

BEFORE THE
ARIZONA NAVIGABLE STREAM ADJUDICATION COMMISSION

IN THE MATTER OF THE
NAVIGABILITY OF THE SANTA
MARIA RIVER FROM ITS
HEADWATERS TO ITS CONFLUENCE
WITH THE BIG SANDY RIVER,
YAVAPAI, MOHAVE AND LA PAZ
COUNTIES, ARIZONA

No.: 05-005-NAV

**REPORT, FINDINGS AND DETERMINATION
REGARDING THE NAVIGABILITY OF THE SANTA MARIA
RIVER FROM ITS HEADWATERS TO ITS CONFLUENCE
WITH THE BIG SANDY RIVER**

BEFORE THE
ARIZONA NAVIGABLE STREAM ADJUDICATION COMMISSION

IN THE MATTER OF THE
NAVIGABILITY OF THE SANTA
MARIA RIVER FROM ITS
HEADWATERS TO ITS CONFLUENCE
WITH THE BIG SANDY RIVER,
YAVAPAI, MOHAVE AND LA PAZ
COUNTIES, ARIZONA

No.: 05-005-NAV

**REPORT, FINDINGS AND DETERMINATION
REGARDING THE NAVIGABILITY OF THE SANTA MARIA
RIVER FROM ITS HEADWATERS TO ITS CONFLUENCE
WITH THE BIG SANDY RIVER**

Pursuant to Title 37, Chapter 7, Arizona Revised Statutes, the Arizona Navigable Stream Adjudication Commission ("Commission") has undertaken to receive, compile, review and consider relevant historical and scientific data and information, documents and other evidence regarding the issue of whether the Santa Maria River from its headwaters to its confluence with the Big Sandy River was navigable or nonnavigable for title purposes as of February 14, 1912. Proper and legal public notice was given in accordance with law and a hearing was held at which all parties were afforded the opportunity to present evidence, as well as their views, on this issue. The Commission having considered all of the historical and scientific data and information, documents and other evidence, including the oral and written presentations made by persons appearing at the public hearing and being fully advised in the premises, hereby submits its report, findings and determination.

I. Procedure

Pursuant to A.R.S. § 37-1123(B), the Commission gave proper notice by publication of its intent to receive, compile, review, study and consider all relevant historical and scientific data and information and comments, and other evidence regarding the issue of navigability or nonnavigability of the Santa Maria River from its headwaters in Yavapai County through the counties of Yavapai, Mohave and La Paz to its confluence with the Big Sandy River in Mohave County and La Paz Counties. The notice was published on February 10, February 17 and February 24, 2005 in the Prescott Courier published in Prescott, Yavapai County, Arizona; on June 17, June 24 and July 1, 2005 in the Kingman Daily Miner published in Kingman, Mohave County, Arizona; and on June 22, June 29, July 6, 2005 in the Parker Pioneer published in Parker, La Paz County, Arizona. Copies of the Notices of Intent to receive, compile, review, study and consider evidence on the issue of navigability of Santa Maria River in Yavapai, Mohave and La Paz Counties, Arizona, are attached hereto as Exhibit "A."

After collecting and documenting all reasonably available evidence received pursuant to the Notice of Intent to receive, compile, review, study and consider evidence, the Commission scheduled public hearings to receive additional evidence and testimony regarding the navigability or nonnavigability of Santa Maria River in Yavapai, Mohave and La Paz Counties. Public notice of these hearings was given by legal advertising for the Yavapai County hearing on March 4, 2005 and a correction on March 4, 2005 in the Prescott Courier published in Prescott, Yavapai County, Arizona; on February 25, 2005 and a correction on March 4, 2005 in the Arizona Republic, a newspaper of general circulation in Arizona; for the Mohave County hearing on July 7, 2005 in the Kingman Daily Miner, published in Kingman, Mohave County, Arizona; and on July 8, 2005 in the Arizona Republic, a newspaper of general circulation in Arizona published in Phoenix, Maricopa County, Arizona; and on July 8, 2005 in the

Parker Pioneer published in Parker, La Paz County, Arizona; and on July 8, 2005 in the Arizona Republic, a newspaper of general circulation in Arizona, published in Phoenix, Maricopa County, Arizona, pursuant to A.R.S. § 37-1126 and, in addition, by mail to all those requesting individual notice and by means of the ANSAC website (azstreambeds.com). The hearing for Yavapai County was held on March 29, 2005, in the City of Prescott, the county seat of Yavapai County; for Mohave County on August 8, 2005, in the City of Kingman, the county seat of Mohave County; and on August 9, 2005, in the City of Parker, the county seat of La Paz County. These hearings were held in the county seats of each county through which the Santa Maria River flows to give the greatest opportunity possible for any person interested to appear and provide evidence or testimony on the navigability of Santa Maria River in their county and, further, because the law requires that such hearings be held in the counties in which the watercourse being studied is located. Attached hereto as Exhibit "B" are copies of the notices of the public hearing.

All parties were advised that anyone who desired to appear and give testimony at a public hearing could do so and, in making its findings and determination as to navigability and nonnavigability of the Santa Maria River from its headwaters to its confluence with the Big Sandy River, the Commission would consider all matters presented to it at the hearings, as well as other historical and scientific data, information, documents and evidence that had been submitted to the Commission at any time prior to the date of the hearing, including all data, information, documents and evidence previously submitted to the Commission under prior law. Following the final public hearing on the Santa Maria River held on August 9, 2005, in Parker, Arizona, all parties were advised that they could file post-hearing memoranda pursuant to the Commission Rules. Two post-hearing memoranda were filed by the parties, including Salt River Project Agricultural Improvement and Power District and Salt

River Valley Water User's Association, and Phelps Dodge Corporation, now known as Freeport-McMoRan Copper & Gold, Inc. Attached as Exhibit "C" is a list of the post hearing memoranda filed by the various parties.

On October 20, 2005, at a public hearing in Phoenix, Arizona, after considering all of the evidence and testimony submitted and the post-hearing memoranda filed with the Commission, and the comments and oral argument presented by the parties, and being fully advised in the premises, the Commission, with a unanimous vote, found and determined in accordance with A.R.S. § 37-1128 that the Santa Maria River from its headwaters in Yavapai County, through Mohave County and La Paz County, to its confluence with the Big Sandy River in Mohave County, Arizona, was nonnavigable as of February 14, 1912 nor was it susceptible of navigability. A copy of the notice for the hearing held on October 20, 2005 at Phoenix, Arizona, is attached as a part of Exhibit "B." Copies of the agenda and minutes of all of the hearings held on March 29, 2005 in Prescott, Yavapai County, Arizona; on August 8, 2005 in Kingman, Mohave County, Arizona; on August 9, 2005 in Parker, La Paz County, Arizona; and on October 20, 2005, in Phoenix, Maricopa County, Arizona, are attached hereto as Exhibit "D."

II. The Santa Maria River from its Headwaters to its Confluence with the Big Sandy River

The Santa Maria River has its headwaters in Yavapai County near the Luis Maria Baca Float No. 5 and flows southwesterly through Yavapai County, crossing U.S. Highway 93 and into Mohave County and La Paz County where it meets and converges with the Big Sandy River just upstream of Alamo Lake. In the lower part of its reach, it forms the boundary between Mohave and La Paz Counties. The Santa Maria River and the Big Sandy River, which has as its major tributary Burro Creek, are the main tributaries of the Bill Williams River. In point of fact, the confluence of the Big Sandy River and the Santa Maria River form the beginning of the Bill Williams River, which

then travels 35 miles until it flows into the Colorado River. These four (4) rivers and their minor tributaries constitute a major drainage system known as the Bill Williams River Basin. The terrain through which they flow is very similar and all four could have been studied and treated as a single, complex watercourse. A number of the reports and evidentiary submittals consider more than one river. For example, there is a single Arizona Stream Navigability Study for the Big Sandy River, Burro Creek and Santa Maria River prepared by J E Fuller Hydrology & Geomorphology, Inc., in association with SWCA, Inc. Environmental Consultants and the Arizona Geological Society dated January 18, 1999 and reviewed in June 2004. However, each was treated as a separate major watercourse and together they flow through three (3) different contiguous counties of the State (Yavapai, Mohave and La Paz) and separate hearings were held for each one so a separate report has been prepared for each river course. When finally approved, each report will be recorded in the counties through which it flows. This report deals solely with the Santa Maria River, but does consider evidence submitted on the other three (3) watercourses where appropriate.

The origin of the Santa Maria River is located 5 miles east of Muleshoe Ranch in Yavapai County in the Santa Maria Mountains at approximately latitude 34° 31' 15" North, longitude 113° 01' 23" West in the Southeast Quarter of Section 19, Township 14 North, Range 7 West, Gila and Salt River Base and Meridian. For the first few miles the Santa Maria River flows south past Chimney Rock through deep canyons, then turns southwest. The Santa Maria then flows past Grayback Mountain and Ives Peak, southeast of the town of Bagdad. It crosses State Highway 96 and turning westerly crosses U.S. Highway 93. It then turns more westerly and, when it crosses the Yavapai County line, it forms the boundary between Mohave and La Paz Counties and flows west and southwest until it joins the Big Sandy River at approximately latitude 34° 18' 30" North, longitude 113° 31' 38" West in the Southwest Quarter of Section 8, Township

11 North, Range 12 West, Gila and Salt River Base and Meridian. At this point water is backed up into the mouths of both rivers by Alamo Reservoir which is created by Alamo Dam downstream. Below Alamo Dam the combined rivers are called the Bill Williams River.

For most of its length, the Santa Maria River flows through narrow steep-walled canyons which limit it to a single channel with little space for lateral channel migration. Bedrock is near the surface in many places, but there are some alluvial reaches that are narrow and limited. For the final few miles of the flow of the Santa Maria before the confluence with the Big Sandy River, the canyons open up into a wide basin with more alluvial deposits. The Santa Maria River is 57 miles in length and has a watershed drainage area of 1,520 square miles. The highest elevation on the Santa Maria River watershed is 7,626 feet at a peak in the Kirkland Creek subbasin and the lowest is 1,120 at its confluence with the Big Sandy River.

The Santa Maria River is considered a perennial stream, although it has less water flow than either the Big Sandy River or Burro Creek. Some reaches of the Santa Maria are dry during seasons of little rainfall. Its main tributaries are Bridle Creek, Kirkland Creek, Date Creek, and numerous other unnamed creeks and washes. The Santa Maria watershed is bounded by the Prescott National Forest on the north and east, Bozarth Mesa and Blue Mountain on the northwest, and Weaver Mountain and the Date Creek Mountains to the south and east. The climate within the Santa Maria River watershed varies significantly with elevation. Annual precipitation is 12 to 15 inches in the mountainous high elevation areas and drops to a low of 5 to 6 inches near its mouth at Alamo Lake. Likewise, the vegetation varies substantially within the watershed basin depending upon altitude. Piñon and juniper woodlands are found at the higher mountain levels, and cacti and riparian species are found in the lower elevations. Maps of the Santa Maria River watershed are attached hereto as Exhibit "E."

III. Background and Historical Perspectives

A. Public Trust Doctrine and Equal Footing Doctrine

The reason for the legislative mandated study of navigability of watercourses within the state is to determine who holds title to the beds and banks of such rivers and watercourses. Under the Public Trust Doctrine, as developed by common law over many years, the tidal lands and beds of navigable rivers and watercourses, as well as the banks up to the high water mark, are held by the sovereign in a special title for the benefit of all the people. In quoting the U. S. Supreme Court, the Arizona Court of Appeals described the Public Trust Doctrine in its decision in *The Center for Law v. Hassell*, 172 Arizona 356, 837 P.2d 158 (App. 1991), *review denied* (October 6, 1992).

An ancient doctrine of common law restricts the sovereign's ability to dispose of resources held in public trust. This doctrine, integral to watercourse sovereignty, was explained by the Supreme Court in *Illinois Cent. R.R. v. Illinois*, 146 U.S. 387, 13 S.Ct. 110, 36 L.Ed. 1018 (1892). A state's title to lands under navigable waters is a title different in character from that which the State holds in lands intended for sale. . . . It is a title held in trust for the people of the State that they may enjoy the navigation of the waters, carry on commerce over them, and have liberty of fishing therein freed from the obstruction or interference of private parties. *Id.* at 452, 13 S.Ct. at 118; *see also Martin v. Waddell*, 41 U.S. (16 Pet.) at 413 (describing watercourse sovereignty as "a public trust for the benefit of the whole community, to be freely used by all for navigation and fishery, as well for shellfish as floating fish").

Id., 172 Ariz. at 364, 837 P.2d at 166.

This doctrine is quite ancient and was first formally codified in the Code of the Roman Emperor Justinian between 529 and 534 A.D.¹ The provisions of this Code, however, were based, often verbatim, upon much earlier institutes and journals of Roman and Greek law. Some historians believe that the doctrine has even earlier progenitors in the rules of travel on rivers and waterways in ancient Egypt and

¹ Putting the Public Trust Doctrine to Work, David C. Slade, Esq. (Nov. 1990), pp. xvii and 4.

Mesopotamia. This rule evolved through common law in England which established that the king as sovereign owned the beds of commercially navigable waterways in order to protect their accessibility for commerce, fishing and navigation for his subjects. In England the beds of non-navigable waterways where transportation for commerce was not an issue were owned by the adjacent landowners.

This principle was well established by English common law long before the American Revolution and was a part of the law of the American colonies at the time of the Revolution. Following the American Revolution, the rights, duties and responsibilities of the crown passed to the thirteen new independent states, thus making them the owners of the beds of commercially navigable streams, lakes and other waterways within their boundaries by virtue of their newly established sovereignty. The ownership of trust lands by the thirteen original states was never ceded to the federal government. However, in exchange for the national government's agreeing to pay the debts of the thirteen original states incurred in financing the Revolutionary War, the states ceded to the national government their undeveloped western lands. In the Northwest Ordinance of 1787, adopted just prior to the ratification of the U. S. Constitution and subsequently re-enacted by Congress on August 7, 1789, it was provided that new states could be carved out of this western territory and allowed to join the Union and that they "shall be admitted . . . on an equal footing with the original states, in all respects whatsoever." (Ordinance of 1787: The Northwest Territorial Government, § 14, Art. V, 1 stat. 50. See also U. S. Constitution, Art. IV, Section 3). This has been interpreted by the courts to mean that on admission to the Union, the sovereign power of ownership of the beds of navigable streams passes from the federal government to the new state. *Pollard's Lessee v. Hagan, et al.*, 44 U.S. (3 How.) 212 (1845), and *Utah Division of State Lands v. United States*, 482 U.S. 193 (1987).

In discussing the Equal Footing Doctrine as it applies to the State's claim to title of beds and banks of navigable streams, the Court of Appeals stated in *Hassell*:

The state's claims originated in a common-law doctrine, dating back at least as far as Magna Charta, vesting title in the sovereign to lands affected by the ebb and flow of tides. See *Martin v. Waddell*, 41 U.S. (16 Pet.) 367, 412-13, 10 L.Ed. 997 (1842). The sovereign did not hold these lands for private usage, but as a "high prerogative trust . . . , a public trust for the benefit of the whole community." *Id.* at 413. In the American Revolution, "when the people . . . took into their own hands the powers of sovereignty, the prerogatives and regalities which before belong either to the crown or the Parliament, became immediately and rightfully vested in the state." *Id.* at 416.

Although watercourse sovereignty ran with the tidewaters in England, an island country, in America the doctrine was extended to navigable inland watercourses as well. See *Barney v. Keokuk*, 94 U.S. 324, 24 L.Ed. 224 (1877); *Illinois Cent. R.R. v. Illinois*, 146 U.S. 387, 434, 13 S.Ct. 110, 111, 36 L.Ed. 1018 (1892). Moreover, by the "equal footing" doctrine, announced in *Pollard's Lessee v. Hagan*, 44 U.S. (3 How.) 212, 11 L.Ed. 565 (1845), the Supreme Court attributed watercourse sovereignty to future, as well as then-existent, states. The Court reasoned that the United States government held lands under territorial navigable waters in trust for future states, which would accede to sovereignty on an "equal footing" with established states upon admission to the Union. *Id.* at 222-23, 229; accord *Montana v. United States*, 450 U.S. 544, 101 S.Ct. 1245, 67 L.Ed.2d 493 (1981); *Land Department v. O'Toole*, 154 Ariz. 43, 44, 739 P.2d 1360, 1361 (App. 1987).

The Supreme Court has grounded the states' watercourse sovereignty in the Constitution, observing that "[t]he shores of navigable waters, and the soils under them, were not granted by the Constitution to the United States, but were reserved to the states respectively." *Pollard's Lessee*, 44 U.S. (3 How.) at 230; see also *Oregon ex rel. State Land Board v. Corvallis Sand & Gravel Co.*, 429 U.S. 363, 374, 97 S.Ct. 582, 589, 50 L.Ed.2d 550 (1977) (states' "title to lands underlying navigable waters within [their] boundaries is conferred . . . by the [United States] constitution itself").

Id., 172 Ariz. 359-60, 837 P.2d at 161-162.

In the case of Arizona, the "equal footing" doctrine means that if any stream or watercourse within the State of Arizona was navigable on February 14, 1912, the date Arizona was admitted to the Union, the title to its bed is held by the State of Arizona in a special title under the public trust doctrine. If the stream was not navigable on that date, ownership of the streambed remained in such ownership as it was prior to statehood--the United States if federal land, or some private party if it had previously

been patented or disposed of by the federal government--and could later be sold or disposed of in the manner of other land since it had not been in a special or trust title under the public trust doctrine. Thus, in order to determine title to the beds of rivers, streams, and other watercourses within the State of Arizona, it must be determined whether or not they were navigable or non-navigable as of the date of statehood.

B. Legal Precedent to Current State Statutes

Until 1985, most Arizona residents assumed that all rivers and watercourses in Arizona, except for the Colorado River, were non-navigable and accordingly there was no problem with the title to the beds and banks of any rivers, streams or other watercourses. However, in 1985 Arizona officials upset this long-standing assumption and took action to claim title to the bed of the Verde River. *Land Department v. O'Toole*, 154 Ariz. 43, 739 P.2d 1360 (App. 1987). Subsequently, various State officials alleged that the State might hold title to certain lands in or near other watercourses as well. *Id.*, 154 Ariz. at 44, 739 P.2d at 1361. In order to resolve the title questions to the beds of Arizona rivers and streams, the Legislature enacted a law in 1987 substantially relinquishing the state's interest in any such lands.² With regard to the Gila, Verde and Salt Rivers, this statute provided that any record title holder of lands in or near the beds of those rivers could obtain a quitclaim deed from the State Land Commissioner for all of the interest the state might have in such lands by the payment of a quitclaim fee of \$25.00 per acre. The Arizona Center for Law in the Public Interest filed suit against Milo J. Hassell in his capacity as State Land Commissioner, claiming that the statute was unconstitutional under the public trust doctrine and gift clause of the Arizona Constitution as no determination had been made of what interest the state had in such

² Prior to the enactment of the 1987 statute, the Legislature made an attempt to pass such a law, but the same was vetoed by the Governor. The 1987 enactment was signed by the Governor and became law. 1987 Arizona Session Laws, Chapter 127.

lands and what was the reasonable value thereof so that it could be determined that the state was getting full value for the interests it was conveying. The Superior Court entered judgment in favor of the defendants and an appeal was taken. In its decision in *Hassell*, the Court of Appeals held that this statute violated the public trust doctrine and the Arizona Constitution and further set forth guidelines under which the state could set up a procedure for determining the navigability of rivers and watercourses in Arizona. In response to this decision, the Legislature established the Arizona Navigable Stream Adjudication Commission and enacted the statutes pertaining to its operation. 1992 Arizona Session Laws, Chapter 297 (1992 Act). The charge given to the Commission by the 1992 Act was to conduct full evidentiary public hearings across the state and to adjudicate the State's claims to ownership of lands in the beds of watercourses. *See generally* former A.R.S. §§ 37-1122 to -1128.

The 1992 Act provided that the Commission would make findings of navigability or non-navigability for each watercourse. *See* former A.R.S. § 37-1128(A). Those findings were based upon the "federal test" of navigability in former A.R.S. § 37-1101(6). The Commission would examine the "public trust values" associated with a particular watercourse only if and when it determined that the watercourse was navigable. *See* former A.R.S. §§ 37-1123(A)(3), 37-1128(A).

The Commission began to take evidence on certain watercourses during the fall of 1993 and spring of 1994. In light of perceived difficulties with the 1992 Act, the Legislature revisited this issue during the 1994 session and amended the underlying legislation. *See* 1994 Arizona Session Laws, ch. 278 ("1994 Act"). Among other things, the 1994 Act provided that the Commission would make a recommendation to the Legislature, which would then hold additional hearings and make a final determination of navigability by passing a statute with respect to each watercourse. The 1994 Act also

established certain presumptions of non-navigability and exclusions of some types of evidence.

Based upon the 1994 Act, the Commission went forth with its job of compiling evidence and making a determination of whether each watercourse in the state was navigable as of February 14, 1912. The Arizona State Land Department issued technical reports on each watercourse, and numerous private parties and public agencies submitted additional evidence in favor of or opposed to navigability for particular watercourses. See *Defenders of Wildlife v. Hull*, 199 Ariz. 411, 416, 18 P.3d 722, 727 (App. 2001). The Commission reviewed the evidence and issued reports on each watercourse, which were transmitted to the Legislature. The Legislature then enacted legislation relating to the navigability of each specific watercourse. The Court of Appeals struck down that legislation in its *Hull* decision, finding that the Legislature had not applied the proper standards of navigability. *Id.* 199 Ariz. at 427-28, 18 P.2d at 738-39.

In 2001, the Legislature again amended the underlying statute in another attempt to comply with the court's pronouncements in *Hassell* and *Hull*. See 2001 Arizona Session Laws, ch. 166, § 1. The 2001 legislation now governs the Commission in making its findings with respect to rivers, streams and watercourses.

IV. Issues Presented

The applicable Arizona statutes state that the Commission has jurisdiction to determine which, if any, Arizona watercourses were "navigable" on February 14, 1912 and for any watercourses determined to be navigable, to identify the public trust values. A.R.S. § 37-1123. A.R.S. § 37-1123A provides as follows:

A. The commission shall receive, review and consider all relevant historical and other evidence presented to the commission by the state land department and by other persons regarding the navigability or nonnavigability of watercourses in this state as of February 14, 1912, together with associated public trust values, except for evidence with respect to the Colorado river, and, after public hearings conducted pursuant to section 37-1126:

1. Based only on evidence of navigability or nonnavigability, determine which watercourses were not navigable as of February 14, 1912.
2. Based only on evidence of navigability or nonnavigability, determine which watercourses were navigable as of February 14, 1912.
3. In a separate, subsequent proceeding pursuant to section 37-1128, subsection B, consider evidence of public trust values and then identify and make a public report of any public trust values that are now associated with the navigable watercourses.

A.R.S. §§ 37-1128A and B provide as follows:

A. After the commission completes the public hearing with respect to a watercourse, the commission shall again review all available evidence and render its determination as to whether the particular watercourse was navigable as of February 14, 1912. If the preponderance of the evidence establishes that the watercourse was navigable, the commission shall issue its determination confirming the watercourse was navigable. If the preponderance of the evidence fails to establish that the watercourse was navigable, the commission shall issue its determination confirming that the watercourse was nonnavigable.

B. With respect to those watercourses that the commission determines were navigable, the commission shall, in a separate, subsequent proceeding, identify and make a public report of any public trust values associated with the navigable watercourse.

Thus, in compliance with the statutes, the Commission is required to collect evidence, hold hearings, and determine which watercourses in existence on February 14, 1912, were navigable or nonnavigable. This report pertains to the 57-mile reach of the Santa Maria River from its headwaters to its confluence with the Big Sandy River. In the hearings to which this report pertains, the Commission considered all of the available historical and scientific data and information, documents and other evidence relating to the issue of navigability of the Santa Maria River in Yavapai, Mohave and La Paz Counties, Arizona as of February 14, 1912.

Public Trust Values were not considered in these hearings but will be considered in separate, subsequent proceedings if required. A.R.S. §§ 37-1123A3 and 37-1128B. In discussing the use of an administrative body such as the Commission on issues of navigability and public trust values, the Arizona Court of Appeals in its decision in *Hassell* found that State must undertake a "particularized assessment" of its "public

trust” claims but expressly recognized that such assessment need not take place in a “full blown judicial” proceeding.

We do not suggest that a full-blown judicial determination of historical navigability and present value must precede the relinquishment of any state claims to a particular parcel of riverbed land. An administrative process might reasonably permit the systematic investigation and evaluation of each of the state’s claims. Under the present act, however, we cannot find that the gift clause requirement of equitable and reasonable consideration has been met.

Id., 172 Ariz. at 370, 837 P.2d at 172.

The 2001 *Hull* court, although finding certain defects in specific aspects of the statute then applicable, expressly recognized that a determination of “navigability” was essential to the State having any “public trust” ownership claims to lands in the bed of a particular watercourse:

The concept of navigability is “essentially intertwined” with public trust discussions and “[t]he navigability question often resolves whether any public trust interest exists in the resource at all.” Tracy Dickman Zobenica, *The Public Trust Doctrine in Arizona’s Streambeds*, 38 Ariz. L. Rev. 1053, 1058 (1996). In practical terms, this means that **before a state has a recognized public trust interest in its watercourse bedlands, it first must be determined whether the land was acquired through the equal footing doctrine. However, for bedlands to pass to a state on equal footing grounds, the watercourse overlying the land must have been “navigable” on the day that the state entered the union.**

199 Ariz. at 418, 18 P.3d at 729 (also citing *O’Toole*, 154 Ariz. at 45, 739 P.2d at 1362) (emphasis added).

The Legislature and the Court of Appeals in *Hull* have recognized that, unless the watercourse was “navigable” at statehood, the State has no “public trust” ownership claim to lands along that watercourse. Using the language of *Hassell*, if the watercourse was not “navigable,” the “validity of the equal footing claims that [the State] relinquishes” is **zero**. *Hassell*, 172 Ariz. at 371, 837 P.2d at 173. Thus, if there is no claim to relinquish, there is no reason to waste public resources determining (1) the value of any lands the State **might** own if it had a claim to ownership, (2) “equitable and reasonable considerations” relating to claims it might relinquish without

compromising the "public trust," or (3) any conditions the State might want to impose on transfers of its ownership interest. *See id.*

V. Burden of Proof

The Commission in making its findings and determinations utilized the standard of the preponderance of the evidence as the burden of proof as to whether or not a stream was navigable or nonnavigable. A.R.S. § 37-1128A provides as follows:

After the commission completes the public hearing with respect to a watercourse, the commission shall again review all available evidence and render its determination as to whether the particular watercourse was navigable as of February 14, 1912. If the preponderance of the evidence establishes that the watercourse was navigable, the commission shall issue its determination confirming that the watercourse was navigable. If the preponderance of the evidence fails to establish that the watercourse was navigable, the commission shall issue its determination confirming that the watercourse was nonnavigable.

This statute is consistent with the decision of the Arizona courts that have considered the matter. *Hull*, 199 Ariz. at 420, 18 P.3d at 731 ("... a 'preponderance' of the evidence appears to be the standard used by the courts. *See, e.g., North Dakota v. United States*, 972 F.2d 235-38 (8th Cir. 1992)"); *Hassell*, 172 Ariz. at 363, n. 10, 837 P.2d at 165, n. 10 (The question of whether a watercourse is navigable is one of fact. The burden of proof rests on the party asserting navigability . . ."); *O'Toole*, 154 Ariz. at 46, n. 2, 739 P.2d at 1363, n. 2.

The most commonly used legal dictionary contains the following definition of "preponderance of the evidence":

Evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proven is more probable than not. *Braud v. Kinchen*, La. App., 310 So.2d 657, 659. With respect to burden of proof in civil actions, means greater weight of evidence, or evidence which is more credible and convincing to the mind. That which best accords with reason and probability. The word "preponderance" means something more than "weight"; it denotes a superiority of weight, or outweighing. The words are not synonymous, but substantially different. There is generally a "weight" of evidence on each side in case of contested facts. But juries cannot properly act upon the weight of evidence, in favor of the one

having the *onus*, unless it overbear, in some degree, the weight upon the other side.

Black's Law Dictionary 1064 (5th ed. 1979).

The "preponderance of the evidence" standard is sometimes referred to as requiring "fifty percent plus one" in favor of the party with the burden of proof. One could image a set of scales. If the evidence on each side weighs exactly evenly, the party without the burden of proof must prevail. In order for the party with the burden to prevail, sufficient evidence must exist in order to tip the scales (even slightly) in its favor. See generally *United States v. Fatico*, 458 U.S. 388, 403-06 (E.D. N.Y. 1978), *aff'd* 603 F.2d 1053 (2nd Cir. 1979), *cert.denied* 444 U.S. 1073 (1980); *United States v. Schipani*, 289 F.Supp. 43, 56 (E.D.N.Y. 1968), *aff'd*, 414 F.2d 1262 (2d Cir. 1969).³

VI. Standard for Determining Navigability

The statutes defines a navigable watercourse as follows:

"Navigable" or "navigable watercourse" means a watercourse that was in existence on February 14, 1912, and at that time was used or was 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.

³ In a recent Memorandum Decision of the Arizona Court of Appeals, the Defenders of Wildlife and others through their representative, Arizona Center for Law in the Public Interest, attacked the constitutionality of the burden of proof for navigability determination by the Commission specified in A.R.S. § 37-1128(A). In that case, the Defenders claimed that the burden of proof specified in the statute conflicts with federal law and should be declared invalid because it is contrary to a presumption favoring sovereign ownership of bedlands. In discussing and rejecting *Defenders* position the Court stated: ". . . In support of this argument, Defenders cite to our decision in *Defenders*, see 199 Ariz. At 426, ¶ 54, 18 P.3d at 737, and to *United States v. Oregon*, 295 U.S. 1, 14 (1935). But neither of these decisions held that the burden of proof in a navigability determination must be placed on the party opposing navigability. Moreover, this court has twice stated that the burden of proof rests on the party asserting navigability. *Hassell*, 172 Ariz. At 363 n. 10, 837 P.2d at 165 n. 10; *O'Toole*, 154 Ariz. At 46 n. 2, 739 P.2d at 1363 n. 2. We have also recognized that a 'preponderance' of the evidence appears to be the standard used by the courts" as the burden of proof. *Defenders*, 199 Ariz. At 420, ¶ 23, 18 P.3d at 731 (citing *North Dakota v. United States*, 972 F.2d 235, 237-38 (8th Cir. 1992)). Defenders have not cited any persuasive authority suggesting that these provisions in § 37-1128(A) are unconstitutional or contrary to federal law. We agree with this court's prior statements and conclude that neither placing the burden of proof on the proponents of navigability nor specifying the burden as a preponderance of the evidence violates the State or Federal Constitutions or conflicts with federal law." *State of Arizona v. Honorable Edward O. Burke* 1 CA-SA 02-0268 and 1 CA-SA 02-0269 (Consolidated); Arizona Court of Appeals, Division One, (Memorandum Decision filed December 23, 2004).

A.R.S. § 37-1101(5).

The foregoing statutory definition is taken almost verbatim from the U.S. Supreme Court decision in *The Daniel Ball*, 77 U.S. (10 Wall) 557, 19 L.Ed. 999 (1870), which is considered by most authorities as the best statement of navigability for title purposes.⁴ In its decision, the Supreme Court stated:

Those rivers must be regarded as public navigable rivers in law which are navigable in fact. And they are navigable in fact when they are used, or are 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.

77 U.S. at 563.

In a later opinion in *U.S. v. Holt Bark*, 270 U.S. 46 (1926), the Supreme Court stated:

[Waters] which are navigable in fact must be regarded as navigable in law; that they are navigable in fact when they are used, or are susceptible of being used, in their natural and 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; and further that navigability does not depend on the particular mode in which such use is or may be had--whether by steamboats, sailing vessels or flatboats--nor on an absence of occasional difficulties in navigation, but on the fact, if it be a fact, that the [water] in its natural and ordinary condition affords a channel for useful commerce.

270 U.S. at 55-56.

The Commission also considered the following definitions contained in A.R.S. § 37-1101 to assist it in determining whether the Santa Maria River was navigable at statehood.

11. "Watercourse" means the main body or a portion or reach of any lake, river, creek, stream, wash, arroyo, channel or other body of water. Watercourse does not include a manmade water conveyance system described in paragraph 4 of this section, except to the extent that the system encompasses lands that were part of a natural watercourse as of February 14, 1912.

⁴ The *Daniel Ball* was actually an admiralty case, but the U.S. Supreme Court adopted its definition of navigability in title and equal footing cases. *Utah v. United States*, 403 U.S. 9, 91 S.Ct. 1775, 29 L.Ed.2 279 (1971) and *United States v. Oregon*, 295 U.S. 1, 55 S.Ct. 610, 70 L.Ed.2 1263 (1935).

5. "Navigable" or "navigable watercourse" means a watercourse that was in existence on February 14, 1912, and at that time was used or was 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.

3. "Highway for commerce" means a corridor or conduit within which the exchange of goods, commodities or property or the transportation of persons may be conducted.

2. "Bed" means the land lying between the ordinary high watermarks of a watercourse.

6. "Ordinary high watermark" means the line on the banks of a watercourse established by fluctuations of water and indicated by physical characteristics, such 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 by other appropriate means that consider the characteristics of the surrounding areas. Ordinary high watermark does not mean the line reached by unusual floods.

8. "Public trust land" means the portion of the bed of a watercourse that is located in this state and that is determined to have been a navigable watercourse as of February 14, 1912. Public trust land does not include land held by this state pursuant to any other trust.

Thus, the State of Arizona in its current statutes follows the Federal test for determining navigability.

VII. Evidence Received and Considered by the Commission

Pursuant to A.R.S. § 37-1123, and other provisions of Title 37, Chapter 7, Arizona Revised Statutes, the Commission received, compiled, and reviewed evidence and records regarding the navigability and nonnavigability of the Santa Maria River from its headwaters to its confluence with the Big Sandy River. Evidence consisting of studies, written documents, newspapers and other historical accounts, pictures and testimony were submitted. There were a number of separate documentary filings, the most comprehensive of which was the Preliminary and Final Report and Study prepared by SFC Engineering Company in association with George V. Sabol Consulting Engineers, Inc., JE Fuller/Hydrology and Geomorphology, Inc., and SWCA, Inc. Environmental Consultants, submitted by the Arizona State Land Department. Also submitted and

considered was the Small and Minor Watercourse Criteria Report and the report on the Three County Pilot Study; and a study entitled "The Application of the Public Trust Doctrine to the Gila River – Santa Maria River, Western Arizona" submitted by the Arizona Center for Law in the Public Interest. Documents were also submitted by David Barron of the Arizona Center for Law in the Public Interest. The list of evidence and records, together with a summarization is attached as Exhibit "F." A public hearing was held on March 29, 2005, at Prescott, Arizona, in Yavapai County, on August 8, 2005 at Kingman, Arizona, in Mohave County, and on August 9, 2005 at Parker, Arizona, in La Paz County, for the public to present testimony and evidence on the issue of navigability of the Santa Maria River. A number of individuals appeared at the hearings in Prescott, Kingman and Parker and gave testimony. A public hearing was also held on October 20, 2005, in Phoenix, Arizona, to consider the evidence submitted and the post-hearing memoranda filed. The minutes of these hearings are attached hereto as Exhibit "D."

A. Prehistoric Conditions on the Santa Maria River Watershed

The archaeology of west central Arizona, and specifically the Santa Maria River Basin, is perhaps more poorly known than the archaeology of any other portion of the state. Although human occupation of the deserts of the southwest can be traced back to the late Plistocene period, 11,000 to 12,000 years ago, evidence of paleoindian occupation in this area is very sparse and consisted only of surface finds of lithic tools.⁵ A clovis projectile point was found in the Arizona Strip area to the north, and another was found by a rancher in the Aquarius Mountains between the Big Sandy River and Burro Creek. No paleoindian sites have been excavated. A number of archaic period sites have been located which indicate that during the later archaic period since 2000

⁵ The paleoindian period is generally considered to be between 9500 B.C. or 11,500 B.P. (Before Present) to approximately 7500 B.C. when the archaic period is deemed to have commenced.

B.C., an increasing number of hunters and gatherers seem to have occupied the Santa Maria River Basin area, although there is very little evidence of occupation during the early or middle archaic phases. Many of the sites show stone tools and flakes from working of stone tools. In some sites split tree figurines from the archaic tradition have been found. A number of sites have been surveyed in the Alamo Lake area in connection with the construction of Alamo Dam and the filling of Alamo Reservoir in 1968. Also an extensive survey of sites was accomplished in connection with the expansion of the Cyprus Bagdad Copper Mine. Further surveys have been done in connection with the construction of transmission lines, road completion and other public construction. None of these surveys disclose sites earlier than the late archaic.

The archaic period culminated in a transition from the hunting-gathering economy of the archaic period to agriculture, villages and ceramics. The formative period occurred about 700 years later in the area of the Santa Maria Basin than other places in Arizona. With the introduction of pottery, maize, and the bow and arrow to this region about A.D. 700, two archaeologically defined farming cultures were identified. The first was the Prescott Culture with its small pueblos and crudely painted pottery, which appears to be a derivative of the contemporaneous Anasazi, Cohonina, and Sinagua archaeological cultures of the Colorado Plateau. Many archaeologists postulate that there is a close relationship between the Cohonina and the Prescott cultures. The Prescott culture survived between A.D. 900 and A.D. 1300 and then disappeared. Evidence of its villages are especially located in the Aquarius Mountains and some along the Santa Maria River itself. A Prescott-type culture village has been located near the confluence of the Big Sandy and the Santa Maria Rivers. Archaeologists do not know which modern native American tribe or tribes may be descended from this group.

The other culture, known as the Patayan Culture, is evidenced between A.D. 500 and A.D. 1500, and originated along the lower Colorado River and spread eastward into the deserts of western Arizona and north along the Colorado River. The Patayan Culture developed into the Cerbat archaeological culture of the modern Pai tribes (Hualapai, Havasupai, and Yavapai). It was characterized by seasonally occupied rancherias, unpainted pottery, and expedient farming practices.

From about A.D. 1300 to European contact, there was a period of tremendous cultural change and upheaval in the southwest, with many of the old cultures such as Hohokam, Mogollon, Sinagua and Anasazi abandoning vast areas and occupying other smaller areas, presumably with more abundant and more readily available resources. In the area under consideration, a numic-speaking peoples, who became known as the Paiute, began migrating into this area after A.D. 1300. The southern Paiute, the Chemahuevi and the Ute, are classified as numic speakers, the northernmost branch of the Uto-Aztecan linguistic family. All of the present tribes along the Colorado River are in some way descended from them and the Cerbat culture with which they merged. The Yavapai, a tribe probably descended from the Cerbat culture, occupied territory in the Santa Maria River Basin and to the south and east, and migrated to the east.

There is some evidence of farming along the Santa Maria River during the formative period, A.D. 700 to 1300, probably by Prescott cultural groups who built small villages up to 1300 when this culture disappeared. It is possible that the Cerbat (Patayan) cultural groups used the same area for farming during their seasonal migrations after the area was abandoned by the Prescott cultural group. It is also possible that the Yavapai practiced some dry farming, but research shows they were primarily hunters and gatherers. There is no evidence of any significant irrigation systems having been built on the Santa Maria River. There is also no evidence that any of the prehistoric Indians utilized the Santa Maria River for transportation, either by

canoe or raft, nor is there any evidence that they utilized it on a regular basis for flotation of logs.

B. Historic Explanation of the Santa Maria Watershed

Although Spanish exploration of the southwest began in 1540 with the Coronado Expedition, no Europeans traveled in the area of the Santa Maria River watershed until 1604 when Juan Mateo de Oñate, Governor of Spanish New Mexico, came into the area. It seems clear that he traveled along the Bill Williams River on his way to California, but what tributaries or streams he used to reach it is uncertain. It may have been that he was the first European to travel along a portion of the Santa Maria River. He traveled on foot and his party made no attempt to float down any of the streams he crossed to reach the Colorado River. The Halchidhoma lived along the Santa Maria River until 1827-29 when the Mohave Tribe forced them to move to the Gila River to join with the Gila River Maricopas. Most likely Oñate and his expedition encountered these Indians, as well as other tribes on his way to the Colorado River. Both prior to and after 1827-29, the western Yavapai occupied the Santa Maria River Basin and worked their way east. In 1744, Father Jacobo Sedelmayr traveled up the Colorado River to the mouth of the Bill Williams River which he called the Rio Azul. He followed the Bill Williams River upstream some distance and may have gone a short distance up the Santa Maria River. In 1776 Father Francisco Garces of the Yuma Mission journeyed up the Colorado River to the vicinity of present day Kingman and then went east to the Hopi Villages. On his return he probably crossed the Big Sandy River and possibly the Santa Maria and may have traveled along them a short distance. The journals of these explorers make little mention of the flow or vegetation in and around the rivers they crossed.

In 1821 Mexico won its independence from Spain, and sovereignty over the area with which we are concerned passed to Mexico. The Mexican government sponsored few expeditions into western Arizona and actually attempted to discourage incursions

into its territories by citizens of the United States. Notwithstanding this policy, fur trappers and mountain men began exploring the southwest as early as the 1820's. These mountain men generally rode horseback and did not normally use boats for their fur trapping activities. These fur trappers were familiar with the Bill Williams River and, most likely, the Big Sandy and Santa Maria Rivers as well. William Sherley ("Old Bill") Williams certainly visited the river to which he gave his name on at least two occasions. He was with the party of Joseph Reddford Walker, together with Joe Meek and several others, who traveled up the Bill Williams River and possibly up the Big Sandy in order to reach the Hopi Villages. They may also have explored the mouth and some distance up the Santa Maria River to see if there were trapable game. Another mountain man, Antoine Leroux left a written record of having met Bill Williams on the Bill Williams River in 1837 while he was trapping for beaver. The record does not indicate whether he traveled along the Big Sandy or Santa Maria River to reach the point where he met Leroux. Other fur trappers and mountain men may well have passed over or traveled up or down along the Santa Maria River but left no written record of their travels.

The war with Mexico of 1846-47 ended with the Treaty of Guadalupe Hidalgo whereby the United States acquired all of the Mexican territory in the southwestern United States north of the Gila River, including California. During the war a number of expeditions traveled to California, but there is no record of any of them traveling along the Santa Maria River or Bill Williams River to cross the Colorado into California.

Following the acquisition of this vast territory by the United States, it sent expeditions commanded by young Army engineer officers to explore the newly acquired territory and find good routes for roads and railroads. The Sitgreaves Expedition of 1851 guided by Antoine Leroux crossed the Big Sandy River and traveled down the Bill Williams River. That same year Joseph Reddford Walker also traveled down a portion of the Big Sandy River while exploring a possible railroad route from

Albuquerque to San Francisco. François Aubrey, a Santa Fe trader, also traveled to California in 1853 and 1854 but followed the Mormon Battalion route along the Gila River to the south and the route north of the Big Sandy. In 1854 the Whipple Expedition traveled all the way down the Big Sandy River and the Bill Williams River and mapped both of these streams. He may also have traveled a short distance up the Santa Maria from its confluence with the Big Sandy. He observed cottonwood trees and willows and some wild game on his travels. Another American expedition was led by Edward F. Beale in 1857 using camels to see if they would serve as pack animals for the Army in the desert west. He traveled across northern Arizona and established a wagon road that is followed today by the Santa Fe Railroad and Interstate 40. Another individual who traveled in this area and crossed the headwaters of the Big Sandy was Lt. Joseph Christmas Ives. In 1867-68 William Jackson Palmer conducted a survey of the 32nd and 35th parallels, north and south of the area with which we are concerned, for a railroad routes from Kansas to the Pacific Ocean. He also considered a railroad route from Prescott and Chino Valley along the Santa Maria and Bill Williams and across the Colorado River.

The best description of the rivers of this area from this period of time was written by Whipple who was surveying the area for a railroad route from Ft. Smith, Arkansas, to Los Angeles. He described the Big Sandy as abounding in antelope, deer, rabbit and partridge which feed on the rich gramma grass and seed it yields. He stated that the river was quite wide in certain places but very shallow. He also stated that it would disappear into the sandy bed and then after being dry for a couple of miles, it would resurface again in the channel, flowing and fertilizing the banks for a distance, and then sink again into the sand. A similar description can be made of the Santa Maria River. The mountains through which the rivers flow were too difficult for a permanent road, and the Beale Road to the north became established as the most direct transcontinental

route to California in that area. The Santa Fe Railroad and Interstate 40 follow generally along this road today.

A review of all records and accounts of these early travelers indicates that while the Santa Maria River was a minor corridor of traffic for at least part of its distance, and when flowing was a source of water for travelers, all travel was accomplished by foot, horseback and wagon, and no one tried to float or navigate the river. While there is extensive documentation of steamboats and other craft navigating the Colorado River between 1852 and 1909, there is no evidence of any such boat traffic over the Bill Williams River or any of its tributaries including the Santa Maria River.

C. Settlement and Development of the Santa Maria River Area

In 1861, silver was discovered in El Dorado Canyon on the west side of the Colorado River and miners began to explore the area of the Bill Williams River Basin and its tributaries. Aubrey City, a river landing, was established at the mouth of the Bill Williams River. In 1874, Jackson McCracken and "Chloride Jack" Owen discovered rich silver deposits in the Big Sandy River Valley. Within ten years there were three major mining districts in the area--the McCracken Mountain Mining District, Greenwood Mining District on Burro Creek just east of its confluence with the Big Sandy, and the Eureka Mining District on the Santa Maria, approximately 20 miles east of its confluence with the Big Sandy. The McCracken Mine, Senator Mine and Signal Mine were all located on the Big Sandy River. While the mines were located in the hills away from the river, mills were constructed along the rivers to process the ore, and small communities grew up around them. These communities included Signal or Signal City, which is still recognized as a ghost town, Greenwood or Greenwood City, New Virginia or Virginia City, Scatterville, and Lyonsville. A community was also located at Alamo Crossing at the confluence of the Big Sandy and the Santa Maria Rivers. Supplies were brought up the Colorado by boat to Aubrey City and from there

they were hauled by mule wagons to the various mills. The haul from Aubrey to Signal was 35 miles. The mines and mills began to decline in the late 1800's, but a mine for the production of manganese was started in the Artillery Peak Mining District west of the Big Sandy River in 1914. It continued to operate through 1955.

The Eureka Mining District was established in 1880 on the Santa Maria River when John Lawler and B. T. Riggs discovered the Hillside Mine. In 1882, W. J. Pace and J. M. Murphy discovered the Bagdad and Hawkeye Mines on Copper Creek, five miles south of the Hillside Mine. These became the longest used mines within the district and led to the founding of the town of Bagdad. Eventually the Eureka Mining District included such mines as Hillside, Bagdad, Copper Queen, Copper King, Old Dick, Penafore, and Black Pearl. Open pit mining began in 1946. Later mines in the Eureka District included the Sultan, Crosby, Home Stake, Big Stick and Weepah. The Sultan and Crosby mines are located north of the Santa Maria and east of Highway 93. The Big Stick mine is located immediately south of the Santa Maria River, west of Highway 93, and just east of the Arrastra Mountain Wilderness area. The Home Stake, Big Stick and Weepah Mines were in operation at least through 1942. Most of these mines supported small settlements but they did not last long or develop into towns, the exception being the town of Bagdad. A community was located at Alamo Crossing at the confluence of the Big Sandy and Santa Maria Rivers, and a post office was established there in 1899.

At about the same time the mines and mining communities were established in the area, farmers began to practice irrigation agriculture, primarily on the Big Sandy River, but to a lesser extent on the Santa Maria River. Although the records are quite slim, the General Land Office maps show seven family farms and ranches along the Santa Maria in 1912. These early day ranchers and farmers built diversion dams on the Santa Maria River where the water rose to the surface and then diverted water into ditches to their farmland and homes. Most of the ranches and farms were 160-acre

homesteads. Fields were established near the river where crops could be grown and cattle pastured. Cattle were also run on the slopes of the hills running up from the basin on public land near the lower end of the Santa Maria River. The people kept saddle horses, work horses, beef cattle, milk cows, hogs, chickens and stands of bees. Crops grown consisted mainly of alfalfa, grain, corn and wheat, but some people had gardens with vegetables, squash, Irish potatoes, sweet potatoes, watermelons and other types of melons. These farmers and ranchers along the Santa Maria were largely self-sufficient and probably also did some prospecting in the hills around the river. Occasional large floods would wash out fields and gardens and discourage the farmers and ranchers. Most of the water rights have now been acquired by the Cyprus Bagdad Mining Company. There is little farming going on along the Santa Maria River at the present time, although there are ranches still operating in the area.

During the mining boom of the 1860's and 70's and later, a number of secondary roads were constructed in the Santa Maria River Basin area. The people traveled by foot, horseback and mule drawn wagons in the area, and there is no evidence of any commercial navigation being attempted on the Santa Maria River due to its intermittent and undependable flow. No accounts of boating on the Santa Maria River were found. In 1898 a stage line was established between Hackberry and Signal on the Big Sandy River, and in 1905 the Arizona and California Railroad was completed to the south of the Santa Maria River Basin from Parker to Phoenix. In 1910 the Arizona and Swansee Railroad was completed from the Arizona and California Railroad to Swansee on the south side of the Bill Williams River. A road was established from the confluence of the Big Sandy and Santa Maria Rivers to Date Creek to the east, and a road was established from Prescott to Ehrenberg to the south of the Santa Maria and Bill Williams Rivers.

The Santa Maria River Basin to this date has remained relatively isolated, and the only town of any consequence is Bagdad, where the Bagdad Cyprus Mine is located.

Paved roads from Bagdad to Hillside (State Route 96) and south State Route 97 to U. S. Highway 93 are the only first class roads into the area.

D. Geology, Geomorphology and Hydrology

There are three great physiographic provinces in Arizona – the Colorado River Plateau in the north and east, the Basin and Range Province in the south and west with a transition zone of Central Mountain Province dividing them. The Bill Williams River Basin, including the Santa Maria River, is located in the Basin and Range and transition zone geologic provinces of West Central Arizona. The Basin and Range province extends from the Snake River Plain in Idaho south through Southern Arizona and into Mexico. It is characterized by generally north trending mountain ranges, which are separated by basins formed by normal faulting along mountain fronts. In Western and Southern Arizona, basins are deep, well-defined grabens, which tend north to northeast and have fairly regular spacings. The Big Sandy Valley is the most prominent basin in the Bill Williams River Basin and is composed of alluvial basin fill that is very deep. The transition zone in which most of the Santa Maria River is located is rugged, mountainous country between the Basin and Range Province and the Colorado Plateau. It has geologic and physiographic characteristics that are transitional between the highly deformed Basin and Range Province and the relatively undeformed, fairly high Colorado Plateau in Northeastern Arizona.

The geology of the Bill Williams River Basin reflects the complex history of the Basin and Range Province with several periods of magmatism and overprinting of compressional and extension terraces in the past 80 million years. A period of wide-reaching magnetism and crustal shortening associated with the Loramide Orogeny occurred in the middle to late cretaceous and early tertiary period approximately 60 to 70 million years ago. This same area was extended in the middle tertiary between 10 and 20 million years ago forming major, low-angle normal faults

trending east/northeast by west/southwest. During this latter period, some streams changed direction of their flow and the area was subjected to magmatic composition changes with volcanoes and flow of basalt. As the mountains eroded, bajatas and alluvial fans were deposited, particularly in the Big Sandy Valley and sediment was deposited in the drainage streams.

The Santa Maria River itself flows through relatively deep canyons in its upper reaches and is confined to a great extent by bedrock until it widens out just before it merges with the Big Sandy River to form Alamo Lake. There were few areas for farming along the Santa Maria River due to its topography. The climate of the Santa Maria River is semi-arid to arid with the temperature and precipitation varying substantially with the altitude. Piñon and juniper woodlands are found near the headwaters and cacti and riparian species are found near its confluence with the Big Sandy. Annual precipitation is generally between 15–20 inches in the mountainous high elevation areas, dropping as low as 6 inches near the mouth of the Bill Williams River. Precipitation along the Santa Maria River falls mainly in the summer (monsoon) and the winter rainy season. Summer rains occur during July, August and September and are generated by convection in which moisture from the Gulf of Mexico encounters heated mountain terrain causing the air to increase in temperature and rise. The unstable air masses lead to high intensity rain storms of short duration, often accompanied by thunder, lightening and strong winds. The dissipating tropical storms of the cyclonic variety from the Eastern Pacific and Gulf of Alaska occasionally bring heavy precipitation to portions of western Arizona during the fall and winter seasons.

For most of its length, the Santa Maria River contains water that flows year round or is relegated to discontinuous pools during the dry portions of the year. There is no record of stream gauge stations on the Big Sandy River or Santa Maria River prior to 1939. Some gauges that were established at that time for the purpose of documenting

flow for Alamo Dam were later discontinued. Accordingly, the flow in the Santa Maria River and other streams of the Bill Williams River Basin and the documentation of floods are mostly visual by persons who observed the events. The magnitude of large floods which we know occurred prior to the gauging stations are estimates. For example, the largest estimated flood, over 200,000 cubic feet per second ("cfs") was reported on the Bill Williams River in February of 1891. The largest measured flood on the Bill Williams River was 92,500 cfs on February 7, 1937. Other years in which major floods occurred were 1892, 1905, 1906, 1910, 1911, 1915 and 1920. We know that these floods occurred in early years because of the reports of residents, which stated that their farms and ranches were washed away. Also, the floods affected towns such as Greenwood, which was washed away in the 1870's and 1880's. In recent years, since gauges have been installed on Santa Maria River, the largest recorded discharge was on March 1, 1978 with an all time peak flow of 23,100 cfs. Other large floods on the Santa Maria River, which were recorded, were 19,500 cfs on February 20, 1991 and 15,700 cfs on February 8, 1993. In addition to the reports of fields, orchards, and even homes which were washed away during the floods of the late 1800's and early 1900's, tree ring studies and other hydrological indicators show that over all there has been little climatic change from the mid-1850's to the present time, so the condition of the Santa Maria River in 1912 may be considered similar to the present day condition. In view of its being dry a good part of the time, but subject to large floods, it is considered an erratic and undependable river in no way suitable for navigation.

The Santa Maria River has perennial reaches along its length, especially in the headwater tributaries of Cottonwood, Smith, and Sycamore Creeks. The main stem of the Santa Maria is perennial approximately five miles above and below Bridal Creek and five to ten miles upstream from Alamo Lake. Portions of Kirkland Creek and Date Creek also flow year round. The remainder of the Santa Maria River is ephemeral and

flows only in response to heavy precipitation. Higher flows on the Santa Maria occur during the summer monsoon season in July, August and early September, and during the winter storm season of December, January and February. Little precipitation falls during the other months of the year and thus a good portion of the riverbed is ephemeral. Due to weather patterns, the Santa Maria River Basin seems to receive less precipitation and thus has smaller floods than the Big Sandy River or even Burro Creek. Because of the ephemeral portions of the Santa Maria River, it is not possible to give an average flow rate. The evidence presented to the Commission disclosed that the average flow rate at the gauge station near Bagdad, Arizona, 30% of the time was less than 2 cfs and only 10% of the time exceeded 87 cfs.

Despite its low flow rate, the Santa Maria River has been a source of water for use in mining operations and, during the early part of this century, for ranching, irrigation and domestic purposes. There is no evidence that anyone has ever attempted to use the Santa Maria River for commercial navigation or flotation of logs, and there is no evidence of any significant fishing in the river and absolutely no evidence of a commercial fishing industry. The Santa Maria River is not listed in the Rivers and Harbors Act of 1899 (33 U.S.C. § 401-467(3)). The customary mode of transportation in the region was clearly not by boat. By 1912, the alternatives to boat travel in the Santa Maria River Basin included foot, horseback, mule drawn wagons and later, as the road net improved, automobiles and trucks.

With its relatively low flow, bedrock and steep canyon walls, with occasional floods as indicated above, the Santa Maria River must be classified as erratic and certainly not subject to navigation or susceptible to navigation.

VIII. Findings and Determination

The Commission conducted a particularized assessment of equal footing claims the State of Arizona might have to the bed and banks, up to the high-water mark, of the

Santa Maria River, and based on all of the historical and scientific data and information, documents, and other evidence produced, finds that the Santa Maria River was not used or 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 as of February 14, 1912.

The Commission also finds that the Santa Maria River, while sometimes considered to be a perennial stream, has an almost insignificant flow during the dry seasons of the year. As of February 14, 1912 and currently, it flows/flowed primarily in direct response to precipitation and snow melt.

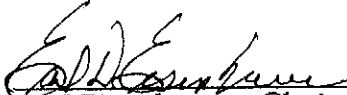
The Commission also finds that there is no evidence of any historical or modern commercial boating having occurred on the Santa Maria River.

The Commission also finds that there is no evidence of any commercial fishing having occurred on the Santa Maria River.

The Commission further finds that all notices of these hearings and proceedings were properly and timely given.

In view of the foregoing, the Commission, pursuant to A.R.S. § 37-1128A, finds and determines that the Santa Maria River in Yavapai, Mohave and La Paz Counties, Arizona, was not navigable nor susceptible of navigability as of February 14, 1912.

DATED this 28th day of April, 2009.




Earl Eisenhower, Chair

Dolly Echeverria, Vice Chair



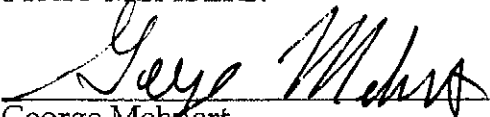
James Henness, Member

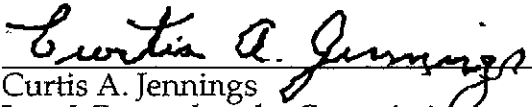


Cecil Miller, Member

Jay Brashear, Member
Deceased September 15, 2007

STAFF MEMBERS:


George Mehlert
Executive Director


Curtis A. Jennings
Legal Counsel to the Commission

1945-0

EXHIBIT A

Prescott Newspapers

Legal Department
 P.O. Box 312
 Prescott, AZ 86302
 (928)445-3333

Acknowledgement of Classified Advertising

Date: 02/07/05

Customer No: 1297

Ansac
 George Mehnert
 1700 West Washington, Ste 304

Phoenix AZ 85007

Your current balance owing is: \$ 574.88

Your current credit balance is: \$ 0.00

<u>Ad #</u>	<u>Words</u>	<u>Charge</u>	<u>Paid</u>	<u>Owing</u>
4208	1407	\$574.88	\$0.00	\$574.88

<u>Ad Text or Copy</u>	<u>Publication</u>	<u>Issues</u>	<u>Starts</u>	<u>Ends</u>
<p>STATEMENT OF INTENT State of Arizona</p> <p>Navigable Stream Adjudication Commission Pursuant to A.R.S. §37-1101, et. seq., the Arizona Navigable Stream Adjudication Commission (ANSAC) is planning to hold watercourse navigability hearings regarding the Agua Fria River, Burro Creek, the Hassayampa River, the Santa Maria River, and the Verde River in Yavapai County, Arizona. Notice is hereby given, pursuant to A.R.S. §37-1123 (B), that ANSAC intends to receive, review, and consider evidence regarding the navigability or nonnavigability of the Agua Fria River, Burro Creek, the Hassayampa River, the Santa Maria River, and the Verde River.</p> <p>Interested parties are requested to file all documentary and other physical evidence they propose to submit to ANSAC by March 29, 2005. All evidence submitted to ANSAC will be the property of ANSAC and the State of Arizona. Evidence submitted will be available for public inspection at the ANSAC offices during regular office hours.</p> <p>Pursuant to A.R.S. §37-1101, et. seq., the Arizona Navigable Stream Adjudication Commission (ANSAC) is also planning to hold a watercourse navigability hearing regarding all of the small and minor watercourses in Yavapai County, Arizona. Notice is hereby given, pursuant to A.R.S. §37-11</p>	<p>Courier Chino Valley Prescott Val</p>	<p>3</p>	<p>02/10/05</p>	<p>02/24/05</p>
			<p>02/10/05 02/17/05 02/24/05</p>	

AFFIDAVIT OF PUBLICATION

Kingman Daily Miner

3015 Stockton Hill Road, Kingman, AZ 86401

web: www.kingmandailyminer.com • e-mail: legals@kingmandailyminer.com

Phone (928) 753-6397, ext. 242 • Fax (928) 753-5661

"Serving Kingman since 1882"

STATE OF ARIZONA)
County of Mohave) ss.

I, **ULLI SCHNEIDER**, being first duly sworn on her oath says:
That she is the Legals Clerk of **THE KINGMAN DAILY MINER**
An Arizona corporation, which owns and publishes the Miner,
a Daily Newspaper published in the City of Kingman, County of Mohave,
Arizona; that the notice attached hereto, namely,

**Statement of Intent
No. 2119**

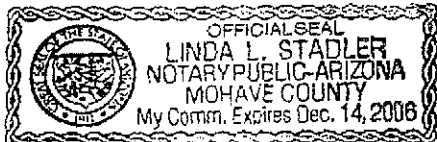
Has, to the personal knowledge of affiant, been published in the news-
paper aforesaid, according to law, from the **17 day of June, 2005**
to the **1st day of July, 2005**, inclusive without change, interruption or
omission, amounting in **3 insertions**, made on the following dates:
06/17, 06/24, 07/01, 2005

SEE ATTACHED

By: Ulli Schneider
Legal Clerk, 1st Day of July, 2005

By: Linda L. Stadler
Notary Public

My commission expires: 12/14/2006



(2119)
STATEMENT OF INTENT
State of Arizona
Navigable Stream Adjudication Commission
Pursuant to A.R.S. §37-1101, et. seq., the Arizona Navigable Stream Adjudication Commission (ANSAC) is planning to hold watercourse navigability hearings regarding the major watercourses in Mohave County. Notice is hereby given, pursuant to A.R.S. §37-1123 (B), that ANSAC intends to receive, review, and consider evidence regarding the navigability or nonnavigability of the Big Sandy River, Bill Williams River, Burro Creek, Santa Maria River and Virgin River. Interested parties are requested to file all documentary evidence they propose to submit to ANSAC by August 9, 2005. All evidence submitted to ANSAC will be the property of ANSAC and the State of Arizona. Evidence submitted will be available for public inspection at the ANSAC offices during regular office hours.
An unbound original plus seven bound copies of documentary evidence is to be submitted. ANSAC offices are located at 1700 West Washington, Room 304, Phoenix, AZ 85007. The telephone number is (602) 542-9214. The web site address is <http://www.azstreambeds.com>. The e-mail address is streams@mindspring.com. The fax number is (602) 542-9220.
Individuals with disabilities who need a reasonable accommodation to communicate evidence to ANSAC, or who require this information in an alternate format may contact the ANSAC office at (602) 542-9214 to make their needs known.
6/17,6/24,7/1/2005
No.2119

(2119)

STATEMENT OF INTENT

State of Arizona

Navigable Stream Adjudication Commission
Pursuant to A.R.S. §37-1101, et. seq., the Arizona Navigable Stream Adjudication Commission (ANSAC) is planning to hold watercourse navigability hearings regarding the major watercourses in Mohave County. Notice is hereby given, pursuant to A.R.S. §37-1123 (B), that ANSAC intends to receive, review, and consider evidence regarding the navigability or nonnavigability of the Big Sandy River, Bill Williams River, Burro Creek, Santa Maria River and Virgin River. Interested parties are requested to file all documentary evidence they propose to submit to ANSAC by August 9, 2005. All evidence submitted to ANSAC will be the property of ANSAC and the State of Arizona. Evidence submitted will be available for public inspection at the ANSAC offices during regular office hours.

An unbound original plus seven bound copies of documentary evidence is to be submitted. ANSAC offices are located at 1700 West Washington, Room 304, Phoenix, AZ 85007. The telephone number is (602) 542-9214. The web site address is <http://www.azstreambeds.com>. The e-mail address is streams@mindspring.com. The fax number is (602) 542-9220.

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

6/17,6/24,7/1/2005

No.2119

AFFIDAVIT OF PUBLICATION

STATE OF ARIZONA

COUNTY OF LA PAZ, ss

Laura Kirsch

Laura Kirsch

of said county, being duly sworn, deposes and says: that he/she is and at all times herein mentioned was a citizen of the United States, over the age of twenty-one years, and is competent to be a witness on the trial of the above entitled action, and that he/she is not a party to, nor interested in the above entitled matter.

That she is the Advertising Agent for the:

PARKER PIONEER

(published weekly) and which is a weekly newspaper of general circulation, published and circulated in the said County of La Paz, and is published for the dissemination of local news and intelligence of a general character, and has a bona fide subscription list of paying subscribers, and said newspaper has been established and published in the City of Parker, County of La Paz, State of Arizona, for at least one year before the publication of the first insertion of this notice and said newspaper is not devoted to the interests of, or published for the entertainment of any particular class, professions, trade, calling, race or denomination, or any number thereof.

That the:

**STATEMENT OF INTENT
NOTICE OF HEARING
AUGUST 9, 2005**

ARIZONA NAVIGABLE STREAM ADJUDICATION COMMISSION

of which the annexed is a printed copy, was published in said newspaper at least 3 time(s), commencing on the 22nd day of June, 2005, and ending on the 6th day of July, 2005, all above days inclusive, and in the regular and entire issue of said newspaper proper, and not in a supplement and said notice was published therein on the following dates, to-wit:

SEE ATTACHED

June 22, 2005

June 29, 2005

July 6, 2005

Subscribed and sworn to before me the 7th day of July, 2005.

Sandra Jo Galbo
Notary Public in and for the county of LA PAZ, State of Arizona



SANDRA LOGALBO
Notary Public - State of Arizona
MOHAVE COUNTY

My Comm. Expires July 24, 2008

My Commission Expires

STATEMENT OF INTENT
State of Arizona
Navigable Stream Adjudication Commission
Pursuant to A.R.S. §37-101, et. seq., the Arizona Navigable Stream Adjudication Commission (ANSAC) is planning to hold watercourse navigability hearings regarding the major watercourses in La Paz County. Notice is hereby given; pursuant to A.R.S. §37-1123 (B), that ANSAC intends to receive, review, and consider evidence regarding the navigability or nonnavigability of the Bill Williams River and the Santa Maria River. Interested parties are requested to file all documentary evidence they propose to submit to ANSAC by August 9, 2005. All evidence submitted to ANSAC will be the property of ANSAC and the State of Arizona. Evidence submitted will be available for public inspection at the ANSAC offices during regular office hours.
An unbound original plus seven bound copies of documentary evidence is to be submitted. ANSAC offices are located at 1700 West Washington, Room 304, Phoenix, AZ 85007. The telephone number is (602) 542-9214. The web site address is <http://www.azstreambeds.com>. The e-mail address is streams@mindspring.com. The fax number is (602) 542-9220.
Individuals with disabilities who need a reasonable accommodation to communicate evidence to ANSAC, or who require this information in an alternate format may contact the ANSAC office at (602) 542-9214 to make their needs known.
Publish June 22, 29, July 6, 2005 8336

STATEMENT OF INTENT

State of Arizona

Navigable Stream Adjudication Commission
Pursuant to A.R.S. §37-1101, et. seq., the
Arizona Navigable Stream Adjudication
Commission (ANSAC) is planning to hold water-
course navigability hearings regarding the major
watercourses in La Paz County. Notice is hereby
given, pursuant to A.R.S. §37-1123 (B), that
ANSAC intends to receive, review, and consider
evidence regarding the navigability or nonnaviga-
bility of the Bill Williams River and the Santa
Maria River. Interested parties are requested to
file all documentary evidence they propose to
submit to ANSAC by August 9, 2005. All evidence
submitted to ANSAC will be the property of
ANSAC and the State of Arizona. Evidence sub-
mitted will be available for public inspection at the
ANSAC offices during regular office hours.

An unbound original plus seven bound copies of
documentary evidence is to be submitted.
ANSAC offices are located at 1700 West
Washington, Room 304, Phoenix, AZ 85007. The
telephone number is (602) 542-9214. The web
site address is <http://www.azstreambeds.com>.
The e-mail address is streams@mindspring.com.
The fax number is (602) 542-9220.

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

Publish June 22, 29, July 6, 2005

8336

EXHIBIT B

SEE ATTACHED

Arizona Navigable Stream Adjudication
Commission advertising Correction:

NOTICE OF PUBLIC HEARING

State of Arizona Navigable Stream Adjudication
Commission Pursuant to A.R.S. § 37-1126 (A),
notice is hereby given that the Navigable
Stream Adjudication Commission will hold pub-
lic hearings to receive physical evidence and
testimony relating to the navigability or non-nav-
igability of all watercourses in Yavapai County.
The hearings will be held in Yavapai County on
March 29, 2005 beginning at 12:00 p.m. in an
order established by the chair in the Yavapai
County Supervisors' Conference Room located
at 1015 Fair Street, Prescott, Arizona 86305.
The following are presently the only hearings
scheduled. The Agua Fria River, Burro Creek,
the Hassayampa River, the Santa Maria River,
the Verde River; and all of the small and minor
watercourses in Yavapai County.

TTC PUB March 4, 2005 ad 4401

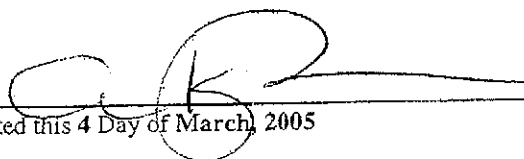
AFFIDAVIT OF PUBLICATION

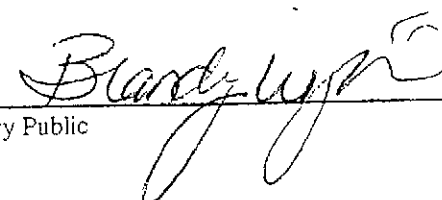
STATE OF ARIZONA)
County of Yavapai) ss.

I, **Aileen A. Kemper**, being first duly sworn on her oath says:
That she is the **Legal Clerk** of **PRESCOTT NEWSPAPERS, INC.**, an
Arizona corporation, which owns and publishes the **COURIER**, a Daily
Newspaper published in the City of Prescott, County of Yavapai that the
notice attached hereto, namely,

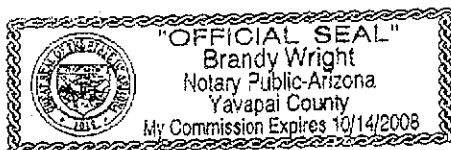
**ANSAC
NOTICE OF PUBLIC HEARING
ADVERTISING CORRECTION**

has, to the personal knowledge of affidavit, been published in the news
paper aforesaid, according to law, on 4 day of **March, 2005** to 4 day of
March, 2005 both inclusive without change, interruption or omission,
amounting in all 1 insertions, made on the following dates:
March 4, 2005

By: 
Dated this 4 Day of March, 2005

By: 
Notary Public

My commission expires:



**Arizona Navigable Stream Adjudication
Commission advertising Correction:**

NOTICE OF PUBLIC HEARING

State of Arizona Navigable Stream Adjudication Commission Pursuant to A.R.S. § 37-1126 (A), notice is hereby given that the Navigable Stream Adjudication Commission will hold public hearings to receive physical evidence and testimony relating to the navigability or non-navigability of all watercourses in Yavapai County. The hearings will be held in Yavapai County on March 29, 2005 beginning at 12:00 p.m. in an order established by the chair in the Yavapai County Supervisors' Conference Room located at 1015 Fair Street, Prescott, Arizona 86305. The following are presently the only hearings scheduled. The Agua Fria River, Burro Creek, the Hassayampa River, the Santa Maria River, the Verde River, and all of the small and minor watercourses in Yavapai County.

1TC PUB March 4, 2005 ad 4401

SEE ATTACHED

ARTICLES OF INCORPORATION FOR THE STATE OF ARIZONA
ARTICLE I
 NAME: [Name of Corporation]
 PURPOSE: [Purpose of Corporation]
 REGISTERED OFFICE: [Registered Office Address]
 FISCAL YEAR: [Fiscal Year]

ARTICLE II
 POWERS AND OBJECTS: [Powers and Objects of Corporation]
ARTICLE III
 SHARES OF STOCK: [Details of Shares]

ARTICLE IV
 MANAGEMENT: [Management Structure]
ARTICLE V
 AMENDMENTS: [Amendment Procedures]

ARTICLE VI
 DISSOLUTION: [Dissolution Procedures]
ARTICLE VII
 MISCELLANEOUS: [Miscellaneous Provisions]

ARTICLE VIII
 SIGNATURES: [Signatures of Officers and Directors]

ARTICLE IX
 CERTIFICATION: [Certification of Incorporation]

ARTICLE X
 ADDITIONAL PROVISIONS: [Additional Provisions]

ARTICLE XI
 FINAL PROVISIONS: [Final Provisions]

ARTICLE XII
 EXECUTION: [Execution of Articles]

ARTICLE XIII
 CERTIFICATION OF INCORPORATION: [Certification of Incorporation]

ARTICLES OF INCORPORATION FOR THE STATE OF ARIZONA
ARTICLE I
 NAME: [Name of Corporation]
 PURPOSE: [Purpose of Corporation]
 REGISTERED OFFICE: [Registered Office Address]
 FISCAL YEAR: [Fiscal Year]

ARTICLE II
 POWERS AND OBJECTS: [Powers and Objects of Corporation]
ARTICLE III
 SHARES OF STOCK: [Details of Shares]

ARTICLE IV
 MANAGEMENT: [Management Structure]
ARTICLE V
 AMENDMENTS: [Amendment Procedures]

ARTICLE VI
 DISSOLUTION: [Dissolution Procedures]
ARTICLE VII
 MISCELLANEOUS: [Miscellaneous Provisions]

ARTICLE VIII
 SIGNATURES: [Signatures of Officers and Directors]

ARTICLE IX
 CERTIFICATION: [Certification of Incorporation]

ARTICLE X
 ADDITIONAL PROVISIONS: [Additional Provisions]

ARTICLE XI
 FINAL PROVISIONS: [Final Provisions]

ARTICLE XII
 EXECUTION: [Execution of Articles]

ARTICLE XIII
 CERTIFICATION OF INCORPORATION: [Certification of Incorporation]

ARTICLES OF INCORPORATION FOR THE STATE OF ARIZONA
ARTICLE I
 NAME: [Name of Corporation]
 PURPOSE: [Purpose of Corporation]
 REGISTERED OFFICE: [Registered Office Address]
 FISCAL YEAR: [Fiscal Year]

ARTICLE II
 POWERS AND OBJECTS: [Powers and Objects of Corporation]
ARTICLE III
 SHARES OF STOCK: [Details of Shares]

ARTICLE IV
 MANAGEMENT: [Management Structure]
ARTICLE V
 AMENDMENTS: [Amendment Procedures]

ARTICLE VI
 DISSOLUTION: [Dissolution Procedures]
ARTICLE VII
 MISCELLANEOUS: [Miscellaneous Provisions]

ARTICLE VIII
 SIGNATURES: [Signatures of Officers and Directors]

ARTICLE IX
 CERTIFICATION: [Certification of Incorporation]

ARTICLE X
 ADDITIONAL PROVISIONS: [Additional Provisions]

ARTICLE XI
 FINAL PROVISIONS: [Final Provisions]

ARTICLE XII
 EXECUTION: [Execution of Articles]

ARTICLE XIII
 CERTIFICATION OF INCORPORATION: [Certification of Incorporation]

ARTICLES OF INCORPORATION FOR THE STATE OF ARIZONA
ARTICLE I
 NAME: [Name of Corporation]
 PURPOSE: [Purpose of Corporation]
 REGISTERED OFFICE: [Registered Office Address]
 FISCAL YEAR: [Fiscal Year]

ARTICLE II
 POWERS AND OBJECTS: [Powers and Objects of Corporation]
ARTICLE III
 SHARES OF STOCK: [Details of Shares]

ARTICLE IV
 MANAGEMENT: [Management Structure]
ARTICLE V
 AMENDMENTS: [Amendment Procedures]

ARTICLE VI
 DISSOLUTION: [Dissolution Procedures]
ARTICLE VII
 MISCELLANEOUS: [Miscellaneous Provisions]

ARTICLE VIII
 SIGNATURES: [Signatures of Officers and Directors]

ARTICLE IX
 CERTIFICATION: [Certification of Incorporation]

ARTICLE X
 ADDITIONAL PROVISIONS: [Additional Provisions]

ARTICLE XI
 FINAL PROVISIONS: [Final Provisions]

ARTICLE XII
 EXECUTION: [Execution of Articles]

ARTICLE XIII
 CERTIFICATION OF INCORPORATION: [Certification of Incorporation]

ARTICLES OF INCORPORATION FOR THE STATE OF ARIZONA
ARTICLE I
 NAME: [Name of Corporation]
 PURPOSE: [Purpose of Corporation]
 REGISTERED OFFICE: [Registered Office Address]
 FISCAL YEAR: [Fiscal Year]

ARTICLE II
 POWERS AND OBJECTS: [Powers and Objects of Corporation]
ARTICLE III
 SHARES OF STOCK: [Details of Shares]

ARTICLE IV
 MANAGEMENT: [Management Structure]
ARTICLE V
 AMENDMENTS: [Amendment Procedures]

ARTICLE VI
 DISSOLUTION: [Dissolution Procedures]
ARTICLE VII
 MISCELLANEOUS: [Miscellaneous Provisions]

ARTICLE VIII
 SIGNATURES: [Signatures of Officers and Directors]

ARTICLE IX
 CERTIFICATION: [Certification of Incorporation]

ARTICLE X
 ADDITIONAL PROVISIONS: [Additional Provisions]

ARTICLE XI
 FINAL PROVISIONS: [Final Provisions]

ARTICLE XII
 EXECUTION: [Execution of Articles]

ARTICLE XIII
 CERTIFICATION OF INCORPORATION: [Certification of Incorporation]

ARTICLES OF INCORPORATION FOR THE STATE OF ARIZONA
ARTICLE I
 NAME: [Name of Corporation]
 PURPOSE: [Purpose of Corporation]
 REGISTERED OFFICE: [Registered Office Address]
 FISCAL YEAR: [Fiscal Year]

ARTICLE II
 POWERS AND OBJECTS: [Powers and Objects of Corporation]
ARTICLE III
 SHARES OF STOCK: [Details of Shares]

ARTICLE IV
 MANAGEMENT: [Management Structure]
ARTICLE V
 AMENDMENTS: [Amendment Procedures]

ARTICLE VI
 DISSOLUTION: [Dissolution Procedures]
ARTICLE VII
 MISCELLANEOUS: [Miscellaneous Provisions]

ARTICLE VIII
 SIGNATURES: [Signatures of Officers and Directors]

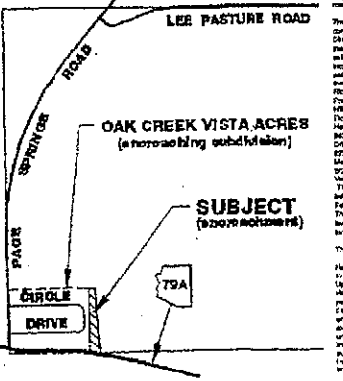
ARTICLE IX
 CERTIFICATION: [Certification of Incorporation]

ARTICLE X
 ADDITIONAL PROVISIONS: [Additional Provisions]

ARTICLE XI
 FINAL PROVISIONS: [Final Provisions]

ARTICLE XII
 EXECUTION: [Execution of Articles]

ARTICLE XIII
 CERTIFICATION OF INCORPORATION: [Certification of Incorporation]



**NOTICE OF PUBLIC HEARINGS
STATE OF ARIZONA**

Montezuma Stream Adjudication Commission Pursuant to A.R.S. § 37-1128 (A), notice is hereby given that the Navigable Stream Adjudication Commission will hold public hearings to receive physical evidence and testimony relating to the navigability or non-navigability of all watercourses in Yavapai County. The hearings will be held in Yavapai County on March 29, 2005 beginning at 12:00 p.m. in an order established by the chair in the Yavapai County Supervisor's Conference Room located at 1015 Fair Street, Prescott, Arizona 86305. The following are presently the only hearings scheduled.

The Agua Fria River, Burro Creek, the Hualayampa River, the Santa Maria River, the Verde River, and all of the small and minor watercourses in Gila County, including but not limited to: Adobee Creek - Yavapai, Abouli Wash, Aky Wash, Amazon Wash, Antelope Creek 1 - Yavapai, Antelope Creek 2 - Yavapai, Antelope Wash - Yavapai, Apache Creek - Yavapai, Arrastra Creek 1 - Yavapai, Arrastra Creek 2 - Yavapai, Ash Creek 1 - Yavapai, Ash Creek 2 - Yavapai, Ash Creek 3 - Yavapai, Ash Fork Draw - Yavapai, Ash Spring Creek, Arpan Wash - Yavapai, Badger Spring Wash, Bannon Creek, Banty Creek - Yavapai, Bear Canyon, Bear Creek 1 - Yavapai, Bear Creek 2 - Yavapai, Bear Creek 3 - Yavapai, Beaver Creek - Yavapai, Big Bug Creek, Big Chino Wash, Big Shipp Wash, Big Arp Creek, Bishop Creek, Bitter Creek 1 - Yavapai, Bitter Creek 2 - Yavapai, Black Butte Wash, Black Canyon Creek, Black Canyon Wash - Yavapai, Black Hill Wash, Blackwater Creek, Blind Creek, Blind Indian Creek, Blowout Creek, Blue Tank Wash - Yavapai, Board Creek, Bottleneck Wash - Yavapai, Boulder Creek 1 - Yavapai, Boulder Creek 2 - Yavapai, Bridle Creek, Brushy Creek - Yavapai, Brushy Prong, Brushy Wash, Buckhead Wash, Buckhorn Creek - Yavapai, Bull Run Creek, Bull Spring Wash, Bullock Wash, Bumble Bee Creek, Burnt Wash, Butte Creek - Yavapai, Butte Wash, Buzzard Foot Creek, Buzzard Foot Wash, Cabin Wash, Calamity Wash, Castle Creek - Yavapai, Cave Creek - Maricopa, Cedar Creek - Yavapai, Cedar Creek 1, Cedar Springs C, Centennial Wash, Chaparral Gulch, Chum Creek, Cherry Creek 1, Cherry Creek 2, Chino Wash, Clemens Creek - Yavapai, Chinoan Creek, Clipper Wash, Coffee Creek, Cold Water Creek, Conger Creek, Contreras Wash - Yavapai, Copper Wash, Copperopolis Creek, Copper Basin Wash, Copper Creek 1 - Yavapai, Copper Creek 2 - Yavapai, Copper Creek 3 - Yavapai, Cottonwood Canyon, Cottonwood Creek 1 - Yavapai, Cottonwood Creek 2 - Yavapai, Cottonwood Creek 3 - Yavapai, Cow Creek 1 - Yavapai, Cow Creek 2 - Yavapai, Cowboy Wash, Coyote Spring, Coyote Wash - Yavapai, Crazy Basin Creek, Cypress Creek, Dats Creek, Daversport Wash, Dead Mexican Creek, Deadman Creek, Devil Dog Canyon, Dillon Wash, Dry Beaver Creek, Dry Creek 1 - Yavapai, Dry Creek 2 - Yavapai, Dry Wash 1 - Yavapai, Dry Wash 2 - Yavapai, Dugan Wash, East Antelope Creek, East Branch Squa, East Fork Castle, Easterood Creek, Eddie Wash, Edgimbla Creek, Finch Wash, Fort Rock Creek, Fossil Creek, Francis Creek, French Creek - Yavapai, Gaddie Wash, Gap Creek, Government Spring, Grandpa Wash, Granite Creek, Grapevine Creek - Yavapai, Gravel Wash, Great Hill Wash, Grindstone Wash, Green Creek, Hackberry Creek - Yavapai, Hackberry Wash - Yavapai, Hamlin Wash, Hell Canyon, Hellzapoppin Creek, Hilda Creek, Hitt Wash, Hop Creek, Horse Creek 1 - Yavapai, Horse Creek 2 - Yavapai, Horse Wash, Houston Creek

- Yavapai, Humbug Creek, Humphrey Wash, Indian Creek 1 - Yavapai, Indian Creek 2 - Yavapai, Indian Springs Creek, Indian Springs Wash, Iron Spring Wash - Yavapai, Iron Springs Wash, Jacobs Canyon 1, Jim Creek, Johnson Creek, Johnson Wash - Yavapai, Kirkland Creek, Larry Creek, Layler Creek, Lima Creek, Little Ash Creek, Little Buckhorn, Little Chino Wash, Little Copper Creek, Little Cypress Creek, Little Hackberry, Little Lima Creek, Little Shipp Wash, Little Squaw Creek, Little Sycamore 1, Little Sycamore 2, Little Wolf Creek, Loco Creek, Logan Wash, Long Canyon, Lookout Wash, Lynx Creek, M C Canyon, Mahogany Wash, Marzanita Creek - Yavapai, Maricopa Wash, Martin Canyon, Martinez Wash - Yavapai, Meach Wash, Mesquite Creek - Yavapai, Middle Fork Squa, Middle Fork Creek, Middiston Creek, Middlewater Creek, Milk Creek - Yavapai, Miller Creek 1, Miller Creek 2, Miller Wash - Yavapai, Mineral Creek 1 - Yavapai, Mineral Creek 2 - Yavapai, Minersha Creek, Mint Wash, Mitchell Wash, Mockingbird Wash, Model Creek, Monarch Wash, Moonville Creek, Morgan City Wash, Mount Hope Wash, Mountain Spring, Mud Spring Creek, Mud Tank Wash, Muddy Creek, Mounds Draw, Niagara Creek, North Fork Blind, North Fork Calka, North Fork Dats, North Fork Deadm, North Fork Rock, North Fork Square, North Fork Washu, North Pine Creek, North Red Creek, O'Brien Wash, Oak Creek, Oak Creek - Yavapai, Oak Wash, Orofino Wash, Debons Spring Wash, Page Wash, Partridge Creek, Peoples Creek, Pigeon Creek - Yavapai, Pine Creek 1 - Yavapai, Pine Creek 2 - Yavapai, Pine Creek 3 - Yavapai, Pineyava Wash, Piacaritas Creek, Poison Creek, Poland Creek, Poplar Wash, Professor Creek, Quail Spring Wash - Yavapai, Quartz Lead Wash, Racetrack Wash, Railroad Draw, Ravick Canyon, Rattlesnake Canyon, Rattlesnake Wash, Red Creek, Ritter Creek, Rock Creek - Yavapai, Round Valley Wash, Russell Wash, Ryland Creek, Sally May Wash, Salt Creek - Yavapai, San Domingo Wash, Sand Creek, Sheep Creek, Sheep Creek - Yavapai, Sheppard Wash, Sherman Wash, Silver Creek - Yavapai, Skull Valley Wash, Sista Creek, Sista Creek - Yavapai, Slim Jim Creek, Smith Canyon, Soap Creek - Yavapai, Soda Springs Creek, Soldier Wash, Soda Wash, Sour Water Wash - Yavapai, South Fork Calka, South Fork Dats, South Fork Deadm, South Fork Mud B, South Fork Rock, South Fork Santa, South Fork Spring, South Fork Washu, South Prong Syca, Spence Creek, Spencer Creek, Spring Creek 1 - Yavapai, Spring Creek 2 - Yavapai, Spring Wash, Squaw Creek 1 - Yavapai, Squaw Creek 2 - Yavapai, Stinson Wash - Yavapai, Strickland Wash, Stringtown Wash, Sycamore Creek 1, Sycamore Creek 1 - Yavapai, Sycamore Creek 2 - Yavapai, Sycamore Creek 3 - Yavapai, Tangle Creek, Tank Creek 1 - Yavapai, Tank Creek 2 - Yavapai, Tiger Creek, Tomto Wash, Towel Creek, Towers Creek, Trilly Wash, Trout Creek, Trouton Wash, Tub Spring Wash, Tule Creek - Yavapai, Turkey Canyon - Yavapai, Turkey Creek 1 - Yavapai, Turkey Creek 2 - Yavapai, Turkey Creek 3 - Yavapai, Tusconbia Creek, Tussock Spring C, Valley Wash, Wagon

Trail Wash, Washoe Creek - Yavapai, Washout Creek - Yavapai, Westerman Creek, Weaver Creek, West Clear Creek, Wet Beaver Creek, Wet Bottom Creek, Whipsaw Creek, Wilder Spring Wash - Yavapai, Wickup Creek, Wilder Creek, Williamson Valley, Wilson Creek 1 - Yavapai, Wolf Creek, Wolf Creek - Yavapai, Wood Canyon Stream 1 - Yavapai, Wood Canyon Stream 2 - Yavapai, Woodsey Wash - Yavapai, Yarber Wash, Yarnall Creek, Yellow Jacket Creek, a - Sag 8 La Paz/Yavapai, b - Sag 15 Yavapai, f - Sag 68 Yavapai, h - Sag 81 Yavapai, h - Sag 62 Yavapai, and all other named and unnamed small and minor watercourses.

Interested parties may submit evidence to the commission office prior to the hearing and/or during the appropriate public hearing. The commission will conduct its hearings informally without adherence to judicial rules of procedure or evidence. An unbound original plus seven bound copies of documentary evidence is to be submitted. ANSAC offices are located at 1700 West Washington, Room 304, Phoenix, AZ 85007. The telephone number is (602) 542-9214. The web site address is <http://www.az-streambeds.com>. The e-mail address is streams@mindspring.com.

Evidence submitted in advance of the hearing will be available for public inspection during regular Commission office hours of 8:00 a.m. to 5:00 p.m., Monday thru Friday, except on holidays. The commission office is located at 1700 West Washington Street, Room 304, Phoenix, Arizona 85007. Please call first to review evidence at (602) 542-9214.

Individuals with disabilities who need a 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,
February 14, 2005.
TTC PUB Feb. 18, 2005 ad 4260

THE ARIZONA REPUBLIC

STATE OF ARIZONA }
COUNTY OF MARICOPA } SS.

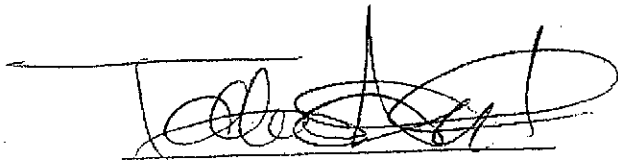
SEE ATTACHED

NOTICE OF PUBLIC HEARING
State of Arizona
Navigable Streams
Application Commission
Pursuant to A.R.S. § 37-1126
(A.R.S. notice is hereby given
that the Navigable Streams
Application Commission
will hold public hearings to
receive physical evidence
and testimony relating to the
navigability of all water courses
in Yavapai County. The
hearings will be held in
Yavapai County on March 29,
2005 beginning at 2:00 p.m.
in an order as listed by
the chair of the Yavapai
County Supervisors' Confer-
ence Room located at 1015
Fall Street, Prescott, Arizona
86305. The following are pres-
ently the only hearings
scheduled:
The Agua Santa River, Burro
Creek, the Hassavampa River,
the Santa Maria River, the
Verde River, and all of the
small and minor water courses
in Yavapai County.
05121 March 4, 2005

Tabitha Antoniadis, 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.

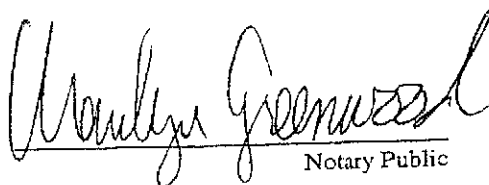
The Arizona Republic

March 4, 2005



Sworn to before me this
4TH day of
March A.D. 2005




Notary Public

NOTICE OF PUBLIC HEARING

State of Arizona
Navigable Stream
Adjudication Commission
Pursuant to A.R.S. § 37-1126
(A) notice is hereby given
that the Navigable Stream
Adjudication Commission
will hold public hearings to
receive physical evidence
and testimony relating to the
navigability or non-
navigability of all watercours-
es in Yavapai County. The
hearings will be held in
Yavapai County on March 29,
2005 beginning at 12:00 p.m.
in an order established by
the chair in the Yavapai
County Supervisors Confer-
ence Room located at 1015
Fair Street, Prescott, Arizona
86305. The following are pres-
ently the only hearings
scheduled:
The Agua Fria River, Burro
Creek, the Hassayampa Riv-
er, the Santa Maria River, the
Verde River, and all of the
small and minor watercours-
es in Yavapai County.
05121-March 4, 2005

SEE ATTACHED

THE ARIZONA REPUBLIC

STATE OF ARIZONA }
COUNTY OF MARICOPA } SS.

Tabitha Antoniadis, 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

February 25, 2005

[Handwritten signature]

Sworn to before me this
25th day of
February A.D. 2005

[Handwritten signature: Marilyn Greenwood]
Notary Public



NOTICE OF PUBLIC HEARING
State of Arizona, Navigable
Stream Adjudication
Commission
Pursuant to A.R.S. § 37-1126
(A), notice is hereby given
that the Navigable Stream
Adjudication Commission
will hold public hearings to
receive physical evidence
and testimony relating to the
navigability or non-
navigability of all watercours-
es in Yavapai County. The
hearings will be held in
Yavapai County on March 29,
2005 beginning at 12:00 p.m.
in an order established by
the chair in their Yavapai
County Supervisors' Confer-
ence Room located at 1615
Fair Street, Prescott, Arizona
85305. The following are
presently the only hearings
scheduled.
The Agua Fria River, Burro
Creek, the Hassayampá Riv-
er, the Santa Maria River, the
Verde River, and all of the
small and minor watercours-
es in Gila County, including
but not limited to:
Adobe Creek - Yavapai, Alkali
Wash, Alky Wash, Amazon
Wash, Antelope Creek 1 -
Yavapai, Antelope Creek 2 -
Yavapai, Antelope Wash -
Yavapai, Apache Creek -
Yavapai, Arrastre Creek 1 -
Yavapai, Arrastre Creek 2 -
Yavapai, Ash Creek 1 -
Yavapai, Ash Creek 2 -
Yavapai, Ash Creek 3 -
Yavapai, Ash Fork Draw
Yavapai, Ash Spring Creek,
Aspen Wash - Yavapai, Badg-
er Spring Wash, Bannan
Creek, Banty Creek -
Yavapai, Bear Canyon, Bear
Creek 1 - Yavapai, Bear
Creek 2 - Yavapai, Bear
Creek 3 - Yavapai, Beaver
Creek - Yavapai, Big Bug
Creek, Big Chino Wash, Big
Shipp Wash, Bill Arp Creek,
Bishop Creek, Blitter Creek
- Yavapai, Blitter Creek 2 -
Yavapai, Black Butte Wash,
Black Canyon Creek, Black
Canyon Wash - Yavapai,
Black Hill Wash, Blackwater
Creek, Blind Creek, Blind In-
dian Creek, Blowout Creek,
Blue Tank Wash - Yavapai,
Board - Creek, Bottleneck
Wash - Yavapai, Boulder
Creek 1 - Yavapai, Boulder
Creek 2 - Yavapai, Brille
Creek, Brushy Creek -
Yavapai, Brushy Prong, Bru-
shy Wash, Buckbed Wash,
Buckhorn Creek - Yavapai,
Bull Run Creek, Bull Wash,
Wash, Bullard Wash, Bumble
Bee Creek, Burnt Wash,
Butte Creek - Yavapai, Butte
Wash, Buzzard Roost Creek,
Buzzard Roost Wash, Cabin
Wash, Calamity Wash, Castle
Creek - Yavapai, Cave Creek
- Maricopa, Cedar Creek -
Yavapai, Cedar Creek 1, Cel-
lar Springs C, Centennial
Wash, Chaparral Gulch,
Chasm Creek, Cherry Creek
1, Cherry Creek, Chino
Wash, Chienega Creek -
Yavapai, Cimarron Creek,
Clipper Wash, Coffee Creek,
Cold Water Creek, Conger
Creek, Contreras Wash -
Yavapai, Cooper Wash -
Cooperopolis Creek, Copper
Basin Wash, Cuppet Creek 1 -
Yavapai, Copper Creek 2 -
Yavapai, Copper Creek 3 -
Yavapai, Cottonwood Can-
yon, Cottonwood Creek 1 -
Yavapai, Cottonwood Creek
2 - Yavapai, Cottonwood
Creek 3 - Yavapai, Cow Creek
1 - Yavapai, Cow Creek 2 -
Yavapai, Cowboy Wash, Coy-
ote Spring, Coyote Wash -
Yavapai, Crazy Basin Creek,
Cypress Creek, Date Creek,
Davenport Wash, Dead Mexi-
can Creek, Deadman Creek,
Devil Dog Canyon, Dillon
Creek 1 - Yavapai, Dry Creek
2 - Yavapai, Dry Wash 1 -
Yavapai, Dry Wash 2 -
Yavapai, Dugan Wash, East
Antelope Creek, East Branch
Squa, East Fork Castle
Creek, East Fork, Eddie
Wash, Eightmile Creek, Finch
Wash, Fort Rock Creek, Fos-
sil Creek, Francis Creek,
French Creek - Yavapai,
Gadois Wash - Zap Creek,
Government Spring, Grandpa
Wash, Granite Creek, Grape-
vine Creek - Yavapai, Graver
Wash, Grief Hill Wash, Grin-
stone Wash, Groom Creek,
Hackberry Creek - Yavapai,
Hackberry Wash - Yavapai,
Hainlin Wash, Hell Canyon,
Hickpopping Creek, Hide
Creek, Hitt Wash, Hog Creek,
Horse Creek 1 - Yavapai,
Horse Creek 2 - Yavapai,
Horse Wash, Houston Creek -
Yavapai, Humbug Creek,
Humphrey Wash, Indian
Creek 3 - Yavapai, Indian
Springs Creek, Indian

NOTICE OF PUBLIC HEARING
State of Arizona Navigable
Stream Adjudication
Commission

Pursuant to A.R.S. § 37-1126 (A), notice is hereby given that the Navigable Stream Adjudication Commission will hold public hearings to receive physical evidence and testimony relating to the navigability or non-navigability of all watercourses in Yavapai County. The hearings will be held in Yavapai County on March 29, 2005 beginning at 12:00 p.m. in an order established by the chair in the Yavapai County Supervisors' Conference Room located at 1015 Fair Street, Prescott, Arizona 86305. The following are presently the only hearings scheduled.

The Agua Fria River, Burro Creek, the Hassayampa River, the Santa Maria River, the Verde River, and all of the small and minor watercourses in Gila County, including but not limited to:

Adobe Creek - Yavapai, Alkali Wash, Ally Wash, Amazon Wash, Antelope Creek 1 - Yavapai, Antelope Creek 2 - Yavapai, Antelope Wash - Yavapai, Apache Creek - Yavapai, Arrastre Creek 1 - Yavapai, Arrastre Creek 2 - Yavapai, Ash Creek 1 - Yavapai, Ash Creek 2 - Yavapai, Ash Creek 3 - Yavapai, Ash Fork Draw - Yavapai, Ash Spring Creek, Aspen Wash - Yavapai, Badger Spring Wash, Bannock Creek, Banty Creek - Yavapai, Bear Canyon, Bear Creek 1 - Yavapai, Bear Creek 2 - Yavapai, Bear Creek 3 - Yavapai, Beaver Creek - Yavapai, Big Bug Creek, Big Chino Wash, Big Shipp Wash, Bill Arp Creek, Bishop Creek, Bitter Creek 1 - Yavapai, Bitter Creek 2 - Yavapai, Black Butte Wash, Black Canyon Creek, Black Canyon Wash - Yavapai, Black Hill Wash, Blackwater Creek, Bland Creek, Blind Indian Creek, Blowout Creek, Blue Tank Wash - Yavapai, Board Creek, Bottleneck

Yavapai, Meath Wash, Mescal Creek - Yavapai, Middle Fork Squa, Middle Red Creek, Middleton Creek, Middlewater Creek, Milk Creek - Yavapai, Miller Creek 1, Miller Creek 2, Miller Wash - Yavapai, Mineral Creek 1 - Yavapai, Mineral Creek 2 - Yavapai, Minnehaha Creek, Mint Wash, Mitchell Wash, Mockingbird Wash, Model Creek, Monarch Wash, Moonville Creek, Morgan City Wash, Mount Hope Wash, Mountain Spring, Mud Spring Creek, Mud Tank Wash, Muddy Creek, Munds Draw, Niagara Creek, North Fork Blind, North Fork Cella, North Fork Date, North Fork Deadm, North Fork Rock, North Fork Squaw, North Fork Walnut, North Pine Creek, North Red Creek, O'Brien Wash, Oak Creek, Oak Creek - Yavapai, Oak Wash, Orofino Wash, Osborne Spring Wash, Page Wash, Partridge Creek, Peoples Creek, Pigeon Creek - Yavapai, Pine Creek 1 - Yavapai, Pine Creek 2 - Yavapai, Pine Creek 3 - Yavapai, Pineveta Wash, Placeritas Creek, Poison Creek, Poland Creek, Poplar Wash, Professor Creek, Quail Spring Wash - Yavapai, Quartz Lead Wash, Race-track Wash, Railroad Draw, Rarick Canyon, Rattlesnake Canyon, Rattlesnake Wash, Red Creek, Ritter Creek, Rock Creek - Yavapai, Round Valley Wash, Russell Wash, Ryland Creek, Sally May Wash, Salt Creek - Yavapai, San Domingo Wash, Sand Creek, Sheep Creek, Sheep Creek - Yavapai, Sheppard Wash, Sherman Wash, Silver Creek - Yavapai, Skull Valley Wash, Slate Creek, Slate Creek - Yavapai, Slim Jim Creek, Smith Canyon, Soap Creek - Yavapai, Soda Springs Creek, Soldier Wash, Sols Wash, Sour Water Wash - Yavapai, South Fork Cella, South Fork Date, South Fork Deadm, South Fork Mud S, South Fork Rock, South Fork Santa, South Fork Spring, South Fork Walnut, South

Wash - Yavapai, Boulder
Creek 1 - Yavapai, Boulder
Creek 2 - Yavapai, Bridle
Creek, Brushy Creek -
Yavapai, Brushy Prong, Bru-
shy Wash, Buckbed Wash,
Buckhorn Creek - Yavapai,
Bull Run Creek, Bull Spring
Wash, Bullard Wash, Bumble
Bee Creek, Burnt Wash,
Butte Creek - Yavapai, Butte
Wash, Buzzard Roost Creek,
Buzzard Roost Wash, Cabin
Wash, Calamity Wash, Castle
Creek - Yavapai, Cave Creek
- Maricopa, Cedar Creek -
Yavapai, Cedar Creek 1, Cel-
lar Springs C, Centennial
Wash, Chaparral Gulch,
Chasm Creek, Cherry Creek
1, Cherry Creek 2, Chino
Wash, Cienega Creek -
Yavapai, Cimarron Creek,
Clipper Wash, Coffee Creek,
Cold Water Creek, Conger
Creek, Contreras Wash -
Yavapai, Cooper Wash,
Cooperopolis Creek, Copper
Basin Wash, Copper Creek 1
- Yavapai, Copper Creek 2 -
Yavapai, Copper Creek 3 -
Yavapai, Cottonwood Can-
yon, Cottonwood Creek 1 -
Yavapai, Cottonwood Creek
2 - Yavapai, Cottonwood
Creek 3 - Yavapai, Cow Creek
1 - Yavapai, Cow Creek 2 -
Yavapai, Cowboy Wash, Coy-
ote Spring, Coyote Wash -
Yavapai, Crazy Basin Creek,
Cypress Creek, Date Creek,
Davenport Wash, Dead Mexi-
can Creek, Deadman Creek,
Devil Dog Canyon, Dillon
Wash, Dry Beaver Creek, Dry
Creek 1 - Yavapai, Dry Creek
2 - Yavapai, Dry Wash 1 -
Yavapai, Dry Wash 2 -
Yavapai, Dugan Wash, East
Antelope Creek, East Branch
Squa, East Fork Castle,
Eastwood Creek, Eddie
Wash, Eightmile Creek, Finch
Wash, Fort Rock Creek, Fos-
sil Creek, Francis Creek,
French Creek - Yavapai,
Gaddis Wash, Gap Creek,
Government Spring, Grandpa
Wash, Granite Creek, Grape-
vine Creek - Yavapai, Graver
Wash, Grief Hill Wash, Grind-
stone Wash, Groom Creek,
Hackberry Creek - Yavapai,
Hackberry Wash - Yavapai,
Hamlin Wash, Hell Canyon,
Hellzapoppin Creek, Hide

Prong Syca, Spence Creek,
Spencer Creek, Spring Creek
1 - Yavapai, Spring Creek 2 -
Yavapai, Spring Wash,
Squaw Creek 1 - Yavapai,
Squaw Creek 2 - Yavapai,
Stinson Wash - Yavapai,
Strickland Wash, Stringtown
Wash, Sycamore Creek 1,
Sycamore Creek 1 - Yavapai,
Sycamore Creek 2 - Yavapai,
Sycamore Creek 3 - Yavapai,
Tangle Creek, Tank Creek 1 -
Yavapai, Tank Creek 2 -
Yavapai, Tiger Creek, Tonto
Wash, Towel Creek, Towers
Creek, Trilby Wash, Trout
Creek, Truxton Wash, Tub
Spring Wash, Tule Creek -
Yavapai, Turkey Canyon -
Yavapai, Turkey Creek 1 -
Yavapai, Turkey Creek 2 -
Yavapai, Turkey Creek 3 -
Yavapai, Tuscumbia Creek,
Tussock Spring C, Valley
Wash, Wagon Tire Wash,
Walker Creek - Yavapai, Wal-
nut Creek - Yavapai, Water-
man Creek, Weaver Creek,
West Clear Creek, Wet Bea-
ver Creek, Wet Bottom
Creek, Whipsaw Creek,
White Spring Wash -
Yavapai, Wickiup Creek, Wild-
er Creek, Williamson Valle,
Willow Creek 1 - Yavapai,
Wolf Creek, Wolf Creek -
Yavapai, Wood Canyon
Stream 1 - Yavapai, Wood
Canyon Stream 2 - Yavapai,
Woolsey Wash - Yavapai,
Yarber Wash, Yarnell Creek,
Yellow Jacket Creek, a - Seg
8 La Paz/Yavapai, b - Seg 15
Yavapai, f - Seg 56 Yavapai, h
- Seg 61 Yavapai, h - Seg 62
Yavapai,
and all other named and un-
named small and minor
watercourses.
Interested parties may submit
evidence to the commission
office prior to the hearing
and/or during the appropri-
ate public hearing. The com-
mission will conduct its hear-
ings informally without ad-
herence to judicial rules of
procedure or evidence. An
unbound original plus seven
bound copies of documenta-
ry evidence is to be submit-
ted. ANSAC offices are locat-
ed at 1700 West Washington,
Room 304, Phoenix, AZ
85007. The telephone num-

Creek, Hitt Wash, Hop Creek,
Horse Creek 1 - Yavapai,
Horse Creek 2 - Yavapai,
Horse Wash, Houston Creek -
Yavapai, Humbug Creek,
Humphrey Wash, Indian
Creek 1 - Yavapai, Indian
Creek 2 - Yavapai, Indian
Springs Creek, Indian
Spring

ber is (602) 542-9214. The
web site address is
<http://www.azstreambeds.com>.
The e-mail address is
streams@mindspring.com.
Evidence submitted in ad-
vance of the hearing will be
available for public inspec-
tion during regular Commis-
sion office hours of 8:00 a.m.

SEE ATTACHED

THE ARIZONA REPUBLIC


NOTICE OF PUBLIC HEARING
State of Arizona
Navigable Stream
Adjudication Commission
 Pursuant to A.R.S. § 37-1126 (A), notice is hereby given that the Navigable Stream Adjudication Commission will hold public hearings to receive physical evidence and testimony relating to the navigability or non-navigability of the major watercourses in Mohave County. The hearings will be held in Mohave County on August 8, 2005 beginning at 2:00 p.m. in an order established by the chair in the Mohave County Supervisors' Conference Room located at 809 E. Beale St., Kingman, Arizona. The following are presently the only hearings scheduled:
 The Big Sandy River; the Bill Williams River; Burro Creek; the Santa Maria River; and the Virgin River.
 Interested parties may submit evidence to the commission office prior to the hearing and/or during the appropriate public hearing. The commission will conduct its hearings 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 office hours of 8:00 a.m. to 5:00 p.m. Monday thru Friday, except on holidays. The commission office is located at 1700 West Washington Street - Room 304, Phoenix, Arizona 85007. Please call first to review evidence at (602) 542-9214.
 Individuals with disabilities who need a reasonable accommodation to communicate with 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, July 5, 2005
 05441 July 8, 2005

STATE OF ARIZONA }
 COUNTY OF MARICOPA } SS.

Tabitha Antoniadis, 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.

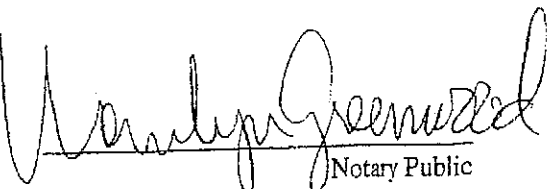
The Arizona Republic

July 8, 2005



Sworn to before me this
 8TH day of
 July A.D. 2005




 Notary Public

NOTICE OF PUBLIC HEARING
State of Arizona
Navigable Stream
Adjudication Commission

Pursuant to A.R.S. § 37-1126 (A), notice is hereby given that the Navigable Stream Adjudication Commission will hold public hearings to receive physical evidence and testimony relating to the navigability or non-navigability of the major watercourses in Mohave County. The hearings will be held in Mohave County on August 8, 2005 beginning at 2:00 p.m. in an order established by the chair in the Mohave County Supervisors' Conference Room located at 809 E. Beale St., Kingman, Arizona. The following are presently the only hearings scheduled.

The Big Sandy River, the Bill Williams River, Burro Creek, the Santa Maria River, and the Virgin River.

Interested parties may submit evidence to the commission office prior to the hearing and/or during the appropriate public hearing. The commission will conduct its hearings 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 office hours of 8:00 a.m. to 5:00 p.m., Monday thru Friday, except on holidays. The commission office is located at 1700 West Washington Street, Room 304, Phoenix, Arizona 85007. Please call first to review evidence at (602) 542-9214.

Individuals with disabilities who need a 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, July 5, 2005.
05441-July 8, 2005

AFFIDAVIT OF PUBLICATION

Kingman Daily Miner

3015 Stockton Hill Road, Kingman, AZ 86401
web: www.kingmandailyminer.com • e-mail: legals@kingmandailyminer.com
Phone (928) 753-6397, ext. 242 • Fax (928) 753-5661
"Serving Kingman since 1882"

STATE OF ARIZONA)
County of Mohave) ss.

I, **ULLI SCHNEIDER**, being first duly sworn on her oath says:
That she is the Legals Clerk of **THE KINGMAN DAILY MINER**
An Arizona corporation, which owns and publishes the Miner,
a Daily Newspaper published in the City of Kingman, County of Mohave,
Arizona; that the notice attached hereto, namely,

SEE ATTACHED

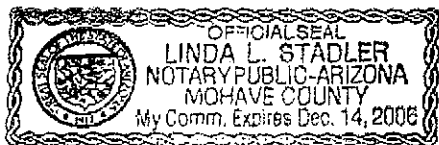
NOTICE OF PUBLIC HEARING
No 2212

Has, to the personal knowledge of affiant, been published in the news-
paper aforesaid, according to law, from the 7 day of **July, 2005**, to
the 7 day of **July, 2005**, inclusive without change, interruption or
omission, amounting in 1 insertion, made on the following date:
07/07, 2005

By: Ulli Schneider
Legal Clerk, 7th Day of July, 2005

By: Linda L. Stadler
Notary Public

My commission expires: 12/14/2006



(2212)
NOTICE OF PUBLIC HEARING
State of Arizona
Navigable Stream Adjudication
Commission

Pursuant to A.R.S. § 37-1126(A), notice is hereby given that the Navigable Stream Adjudication Commission will hold public hearings to receive physical evidence and testimony relating to the navigability or non-navigability of the major watercourses in Mohave County. The hearings will be held in Mohave County on August 8, 2005 beginning at 2:00 p.m. in an order established by the chair in the Mohave County Supervisors' Conference Room located at 809 E. Beale St., Kingman, Arizona. The following are presently the only hearings scheduled.

The Big Sandy River, the Bill Williams River, Burro Creek, the Santa Maria River, and the Virgin River.

Interested parties may submit evidence to the commission office prior to the hearing and/or during the appropriate public hearing. The commission will conduct its hearings 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 office hours of 8:00 a.m. to 5:00 p.m., Monday thru Friday, except on holidays. The commission office is located at 1700 West Washington Street, Room 304, Phoenix, Arizona 85007. Please call first to review evidence at (602) 542-9214.

Individuals with disabilities who need a 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.
Published: July 7, 2005
No. 2212

(2212)
NOTICE OF PUBLIC HEARING
State of Arizona
Navigable Stream Adjudication
Commission

Pursuant to A.R.S. § 37-1126 (A), notice is hereby given that the Navigable Stream Adjudication Commission will hold public hearings to receive physical evidence and testimony relating to the navigability or non-navigability of the major watercourses in Mohave County. The hearings will be held in Mohave County on August 8, 2005 beginning at 2:00 p.m. in an order established by the chair in the Mohave County Supervisors' Conference Room located at 809 E. Beale St., Kingman, Arizona. The following are presently the only hearings scheduled:

The Big Sandy River, the Bill Williams River, Burro Creek, the Santa Maria River, and the Virgin River.

Interested parties may submit evidence to the commission office prior to the hearing and/or during the appropriate public hearing. The commission will conduct its hearings 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 office hours of 8:00 a.m. to 5:00 p.m., Monday thru Friday, except on holidays. The commission office is located at 1700 West Washington Street, Room 304, Phoenix, Arizona 85007. Please call first to review evidence at (602) 542-9214.

Individuals with disabilities who need a 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.

Published: July 7, 2005

No. 2212

SEE ATTACHED

THE ARIZONA REPUBLIC

NOTICE OF PUBLIC HEARING
 State of Arizona
 Navigable Stream
 Adjudication Commission
 Pursuant to A.R.S. § 37-1126
 (A), notice is hereby given
 that the Navigable Stream
 Adjudication Commission
 will hold public hearings to
 receive physical evidence
 and testimony relating to the
 navigability or non-
 navigability of the major wa-
 tercourses in La Paz County.
 The hearings will be held in
 La Paz County on August 9,
 2005 beginning at 10:00 a.m.
 in an order established by
 the chair of the La Paz Coun-
 ty Supervisors' Conference
 Room located at 1108 Joshua
 Ave., Parker, Arizona. The fol-
 lowing are presently the only
 hearings scheduled:
 The Bill Williams River and
 the Santa Maria River.
 Interested parties may submit
 evidence to the commission
 office prior to the hearing
 and/or during the appropri-
 ate public hearing. The com-
 mission will conduct its hear-
 ings informally without ad-
 herence to judicial rules of
 procedure of evidence.
 Evidence submitted in ad-
 vance of the hearing will be
 available for public inspec-
 tion during regular Commis-
 sion office hours of 8:00 a.m.
 to 5:00 p.m., Monday thru Fri-
 day, except on holidays. The
 commission office is located
 at 1700 West Washington
 Street, Room 304, Phoenix,
 Arizona 85007. Please call
 first to review evidence at
 (602) 542-9214.
 Individuals with disabilities
 who need a reasonable ac-
 commodation to commu-
 nicate evidence to the commis-
 sion, or who require this in-
 formation in an alternate for-
 mat may contact the commis-
 sion office at (602) 542-9214
 to make their needs known.
 George Mennert, Executive
 Director, July 5, 2005
 05442-July 8, 2005

STATE OF ARIZONA }
 COUNTY OF MARICOPA } SS.

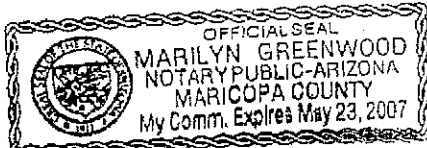
Tabitha Antoniadis, being first duly sworn, upon oath deposes and says: That she is a legal advertising representative of the Arizona Business Gazette, a newspaper of general circulation in the county of Maricopa, State of Arizona, published at Phoenix, Arizona, by Phoenix Newspapers Inc., which also 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

July 8, 2005

[Handwritten Signature]

Sworn to before me this
 8TH day of
 July A.D. 2005



[Handwritten Signature]
 Notary Public

**NOTICE OF PUBLIC HEARING
State of Arizona
Navigable Stream
Adjudication Commission**

Pursuant to A.R.S. § 37-1126 (A), notice is hereby given that the Navigable Stream Adjudication Commission will hold public hearings to receive physical evidence and testimony relating to the navigability or non-navigability of the major watercourses in La Paz County. The hearings will be held in La Paz County on August 9, 2005 beginning at 10:00 a.m. in an order established by the chair in the La Paz County Supervisors' Conference Room located at 1108 Joshua Ave. Parker, Arizona. The following are presently the only hearings scheduled:

The Bill Williams River, and the Santa Maria River.

Interested parties may submit evidence to the commission office prior to the hearing and/or during the appropriate public hearing. The commission will conduct its hearings 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 office hours of 8:00 a.m. to 5:00 p.m., Monday thru Friday, except on holidays. The commission office is located at 1700 West Washington Street, Room 304, Phoenix, Arizona 85007. Please call first to review evidence at (602) 542-9214.

Individuals with disabilities who need a 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, July 5, 2005.

05442-July 8, 2005



STATE OF ARIZONA
NAVIGABLE STREAM ADJUDICATION COMMISSION

1700 West Washington, Room 304, Phoenix, Arizona 85007

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

JANET NAPOLITANO
Governor

E-mail: streams@mindspring.com Web Page: <http://www.azstreambeds.com>

GEORGE MEHNERT
Executive Director

AGENDA AND NOTICE OF A PUBLIC HEARING TO BE HELD

October 20, 2005, at 9:30 a.m. in Phoenix, Arizona

First Amended Agenda

Pursuant to A.R.S. §38-431.02, notice is hereby given that the Navigable Stream Adjudication Commission will hold a meeting open to the public at 9:30 a.m. on October 20, 2005 at the La Quinta Inn located at 2510 West Greenway Road, Phoenix, Arizona (Northeast corner of I-17 and West Greenway Road).

Pursuant to A.R.S. §38-431.03(A)(3), the Navigable Stream Adjudication Commission may vote to go into Executive Session for purposes of obtaining legal advice from the Commission's attorney on any matter listed on the agenda, or pursuant to A.R.S. §38-431.03(A) for discussion of records exempt by law from public inspection on any matter listed on the agenda, or for personnel matters listed on the agenda.

Title 2 of the Americans with Disabilities Act (ADA) prohibits the Commission from discriminating on the basis of disability in its public meetings. Individuals with disabilities who need a reasonable accommodation to attend or communicate at the Commission's meeting, or who require this information in alternate format, may contact George Mehnert at (602) 542-9214 to make their needs known. Requests should be made as soon as possible so the Commission will have sufficient time to respond. For those individuals who have a hearing impairment, this Commission can be reached through the Arizona Relay Service at 1-800-367-8939 (TTY) or 1-800-842-4681 (Voice). The agenda for the meeting is as follows:

1. CALL TO ORDER.
2. Roll Call.
3. Approval of Minutes (discussion and action). Minutes of September 21, 2005, Maricopa County.
4. Jurisdiction regarding Roosevelt Lake, including motion entitled "SALT RIVER PROJECT'S MOTION FOR FINDING OF LACK OF STATUTORY SUBJECT MATTER JURISDICTION TO DETERMINE NAVIGABILITY OF ROOSEVELT LAKE", and all other motions filed relating to this matter in both 04-008-NAV and 04-010-NAV (discussion and action).
5. Hearing regarding the navigability of the Upper Salt River, 04-008-NAV.
6. Hearing regarding the navigability of the small and minor watercourses in Gila County, 04-010-NAV.
7. Adoption of the Commission report regarding the Pima County Small & Minor Watercourses (discussion and action).
8. Determination of the navigability of the Little Colorado River 05-007-NAV (discussion and action).
9. Determination of the navigability of the Big Sandy River 05-011-NAV (discussion and action).
10. Determination of the navigability of the Bill Williams River 05-012-NAV (discussion and action).
11. Determination of the navigability of Burro Creek 05-003-NAV (discussion and action).
12. Determination of the navigability of the Santa Maria River 05-005-NAV (discussion and action).
13. Determination of the navigability of the Virgin River 05-013-NAV (discussion and action).
14. Call for Public Comment (comment sheets).
(Pursuant to Attorney General Opinion No. 199-006 [R99-002]. Public Comment: Consideration and discussion of comments and complaints from the public. Those wishing to address the Commission need not request permission in advance. Action taken as a result of public comment will be limited to directing staff to study the matter or rescheduling the matter for further consideration and decision at a later date.)
15. Future agenda items and establishment of future hearings and other meetings.
16. Commission budget and continuation.
17. ADJOURNMENT.

The chair reserves the right to alter the order of the agenda.

Dated this 6th day of October, 2005. George Mehnert, Director, Navigable Stream Adjudication Commission

EXHIBIT C

Post Hearing Memorandums

Page No.

Hearing No. 05-005-NAV

1

Arizona Navigable Stream Adjudication Commission

**Santa Maria River
La Paz, Mohave and Yavapai Counties**

Entry Number	Date	Entry	Entry By
		Opening Memorandums	
1	09/13/05	Salt River Project's Opening Memorandum.	George Mehnert
2	09/21/05	Phelps Dodge Corporation's Opening Memorandum.	George Mehnert
		Response Memorandums	
		None	

EXHIBIT D



STATE OF ARIZONA
NAVIGABLE STREAM ADJUDICATION COMMISSION

1700 West Washington, Room 304, Phoenix, Arizona 85007

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

JANET NAPOLITANO
Governor

E-mail: streams@mindspring.com Web Page: <http://www.azstreambeds.com>

GEORGE MEHNERT
Executive Director

AGENDA AND NOTICE OF A PUBLIC HEARING TO BE HELD

March 29 2005, at 12:00 P.M., in Prescott, Arizona

Pursuant to A.R.S. §38-431.02, notice is hereby given that the Navigable Stream Adjudication Commission will hold a meeting open to the public on March 29, 2005 at 12:00 p.m. in the Yavapai County Supervisors' Conference Room located at 1015 Fair Street, Prescott, Arizona.

Pursuant to A.R.S. §38-431.03(A)(3), the Navigable Stream Adjudication Commission may vote to go into Executive Session for purposes of obtaining legal advice from the Commission's attorney on any matter listed on the agenda, or pursuant to A.R.S. §38-431.03(A) or for discussion of records exempt by law from public inspection on any matter listed on the agenda, or for personnel matters listed on the agenda.

Title 2 of the American with Disabilities Act (ADA) prohibits the Commission from discriminating on the basis of disability in its public meetings. Individuals with disabilities who need a reasonable accommodation to attend or communicate at the Commission's meeting, or who require this information in alternate format, may contact George Mehnert at (602) 542-9214 to make their needs known. Requests should be made as soon as possible so the Commission will have sufficient time to respond. For those individuals who have a hearing impairment, this Commission can be reached through the Arizona Relay Service at 1-800-367-8939 (TTY) or 1-800-842-4681 (Voice). The agenda for the meeting is as follows:

1. CALL TO ORDER.
2. ROLL CALL.
3. APPROVAL OF MINUTES (discussion and action).
A. January 24, Yuma County.
4. HEARING REGARDING THE NAVIGABILITY OR NON-NAVIGABILITY OF THE AGUA FRIA RIVER, 05-002-NAV.
5. HEARING REGARDING THE NAVIGABILITY OR NON-NAVIGABILITY OF BURRO CREEK, 05-003-NAV.
6. HEARING REGARDING THE NAVIGABILITY OR NON-NAVIGABILITY OF THE HASSAYAMPA RIVER, 05-004-NAV.
7. HEARING REGARDING THE NAVIGABILITY OR NON-NAVIGABILITY OF THE SANTA MARIA RIVER, 05-005-NAV.
8. HEARING REGARDING THE NAVIGABILITY OR NON-NAVIGABILITY OF THE VERDE RIVER, 04-009-NAV.
9. HEARING REGARDING THE NAVIGABILITY OR NON-NAVIGABILITY OF THE SMALL AND MINOR WATERCOURSES IN YAVAPAI COUNTY, 05-001-NAV.
10. BUDGET UPDATE
11. ATTORNEY PAY (discussion and action).
12. CALL FOR PUBLIC COMMENT (comment sheets).
(Pursuant to Attorney General Opinion No. 199-006 [R99-002]. Public Comment: Consideration and discussion of comments and complaints from the public. Those wishing to address the Commission need not request permission in advance. Action taken as a result of public comment will be limited to directing staff to study the matter or rescheduling the matter for further consideration and decision at a later date.)
13. FUTURE AGENDA ITEMS AND ESTABLISHMENT OF FUTURE HEARINGS AND OTHER MEETINGS.
14. ADJOURNMENT.

The chair reserves the right to alter the order of the agenda.

Dated this 24th day of February, 2005, George Mehnert, Director, Navigable Stream Adjudication Commission



JANET NAPOLITANO
Governor

STATE OF ARIZONA
NAVIGABLE STREAM ADJUDICATION COMMISSION

1700 West Washington, Room 304, Phoenix, Arizona 85007

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

E-mail: streams@mindspring.com Web Page: <http://www.azstreambeils.com>

GEORGE MEHNERT
Executive Director

MEETING MINUTES
Prescott, Arizona, March 29, 2005

COMMISSION MEMBERS PRESENT

Jay Brashear, Dolly Echeverria, Earl Eisenhower, Jim Henness, and Cecil Miller.

COMMISSION MEMBERS ABSENT

None

STAFF PRESENT

George Mehnert, and Commission Legal Counsel Curtis Jennings.

1. CALL TO ORDER.

Chair Eisenhower called the meeting to order at approximately 12:23 p.m.

2. ROLL CALL.

See above.

3. APPROVAL OF MINUTES (discussion and action).

A. January 24, 2005, Yuma County.

Motion by: Jay Brashear Second by: Dolly Echeverria

Motion: To approve the minutes of January 24, 2005.

Vote: All aye.

4. HEARING REGARDING THE NAVIGABILITY OR NON-NAVIGABILITY OF THE AGUA FRIA RIVER, 05-002-NAV.

Persons who spoke and responded to questions regarding this matter were Cheryl Doyle representing the State Land Department and Hydrologist Jon Fuller prepared the reports regarding this matter for the State Land Department, and stated among other things that New River and Skunk Creek had been included in an earlier report as small and minor watercourses in Maricopa County with Skunk Creek flowing into New River and New River flowing into the Agua Fria.

5. HEARING REGARDING THE NAVIGABILITY OR NON-NAVIGABILITY OF BURRO CREEK, 05-003-NAV. Cheryl

Doyle of the State Land Department said that her statement regarding the State Land Department would be the same for each watercourse hearing, except for report dates, and the Chair stated there would be no point in her repeating it. Hydrologist Jon Fuller who prepared the reports regarding this matter for the State Land Department spoke and responded to questions. Phil Blacet, geologist for Phelps Dodge, also spoke and responded to questions. As a matter of clarification, attorney Curtis Jennings and expert Jon Fuller discussed that the report Mr. Fuller was talking about covered Burro Creek, the Big Sandy River, and the Santa Maria River, all part of a single watershed, and that the Big Sandy River flowed exclusively in Mohave County and not at all in Yavapai County.

6. **HEARING REGARDING THE NAVIGABILITY OR NON-NAVIGABILITY OF THE HASSAYAMPA RIVER, 05-004-NAV.** Chair did item 7 followed by item 6. Cheryl Doyle of the State Land Department said that her statement regarding the State Land Department would be the same for each watercourse hearing, and the Chair had previously stated there would be no point in her repeating it. Hydrologist Jon Fuller who prepared the reports regarding this matter for the State Land Department spoke and responded to questions.
7. **HEARING REGARDING THE NAVIGABILITY OR NON-NAVIGABILITY OF THE SANTA MARIA RIVER, 05-005-NAV.** Chair did item 7 followed by item 6. Cheryl Doyle of the State Land Department said that her statement regarding the State Land Department would be the same for each watercourse hearing, and the Chair had previously stated there would be no point in her repeating it. Hydrologist Jon Fuller who prepared the reports regarding this matter for the State Land Department spoke and responded to questions. Phil Blacet, geologist for Phelps Dodge, also spoke and responded to questions.
8. **HEARING REGARDING THE NAVIGABILITY OR NON-NAVIGABILITY OF THE VERDE RIVER, 04-009-NAV.** Cheryl Doyle of the State Land Department said that her statement regarding the State Land Department would be the same for each watercourse

hearing, and the Chair had previously stated there would be no point in her repeating it. Jon Fuller, who prepared the Verde River Report, was present, but Ottozawa Chatupron of the State Land Department spoke and responded to questions regarding the Verde River Report. Attorney John Ryley representing the Yavapai Apache Nation spoke regarding this matter. Shanti Rosette, representing the State Land Department, also spoke. Dolly Echeverria discussed that she has had a lengthy history in Arizona and she mentioned her view that the Verde is used mainly for fun, for kayaking, etc., but indicated it is too difficult to get in and out of for conducting commercial traffic. Ms. Rosette indicated experts will be available at the final hearing in Maricopa County regarding the Verde and that those experts will present the Land Commissioner's position at that time. Mr. Brashear asked the Chair that additional information be provided to the Commission by those who provide the evidence regarding commercial boating.

9. **HEARING REGARDING THE NAVIGABILITY OR NON-NAVIGABILITY OF THE SMALL AND MINOR WATERCOURSES IN YAVAPAI COUNTY, 05-001-NAV.**

Cheryl Doyle of the State Land Department said that her statement regarding the State Land Department would be the same for each watercourse hearing, and the Chair had previously stated there would be no point in her repeating it. Hydrologist Jon Fuller who prepared the reports regarding this matter for the State Land Department spoke and responded to questions. In response to questions from the Commission Attorney Jon Fuller said that information in the report that may be pertinent to the Commission making a decision relating to Curtis Jennings' questions is that Oak Creek would be considered a boating stream for modern boating year round and that he found no evidence of historical boating around the time of statehood, but there is sufficient flow for low-draft boating and that those are some of the facts present in his report. Commissioner Miller clarified that Jon Fuller was referring to that portion of Oak Creek South of Sedona, and Mr. Fuller indicated he was talking about the area between about Cornville to the confluence with the Verde.

10. **BUDGET UPDATE.** The Director and the Chair indicated that ANSAC's base budget has not changed from its original request and that ANSAC asked the joint House Senate budget committee for an additional \$67,000.00 (should be \$64,000.00), a number provided by the State Land Department, for updates and for experts appearing at hearings. The State Land Department asked for an additional \$1,000,000.00 to complete Commission work. The director also said the State Land Department asked for an additional approximately \$7,000.00 for the April 25 and 26, 2005 hearings; and that this is money to pay for the experts, and is money the Land Department Engineering Section had thought was available for this purpose, but is no longer. Commissioner Henness asked what the \$7,000.00 was for and Ottozawa Chatupron indicated it was for the expert consulting engineers for review of data and appearance at hearings. The Chair explained the process that occurred at the budget hearings. Mr. Ott explained that was never an appropriation to the State Land Department for FY2005 monies to do the Commission's work. Commissioner Brashear pointed out that even if we called these hearings off at this time we will have to again pay the \$9,000.00 we have already paid for advertising when we hold these hearings in the future, and suggested that if there is a way we can do this then we should do it. Attorney Curtis Jennings indicated the appearance of the Commission paying for expert witnesses is not a good thing, and that an alternative is to hold the hearings and listen to whomever shows up. Commissioner Echeverria made the point that very few local citizens appear at our hearings. Mr. Ott pointed out that the reason the Land Department provides expert witnesses at hearings is because that is what the Commissioners want, and that they believe the Land Department has satisfied the statute by providing the reports and that it is not necessary to provide the experts at hearings. Mr. Ott pointed out that he believes the purpose for hearings is for others to present evidence and that all of the evidence the Land Department has is in the reports. Commissioner Henness wanted to make clear with Mr. Ott that the report updates contain information that comports with the court rulings and stated that he is concerned about the expert

witnesses; who retains them, who they represent, who selects them for their pedigrees, etc. Commissioner Henness indicated the process involving the Land Department's expert, particularly with the involvement of the attorney representing the Land Department, is beginning to have an edge to it. He also wanted to clarify that the \$7,000.00 is for the balance of the work for this fiscal year.

Commissioner Brashear discussed the benefit of the information and education provided to the public by the engineers who appear at Commission hearings. The Chair indicated we would check on the availability of funds and will notify the Commissioners individually.

11. ATTORNEY PAY (discussion and action).

Motion by: Jim Henness Second by: Jay Brashear

Motion: To increase the Commission Attorney's hourly rate to \$200.00 per hour. Vote: All aye.

12. CALL FOR PUBLIC COMMENT (comment sheets).

*(Pursuant to Attorney General Opinion No. 199-006 [R99-002].
Public Comment: Consideration and discussion of comments and complaints from the public. Those wishing to address the Commission need not request permission in advance. Action taken as a result of public comment will be limited to directing staff to study the matter or rescheduling the matter for further consideration and decision at a later date.)*

Attorney Mark McGinnis spoke regarding which watercourses are closed for the taking of evidence today because the closing of the taking of evidence triggers the post hearing memorandum filing clock. The Chair said that only the small and minor watercourses are closed for the taking of evidence.

13. FUTURE AGENDA ITEMS AND ESTABLISHMENT OF FUTURE HEARINGS AND OTHER MEETINGS.

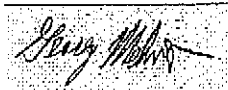
The Chair indicated that Coconino County will be rescheduled for July, 2005 based on Mr. Fuller's unavailability in June. There was discussion of other potential meeting dates for Mohave and Maricopa County.

14. ADJOURNMENT.

Motion by: Jim Henness Second by: Dolly Echeverria

Motion: To adjourn. Vote: All aye.
Meeting adjourned at approximately 1:51 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "George Mehnert", is enclosed within a rectangular box with a dotted or stippled background.

George Mehnert, Director
March 30, 2005



STATE OF ARIZONA
NAVIGABLE STREAM ADJUDICATION COMMISSION

1700 West Washington, Room 304, Phoenix, Arizona 85007

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

JANET NAPOLITANO
Governor

E-mail: streams@mindspring.com Web Page: <http://www.azstreambeds.com>

GEORGE MEHNERT
Executive Director

AGENDA AND NOTICE OF A PUBLIC HEARING TO BE HELD

August 8, 2005, at 2:00 p.m. in Kingman, Arizona

Pursuant to A.R.S. §38-431.02, notice is hereby given that the Navigable Stream Adjudication Commission will hold a meeting open to the public at 2:00 p.m. on August 8, 2005 in the Mohave County Supervisors meeting room at 809 East Beal Street, Kingman, Arizona.

Pursuant to A.R.S. §38-431.03(A)(3), the Navigable Stream Adjudication Commission may vote to go into Executive Session for purposes of obtaining legal advice from the Commission's attorney on any matter listed on the agenda, or pursuant to A.R.S. §38-431.03(A) or for discussion of records exempt by law from public inspection on any matter listed on the agenda, or for personnel matters listed on the agenda.

Title 2 of the American with Disabilities Act (ADA) prohibits the Commission from discriminating on the basis of disability in its public meetings. Individuals with disabilities who need a reasonable accommodation to attend or communicate at the Commission's meeting, or who require this information in alternate format, may contact George Mehnert at (602) 542-9214 to make their needs known. Requests should be made as soon as possible so the Commission will have sufficient time to respond. For those individuals who have a hearing impairment, this Commission can be reached through the Arizona Relay Service at 1-800-367-8939 (TTY) or 1-800-842-4681 (Voice). The agenda for the meeting is as follows:

1. CALL TO ORDER.
2. Roll Call.
3. Approval of Minutes (discussion and action).
 - A. July 14, 2005, Coconino County.
4. Hearing regarding the navigability of the Big Sandy River 05-011-NAV.
5. Hearing regarding the navigability of the Bill Williams River 05-012-NAV.
6. Hearing regarding the navigability of Burro Creek 05-003-NAV.
7. Hearing regarding the navigability of the Santa Maria River 05-005-NAV.
8. Hearing regarding the navigability of the Virgin River 05-013-NAV.
9. Call for Public Comment (comment sheets).

(Pursuant to Attorney General Opinion No. 199-006 [R99-002]. Public Comment: Consideration and discussion of comments and complaints from the public. Those wishing to address the Commission need not request permission in advance. Action taken as a result of public comment will be limited to directing staff to study the matter or rescheduling the matter for further consideration and decision at a later date.)
10. Future Agenda Items and Establishment of Future Hearings and other Meetings.
11. ADJOURNMENT.

The chair reserves the right to alter the order of the agenda.

Dated this 6th day of July, 2005, George Mehnert, Director, Navigable Stream Adjudication Commission



STATE OF ARIZONA
NAVIGABLE STREAM ADJUDICATION COMMISSION

1700 West Washington, Room 304, Phoenix, Arizona 85007

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

JANET NAPOLITANO
Governor

E-mail: streams@mindspring.com Web Page: <http://www.azstreambeds.com>

GEORGE MEHNERT
Executive Director

MEETING MINUTES
Kingman, Arizona August 8, 2005

COMMISSION MEMBERS PRESENT

Jay Brashear, Earl Eisenhower, Jim Henness, and Cecil Miller.

COMMISSION MEMBERS ABSENT

Dolly Echeverria.

STAFF PRESENT

George Mehnert, and Commission Legal Counsel Curtis Jennings.

1. CALL TO ORDER.

Chair Eisenhower called the meeting to order at approximately 2:03 p.m.

2. ROLL CALL.

See above.

3. APPROVAL OF MINUTES (discussion and action).

July 14, 2005, Coconino County.

Motion by: Jim Henness Second by: Cecil Miller

Motion: To approve the minutes of July 14, 2005.

Vote: All aye.

4. Hearing regarding the navigability of the Big Sandy River 05-011-NAV.

Cheryl Doyle and Engineer Jon Fuller representing the State Land Department presented evidence regarding this watercourse. The Chairman stated the hearing on this matter was completed for the purpose of taking evidence.

5. Hearing regarding the navigability of the Bill Williams River 05-012-NAV.

Cheryl Doyle and Engineer Jon Fuller representing the State Land Department presented evidence regarding this watercourse. Also, a discussion took place regarding the Bill Williams, Colorado River Confluence and Mr. Fuller indicated the State Land Department was presently establishing boundaries along the Colorado River. Mr. Fuller indicated he would call engineering project manager Pat Deschamps this evening to determine whether she has yet studied the boundaries regarding the Colorado River in the Bill Williams Confluence area, and that he would report back to the commission tomorrow.

6. Hearing regarding the navigability of Burro Creek 05-003-NAV.

Cheryl Doyle and Engineer Jon Fuller representing the State Land Department presented evidence regarding this watercourse.

7. Hearing regarding the navigability of the Santa Maria River 05-005-NAV.

Cheryl Doyle and Engineer Jon Fuller representing the State Land Department presented evidence regarding this watercourse. Commissioner Brashear stated that he wanted mention made in the minutes that Mr. Fuller had made comments regarding boating and a potential for commercial boating on the Bill Williams River and its tributaries. The Chairman stated the hearing on this matter was completed for the purpose of taking evidence.

8. Hearing regarding the navigability of the Virgin River 05-013-NAV.

Cheryl Doyle and Engineer Jon Fuller representing the State Land Department presented evidence regarding this watercourse. The Chairman stated the hearing on this matter was completed for the purpose of taking evidence.

9. Call for Public Comment (comment sheets).

(Pursuant to Attorney General Opinion No. 199-006 [R99-002]. Public Comment: Consideration and discussion of comments and complaints from the public. Those wishing to address the Commission need not request permission in advance. Action taken as a result of public comment will be limited to directing staff to study the matter or rescheduling the matter for further consideration and decision at a later date.)

Assistant Attorney General Lori Hachtel spoke regarding the State Land Department's work relating to the boundaries of the Colorado River and stated that it is not likely information earlier requested by the Commission has been completed yet by the Land Department concerning the confluence of the Bill Williams River and the Colorado River.

10. Future Agenda Items and Establishment of Future Hearings and other Meetings.

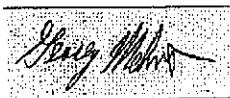
11. ADJOURNMENT.

Motion by: Jay Brashear Second by: Jim Henness

Motion: To adjourn. Vote: All aye.

Meeting adjourned at approximately 3:04 p.m.

Respectfully submitted,



George Mehnert, Director

August 10, 2005



STATE OF ARIZONA
NAVIGABLE STREAM ADJUDICATION COMMISSION

1700 West Washington, Room 304, Phoenix, Arizona 85007

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

JANET NAPOLITANO
Governor

E-mail: streams@mindspring.com Web Page: <http://www.azstreambeds.com>

GEORGE MEHNERT
Executive Director

AGENDA AND NOTICE OF A PUBLIC HEARING TO BE HELD

August 9, 2005, at 10:00 a.m. in Parker, Arizona

Pursuant to A.R.S. §38-431.02, notice is hereby given that the Navigable Stream Adjudication Commission will hold a meeting open to the public at 10:00 a.m. on August 9, 2005 in the La Paz County Supervisors meeting room at 1108 Joshua Avenue, Parker, Arizona.

Pursuant to A.R.S. §38-431.03(A)(3), the Navigable Stream Adjudication Commission may vote to go into Executive Session for purposes of obtaining legal advice from the Commission's attorney on any matter listed on the agenda, or pursuant to A.R.S. §38-431.03(A) or for discussion of records exempt by law from public inspection on any matter listed on the agenda, or for personnel matters listed on the agenda.

Title 2 of the American with Disabilities Act (ADA) prohibits the Commission from discriminating on the basis of disability in its public meetings. Individuals with disabilities who need a reasonable accommodation to attend or communicate at the Commission's meeting, or who require this information in alternate format, may contact George Mehnert at (602) 542-9214 to make their needs known. Requests should be made as soon as possible so the Commission will have sufficient time to respond. For those individuals who have a hearing impairment, this Commission can be reached through the Arizona Relay Service at 1-800-367-8939 (TTY) or 1-800-842-4681 (Voice). The agenda for the meeting is as follows:

1. CALL TO ORDER.
2. Roll Call.
3. Approval of Minutes (discussion and action).
A. None.
4. Hearing regarding the navigability of the Bill Williams River 05-012-NAV.
5. Hearing regarding the navigability of the Santa Maria River 05-005-NAV.
6. Call for Public Comment (comment sheets).
(Pursuant to Attorney General Opinion No. 199-006 [R99-002]. Public Comment: Consideration and discussion of comments and complaints from the public. Those wishing to address the Commission need not request permission in advance. Action taken as a result of public comment will be limited to directing staff to study the matter or rescheduling the matter for further consideration and decision at a later date.)
7. Future Agenda Items and Establishment of Future Hearings and other Meetings.
8. ADJOURNMENT.

The chair reserves the right to alter the order of the agenda.

Dated this 6th day of July, 2005, George Mehnert, Director, Navigable Stream Adjudication Commission



STATE OF ARIZONA
NAVIGABLE STREAM ADJUDICATION COMMISSION

1700 West Washington, Room 304, Phoenix, Arizona 85007

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

JANET NAPOLITANO
Governor

E-mail: streams@mindspring.com Web Page: <http://www.azstreambeds.com>

GEORGE MEHNERT
Executive Director

MEETING MINUTES

Parker, Arizona, August 9, 2005

COMMISSION MEMBERS PRESENT

Jay Brashear, Earl Eisenhower, Jim Henness, and Cecil Miller.

COMMISSION MEMBERS ABSENT

Dolly Echeverria.

STAFF PRESENT

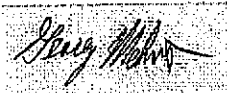
George Mehnert, and Commission Legal Counsel Curtis Jennings.

- 1.
2. **CALL TO ORDER.**
Chair Eisenhower called the meeting to order at approximately 10:00a.m.
3. **ROLL CALL.**
See above.
4. **APPROVAL OF MINUTES** (discussion and action).
None.
5. **Hearing regarding the navigability of the Bill Williams River 05-012-NAV.**
Cheryl Doyle and Engineer Jon Fuller representing the State Land Department presented evidence. Regarding a question from the previous day during a meeting in Kingman, Arizona Jon Fuller said he checked with his engineers and their studies have not yet been completed in the Bill Williams River confluence area and that this area was not a high priority for these studies. . The Chairman stated the hearing on this matter was completed for the purpose of taking evidence.
6. **Hearing regarding the navigability of the Santa Maria River 05-005-NAV.**
Cheryl Doyle and Engineer Jon Fuller representing the State Land Department presented evidence.
Attorney Bill Staudenmaier representing Phelps Dodge also spoke regarding this watercourse indicating he knew of no reason why the Commission could not go ahead and make its decision of navigability regarding the Bill Williams regardless of the status of the State Land Department's boundary determinations studies.
The Chairman stated the hearing on this matter was completed for the purpose of taking evidence.
7. **Call for Public Comment (comment sheets).**
(Pursuant to Attorney General Opinion No. 199-006 [R99-002]. Public Comment: Consideration and discussion of comments and complaints from the public. Those wishing to address the Commission need not

request permission in advance. Action taken as a result of public comment will be limited to directing staff to study the matter or rescheduling the matter for further consideration and decision at a later date.)

8. **Future Agenda Items and Establishment of Future Hearings and other Meetings.** September's meeting will be hearings regarding the Agua Fria and Hassayampa Rivers and the meeting will be September 21, 2005. In addition to the Commissioners, attorney Mark McGinnis representing Salt River Project also spoke concerning this agenda item.
9. **ADJOURNMENT.**
Motion by: Jay Brashear Second by: Jim Henness
Motion: To adjourn. Vote: All aye.
Meeting adjourned at approximately 10:42a.m.

Respectfully submitted,



George Mehnert, Director
August 10, 2005



STATE OF ARIZONA
NAVIGABLE STREAM ADJUDICATION COMMISSION

1700 West Washington, Room 304, Phoenix, Arizona 85007

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

JANET NAPOLITANO
Governor

E-mail: streams@mindspring.com Web Page: <http://www.azstreambeds.com>

GEORGE MEHNERT
Executive Director

AGENDA AND NOTICE OF A PUBLIC HEARING TO BE HELD
October 20, 2005, at 9:30 a.m. in Phoenix, Arizona

Pursuant to A.R.S. §38-431.02, notice is hereby given that the Navigable Stream Adjudication Commission will hold a meeting open to the public at 9:30 a.m. on October 20, 2005 at the La Quinta Inn located at 2510 West Greenway Road, Phoenix, Arizona (Northeast corner of I-17 and West Greenway Road).

Pursuant to A.R.S. §38-431.03(A)(3), the Navigable Stream Adjudication Commission may vote to go into Executive Session for purposes of obtaining legal advice from the Commission's attorney on any matter listed on the agenda, or pursuant to A.R.S. §38-431.03(A) or for discussion of records exempt by law from public inspection on any matter listed on the agenda, or for personnel matters listed on the agenda.

Title 2 of the Americans with Disabilities Act (ADA) prohibits the Commission from discriminating on the basis of disability in its public meetings. Individuals with disabilities who need a reasonable accommodation to attend or communicate at the Commission's meeting, or who require this information in alternate format, may contact George Mehnert at (602) 542-9214 to make their needs known. Requests should be made as soon as possible so the Commission will have sufficient time to respond. For those individuals who have a hearing impairment, this Commission can be reached through the Arizona Relay Service at 1-800-367-8939 (TTY) or 1-800-842-4681 (Voice). The agenda for the meeting is as follows:

1. CALL TO ORDER.
2. Roll Call.
3. Approval of Minutes (discussion and action).
September 21, 2005, Maricopa County, Phoenix, Arizona.
4. Hearing regarding the navigability of the Upper Salt River, 04-008-NAV.
5. Hearing regarding the navigability of the small and minor watercourses in Gila County, 04-010-NAV.
6. Adoption of the Commission report regarding the Pima County Small & Minor Watercourses (discussion and action).
7. Call for Public Comment (comment sheets).
(Pursuant to Attorney General Opinion No. 199-006 [R99-002]. Public Comment: Consideration and discussion of comments and complaints from the public. Those wishing to address the Commission need not request permission in advance. Action taken as a result of public comment will be limited to directing staff to study the matter or rescheduling the matter for further consideration and decision at a later date.)
8. Future agenda items and establishment of future hearings and other meetings.
9. Commission budget and continuation.
10. ADJOURNMENT.

The chair reserves the right to alter the order of the agenda.

Dated this 19th day of September, 2005. George Mehnert, Director, Navigable Stream Adjudication Commission



STATE OF ARIZONA
NAVIGABLE STREAM ADJUDICATION COMMISSION

1700 West Washington, Room 304, Phoenix, Arizona 85007

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

JANET NAPOLITANO
Governor

E-mail: streams@mindspring.com Web Page: <http://www.azstreambeds.com>

GEORGE MEHNERT
Executive Director

AGENDA AND NOTICE OF A PUBLIC HEARING TO BE HELD

October 20, 2005, at 9:30 a.m. in Phoenix, Arizona

First Amended Agenda

Pursuant to A.R.S. §38-431.02, notice is hereby given that the Navigable Stream Adjudication Commission will hold a meeting open to the public at 9:30 a.m. on October 20, 2005 at the La Quinta Inn located at 2510 West Greenway Road, Phoenix, Arizona (Northeast corner of I-17 and West Greenway Road).

Pursuant to A.R.S. §38-431.03(A)(3), the Navigable Stream Adjudication Commission may vote to go into Executive Session for purposes of obtaining legal advice from the Commission's attorney on any matter listed on the agenda, or pursuant to A.R.S. §38-431.03(A) for discussion of records exempt by law from public inspection on any matter listed on the agenda, or for personnel matters listed on the agenda.

Title 2 of the Americans with Disabilities Act (ADA) prohibits the Commission from discriminating on the basis of disability in its public meetings. Individuals with disabilities who need a reasonable accommodation to attend or communicate at the Commission's meeting, or who require this information in alternate format, may contact George Mehnert at (602) 542-9214 to make their needs known. Requests should be made as soon as possible so the Commission will have sufficient time to respond. For those individuals who have a hearing impairment, this Commission can be reached through the Arizona Relay Service at 1-800-367-8939 (TTY) or 1-800-842-4681 (Voice). The agenda for the meeting is as follows:

1. CALL TO ORDER.
2. Roll Call.
3. Approval of Minutes (discussion and action). Minutes of September 21, 2005, Maricopa County.
4. Jurisdiction regarding Roosevelt Lake, including motion entitled "SALT RIVER PROJECT'S MOTION FOR FINDING OF LACK OF STATUTORY SUBJECT MATTER JURISDICTION TO DETERMINE NAVIGABILITY OF ROOSEVELT LAKE", and all other motions filed relating to this matter in both 04-008-NAV and 04-010-NAV (discussion and action).
5. Hearing regarding the navigability of the Upper Salt River, 04-008-NAV.
6. Hearing regarding the navigability of the small and minor watercourses in Gila County, 04-010-NAV.
7. Adoption of the Commission report regarding the Pima County Small & Minor Watercourses (discussion and action).
8. Determination of the navigability of the Little Colorado River 05-007-NAV (discussion and action).
9. Determination of the navigability of the Big Sandy River 05-011-NAV (discussion and action).
10. Determination of the navigability of the Bill Williams River 05-012-NAV (discussion and action).
11. Determination of the navigability of Buro Creek 05-003-NAV (discussion and action).
12. Determination of the navigability of the Santa Maria River 05-005-NAV (discussion and action).
13. Determination of the navigability of the Virgin River 05-013-NAV (discussion and action).
14. Call for Public Comment (comment sheets).
(Pursuant to Attorney General Opinion No. 199-006 [R99-002], Public Comment: Consideration and discussion of comments and complaints from the public. Those wishing to address the Commission need not request permission in advance. Action taken as a result of public comment will be limited to directing staff to study the matter or rescheduling the matter for further consideration and decision at a later date.)
15. Future agenda items and establishment of future hearings and other meetings.
16. Commission budget and continuation.
17. ADJOURNMENT.

The chair reserves the right to alter the order of the agenda.

Dated this 6th day of October, 2005, George Mehnert, Director, Navigable Stream Adjudication Commission



STATE OF ARIZONA
NAVIGABLE STREAM ADJUDICATION COMMISSION

1700 West Washington, Room 304, Phoenix, Arizona 85007

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

JANET NAPOLITANO
Governor

E-mail: streamis@mindspring.com Web Page: <http://www.azstreambeds.com>

GEORGE MEHNERT
Executive Director

MEETING MINUTES

Phoenix, Arizona, October 20, 2005

COMMISSION MEMBERS PRESENT

Jay Brashear, Dolly Echeverria, Earl Eisenhower, Jim Henness.

COMMISSION MEMBERS ABSENT

Cecil Miller was absent, and Commissioner Henness had to leave early at approximately 11:45 a.m.

STAFF PRESENT

George Mehnert.

1. **CALL TO ORDER.**

Chair Eisenhower called the meeting to order at approximately 9:36 a.m.

2. **ROLL CALL.**

See Above.

3. **APPROVAL OF MINUTES** (discussion and action).

A. September 21, 2005, Maricopa County

Motion by: Jim Henness Second by: Earl Eisenhower

Motion: To accept minutes as submitted. Vote: All aye.

4. **Jurisdiction regarding Roosevelt Lake, including motion entitled "SALT RIVER PROJECT'S MOTION FOR FINDING OF LACK OF STATUTORY SUBJECT MATTER JURISDICTION TO DETERMINE NAVIGABILILTY OF ROOSEVELT LAKE", and all other motions filed relating to this matter in both 04-008-NAV and 04-010-NAV (discussion and action).** The Office of the Attorney General, on behalf of their client the State Land Department filed a response to the original motion on October 20, 2005. The Chair accepted the Attorney General response, continued the matter to a later meeting, and granted the Salt River Project's Attorney a week to reply to the Attorney General's response to the original motion.

5. **Hearing regarding the navigability of the Upper Salt River, 04-008-NAV.**

Persons who presented evidence or spoke regarding this matter: Jon Fuller, Dennis Gilpin, David Weedman, Stanley Schumm and Douglas Littlefield, Ph.D. Also, attorneys Mark McGinnis and Rebecca Goldberg, Laurie A. Hachtel, John Ryley and Joe Sparks spoke or examined witnesses.

6. **Hearing regarding the navigability of the small and minor watercourses in Gila County, 04-010-NAV.** Persons who presented evidence or spoke regarding this matter: Jon Fuller.
7. **Adoption of the Commission report regarding the Pima County Small & Minor Watercourses (discussion and action).** The Chair continued this matter to a future meeting.
8. **Determination of the navigability of the Little Colorado River 05-007-NAV (discussion and action).**
 Motion by: Jay Brashear Second by: Dolly Echeverria
 Motion: The Little Colorado River was not navigable as of statehood. Vote:
 All aye.
9. **Determination of the navigability of the Big Sandy River 05-011-NAV (discussion and action).**
 Motion by: Dolly Echeverria Second by: Jay Brashear
 Motion: The Big Sandy River was not navigable as of statehood.
 Vote: All aye.
10. **Determination of the navigability of the Bill Williams River 05-012-NAV (discussion and action).**
 Motion by: Jay Brashear Second by: Dolly Echeverria
 Motion: The Bill Williams River was not navigable as of statehood.
 Vote: All aye.
11. **Determination of the navigability of Burro Creek 05-003-NAV (discussion and action).**
 Motion by: Dolly Echeverria Second by: Jay Brashear
 Motion: Burro Creek was not navigable as of statehood.
 Vote: All aye.
12. **Determination of the navigability of the Santa Maria River 05-005-NAV (discussion and action).**
 Motion by: Jay Brashear Second by: Dolly Echeverria
 Motion: The Santa Maria River was not navigable as of statehood.
 Vote: All aye.
13. **Determination of the navigability of the Virgin River 05-013-NAV (discussion and action).**
 Motion by: Jay Brashear Second by: Dolly Echeverria
 Motion: The Virgin River was not navigable as of statehood. Vote:
 All aye.
14. **Call for Public Comment (comment sheets).**
(Pursuant to Attorney General Opinion No. 199-006 [R99-002]. Public Comment: Consideration and discussion of comments and complaints from the public. Those wishing to address the Commission need not request permission in advance. Action

taken as a result of public comment will be limited to directing staff to study the matter or rescheduling the matter for further consideration and decision at a later date.)

15. **Future agenda items and establishment of future hearings and other meetings.**
16. **Commission budget and continuation.**

The Director and the Chair commented that the Commission is very weak insofar as budget is concerned and that the Commission will appreciate the support of everyone to continue the Commission for two additional so that it can complete its work.

17. **ADJOURNMENT.**

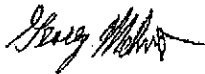
Motion by: Jay Brashear Second by: Dolly Echeverria

Motion: To adjourn.

Vote: All aye.

Meeting adjourned at approximately 1:55 p.m..

Respectfully submitted,



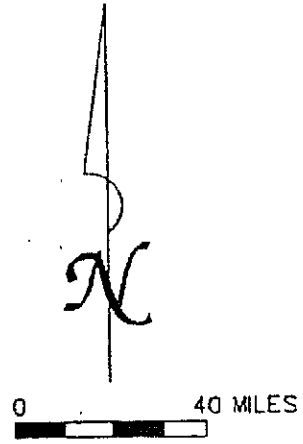
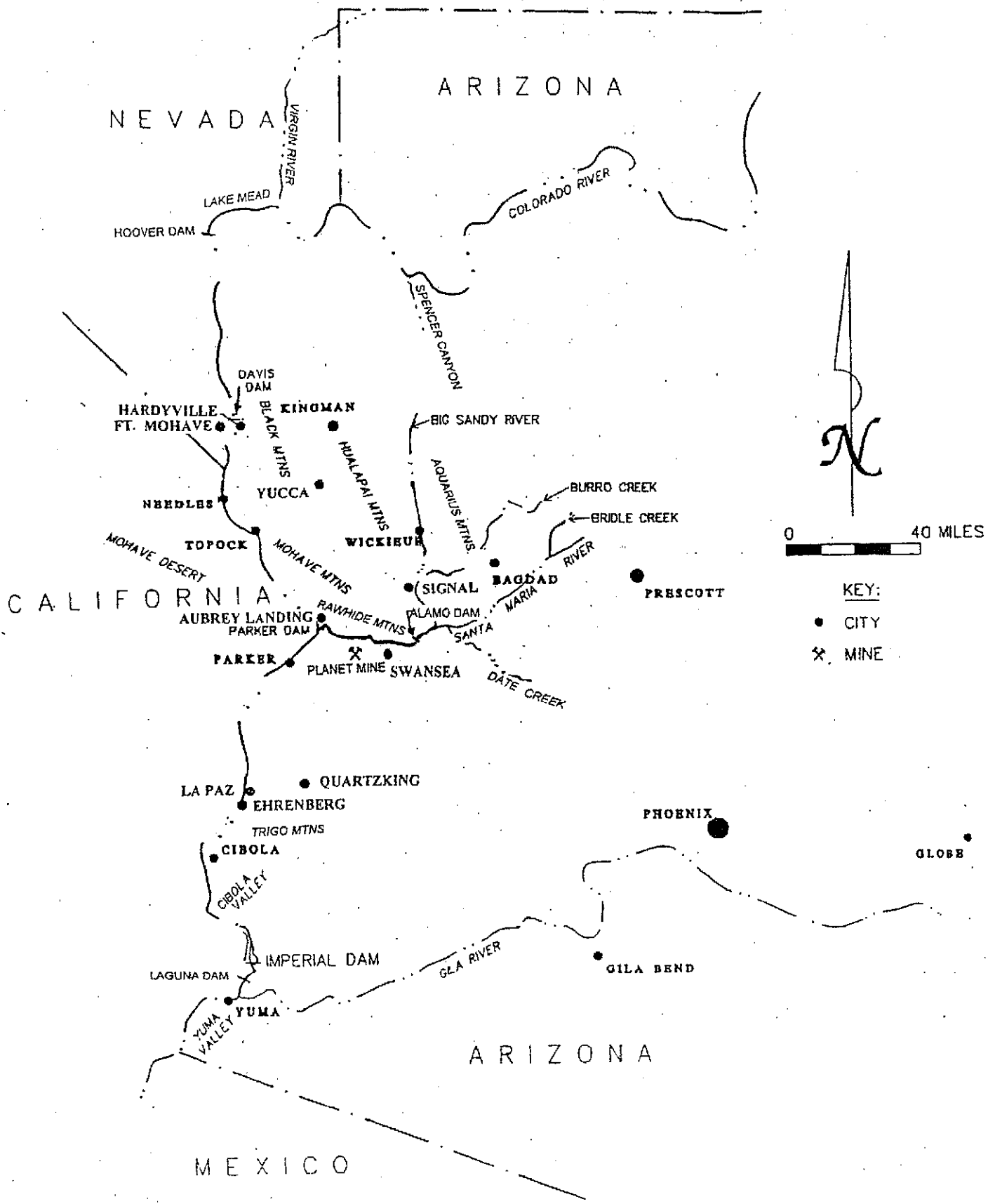
George Mehnert, Director

October 21, 2005

EXHIBIT E



Figure 1. Major geographic features in west-central Arizona.



- KEY:**
- CITY
 - ⊗ MINE

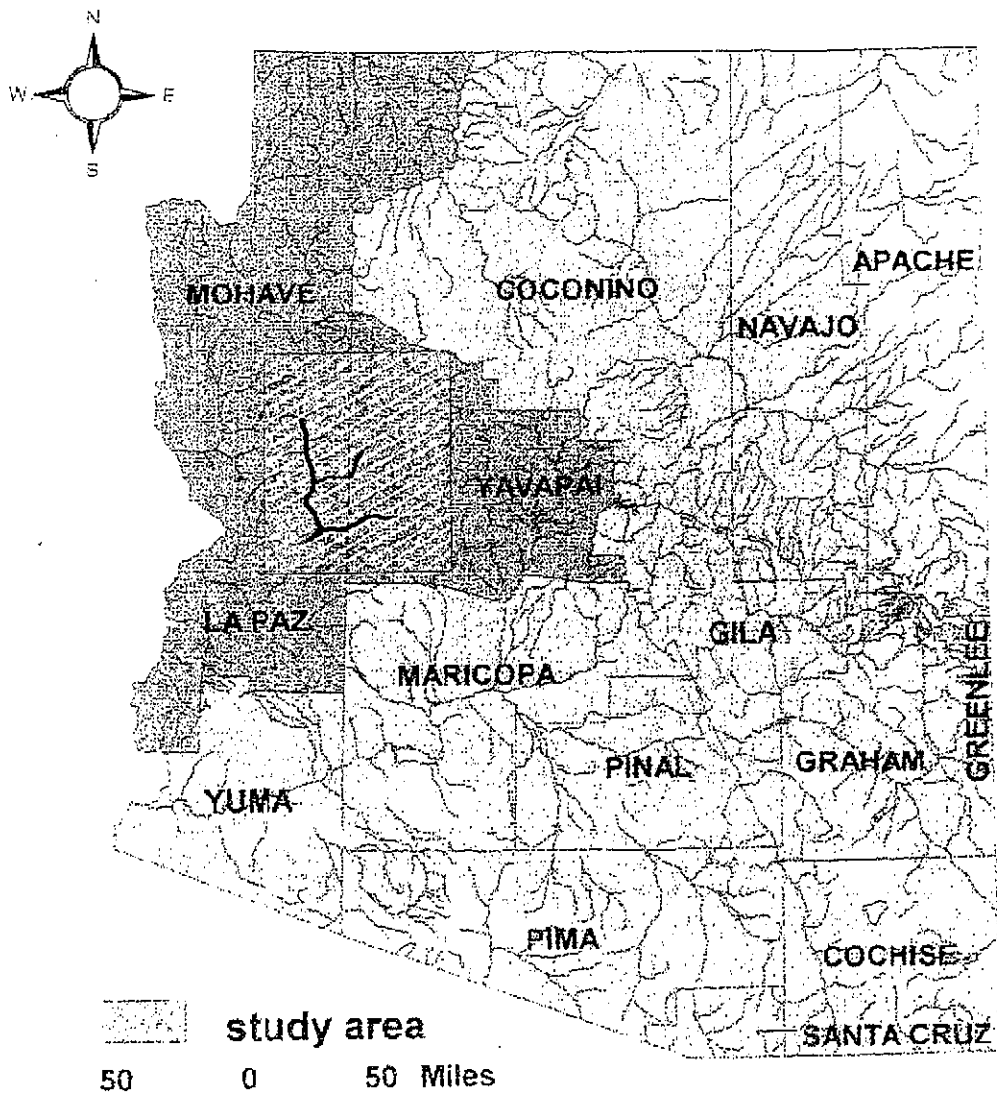


Figure 1. Study area location

The Bill Williams River Basin is located in central western Arizona within La Paz, Mohave, and Yavapai counties and covers a relatively rugged and remote region of Arizona.

EXHIBIT F

Evidence Log

Hearing No. 05-005-NAV

Page No.

1

Arizona Navigable Stream Adjudication Commission

Santa Maria River
La Paz, Mohave, and Yavapai Counties

Item Number	Received Date	Source to ANSAC	Description	Entry By
1	2/18/97	Evidence on Hand at ANSAC.	Letter from David Baron dated February 18, 1997.	George Mehnert
2	9/7/98	Evidence on Hand at ANSAC.	Small and Minor Watercourse Criteria Final Report.	George Mehnert
3	9/7/98	Evidence on Hand at ANSAC.	Final Report, 3 County Pilot Study.	George Mehnert
4	1/19/99	State Land Department	Preliminary Report Big Sandy, Burro Creek, & Santa Maria.	George Mehnert
5	2/1/99	State Land Department	Final Report Big Sandy, Burro Creek, & Santa Maria.	George Mehnert
6	3/3/05	State Land Department	Final Report 2004 Update Big Sandy, Burro Creek, & Santa Maria.	George Mehnert
7	3/29/05	AZ Center for Law in the Public Interest	Application of the Public Trust Doctrine to the Gila River-Santa Maria River, Western Arizona	George Mehnert