Folks (May 1913)	PDF
X002	SRP	Douglas R. Littlefield, Ph.D., Revised & Updated Report: Assessment of the Navigability of the Upper Salt River Above Granite Reef Dam Prior To and On the Date of Arizona's Statehood, February 14, 1912 (Feb. 7, 2014)	PDF
X003	SRP	Robert A. Mussetter, Ph.D., PE, Declaration re: Navigability of the Upper Salt River (May 12, 2014)	PDF
X004	SRP	Photos Canoeing on the Gila, Lower Salt, Verde, and San Juan Rivers, taken by Jon E. Fuller	PDF

Supplemental Evidence - Lower Salt River

X001	SRP	Douglas R. Littlefield, Ph.D., Revised & Updated Report: Assessment of the Navigability of the Salt River Below Granite Reef Dam Prior to and on the Date of Arizona's Statehood, February 14, 1912 (June 8, 2014)	PDF
X002	SRP	Photos Canoeing on the Gila, Lower Salt, Verde, and San Juan Rivers, taken by Jon E. Fuller	PDF

Exhibit D



STATE OF ARIZONA
NAVIGABLE STREAM ADJUDICATION COMMISSION

1700 West Washington, Room B54, Phoenix, Arizona 85007

Phone (602) 542-9214 FAX (602) 542-9220

JANICE K. BREWER
Governor

E-mail: nav.streams@ansac.az.gov Web Page: <http://www.ansac.az.gov>

GEORGE MEHNERT
Executive Director

REGULAR SESSION MEETING MINUTES
Globe, Arizona, April 24, 2014

Commission Members Present

Wade Noble, Jim Henness, Bill Allen

Commission Members Absent

Jim Horton.

Staff Present

Fred Breedlove Attorney, George Mehnert Director

1. Call To Order

The Chair called the meeting to order at approximately 9:02 a.m.

2. Roll Call

See above for members present and absent

3. Approval of Minutes for March 28, 2014 (discussion and action)

The minutes were approved without objection.

4. Hearing Regarding the Upper Salt River

One witness appeared, Mayor Terry Wheeler of Globe, Arizona.

5. Call for Public Comment

There were no public comments.

6. Future meeting dates and future agenda items.

The Chairman indicated that a date for a briefing schedule would be discussed at the scheduling meeting to be held in Phoenix on April 25, 2014.

7. ADJOURNMENT.

Adjourned at approximately 10:20a.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "George Mehnert".

George Mehnert
Director, Navigable Stream Adjudication Commission
April 26, 2014

COMBINED MEETING MINUTES
Salt River Hearing Phoenix

October 20, 2015

COMMISSION MEMBERS PRESENT

Wade Noble, Bill Allen, Jim Henness, Jim Horton

COMMISSION MEMBERS ABSENT

None. Commissioner Horton left at approximately 4:20 p.m.

STAFF PRESENT

Fred Breedlove, Attorney and George Mehnert, Director

1. CALL TO ORDER

The meeting was called to order by the Chairman at approximately 9:05 a.m.

2. Roll Call

See above for members present and absent.

3. Approval of Minutes

Minutes of June 23, 2015

Motion: To approve minutes as submitted

Motion: by Commissioner Henness

Second: by Commissioner Allen

Vote: All aye.

4. Continuation of the hearing on the Salt River

Witnesses who appeared: Jon Fuller.

5. Call for public comment.

No comment sheets were received.

6. Future meeting dates.

See Adjournment.

7. Adjournment.

Hearing was recessed at approximately 5:02 p.m. and was scheduled to reconvene at 9:00 a.m. on October 21, 2015.

COMBINED MEETING MINUTES
Salt River Hearing Phoenix

October 21, 2015

COMMISSION MEMBERS PRESENT

Wade Noble, Bill Allen, Jim Henness, Jim Horton

COMMISSION MEMBERS ABSENT

None.

STAFF PRESENT

Fred Breedlove, Attorney and George Mehnert, Director

1. CALL TO ORDER

The meeting was called to order by the Chairman at approximately 9:00 a.m.

2. Roll Call

See above for members present and absent.

3. Approval of Minutes

There are no minutes to approve.

4. Continuation of the hearing on the Salt River

Witnesses who appeared: Tyler Williams, Alex Mickel, Jon Fuller.

5. Call for public comment.

No comment sheets were received.

6. Future meeting dates.

See Adjournment.

7. Adjournment.

Hearing was recessed at approximately 5:00 p.m. and was scheduled to reconvene at 9:00 a.m. on October 22, 2015.

**COMBINED MEETING MINUTES
Salt River Hearing Phoenix**

October 22, 2015

COMMISSION MEMBERS PRESENT

Wade Noble, Bill Allen, Jim Henness, Jim Horton

COMMISSION MEMBERS ABSENT

None. Commissioner Henness left at approximately 12:00 p.m.

STAFF PRESENT

Fred Breedlove, Attorney and George Mehnert, Director

1. CALL TO ORDER

The meeting was called to order by the Chairman at approximately 9:00 a.m.

2. Roll Call

See above for members present and absent.

3. Approval of Minutes

There are no minutes to approve.

4. Continuation of the hearing on the Salt River

Witnesses who appeared: Brad Dimock, Jon Fuller.

5. Call for public comment.

No comment sheets were received.

6. Future meeting dates.

See Adjournment.

7. Adjournment.

Hearing was recessed at approximately 4:40 p.m. and was scheduled to reconvene at 9:00 a.m. on October 23, 2015.

**COMBINED MEETING MINUTES
Salt River Hearing Phoenix**

October 23, 2015

COMMISSION MEMBERS PRESENT

Wade Noble, Bill Allen, Jim Henness, Jim Horton

COMMISSION MEMBERS ABSENT

None. Commissioner Henness left at approximately 12:00 p.m.

STAFF PRESENT

Fred Breedlove, Attorney and George Mehnert, Director

1. CALL TO ORDER

The meeting was called to order by the Chairman at approximately 9:00 a.m.

2. Roll Call

See above for members present and absent.

3. Approval of Minutes

There are no minutes to approve.

4. Continuation of the hearing on the Salt River

Witnesses who appeared: Jon Fuller.

5. Call for public comment.

No comment sheets were received.

6. Future meeting dates.

See Adjournment.

7. Adjournment.

Hearing was recessed at approximately 4:25 p.m. and was scheduled to reconvene at 9:00 a.m. on November 17, 2015.

COMBINED MEETING MINUTES
Salt River Hearing Phoenix

November 17, 2015

COMMISSION MEMBERS PRESENT

Wade Noble, Bill Allen, Jim Henness, Jim Horton

COMMISSION MEMBERS ABSENT

None.

STAFF PRESENT

Fred Breedlove, Attorney and George Mehnert, Director

1. CALL TO ORDER

The meeting was called to order by the Chairman at approximately 9:00 a.m.

2. Roll Call

See above for members present and absent.

3. Approval of Minutes

There are no minutes to approve.

4. Continuation of the hearing on the Salt River

Witnesses who appeared: Jon Fuller.

5. Call for public comment.

No comment sheets were received.

6. Future meeting dates.

See Adjournment.

7. Adjournment.

Hearing was recessed at approximately 3:55 p.m. and was scheduled to reconvene at 9:00 a.m. on November 18, 2015.

**COMBINED MEETING MINUTES
Salt River Hearing Phoenix**

November 18, 2015

COMMISSION MEMBERS PRESENT

Wade Noble, Bill Allen, Jim Henness, Jim Horton

COMMISSION MEMBERS ABSENT

None. Commissioner Henness left at approximately 11:55 p.m.

STAFF PRESENT

Fred Breedlove , Attorney and George Mehnert, Director

1. CALL TO ORDER

The meeting was called to order by the Chairman at approximately 9:00 a.m.

2. Roll Call

See above for members present and absent.

3. Approval of Minutes

There are no minutes to approve.

4. Continuation of the hearing on the Salt River

Witnesses who appeared: Jon Fuller, Allen Gookin.

5. Call for public comment.

No comment sheets were received.

6. Future meeting dates.

See Adjournment.

7. Adjournment.

Hearing was recessed at approximately 4:25 p.m. and was scheduled to reconvene at 9:00 a.m. on November 19, 2015.

COMBINED MEETING MINUTES
Salt River Hearing Phoenix

November 19, 2015

COMMISSION MEMBERS PRESENT

Wade Noble, Bill Allen, Jim Henness, Jim Horton

COMMISSION MEMBERS ABSENT

None.

STAFF PRESENT

Fred Breedlove, Attorney and George Mehnert, Director

1. CALL TO ORDER

The meeting was called to order by the Chairman at approximately _ a.m.

2. Roll Call

See above for members present and absent.

3. Approval of Minutes

There are no minutes to approve.

4. Continuation of the hearing on the Salt River

Witnesses who appeared: Allen Gookin.

5. Call for public comment.

No comment sheets were received.

6. Future meeting dates.

See Adjournment.

7. Adjournment.

Hearing was recessed at approximately 5:05 p.m. and was scheduled to reconvene at 9:00 a.m. on November 20, 2015.

COMBINED MEETING MINUTES
Salt River Hearing Phoenix

November 20, 2015

COMMISSION MEMBERS PRESENT

Wade Noble, Bill Allen, Jim Henness, Jim Horton

COMMISSION MEMBERS ABSENT

None.

STAFF PRESENT

Fred Breedlove, Attorney and George Mehnert, Director

1. CALL TO ORDER

The meeting was called to order by the Chairman at approximately 9:05 a.m.

2. Roll Call

See above for members present and absent.

3. Approval of Minutes

There are no minutes to approve.

4. Continuation of the hearing on the Salt River

Witnesses who appeared: Allen Gookin.

5. Call for public comment.

No comment sheets were received.

6. Future meeting dates.

See Adjournment.

7. Adjournment.

Hearing was recessed at approximately 3:28 p.m. and was scheduled to reconvene at 9:00 a.m. on January 26, 2016.

COMBINED MEETING MINUTES
Salt River Hearing Phoenix

January 26, 2016

COMMISSION MEMBERS PRESENT

Wade Noble, Bill Allen, Jim Henness, Jim Horton

COMMISSION MEMBERS ABSENT

None.

STAFF PRESENT

Matt Rojas, Attorney and George Mehnert, Director

1. CALL TO ORDER

The meeting was called to order by the Chairman at approximately 9:00 a.m.

2. Roll Call

See above for members present and absent.

3. Approval of Minutes

There are no minutes to approve.

4. Hearing on the Salt River

Witnesses who appeared: Jack August.

5. Call for public comment.

No comment sheets were received.

6. Future meeting dates.

See Adjournment.

7. Adjournment.

Hearing was recessed at approximately 4:30 p.m. and was scheduled to reconvene at 9:00 a.m. on January 27, 2016.

**COMBINED MEETING MINUTES
Salt River Hearing Phoenix**

January 27, 2016

COMMISSION MEMBERS PRESENT

Wade Noble, Bill Allen, Jim Henness, Jim Horton

COMMISSION MEMBERS ABSENT

None. Jim Henness left at approximately 11:40 a.m.

STAFF PRESENT

Matt Rojas, Attorney and George Mehnert, Director

1. CALL TO ORDER

The meeting was called to order by the Chairman at approximately 9:00 a.m.

2. Roll Call

See above for members present and absent.

3. Approval of Minutes

There are no minutes to approve.

4. Continuation of the hearing on the Salt River

Witnesses who appeared: Jack August, Robert Mussetter.

5. Call for public comment.

No comment sheets were received.

6. Future meeting dates.

See Adjournment.

7. Adjournment.

Hearing was recessed at approximately 3:55 p.m. and was scheduled to reconvene at 9:00 a.m. on January 28, 2016.

**COMBINED MEETING MINUTES
Salt River Hearing Phoenix**

January 28, 2016

COMMISSION MEMBERS PRESENT

Wade Noble, Bill Allen, Jim Henness, Jim Horton

COMMISSION MEMBERS ABSENT

None.

STAFF PRESENT

Matt Rojas, Attorney and George Mehnert, Director

1. CALL TO ORDER

The meeting was called to order by the Chairman at approximately 9:00 a.m.

2. Roll Call

See above for members present and absent.

3. Approval of Minutes

There are no minutes to approve.

4. Continuation of the hearing on the Salt River

Witnesses who appeared: Robert Mussetter.

5. Call for public comment.

No comment sheets were received.

6. Future meeting dates.

See Adjournment.

7. Adjournment.

Hearing was recessed at approximately 5:00 p.m. and was scheduled to reconvene at 9:00 a.m. on January 29, 2016.

**COMBINED MEETING MINUTES
Salt River Hearing Phoenix**

January 29, 2016

COMMISSION MEMBERS PRESENT

Wade Noble, Bill Allen, Jim Henness, Jim Horton

COMMISSION MEMBERS ABSENT

None. Commissioner Henness left at 12:00 p.m.

STAFF PRESENT

Matt Rojas, Attorney and George Mehnert, Director

1. CALL TO ORDER

The meeting was called to order by the Chairman at approximately 9:05 a.m.

2. Roll Call

See above for members present and absent.

3. Approval of Minutes

There are no minutes to approve.

4. Continuation of the hearing on the Salt River

Witnesses who appeared: Robert Mussetter.

5. Call for public comment.

No comment sheets were received.

6. Future meeting dates.

See Adjournment.

7. Adjournment.

Hearing was recessed at approximately 3:45 p.m. and was scheduled to reconvene at 9:00 a.m. on February 23, 2016.

**COMBINED MEETING MINUTES
Salt River Hearing Phoenix**

February 23, 2016

COMMISSION MEMBERS PRESENT

Wade Noble, Bill Allen, Jim Henness, Jim Horton

COMMISSION MEMBERS ABSENT

None.

STAFF PRESENT

Matt Rojas, Attorney and George Mehnert, Director

1. CALL TO ORDER

The meeting was called to order by the Chairman at approximately 9:05a.m.

2. Roll Call

See above for members present and absent.

3. Approval of Minutes

Approval of Minutes for December 15, 2015

Motion by: Jim Henness

Second by: Jim Horton

All Aye

4. Continuation of hearing on the Salt River

Witnesses who appeared: Rich Burtell.

5. Call for public comment.

No comment sheets were received.

6. Future meeting dates.

See Adjournment.

7. Adjournment.

Hearing was recessed at approximately 4:35 p.m. and was scheduled to reconvene at 9:00 a.m. on February 24, 2016.

COMBINED MEETING MINUTES
Salt River Hearing

February 24, 2016

COMMISSION MEMBERS PRESENT

Wade Noble, Bill Allen, Jim Henness, Jim Horton

COMMISSION MEMBERS ABSENT

None. Commissioner Henness left at approximately 12:10 p.m.

STAFF PRESENT

Matt Rojas, Attorney and George Mehnert, Director

1. CALL TO ORDER

The meeting was called to order by the Chairman at approximately 9:00 a.m.

2. Roll Call

See above for members present and absent.

3. Approval of Minutes

There are no minutes to approve.

4. Hearing on the Salt River

Witnesses who appeared: Rich Burtell, Douglas Littlefield.

5. Call for public comment.

No comment sheets were received.

6. Future meeting dates.

See Adjournment.

7. Adjournment.

Hearing was recessed at approximately 5:05 p.m. and was scheduled to reconvene at 9:00 a.m. on February 25, 2016.

**COMBINED MEETING MINUTES
Salt River Hearing Phoenix**

February 25, 2016

COMMISSION MEMBERS PRESENT

Wade Noble, Bill Allen, Jim Henness, Jim Horton

COMMISSION MEMBERS ABSENT

None.

STAFF PRESENT

Matt Rojas, Attorney and George Mehnert, Director

1. CALL TO ORDER

The meeting was called to order by the Chairman at approximately 9:00 a.m.

2. Roll Call

See above for members present and absent.

3. Approval of Minutes

There are no minutes to approve.

4. Continuation of the hearing on the Salt River

Witnesses who appeared: Rich Burtell. Douglas Littlefield.

5. Call for public comment.

No comment sheets were received.

6. Future meeting dates.

See Adjournment.

7. Adjournment.

Hearing was recessed at approximately 5:05 p.m. and was scheduled to reconvene at 9:00 a.m. on February 26, 2016.

**COMBINED MEETING MINUTES
Salt River Hearing Phoenix**

February 26, 2016

COMMISSION MEMBERS PRESENT

Wade Noble, Bill Allen, Jim Henness, Jim Horton

COMMISSION MEMBERS ABSENT

None. Commissioner Henness left at approximately 1:30 p.m.

STAFF PRESENT

Matt Rojas, Attorney and George Mehnert, Director

1. CALL TO ORDER

The meeting was called to order by the Chairman at approximately 9:00 a.m.

2. Roll Call

See above for members present and absent.

3. Approval of Minutes

There are no minutes to approve.

4. Continuation of the hearing on the Salt River

Witnesses who appeared: Allen Cookin.

5. Call for public comment.

No comment sheets were received.

6. Future meeting dates.

See Adjournment.

7. Adjournment.

Hearing was recessed at approximately 1:50 p.m. and hearing was scheduled to reconvene at 9:00 a.m. on March 10, 2016. Following recess movie "Quartzsite's Falls" was played for those in attendance who wanted to watch it.

COMBINED MEETING MINUTES
Salt River Hearing Phoenix

March 10, 2016

COMMISSION MEMBERS PRESENT

Wade Noble, Bill Allen, Jim Henness, Jim Horton

COMMISSION MEMBERS ABSENT

None.

STAFF PRESENT

Matt Rojas, Attorney and George Mehnert, Director

1. CALL TO ORDER

The meeting was called to order by the Chairman at approximately 9:00 a.m.

2. Roll Call

See above for members present and absent.

3. Approval of Minutes

There are no minutes to approve.

4. Continuation of the hearing on the Salt River

Witnesses who appeared: Douglas Littlefield.

5. Call for public comment.

No comment sheets were received.

6. Future meeting dates.

See Adjournment.

7. Adjournment.

Hearing was recessed at approximately 4:57 p.m. and was scheduled to reconvene at 9:00 a.m. on March 11, 2016.

COMBINED MEETING MINUTES
Salt River Hearing Phoenix

March 11, 2016

COMMISSION MEMBERS PRESENT

Wade Noble, Bill Allen, Jim Henness, Jim Horton

COMMISSION MEMBERS ABSENT

None. Commissioner Henness left at approximately 1:30 p.m.

STAFF PRESENT

Matt Rojas, Attorney and George Mehnert, Director

1. CALL TO ORDER

The meeting was called to order by the Chairman at approximately 9:00 a.m.

2. Roll Call

See above for members present and absent.

3. Approval of Minutes

There are no minutes to approve.

4. Continuation of the hearing on the Salt River

Witnesses who appeared: Douglas Littlefield.

5. Call for public comment.

No comment sheets were received.

6. Future meeting dates.

See Adjournment.

7. Adjournment.

Hearing was recessed at approximately 4:50 p.m. and was scheduled to reconvene at 9:00 a.m. on March 30, 2016.

**COMBINED MEETING MINUTES
Salt River Hearing Phoenix**

March 30, 2016

COMMISSION MEMBERS PRESENT

Wade Noble, Bill Allen, Jim Henness, Jim Horton

COMMISSION MEMBERS ABSENT

None. Commissioner Henness left at approximately 1:20 p.m.

STAFF PRESENT

Matt Rojas, Attorney and George Mehnert, Director

1. CALL TO ORDER

The meeting was called to order by the Chairman at approximately 9:00 a.m.

2. Roll Call

See above for members present and absent.

3. Approval of Minutes

There are no minutes to approve.

4. Continuation of the hearing on the Salt River

Witnesses who appeared: Douglas Littlefield, Mark Newell.

5. Call for public comment.

No comment sheets were received.

6. Future meeting dates.

See Adjournment.

7. Adjournment.

Hearing was recessed at approximately 5:05 p.m. and was scheduled to reconvene at 9:00 a.m. on March 31, 2016.

COMBINED MEETING MINUTES
Salt River Hearing Phoenix

March 31, 2016

COMMISSION MEMBERS PRESENT

Wade Noble, Bill Allen, Jim Hennes

COMMISSION MEMBERS ABSENT

Commissioner Horton.

STAFF PRESENT

Matt Rojas, Attorney and George Mehnert, Director

1. CALL TO ORDER

The meeting was called to order by the Chairman at approximately 9:25 a.m.

2. Roll Call

See above for members present and absent.

3. Approval of Minutes

There are no minutes to approve.

4. Continuation of the hearing on the Salt River

Witnesses who appeared: Mark Newell.

5. Call for public comment.

No comment sheets were received.

6. Future meeting dates.

See Adjournment.

7. Adjournment.

Hearing was recessed at approximately 3:50 p.m. and was scheduled to reconvene at 9:00 a.m. on May 17, 2016.

COMBINED MEETING MINUTES
Salt River Hearing Phoenix

May 17, 2016

COMMISSION MEMBERS PRESENT

Wade Noble, Bill Allen, Jim Hennes

COMMISSION MEMBERS ABSENT

Commissioner Horton.

STAFF PRESENT

Matt Rojas, Attorney and George Mehnert, Director

1. CALL TO ORDER

The meeting was called to order by the Chairman at approximately 9:00 a.m.

2. Roll Call

See above for members present and absent.

3. Approval of Minutes

There are no minutes to approve.

4. Continuation of the hearing on the Salt River

Witnesses who appeared: Robert Mussetter, Jon Fuller.

5. Call for public comment.

No comment sheets were received.

6. Future meeting dates.

See Adjournment.

7. Adjournment.

Hearing was recessed at approximately 4:30 p.m. and was scheduled to reconvene at 9:00 a.m. on May 18, 2016.

COMBINED MEETING MINUTES
Salt River Hearing Phoenix

May 18, 2016

COMMISSION MEMBERS PRESENT

Wade Noble, Bill Allen, Jim Hennes

COMMISSION MEMBERS ABSENT

Commissioner Horton.

STAFF PRESENT

Matt Rojas, Attorney and George Mehnert, Director

1. CALL TO ORDER

The meeting was called to order by the Chairman at approximately 9:00a.m.

2. Roll Call

See above for members present and absent.

3. Approval of Minutes

There are no minutes to approve.

4. Continuation of the hearing on the Salt River

Witnesses who appeared: Jon Fuller.

5. Call for public comment.

No comment sheets were received.

6. Future meeting dates.

See Adjournment.

7. Adjournment.

Hearing was recessed at approximately 4:00 p.m. and was scheduled to reconvene at 9:00 a.m. on May 19, 2016.

**COMBINED MEETING MINUTES
Salt River Hearing Phoenix**

May 19, 2016

COMMISSION MEMBERS PRESENT

Wade Noble, Bill Allen, Jim Hennes

COMMISSION MEMBERS ABSENT

Commissioner Horton.

STAFF PRESENT

Matt Rojas, Attorney and George Mehnert, Director

1. CALL TO ORDER

The meeting was called to order by the Chairman at approximately 9:00a.m.

2. Roll Call

See above for members present and absent.

3. Approval of Minutes

There are no minutes to approve.

4. Continuation of the hearing on the Salt River

Witnesses who appeared: Jon Fuller.

5. Call for public comment.

No comment sheets were received.

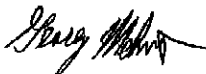
6. Future meeting dates.

None scheduled.

7. Adjournment.

Hearing was adjourned at approximately 4:30 p.m.

Respectfully submitted



George Mehnert, Director

May 23, 2016