

BEFORE THE
ARIZONA NAVIGABLE STREAM ADJUDICATION COMMISSION

IN THE MATTER OF THE
NAVIGABILITY OF SMALL AND
MINOR WATERCOURSES IN
MARICOPA COUNTY, ARIZONA,
EXCLUDING THE GILA RIVER,
SALT RIVER, VERDE RIVER,
HASSAYAMPA RIVER, AND
AGUA FRIA RIVER

No.: 05-014-NAV

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REGARDING THE NAVIGABILITY OF SMALL AND
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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 any small and minor watercourse in Maricopa County, Arizona, excluding the Gila River, Salt River, Verde River, Hassayampa River and Agua Fria 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.

There are 2,495 documented small and minor watercourses in Maricopa County, of which 2,356 are unnamed. All of these watercourses, both named and unnamed, are the subject of and included in this report. Excluded from this report are the Gila, Salt, Verde, Hassayampa and Agua Fria Rivers which are deemed to be major watercourses and are the subjects of separate reports. Attached hereto as Exhibit "A" is a list of all of the small and minor watercourses in Maricopa County, Arizona, both named and unnamed, covered by this report.

I. Procedure

On September 1, 2005, the Commission gave proper prior notice of its intent to consider the issue of whether small and minor watercourses in Maricopa County, Arizona, were navigable or nonnavigable for title purposes as of February 14, 1912, in accordance with A.R.S. § 37-1123B. A copy of the Notice of Intent to Study and Receive, Review and Consider Evidence on the issue of navigability of small and minor watercourses in Maricopa County is attached hereto as Exhibit "B."

After collecting and documenting all reasonably available evidence received pursuant to the Notice of Intent to Study and to Receive, Review and Consider

Evidence, the Commission scheduled a public hearing to receive additional evidence and testimony regarding the navigability or nonnavigability of small and minor watercourses located in Maricopa County, Arizona. Public notice of this hearing was given by legal advertising on October 6, 2005, as required by law 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). This hearing was held on November 16 and 17, 2005, in the City of Phoenix, the county seat of Maricopa County, since the law requires that such hearing be held in the county in which the watercourses being studied are located. Attached hereto as Exhibit "C" is a copy of the notice of the public hearing.

All parties were advised that anyone who desired to appear and give testimony at the public hearing could do so and, in making its findings and determination as to navigability and nonnavigability, the Commission would consider all matters presented to it at the hearing, 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.

Following the public hearing held on November 16 and 17, 2005, all parties were advised that they could file post-hearing memoranda pursuant to the Rules adopted by the Commission. Post-hearing memoranda were filed by Salt River Project Agricultural

Improvement and Power District and Salt River Valley Water Users Association. On April 11, 2006, at a public hearing in Phoenix, Arizona, after considering all of the evidence and testimony submitted, and the post-hearing memorandum 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 all small and minor watercourses in Maricopa County, Arizona, were nonnavigable as of February 14, 1912. Attached as Exhibit "E" are minutes of this hearing (April 11, 2006) as well as the earlier hearings which were continued to this date and hearings at which evidence was presented.

II. Maricopa County, Arizona

Maricopa County, Arizona, is located in the central portion of the state and is approximately 9,222 square miles in land area, with a population of 2,991,250 as of the last census on July 1, 2000. In 2005 it had a population of approximately 3,635,528. Maricopa County is quite urbanized with 1441 square miles of its area located within the incorporated limits of cities and towns notwithstanding recent annexations, and the remaining 7785 square miles are unincorporated. It borders the counties of Yavapai to the north, Gila to the northeast, La Paz and Yuma to the west, Pima to the south, and Pinal to the east and south. Maricopa County lies within the following latitude and longitude ranges: 32°30'20" North to 34°03'00" North and 111°02'00" West to 113°20'00" West.

Arizona Revised Statutes § 11-109 describes the boundaries of Maricopa County

as follows:

Maricopa county, the county seat of which is Phoenix, is bounded as follows:

Commencing at a point where the meridian line one hundred thirteen degrees twenty minutes west longitude, as defined by the Atwood Survey of 1918, intersects the second standard parallel south, being the northwest corner of Pima county; thence north on such survey line and along the east boundaries of Yuma and La Paz counties to the point where the meridian line one hundred thirteen degrees twenty minutes west longitude, as surveyed, intersects the thirty-fourth parallel north latitude, as defined by the Thompson Survey of 1924; thence east on the thirty-fourth parallel north latitude, as defined, and along the southern boundary of Yavapai county to the point where the Hassayampa river intersects such parallel; thence southeast in a direct line following the Thompson Survey of 1924 to a point in the Agua Fria river two miles southerly and below the mouth of Humbug creek; thence northerly up the Agua Fria river to a point two miles southerly and below the place where the residence of J. W. Swilling stood on January 31, 1877; thence easterly in a direct line following the Thompson Survey of 1924 to the point where the thirty-fourth parallel north latitude, as defined by such survey, intersects the Verde river; thence east on such parallel to the point where the parallel as surveyed intersects the summit of the Mazatzal range of mountains; thence southerly along the summit of the Mazatzal range of mountains to the point where such range of mountains intersects the centerline of the Salt river; thence easterly up the Salt river to the mouth of Tonto creek; thence southerly in a direct line toward a mountain known as the "Water Shed," and along the western boundary of Gila county to the point where such line and boundary intersects the north line of township one north; thence west on the north line of township one north and along the northern boundary of Pinal county to the

point where such line intersects the eastern line of range seven east; thence south on the eastern line of range seven east to the point where such line intersects the southern line of township two south; thence west on such line to the point where such line intersects the Gila river; thence northerly and westerly down the Gila river to the point where the river intersects the eastern line of range one east, being the northwest corner of Pinal county; thence south on such line to the point where such line intersects the second standard parallel south, being the southwest corner of Pinal county; thence west on such parallel to the point where it intersects the meridian line one hundred thirteen degrees twenty minutes west longitude, as defined by the Atwood Survey of 1918, being the place of beginning.

Maricopa County was established on February 14, 1871 and is the most populous county in the state. It lies in the basin and range area of central Arizona. The plains and valleys are Sonoran desert, but in the northeast portion are mountains containing evergreen, coniferous, and other mountain foliage. The highest point in the county is 7,657 feet above sea level at Four Peaks in the Four Peaks Wilderness located near the border with Gila County (33°41'00"N latitude and 111°19'00"W longitude). The lowest point in the county is in the Gila River at the border with Yuma County at approximately 500 feet above sea level (113°20'00"W longitude and 32°57'00"N latitude).

The major population centers of Maricopa County are the cities of Wickenburg, Gila Bend, Buckeye, Goodyear, Avondale, Litchfield Park, Sun City, Glendale, Paradise Valley, Scottsdale, Tempe, Mesa, Chandler, and Phoenix which is the county seat and the capital of the State of Arizona. Phoenix is now the fifth largest city in the United States. Smaller towns or settlements located in Maricopa County are Morristown,

Surprise, Tonopah, New River, Cave Creek, Fountain Hills, Gilbert, Wintersburg, Arlington, and Sentinel. The major commercial industries of Maricopa County are farming, ranching, mining and tourism. The manufacturing industry is also becoming more and more important. Education, government and construction are also important employers. Interstate Highways 8 and 10 and Highway 60 are the main east-west corridors of transportation, and Interstate Highways 10 and 17 and Highways 85 and 87 are the principal corridors running north and south. The main line of the Union Pacific/Southern Pacific Railroad, generally running parallel to Interstate Highways 10 and 8, also traverses the county in an east-west direction.

Major areas of interest in Maricopa County are Lake Pleasant on the Agua Fria River, Horseshoe and Bartlett Lakes on the Verde River, and Saguaro, Canyon and Apache Lakes on the Salt River, Painted Rock State Park, Pioneer Arizona Museum, McDowell Mountain Park, Phoenix South Mountain Park, Four Peaks Wilderness area, Luke Air Force Base, the Desert Botanical Gardens and Phoenix Zoo located in Papago Park, and the Arizona State Capital complex. Also located in the Phoenix metropolitan area are the Phoenix Civic Center and numerous sports complexes, museums, and theaters. Arizona State University with four campuses in Maricopa County is headquartered in the City of Tempe. A number of Indian Reservations which have established casinos are located in Maricopa County.

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 Ariz. 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 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 nonnavigable 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

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

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 navigate 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 nonnavigable 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 nonnavigable 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

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 Sessions Law, Chapter 127.

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 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 37-1128.

The 1992 Act provided that the Commission would make findings of navigability or nonnavigability 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. 178 ("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 nonnavigability 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 the small and minor watercourses in Maricopa County.

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 what watercourses were not navigable as of February 14, 1912.

2. Based only on evidence of navigability or nonnavigability, determine whether 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 all of the small and minor watercourses in Maricopa County, Arizona, and excludes the Gila River, Salt River, Verde River, Hassayampa River and Agua Fria 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 small and minor watercourses in Maricopa County, 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 the 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 overbears, 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 imagine 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 (2nd Cir. 1969).³

VI. Standard for Determining Navigability

The statute 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.

A.R.S. § 37-1101(5).

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).

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. 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 Bank*, 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 small and minor watercourses in Maricopa County were 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 man-made 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.

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.

4. "Man-made water conveyance system" means:

(a) An irrigation or drainage canal, lateral canal, ditch or flume.

(b) A municipal, industrial, domestic, irrigation or drainage water system, including dams, reservoirs and diversion facilities.

(c) A channel or dike that is designed, dedicated and constructed solely for flood control purposes.

(d) A hydropower inlet and discharge facility.

(e) A canal, lateral canal, ditch or channel for transporting central Arizona project water.

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 small and minor watercourses located in Maricopa County, Arizona. Twelve major filings of documents relating to Maricopa County were considered by the Commission, including evidence consisting of studies, written documents, newspapers and other historical accounts, pictures and testimony. A comprehensive study entitled "Final Report - Small & Minor Watercourses Analysis for Maricopa County, Arizona" prepared by Stantec Consulting Inc., in association with JE Fuller/Hydrology & Geomorphology, Inc., under supervision of the Arizona State Land Department, dated December, 2000, was submitted. The Commission also considered documents, studies, and reports submitted mainly in conjunction with the studies on the Verde River, Salt River and Gila River. The list of evidence and records, together with a summarization is attached as Exhibit "D". The Commission also heard testimony and received and considered evidence at the public hearing by powerpoint presentation on rivers and watercourses located in Maricopa County, Arizona.

**A. Small & Minor Watercourses Analysis
for Maricopa County, Arizona**

1. Analysis Methods

Due to the large number of small and minor watercourses located in Maricopa County, Arizona (2,495 watercourses, of which 2,356 are unnamed – see Exhibit “A”), it is impractical and unnecessary to consider each watercourse with the same detail that the Commission considered major watercourses. The study of small and minor watercourses developed by Stantec Consulting Inc. and its associates provided for an evaluation using a three-level process which contained criteria that would be necessarily present for a stream to be considered navigable. A master database listing all small and minor watercourses was developed from the Arizona Land Resource Information System (ALRIS) with input from the U. S. Geological Survey, the U. S. Environmental Protection Agency and other agencies and sources. The final version of the master database called "Streams" includes a hydrological unit code (HUC), segment number, mileage, watercourse type and watercourse name, if available. Thus there is a hydrological unit code for each of the segments of the 2,495 small and minor watercourses in Maricopa County, Arizona. The database also locates each segment by section, township, and range. Some of the satellite databases discussed below also locate certain significant reference points by latitude and longitude.

Using the master database, the contractor also set up six satellite databases, each relating to a specific stream characteristic or criterion that would normally be found in a

watercourse considered to be navigable or susceptible of navigability. These stream criteria are as follows:

1. Perennial stream flow;
2. Dam located on stream;
3. Fish found in stream;
4. Historical record of boating;
5. Record of modern boating; and
6. Special status (other water related characteristics, including in-stream flow application and/or permit, unique waters, wild and scenic, riparian, and preserve).

All watercourses were evaluated at level one which is a binary (yes or no) sorting process as to whether or not these characteristics are present. For a stream or watercourse not to be rejected at level one, it must be shown that at least one of these characteristics is present. If none of these characteristics are present, the stream or watercourse is determined to require no further study and is rejected at level one as having no characteristics of navigability.

All streams and watercourses surviving the level one sorting (i.e., determined to have one or more of the above characteristics) are evaluated at level two. The level two analysis is more qualitative than level one and its assessment requires a more in-depth analysis to verify and interpret the reasons that caused a particular stream to advance from level one. Each of the above characteristics on which there was an affirmative

answer at level one is analyzed individually at level two to determine whether the stream is potentially susceptible to navigation or not susceptible to navigation; for example, a watercourse that at first appears to be perennial in flow but upon further analysis is determined to have only a small flow from a spring for a short distance and therefore cannot be considered perennial for any substantial portion of the watercourse.

In addition, the level two analysis utilizes a refinement with value engineering techniques analyzing watercourses with more than one affirmative response at level one and assigned values to each of the six categories mentioned above. Clearly, perennial flow, historical boating, and modern boating are more important to the issue of navigability than the categories of dam impacted, special status, or fish. Thus, for the purpose of the value engineering study, the following rough values were assigned to each of the six categories: historical boating-10, modern boating-8, perennial stream-7, dam impacted-4, fish-4, and special status-2. This system is a recognized tool used in value engineering studies, and seven qualified engineers from the state Land Department and consulting staff of the contractor participated in determining the values used for each category. This system establishes that a value in excess of 13 is required for a stream to survive the level two evaluation and pass to level three for consideration.⁴ Thus, a stream having both perennial flow and historical boating (sum

⁴ When this procedure was first developed, a cut off value of eleven (11) was established for a stream to survive level two and pass to level three for evaluation. As the present procedure was refined, the cut off value of thirteen (13) was substituted for eleven (11) as it was felt to be more accurate.

value of 17), or a combination of the values set for other criteria equaling more than 13, would require that the stream pass to evaluation at level three. If a stream does not have a sum value greater than 13, it is determined to require no further study and is rejected at level two as having insufficient characteristics of navigability.

If a stream survives the evaluation at level two, it goes on to level three which uses quantitative hydrologic and hydraulic analysis procedures including any stream gauge data available, as well as engineering estimates of depth, width and velocity of any water flow in the subject watercourse and comparing the same to minimum standards required for different types of vessels. Also considered is the configuration of the channel and whether it contains rapids, boulders or other obstacles. If a stream or watercourse is not rejected or eliminated at level three, it is removed from this process and subjected to a separate detailed study similar to that performed on a major watercourse, and a separate report will be issued on that stream or watercourse.

2. Application of Analysis Methods to Small and Minor Watercourses in Maricopa County

The application of the level one analysis to the 2,495 small and minor watercourses located in Maricopa County resulted in 2,435 watercourses or 97.6% being determined as not having any of the six characteristics listed above, and these 2,435 were therefore rejected or eliminated and did not proceed to a further evaluation at level two. Attached as Exhibit "F" is a list of the watercourses in Maricopa County

which were determined to have no characteristics of navigability or characteristics indicating susceptibility of navigability at level one.

Only 60 watercourses, approximately 2.4%, received an affirmative response to the above characteristics or criteria and were evaluated at level two. Attached as Exhibit "G" is a list of the 60 watercourses that received a positive response to one or more of the characteristics listed above. Fifty-two of these watercourses received only one affirmative response at level one and, after further analysis, were rejected and determined not to have the characteristics of navigability requiring further study. Eight of these watercourses tested affirmatively to more than one of the characteristics listed above. Of these eight, only one had a sum value of more than thirteen when analyzed under the value engineering techniques and was therefore considered or evaluated at level three. It was accordingly determined that 59 of the streams analyzed at level two could not be considered as susceptible of navigability and were therefore rejected at level two. The one stream that survived the value engineering analysis at level two and was considered at level three is Indian Bend Wash, which had a sum value of 15.5.

3. Level Three Analysis for Indian Bend Wash

Indian Bend Wash is located in the east central portion of Maricopa County. It received three affirmative responses in the level one analysis, including perennial flow, historic boating, and fish in stream.

Indian Bend Wash is a highly urbanized flood-control channel located within the limits of the cities of Scottsdale, Paradise Valley, and Tempe in Maricopa County. It is 23.3 miles in length and its total drainage area historically is 197 square miles. It drains the western slopes of the McDowell Mountains and flows into the north side of the Salt River in the City of Tempe. The development of the Central Arizona Project Canal has resulted in a significant reduction of the amount of storm runoff that can reach the main channel of Indian Bend Wash. The elevation in its watershed ranges from 4034 feet at McDowell Peak to 1165 feet at the confluence of Indian Bend Wash with the Salt River. Vegetation within the watershed outside the urban areas is mostly upper Sonoran desert species such as palo verde, mesquite and saguaro cactus. Vegetation in and along Indian Bend Wash is most often grass and non-native trees planted in the many golf courses and parks that dominate over 90% of the stream's length.

Almost all of Indian Bend Wash has been channelized and altered by urban development. In some places the main stream channel is not visible due to its conversion to golf courses, fairways and parks. Historically, Indian Bend Wash was probably a wide braided ephemeral stream which bore little resemblance to the urbanized flood-control channel it has become today. Where the main channel is visible along the urbanized portions, it is a single channel containing coarse sands and cobbles. The less developed portion of Indian Bend Wash is braided, consisting of poorly developed sand and gravel bars. The main channel width varies from 25 to 60 feet with

bank heights of no more than two feet. Various concrete culverts and channels are located along the wash are only designed to convey low flow events and runoff from the many ponds located in the wash. Indian Bend Wash is ephemeral except in the numerous artificial ponds built for recreational and aesthetic purposes. The annual mean flow is 2.5 cubic feet per second (cfs). Stream gauges have recorded a flow which is classified as a 100-year flood of 16,800 cfs. The stream flow, except during periods of flood runoff, is at most a few inches and during normal flow will not support canoes or kayaks, much less any commercial boats. In its construction as a flood-control channel, a number of lakes and ponds have been constructed which allow for recreational paddle-boating and the Game and Fish Departments stocks fish in some of the ponds to support its urban fishing program.

In view of the foregoing, Indian Bend Wash was considered as not being susceptible of navigability during its ordinary flow and was therefore rejected at level three.

4. Summary of Results of Small and Minor Watercourses Analysis for Maricopa County, Arizona

All of the 2,495 small and minor watercourses in Maricopa County were analyzed in the three-level process developed by the State Land Department and its contractors Stantec and J.E Fuller Hydrology. At level one, 2,435 watercourses or 93.6% were determined as not having an affirmative response to any of the six characteristics utilized at level one and were therefore rejected and eliminated at level one. Sixty

watercourses, approximately 2.4%, received an affirmative response to one or more of the characteristics or criteria and were evaluated at level two. Fifty-two of these watercourses received only one affirmative response at level one, and further analysis disclosed that they should be rejected as not having the characteristics of navigability requiring further study. Eight of the watercourses received more than one affirmative response at level one and were analyzed under the value engineering system described above. In this analysis seven of the watercourses had a sum value of less than 13 and were determined as not having the characteristics of navigability requiring further study. Only one stream, Indian Bend Wash, had a sum value of more than 13 and was determined to require further study at level three. It was considered at Level three and as noted above was determined to be not navigable.

Testimony presented at the hearing for all small and minor watercourses in Maricopa County established that the present climate and weather conditions in Maricopa County are the same or very similar to that which existed in 1912 when Arizona became a state.

B. Prehistoric and Historic Considerations Affecting Small and Minor Watercourses in Maricopa County, Arizona

In addition to the Small and Minor Watercourses Analysis and other evidence described above, the Commission also considered evidence of the prehistoric conditions and the historic development of Maricopa County as disclosed in the Stantec Consulting Inc. – JE Fuller/Hydrology & Geomorphology, Inc. Report of December 2000

and in part in the studies submitted in connection with hearings on navigability of the Gila River, Salt River, and Verde River.

1. Prehistoric or Pre-Columbian

The archaeological evidence indicates the presence of paleoindians in Maricopa County as early as 11,500 years ago.⁵ At that time, the weather was much more humid due to the end of the last ice age, and the valleys of Maricopa County resembled a savanna in which megafauna such as mammoth, giant bison, and giant sloth lived and were hunted by the paleoindians as food. The paleoindian peoples are defined by the Clovis projectile point which is a large lithic spear tip fluted so as to be easily attached to the end of the spear. These Clovis projectile points have been found embedded in remains, particularly bones, of mammoth which lived in the area 12,000 to 8,000 years ago.

Some archaeologists believe there were paleoindian people in Arizona prior to the Clovis People, although most pre-Clovis sites that have been identified are in other parts of the southwest and other states. In Arizona, the archaeologists who propose this have named this culture the Malapai People and claim to have found sites, particularly along the lower Gila River and in southern California, evidenced by stone choppers,

⁵ The paleo indian period is generally considered to be between 9500 B.C. or 11,500 B.P. (Before Present) to approximately 6000 B.C. or 8000 B.P. It was followed by the archaic period which lasted until approximately 300 B.C. The archaic period or archaic culture is sometimes called the Cochise or Desert culture.

scrapers and other stone tools. While difficult to date, these archaeologists feel that the Malapai people lived in this area 18,000 to 22,000 years ago.

Following the paleoindian period, the archaic period or Cochise culture evolved, which was a hunting and gathering culture that looked primarily to smaller animals for food. The prime characteristic of the archaic culture is the Folsom projectile point which is much smaller than the Clovis, although fluted to be affixed to the end of short spears launched from an atlatl or primitive spear thrower. Also the Folsom points were later found to be attached to the ends of arrows once bows and arrows were developed. The archaic culture was a hunting and gathering culture that did not build permanent buildings and many of their sites which were near the rivers have probably been obscured by flooding and later occupations. These archaic sites, as well as the earlier paleoindian and Malapai sites, are characterized by large dense scatters of diverse lithic materials used for hunting, caring for, and processing meat and other food. They probably represent base camps or work areas. These archaic people have been characterized by various archaeologists as a desert culture and, more particularly in southern Arizona, as the Cochise culture. Folsom projectile points were used by the archaic peoples in hunting the great bison and smaller game, and such projectile points have been found at some of these archaic sites. Between 300 B.C. and 100 A.D. the early or pre-classic Hohokam culture began to develop in the southern part of Maricopa County along the Gila and Salt Rivers and their tributaries.

The development from the archaic (Desert or Cochise culture) to the proto Hohokam culture is not well understood, but a recent excavation known as the Eagle River site located near Roosevelt Lake on the Salt River has been determined to be the earliest documented ceramic or pottery site in the area. It provides definitive evidence for an indigenous pre-Hohokam population which used the site between 300 B.C. and 100 A.D. It contains evidence of maize (corn agriculture), wild plant gathering and hunting, and shows similarities to the later developed Hohokam, Mogollon, and Anasazi culture groups suggesting that there was an early Pan Southwestern culture at the same time the regional differentiation of the traditional cultures such as the Hohokam was emerging. This may be evidence of the transition from the archaic to the better understood and defined pre-classical Hohokam culture.

On the lower Salt River in Maricopa County and the middle Gila River in the northern part of Pinal County, the archaeological evidence indicates that approximately 2000 years ago a sedentary proto agricultural society arose which has been denominated the Hohokam culture. Some archaeologists believe the Hohokam developed from the indigenous Desert or Cochise culture which had existed for hundreds of years as a primarily hunting and gathering culture. Others believe the catalyst for change or development into the Hohokam farming and irrigation culture was an infusion of immigrants from Mexico or Mesoamerica. Although some archaeologists dispute the early date, the foremost expert on Hohokam culture, Emil

Haury, postulates that a group of people came from Mexico or Mesoamerica as early as 300 B.C. and began constructing canals and using the techniques they brought with them for irrigation agriculture. (See Emil W. Haury's Prehistory of the American Southwest, J. Jefferson Reid and David E. Doyel (Eds.), The University of Arizona Press, Tucson, 1986. They probably merged with or absorbed the local indigenous Cochise or desert culture inhabitants, although there is evidence of separate Cochise-type settlements as late as the end of the first century A.D. No doubt there were subsequent infusions of groups from Mesoamerica into the Hohokam area, but they were apparently absorbed peacefully. During the pioneer and colonial period (600-950 A.D.), the Hohokam expanded and evidence of their tradition and culture is found in the Tucson Basin, Verde Valley (where they mixed with other peoples, probably Anasazi, to form the Sinagua tradition), and the upper Gila River in the Safford valley (where they mixed with the Mogollon peoples).

Although there is significant evidence of prehistoric irrigation, particularly along the Salt River in the Phoenix basin and along the Gila River in northern Pinal County, which were the most densely populated areas in the southwest with an estimated population of between 20,000 and 80,000 at their peak, there is no evidence whatsoever of the use of any of the rivers, including small and minor watercourses, by prehistoric cultures for boating or travel on the water. No doubt these early indigenous people followed the watercourses to assure themselves of a source of water when they

traveled, but they did so by foot and not by boat. Likewise, there is no evidence of any attempted floating of logs for use in construction of pueblos, although logs that floated down during floods were probably utilized. In prehistoric times all travel was exclusively by foot. There were no pack or draft animals until the Spaniards brought horses into North America in the 1500 and 1600s A.D. At their peak (approximately 1100-1200 A.D.), the Hohokam irrigated an estimated 140,000 acres in the Phoenix basin, with an irrigation system of canals exceeding 315 miles in length. In the latter part of the Classic period, i.e. after 1200 A.D., a new culture or tradition known as the Salado has been identified, which is evidenced by much finer pottery, platform mounds, ball courts and a higher grade of masonry construction. The best example of this culture is the ruin at Casa Grande National Monument near Florence in northern Pinal County. Some archaeologists feel that this was a new people who came into the area, probably from Mesoamerica, but most are of the opinion that the Salado tradition was a revitalization primarily of the Hohokam culture with some influence from other cultures or traditions.

After approximately A.D. 1450 the Hohokam and Salado cultures declined and many of the major occupation sites were abandoned. The cause for this decline and abandonment of major occupation sites is unknown, although explanations for the collapse of the Hohokam culture include population decimation by disease, environmental degradation, drought, soil alkalization, and oversteering of a complex

and probably fragile social system. Tree ring studies have shown that the average flow of the rivers and presumably rainfall from A.D. 740 to 1370 was somewhat less than the modern average flows. There is also evidence of significant droughts during the late 1300's and early 1400's. The present Papago or Tohono O'Odham and Pima Indians are thought to be the descendants of the Hohokam and Salado in the Maricopa County area.

Some time around A. D. 1500 the earlier Hohokam and Salado cultures were replaced by the Yavapai culture which had moved from the Colorado River area, but the area remained very sparsely populated. In the late 1600's and early 1700's the Athabascan speaking western Apaches migrated into the area, but stayed primarily in the mountainous eastern portion of Maricopa County and the mountains to the east. To an extent the Apache displaced the Yavapai, although there was intermarriage between the two peoples. Both the Yavapai and Apache were relatively nomadic, living by hunting and gathering and occupying temporary sites consisting of brush wickiups and overhanging rocks. The Apaches exist today living on the Ft. Apache and San Carlos Indian Reservations to the north of the upper Gila River. The Yavapais are also an identified tribe living on reservations to the east of Phoenix and are somewhat intermixed with the Apache.

2. Historical Development of Maricopa County

Other than the passage of Spanish explorers and missionaries, the earliest record of the Salt River Valley is contained in the writings of American trappers who explored the west while trapping for furs, primarily beaver, in the 1820's through 1840's. These trappers traveled exclusively by foot, horseback or mule. Following the war with Mexico in 1848, the United States annexed all of the Mexican territory north of the Gila River by the Treaty of Guadalupe Hidalgo. Due to the Gadsden Purchase in 1853, the United States acquired the land south of the Gila River to the present national boundaries.

During the 1850's, the Army conducted a number of reconnaissance surveys of Maricopa County and other areas acquired from Mexico. In 1865, Camp McDowell was established on the Verde River eight miles above its confluence with the Salt River, and some land was cleared and irrigated by the soldiers. In 1867, a former Confederate soldier, Jack Swilling, and others formed the Swilling Irrigation and Canal Company and cleared out an old Hohokam canal for carrying water to irrigated fields. Thus began modern irrigation and farming in the Salt River Valley.

In the latter part of the 1800s, a number of small communities were established as farming communities, and a number of diversion structures and canals were constructed to irrigate the rich farm land of the Salt River Valley. The population increased substantially through the turn of the century, and the numerous diversion

dams greatly altered the flow of the Salt River and its tributaries and utilized the waters for irrigation. Since water is so important to the development of Maricopa County, evidence relating to the Salt, Verde and Gila Rivers insofar as they flow through Maricopa County was considered by the Commission since the Small and Minor Watercourses generally discharge their flow into these major rivers.

Numerous descriptions by early settlers indicate that the Salt River was an abraded river having anywhere from two to four flow channels and that in normal times the water was two or three feet deep. During flood times and areas of rain in the mountains on the watershed, the flow of the river became substantially greater. Due to the diversion of water for irrigation, most of the water during the normal flow was taken out of the river by 1900. Historian James H. McClintock in describing the Salt River in 1901 stated that "for the greater part of the year, the Salt River is a river only in name. Yet it is one of the most considerable of the flood streams in the nation."

During the period 1867-1900, a number of newspaper articles described fish in the Salt River as well as commercial fishing primarily by native Americans. It is most likely that this fishing occurred from the banks and that there was little, if any, use of boats for fishing. A review of the literature relating to the historical use of the river during this period of time shows that the primary use of the Salt River was for irrigation and two flour mills which were powered by water. There is also some evidence of recreational and commercial fishing. There was no historical evidence of

recreational or commercial fishing on the small and minor watercourses in Maricopa County. There are also reports of hydroelectric plants which were either operated by the water or under construction on canals at Chandler, Tempe and Phoenix. Clearly, during this time the primary use of the water in the Salt River was for irrigation. A map derived from the 1900 census data shows that virtually the entire valley was irrigated or was mapped for irrigation. As pointed out above, there is some evidence and reports of fishing for recreation and even commercial fishing on the river which supplied fish to some restaurants; however, as also pointed out above, the fishing was most likely conducted from the banks of the river, and boats were not used in this fishing enterprise.

There is no evidence of any commercial transportation using the Salt River or any of the other rivers and watercourses in Maricopa County. Transportation in the Salt River Valley was carried out by horseback, stage coach and wagon. Wells Fargo operated a stage coach route along the north side of the Salt River and, while passengers and freight frequently had to cross the river, if the river was high enough to require it, a ferry was used. The Maricopa and Phoenix Railroad was completed to Phoenix in 1887, resulting in the construction of railroad bridges across the Salt River.

The only historical accounts of boating on the Salt River or Verde River refer to downstream boating, and this was only on occasions when the flow allowed it. There is no documentation of any boating on the small and minor watercourses in Maricopa

County. There is documentation of attempts, but mostly unsuccessful, to boat or transport goods down the Salt River and some recreational boating on the Verde River. The boats that were used were shallow draft row boats and rafts. There is some documentation of the floating of logs or sawn timber down the river but not on a regular or commercial basis. There is no documentation of any attempts, successful or unsuccessful, to commercially transport goods upriver. In fact, there was one account reported in 1884 in which boats were wanted upstream on the Salt River and had to be hauled up by wagon. There is no documentation of commercial boating or transporting of goods on any of the small and minor watercourses in Maricopa County.

Due to the flooding of the Salt River, at least a half dozen ferries operated at various times between 1860-1915. While ferries were required during some months of the year due to heavy flow, at other times horses could cross the river pulling the stage coaches or freight wagons. The construction of highway bridges across the river in the 1900's eliminated the need for ferries, although at least one continued to operate as late as 1898. At about the turn of the century, with the majority of the normal flow of the river being diverted for irrigation, ferries became unnecessary. This was especially true after the construction of Roosevelt Dam which further controlled the flow of the river such that it only flowed during periods of large precipitation or when the waters were released from the reservoirs contained by the upstream dams. There is no record of the use of ferries on any of the small and minor watercourses in Maricopa County, although

during severe floods, streets and roads crossing these minor watercourses may be closed for a few hours or a day or two. See Report of 100 Year Flood at 16800 cubic ft/sec on Indian Bend Wash. VII A.3, *supra*.

Man has never in prehistoric or historic or historic times attempted to utilize the major or minor rivers and watercourses in Maricopa County for commercial trade and travel. For over 2000 years, the residents of the Salt River Valley have utilized the waters flowing in the Salt River, Verde River and Gila River, and their tributaries for irrigation purposes and, in fact, have diverted the water out of the river channels with the use of diversion dams and canals in order to irrigate crops throughout the river valleys. Due to the diversion of waters for irrigation purposes as well as the construction of upstream dams, primarily Roosevelt Dam, the Salt River in Maricopa County was an ephemeral stream by statehood in 1912 and one which flowed only during times of heavy precipitation. The Kent Decree indicates that in all classes of land there were approximately 242,000 acres of land within the Salt River Project area eligible to receive water, which is more than the normal flow of the river would support.

Today, the river channel of the major and minor rivers and watercourses are dry during most of the year provided there is no high precipitation or major releases from upstream dams, and the beds are used primarily for sand and gravel mining. Modern development in the flood plain includes soil cement and riprap bank stabilization to

prevent flood waters from flowing outside a designated channel, landfills used by the local municipalities and Indian tribes, sand and gravel mining and some agricultural use. The Indian Bend wash is a prime example of development for recreational use. Portions of the Phoenix Sky Harbor Airport and other commercial and industrial developments are located in the floodplain of the Salt River. The seven dams constructed on the upper Salt River and its tributary, the Verde River, have a capacity to store over two million acre feet of water. In recent years, land formerly irrigated has been taken out of agricultural production to be developed as home sites, and some of the water has been used for home consumption.

XII. Findings and Determination

The Commission conducted a particularized assessment of equal footing claims the State of Arizona might have to the beds and banks of the 2,495 small and minor watercourses in Maricopa County, Arizona and, based on all of the historical and scientific data and information, documents, and other evidence produced, finds that none of the said small and minor watercourses, including Indian Bend Wash, on which a separate detailed study was conducted, were used or were susceptible to being used, in their 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 none of the small and minor watercourses in Maricopa County, Arizona, are or were truly perennial throughout their length and that as of February 14, 1912 and currently, they flow/flowed only in direct response to precipitation and are or were dry at all other times.


The Commission also finds that there is no evidence of any historical or modern commercial boating having occurred on any of the small and minor watercourses in Maricopa County, Arizona.

The Commission also finds that there is no evidence of any fishing, except limited recreational fishing, having occurred on the small and minor watercourses in Maricopa County, Arizona.

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

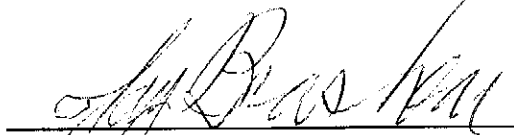
In view of the foregoing, the Commission, pursuant to A.R.S. § 37-1128A, finds and determines that the small and minor watercourses in Maricopa County, Arizona, were not navigable as of February 14, 1912.

RESPECTFULLY SUBMITTED this 18 day of October, 2006.



Earl Eisenhower, Chair

Dolly Echeverria, Vice Chair



Jay Brashear, Member



Cecil Miller, Member

James K. Wemess
James Henness, Member

STAFF MEMBERS:

George Mehnert
George Mehnert
Executive Director

Curtis A. Jennings
Curtis A. Jennings
Legal Counsel to the Commission

EXHIBIT A

Table A-1A
Watercourses in Maricopa County Rejected at Level 1

No. (1)	W_ID (2)	W_NAME (3)	SECCOUNT (4)	W_COUNTIES (5)	W_MILES (6)	W_ADDRESS (7)	W_PER (8)	W_HBOAT (9)	W_HBOAT (10)	W_FISH (11)	W_STATUS (12)	W_DAMP (13)	HTS (14)
1	29	Alder Creek - Maricopa	3	Maricopa	3.504	T3.ON.R10.DE.S16	No	No	No	No	No	No	0
2	60	Apache Wash - Maricopa	7	Maricopa	12.617	T5.ON.R3.DE.S15	No	No	No	No	No	No	0
3	74	Ash Creek - Maricopa	2	Maricopa	4.762	T3.ON.R10.DE.S12	No	No	No	No	No	No	0
4	160	Beaver Bottle Wash	2	Maricopa	7.707	T4.ON.R8.DE.S35	No	No	No	No	No	No	0
5	163	Boulder Wash	11	Maricopa	27.675	T6.OS.R4.DE.S07	No	No	No	No	No	No	0
6	184	Big Maggie Mary Creek	1	Maricopa	2.769	T7.ON.R5.DE.S07	No	No	No	No	No	No	0
7	261	Blue Tank Wash - Yavapai	1	Maricopa/Yavapai	15.477	T7.ON.R5.DE.S01	No	No	No	No	No	No	0
8	262	Blue Wash 1	1	Maricopa	6.978	T4.ON.R8.DE.S22	No	No	No	No	No	No	0
9	253	Blue Wash 2	1	Maricopa	2.968	T6.ON.R5.DE.S12	No	No	No	No	No	No	0
10	271	Boottigger Wash	1	Maricopa	8.948	T3.ON.R4.DE.S05	No	No	No	No	No	No	0
11	278	Boulder Creek 1 - Maricopa	3	Maricopa	8.130	T3.ON.R8.DE.S06	No	No	No	No	No	No	0
12	278	Boulder Creek 2 - Maricopa	6	Maricopa	8.130	T6.ON.R9.DE.S20	No	No	No	No	No	No	0
13	287	Box Wash	5	Maricopa	18.202	T4.ON.R6.DE.S21	No	No	No	No	No	No	0
14	303	Browns Canyon Wash	2	Maricopa	10.134	T6.ON.R9.DE.S17	No	No	No	No	No	No	0
15	325	Bulldog Wash	1	Maricopa	5.405	T1.ON.R8.DE.S20	No	No	No	No	No	No	0
16	331	Burnt Canal Creek - Maricopa	5	Maricopa	2.720	T3.ON.R11.DE.S11	No	No	No	No	No	No	0
17	355	Callinity Wash	3	Maricopa/Yavapai	4.204	T8.ON.R4.DE.S32	No	No	No	No	No	No	0
18	375	Canyon Creek - Maricopa	6	Maricopa	5.907	T6.ON.R7.DE.S10	No	No	No	No	No	No	0
19	422	Centennial Wash	6	La Paz/Maricopa/Yavapai	56.608	T5.ON.R12.DE.S26	No	No	No	No	No	No	0
20	605	Columbus Wash	6	Maricopa/Yuma	22.657	T3.OS.R11.DE.S32	No	No	No	No	No	No	0
21	524	Copper Camp Creek	3	Maricopa	4.730	T7.ON.R8.DE.S07	No	No	No	No	No	No	0
22	532	Copper Wash	13	Maricopa	26.149	T4.OS.R10.DE.S12	No	No	No	No	No	No	0
23	535	Congell Wash	3	Maricopa	10.560	T1.OS.R2.DE.S04	No	No	No	No	No	No	0
24	644	Collinwood Creek - Maricopa	26	Maricopa	23.817	T3.ON.R9.DE.S31	No	No	No	No	No	No	0
25	587	Coyote Wash 1 - Maricopa	13	Maricopa	4.428	T3.ON.R6.DE.S28	No	No	No	No	No	No	0
26	589	Coyote Wash 2 - Maricopa	1	Maricopa	31.728	T4.ON.R7.DE.S13	No	No	No	No	No	No	0
27	591	Crabtree Wash	3	Maricopa	1.699	T3.ON.R11.DE.S29	No	No	No	No	No	No	0
28	614	Dagge Wash	3	Maricopa	23.928	T3.ON.R5.DE.S23	No	No	No	No	No	No	0
29	616	Daniels Arroyo	33	Maricopa/Pima	37.729	T10.OS.R10.DE.S36	No	No	No	No	No	No	0
30	621	Davis Wash	3	Maricopa	4.408	T3.ON.R11.DE.S22	No	No	No	No	No	No	0
31	626	Dead Horse Wash	11	Maricopa	14.615	T5.ON.R8.DE.S34	No	No	No	No	No	No	0
32	632	Deadsman Wash - Maricopa	5	Maricopa	12.289	T5.ON.R1.DE.S14	No	No	No	No	No	No	0
33	650	Delaney Wash	5	Maricopa	9.167	T1.ON.R8.DE.S07	No	No	No	No	No	No	0
34	662	Dickey Wash	2	Maricopa	5.799	T7.ON.R5.DE.S19	No	No	No	No	No	No	0
35	718	East Fork Bronco	1	Maricopa	2.900	T7.ON.R6.DE.S17	No	No	No	No	No	No	0
36	726	East Fork Sycamore	5	Maricopa	6.030	T7.ON.R4.DE.S18	No	No	No	No	No	No	0
37	748	Enterprise Canal	4	Maricopa	4.800	T4.OS.R4.DE.S20	No	No	No	No	No	No	0
38	764	First Water Creek	5	Maricopa/Pinal	8.452	T2.ON.R9.DE.S08	No	No	No	No	No	No	0
39	778	Fleming Wash	3	Maricopa	1.811	T8.ON.R4.DE.S11	No	No	No	No	No	No	0
40	781	Flying E Wash	2	Maricopa	6.830	T7.ON.R5.DE.S03	No	No	No	No	No	No	0
41	791	Fourmile Wash	2	Maricopa	13.357	T1.ON.R8.DE.S20	No	No	No	No	No	No	0
42	792	Fourth of July Wash	8	Maricopa	21.728	T4.OS.R8.DE.S14	No	No	No	No	No	No	0
43	812	Gateway Wash	3	Maricopa	7.954	T8.ON.R4.DE.S27	No	No	No	No	No	No	0
44	856	Grapevine Wash - Maricopa	6	Maricopa	7.968	T6.ON.R5.DE.S07	No	No	No	No	No	No	0
45	858	Grass Wash	3	Maricopa	5.167	T7.ON.R8.DE.S31	No	No	No	No	No	No	0

NOTES: The column headings are defined as follows:
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SECCOUNT: Number of segments merged together to comprise the watercourse.
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W_MILES: Length of the watercourse in miles.
W_ADDRESS: Township, Range and Section of the mouth of the watercourse.

W_PER: Stream classification-perennial or not.
W_HBOAT: With modern boating or not.
W_FISH: With fish or not.
W_DAMP: Impacted by dam or not.
W_STATUS: With special status designations or not.
HTS: Number of affirmative hits based on the six attribute data.

Table A-1A
Watercourses in Maricopa County Rejected at Level 1

No.	W_ID	W_NAME	SEGCOUNT	W_COUNTIES	W_MILES	W_ADDRESS	W_PER	W_HBOAT	W_HBOAT	W_FISH	W_STATUS	W_DIMP	HITS
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
46	877	Growler Wash	94	Maricopa/Pinal/Yuma	178.607	T10.OS.R11.0W.S26	No	No	No	No	No	No	0
47	37633	Huffman Wash	2	Maricopa	9.453	T7.ON.R5.0W.S04	No	No	No	No	No	No	0
48	37652	Hickman Wash	25	Maricopa/Pinal	33.202	T13.OS.R2.0W.S10	No	No	No	No	No	No	0
49	37721	Indian Spring Wash	6	Maricopa	8.326	T5.ON.R7.0E.S05	No	No	No	No	No	No	0
50	37732	Jarrowood Wash	3	Maricopa	4.053	T4.ON.R7.0E.S26	No	No	No	No	No	No	0
51	37741	Jackrabbi Wash - Maricopa	69	Maricopa	52.543	T6.ON.R8.0W.S21	No	No	No	No	No	No	0
52	37756	Jimmie Wash	3	Maricopa	16.065	T6.ON.R6.0W.S31	No	No	No	No	No	No	0
53	37778	Kaka Wash	22	Maricopa/Pinal	21.755	T10.OS.R1.0E.S14	No	No	No	No	No	No	0
54	37796	Kohalk Wash	26	Maricopa/Pinal	36.083	T10.OS.R2.0E.S16	No	No	No	No	No	No	0
55	37801	La Berpe Creek	12	Maricopa/Pinal	16.158	T2.ON.R9.0E.S10	No	No	No	No	No	No	0
56	37834	Lewis and Priddy	7	Maricopa	7.700	T2.ON.R10.0E.S10	No	No	No	No	No	No	0
57	37880	Little Maggie Ma	3	Maricopa	3.302	T7.ON.R6.0E.S05	No	No	No	No	No	No	0
58	37886	Little San Domin	4	Maricopa	12.001	T8.ON.R4.0W.S14	No	No	No	No	No	No	0
59	37899	Little Squaw Creek	5	Maricopa	12.244	T8.ON.R2.0E.S21	No	No	No	No	No	No	0
60	37902	Loudermill Wash	3	Maricopa	18.094	T4.OS.R6.0W.S15	No	No	No	No	No	No	0
61	37908	Luka Wash	4	Maricopa	10.716	T1.ON.R6.0W.S30	No	No	No	No	No	No	0
62	37909	Lum Wash	4	Maricopa	6.833	T1.OS.R2.0W.S08	No	No	No	No	No	No	0
63	37936	Mattys Fork	1	Maricopa	4.383	T7.ON.R4.0E.S10	No	No	No	No	No	No	0
64	37962	Mesquite Creek	3	Maricopa	3.525	T2.ON.R9.0E.S12	No	No	No	No	No	No	0
65	37963	Mesquite Wash	7	Maricopa	10.475	T5.ON.R8.0E.S34	No	No	No	No	No	No	0
66	37978	Midway Wash	12	Maricopa	29.737	T9.OS.R7.0W.S12	No	No	No	No	No	No	0
67	37987	Milk Wash	3	Maricopa	17.914	T4.ON.R6.0W.S28	No	No	No	No	No	No	0
68	38004	Mitchell Wash	1	Maricopa	3.160	T7.ON.R3.0W.S16	No	No	No	No	No	No	0
69	38006	Mockingbird Wash	1	Maricopa	4.018	T7.ON.R4.0W.S19	No	No	No	No	No	No	0
70	38012	Monarch Wash	2	Maricopa	9.703	T7.ON.R4.0W.S28	No	No	No	No	No	No	0
71	38024	Morgan City Wash	11	Maricopa	14.966	T8.ON.R1.0E.S32	No	No	No	No	No	No	0
72	38101	Northcut Wash	5	Maricopa	22.560	T5.OS.R10.0W.S17	No	No	No	No	No	No	0
73	38123	Old Camp Wash	6	Maricopa	16.167	T4.ON.R8.0W.S13	No	No	No	No	No	No	0
74	38140	Ok Wash	1	Maricopa	6.657	T6.ON.R4.0W.S10	No	No	No	No	No	No	0
75	38202	Phillips Wash	3	Maricopa	12.268	T1.ON.R5.0W.S30	No	No	No	No	No	No	0
76	38205	Picardilla Creek	6	Maricopa	9.999	T4.ON.R8.0E.S02	No	No	No	No	No	No	0
77	38219	Phis Creek 1 - Maricopa	15	Maricopa	11.920	T3.ON.R11.0E.S15	No	No	No	No	No	No	0
78	38221	Phis Creek 2 - Maricopa	8	Maricopa	9.958	T6.ON.R8.0E.S23	No	No	No	No	No	No	0
79	38271	Powerline Wash	2	Maricopa	23.220	T5.ON.R9.0W.S33	No	No	No	No	No	No	0
80	38283	Pump Mine Wash	3	Maricopa	8.609	T6.ON.R9.0W.S08	No	No	No	No	No	No	0
81	38298	Quail Spring Wash - Maricopa	2	Maricopa	10.847	T3.OS.R8.0W.S27	No	No	No	No	No	No	0
82	38298	Quibobas Wash	3	Maricopa	17.606	T5.OS.R6.0W.S27	No	No	No	No	No	No	0
83	38301	Rainbow Wash	12	Maricopa	13.872	T3.OS.R4.0W.S07	No	No	No	No	No	No	0
84	38318	Red Cloud Wash - Maricopa	1	Maricopa	2.711	T8.ON.R8.0W.S25	No	No	No	No	No	No	0
85	38332	Reevie Creek	6	Maricopa/Pinal	8.307	T2.ON.R12.0E.S08	No	No	No	No	No	No	0
86	38357	Rock Creek - Maricopa	1	Maricopa	2.139	T5.ON.R9.0E.S21	No	No	No	No	No	No	0
87	38369	Rodger Creek	1	Maricopa	7.794	T6.ON.R3.0E.S19	No	No	No	No	No	No	0
88	38376	Rowe Wash	2	Maricopa	4.691	T6.ON.R4.0E.S29	No	No	No	No	No	No	0
89	38411	San Domingo Wash	8	Maricopa	14.816	T8.ON.R4.0W.S03	No	No	No	No	No	No	0
90	38424	Sand Tank Wash	23	Maricopa	31.293	T5.OS.R5.0W.S15	No	No	No	No	No	No	0

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W_ADDRESS: Township, Range and Section of the mouth of the watercourse.
W_PER: Stream classification-perennial or not.
W_HBOAT: With modern boating or not.
W_HBOAT: With historical boating or not.
W_FISH: With fish or not.
W_DIMP: Impacted by dam or not.
W_STATUS: With special status designations or not.
HITS: Number of affirmative hits based on the six attribute data.

Table A-1A
Watercourses in Maricopa County Rejected at Level 1

No. (1)	W_ID (2)	W_NAME (3)	SEGCOUNT (4)	W_COUNTIES (5)	W_MILES (6)	W_ADDRESS (7)	W_PER (8)	W_HBOAT (9)	W_HBOAT (10)	W_FISH (11)	W_SSTATUS (12)	W_DMIP (13)	HITS (14)
91	38442	Sauceda Wash	0	Maricopa	40.730	T5.OS.R5.0W.S16	No	No	No	No	No	No	0
92	38451	Schoonhouse Wash	4	Gila/Maricopa	7.162	T4.ON.R13.DE.S30	No	No	No	No	No	No	0
93	38461	Sevilled Wash	1	Maricopa	5.176	T6.OS.R10.0W.S06	No	No	No	No	No	No	0
94	38473	Sheep Creek	10	Maricopa/Pinal	14.283	T7.ON.R7.DE.S26	No	No	No	No	No	No	0
95	38445	Sols Wash	20	Maricopa/Pinal	16.716	T7.ON.R5.0W.S01	No	No	No	No	No	No	0
96	38672	South Fork Sheep	7	Maricopa	11.547	T7.ON.R7.DE.S22	No	No	No	No	No	No	0
97	38613	Star Wash	11	Maricopa	19.015	T4.ON.R6.0W.S33	No	No	No	No	No	No	0
98	38661	Syndicate Wash	1	Maricopa	1.870	T6.ON.R5.0W.S07	No	No	No	No	No	No	0
99	38668	Tank Wash - Maricopa	1	Maricopa	12.865	T5.ON.R6.0W.S31	No	No	No	No	No	No	0
100	38687	Tennels Wash	31	Maricopa/Pinal/Yuma	69.322	T11.OS.R6.0W.S28	No	No	No	No	No	No	0
101	38708	Tiger Wash - Maricopa	28	Maricopa	36.440	T2.ON.R10.0W.S23	No	No	No	No	No	No	0
102	38730	Tonilla Creek	10	Maricopa/Pinal	16.349	T2.ON.R8.0E.S10	No	No	No	No	No	No	0
103	38731	Tournament Creek	1	Maricopa	2.747	T7.ON.R8.0E.S20	No	No	No	No	No	No	0
104	38756	Tub Spring Wash	5	Maricopa/Pinal	4.668	T7.ON.R4.0W.S18	No	No	No	No	No	No	0
105	38785	Turkeyback Wash	7	Maricopa	5.875	T3.OS.R2.0E.S10	No	No	No	No	No	No	0
106	38809	Vekol Wash	51	Maricopa/Pinal	59.456	T3.ON.R5.0W.S23	No	No	No	No	No	No	0
107	38820	Wagner Wash	9	Maricopa	12.600	T3.OS.R1.0W.S09	No	No	No	No	No	No	0
108	38842	Waterman Wash	34	Maricopa	44.398	T4.OS.R1.0W.S33	No	No	No	No	No	No	0
109	38850	Weir Wash	1	Maricopa	3.346	T4.ON.R1.0E.S12	No	No	No	No	No	No	0
110	38874	West Prong Water	9	Maricopa	12.847	T4.OS.R1.0W.S33	No	No	No	No	No	No	0
111	38821	Willow Creek - Maricopa	1	Maricopa	4.110	T3.ON.R8.0E.S32	No	No	No	No	No	No	0
112	38931	Willow Springs Wash	4	Maricopa	4.999	T6.ON.R4.0E.S20	No	No	No	No	No	No	0
113	38936	Winners Wash	12	Maricopa	23.017	T1.OS.R6.0W.S09	No	No	No	No	No	No	0
114	38944	Woodchopper Wash	2	Maricopa	6.678	T5.ON.R8.0W.S32	No	No	No	No	No	No	0
115	38948	Woolley Wash - Maricopa	9	Maricopa	11.662	T4.OS.R8.0W.S12	No	No	No	No	No	No	0
116	38963	Yellow Medicine	6	Maricopa	15.809	T3.OS.R9.0W.S11	No	No	No	No	No	No	0
117	38974	a - Seg 8 Maricopa	2	Maricopa	8.197	T8.ON.R7.0W.S14	No	No	No	No	No	No	0
118	38980	b - Seg 11 Maricopa	9	Maricopa/Pinal/Yuma	36.120	T8.ON.R7.0W.S14	No	No	No	No	No	No	0
119	38986	c - Seg 12 Maricopa	3	Maricopa	12.408	T10.OS.R5.0W.S25	No	No	No	No	No	No	0
120	38910	d - Seg 9 Maricopa	2	Maricopa	10.864	T6.OS.R9.0W.S10	No	No	No	No	No	No	0
121	39011	c - Seg 10 Pinal/Maricopa	11	Maricopa/Pinal	21.985	T10.OS.R6.0W.S14	No	No	No	No	No	No	0
122	39011	d - Seg 13 Pinal/Maricopa	10	Maricopa/Pinal	27.980	T9.OS.R6.0W.S07	No	No	No	No	No	No	0
123	39020	2312 Unnamed Washes	-	Varies	Varies	Varies	No	No	No	No	No	No	0

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W_HBOAT: With modern boating or not.
W_HBOAT: With historical boating or not.
W_FISH: With fish or not.
W_DMIP: Impacted by dam or not.
W_SSTATUS: With special status designations or not.
HITS: Number of affirmative hits based on the six attribute data.

Table A-1B
Watercourses in Maricopa County Not Rejected at Level 1

No. (1)	W_ID (2)	W_NAME (3)	SECCOUNT (4)	W_COUNTIES (5)	W_MILES (6)	W_ADDRESS (7)	W_PER (8)	W_IMPOAT (9)	W_HBOAT (10)	W_FISH (11)	W_STATUS (12)	W_DAMP (13)	HITS (14)
1	408	Cave Creek - Maricopa	36	Maricopa/Yavapai	45.54	T3.0N.R3.0E.S34	No	No	No	Yes	Yes	Yes	3
2	37113	Indian Bend Wash - Maricopa	8	Maricopa	4.85	T2.0N.R4.0E.S25	Yes	Yes	No	No	No	No	3
3	36293	Queen Creek	43	Maricopa/Pinal	48.62	T1.0S.R13.0E.S17	Yes	No	No	Yes	Yes	Yes	3
4	36464	Seven Springs Wash - Maricopa	9	Maricopa	5.17	T7.0N.R5.0E.S08	Yes	No	No	No	No	Yes	3
5	36850	Sycamore Creek - Maricopa	59	Maricopa	34.43	T3.0N.R7.0E.S05	Yes	No	No	No	No	Yes	3
6	363	Campaign Creek	16	Cala/Maricopa/Pinal	16.57	T2.0N.R13.0E.S10	Yes	No	No	No	No	Yes	2
7	32337	H75_0482	2	Maricopa	6.08	T3.0S.R4.0W.S18	Yes	No	No	No	Yes	Yes	2
8	37655	Hidden Waters	1	Maricopa	3.16	T3.0N.R9.0E.S20	Yes	No	No	No	Yes	No	2
9	361	Camp Creek	34	Maricopa	24.30	T5.0N.R7.0E.S19	Yes	No	No	No	Yes	No	2
10	421	Cemetery Wash	1	Maricopa	7.88	T7.0N.R4.0W.S07	No	No	No	No	No	No	1
11	819	Davenport Wash	15	Maricopa/Yavapai	14.26	T7.0N.R7.0E.S08	No	No	No	No	Yes	No	1
12	13750	H35_0124	1	Maricopa	3.35	T2.0N.R8.0W.S34	No	No	No	No	Yes	No	1
13	14023	H35_0455	3	Maricopa	10.45	T2.0N.R9.0W.S12	No	No	No	No	Yes	No	1
14	26258	H80_0145	1	Maricopa	0.20	T5.0N.R7.0E.S05	Yes	No	No	No	Yes	No	1
15	26258	H80_0147	1	Maricopa	0.10	T5.0N.R7.0E.S05	Yes	No	No	No	No	No	1
16	26260	H80_0194	1	Maricopa	4.93	T3.0N.R8.0E.S01	Yes	No	No	No	No	No	1
17	26348	H80_0265	2	Maricopa	0.64	T7.0N.R9.0E.S08	Yes	No	No	No	No	No	1
18	28810	H80_0664	1	Maricopa	0.63	T7.0N.R8.0E.S11	Yes	No	No	No	No	No	1
19	28935	H80_0910	0	Maricopa	8.49	T6.0N.R7.0E.S13	Yes	No	No	No	No	No	1
20	29091	H80_0987	1	Maricopa	1.04	T5.0N.R7.0E.S32	Yes	No	No	No	No	No	1
21	29095	H80_0971	1	Maricopa	0.52	T4.0N.R7.0E.S17	Yes	No	No	No	No	No	1
22	29091	H80_0977	1	Maricopa	1.18	T4.0N.R7.0E.S31	Yes	No	No	No	No	No	1
23	29012	H80_0988	4	Maricopa	1.32	T3.0N.R7.0E.S07	Yes	No	No	No	No	No	1
24	29014	H80_0989	4	Maricopa	0.49	T3.0N.R7.0E.S07	Yes	No	No	No	No	No	1
25	29013	H80_0990	4	Maricopa	8.00	T3.0N.R7.0E.S07	No	No	No	No	No	No	1
26	29015	H80_0991	2	Maricopa	6.99	T3.0N.R8.0E.S11	No	No	No	No	Yes	No	1
27	29016	H80_0992	2	Maricopa	5.06	T3.0N.R8.0E.S10	No	No	No	No	Yes	No	1
28	29023	H80_0998	1	Maricopa	0.73	T3.0N.R8.0E.S23	No	No	No	No	Yes	No	1
29	29024	H80_1000	1	Maricopa	2.82	T3.0N.R8.0E.S15	No	No	No	No	Yes	No	1
30	29025	H80_1002	3	Maricopa	5.58	T3.0N.R8.0E.S25	No	No	No	No	Yes	No	1
31	29484	H71_0251	1	Maricopa	0.54	T2.0N.R1.0W.S10	Yes	No	No	No	No	No	1
32	29484	H71_0254	1	Maricopa	3.98	T5.0N.R1.0E.S35	Yes	No	No	No	No	No	1
33	29484	H71_0338	1	Maricopa	0.83	T2.0N.R1.0W.S15	Yes	No	No	No	Yes	No	1
34	29484	H71_0338	1	Maricopa	0.83	T2.0N.R1.0W.S15	Yes	No	No	No	No	No	1
35	30007	H71_1033	1	Maricopa	3.27	T2.0N.R1.0W.S15	Yes	No	No	No	No	No	1
36	30009	H71_1036	1	Maricopa	0.64	T2.0N.R1.0W.S15	Yes	No	No	No	No	No	1
37	31489	H75_0001	1	Maricopa	3.27	T1.0N.R2.0E.S23	Yes	No	No	No	No	No	1
38	31550	H75_0134	1	Maricopa	0.04	T2.0N.R4.0E.S22	Yes	No	No	No	No	No	1
39	31636	H75_0553	1	Maricopa	1.02	T2.0N.R4.0E.S22	Yes	No	No	No	No	No	1
40	31787	H75_0543	2	Maricopa	2.83	T1.0S.R4.0E.S05	No	No	No	No	Yes	No	1
41	31941	H75_0728	1	Maricopa	0.43	T4.0N.R12.0E.S19	No	No	No	No	No	No	1
42	31942	H75_0728	1	Maricopa	0.28	T3.0N.R7.0E.S36	Yes	No	No	No	Yes	No	1
43	31943	H75_0730	1	Maricopa	0.38	T2.0N.R7.0E.S04	Yes	No	No	No	No	No	1
44	31944	H75_0733	1	Maricopa	0.38	T2.0N.R7.0E.S04	Yes	No	No	No	No	No	1
45	31945	H75_0736	1	Maricopa	0.05	T2.0N.R8.0E.S08	Yes	No	No	No	No	No	1
	31945	H75_0736	1	Maricopa	0.05	T2.0N.R8.0E.S08	Yes	No	No	No	No	No	1

NOTES: The column headings are defined as follows:
W_ID: Unique ID number given to the watercourse
W_NAME: Name of the watercourse
SECCOUNT: Number of segments merged together to comprise the watercourse.
W_COUNTIES: County(ies) where the watercourse is located.
W_MILES: Length of the watercourse in miles.
W_ADDRESS: Township, Range and Section of the mouth of the watercourse.
W_PER: Stream classification-perennial or not.
W_IMPOAT: With modern boating or not.
W_HBOAT: With historical boating or not.
W_FISH: With fish or not.
W_DAMP: Impacted by dam or not.
W_STATUS: With special status designations or not.
HITS: Number of affirmative hits based on the six attribute data

Table A-1B
Watercourses in Maricopa County Not Rejected at Level 1

No.	W_ID (2)	W_NAME (3)	SEGCOUNT (4)	W_COUNTIES (8)	W_MILES (6)	W_ADDRESS (7)	W_PER (8)	W_MBOAT (9)	W_HBOAT (10)	W_FISH (11)	W_SSTATUS (12)	W_DMMP (13)	HTS (14)
46	31948	H75_0740	1	Maricopa	0.48	T2.0N.08.0E.S08	Yes	No	No	No	No	No	1
47	31969	H76_0022	2	Maricopa	0.61	T1.0N.R4.0W.S14	No	No	No	No	Yes	No	1
48	31993	H78_0034	2	Maricopa	3.21	T1.0N.R3.0W.S09	No	No	No	No	Yes	No	1
49	31994	H78_0038	1	Maricopa	4.12	T1.0N.R3.0W.S17	No	No	No	No	Yes	No	1
50	32101	H78_0205	1	Maricopa	6.43	T1.0N.R3.0W.S12	No	No	No	No	Yes	No	1
51	32554	H77_0241	3	Maricopa/Phx	8.08	T1.0S.R7.0E.S35	No	No	No	No	Yes	No	1
52	32972	H77_0683	1	Maricopa	4.56	T1.0N.R8.0E.S12	No	No	No	No	Yes	No	1
53	32980	H77_0872	1	Maricopa/Phx	7.24	T1.0N.R7.0E.S27	No	No	No	No	Yes	No	1
54	33842	H77_1937	7	Maricopa/Phx	14.08	T1.0S.R7.0E.S12	No	No	No	No	Yes	No	1
55	37608	Live Creek	23	Maricopa/Phx	14.83	T8.0N.R8.0E.S33	No	No	No	No	Yes	No	1
56	37934	Madrax Wash - Yavapai	16	Maricopa/Yavapai	24.86	T10.0N.R5.0W.S24	No	No	No	Yes	Yes	No	1
57	38076	North Canyon Creek	7	Maricopa	4.34	T7.0N.R3.0E.S04	No	No	No	No	Yes	No	1
58	38740	Trilly Wash	10	Maricopa/Yavapai	30.27	T4.0N.R2.0W.S27	No	No	No	Yes	No	No	1
59	38849	Wetles Wash	8	Maricopa/Phx	13.33	T2.0N.R0.0E.S31	No	No	No	No	Yes	No	1
60	38887	West Fork Sycamore	7	Maricopa	6.49	T7.0N.R0.0E.S19	Yes	No	No	No	No	No	1

NOTES: The column headings are defined as follows:
W_ID: Unique ID number given to the watercourse
W_NAME: Name of the watercourse.
SEGCOUNT: Number of segments merged together to comprise the watercourse.
W_COUNTIES: County(ies) where the watercourse is located.
W_MILES: Length of the watercourse in miles.
W_ADDRESS: Township, Range and Section of the mouth of the watercourse.
W_PER: Stream classification-potential or not.
W_MBOAT: With modern boating or not.
W_HBOAT: With historical boating or not.
W_FISH: With fish or not.
W_DMMP: Impacted by dam or not.
W_SSTATUS: With special status designations or not.
HTS: Number of alternative hits based on the six attribute data

EXHIBIT B

THE ARIZONA REPUBLIC

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 Gila River, the Verde River, and the Maricopa County Small and Minor Watercourses. These hearings will be held in Maricopa 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 Gila River, the Verde River, and the Maricopa County Small and Minor Watercourses. Interested parties are requested to file all documentary and other physical evidence they propose to submit to ANSAC by November 15, 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.azstreams.com>. The e-mail address is streams@mindspring.com. 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.

69557-September 1, 8, 15, 2005

STATE OF ARIZONA }
 COUNTY OF MARICOPA } SS.

Diana Chavez, 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

September 1, 8, 15, 2005

Diana Chavez

Sworn to before me this
 15TH day of
 September A.D. 2005



Marilyn Greenwood
 Notary Public

EXHIBIT C

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 following major watercourses and all of the small and minor watercourses in Maricopa County: The Gila River and the Verde River. The hearings will be held in Maricopa County commencing on September 16, 2005 beginning at 9:30 a.m. in an order established by the chair at the La Quinta inn, 2510 West Greenway Road, Phoenix, Arizona, (Northeast corner of I-17 and West Greenway Road). The following are presently the only hearings scheduled.

The Gila River, the Verde River and all of the small and minor watercourses in Maricopa County including but not limited to:

- Alder Creek - Maricopa.
- Apache Wash - Maricopa.
- Ash Creek - Maricopa.
- Beer Bottle Wash, Bender Wash, Big Maggie May Creek, Blue Wash 1, Blue Wash 2, Booklegger Wash, Boulder Creek 1 - Maricopa, Boulder Creek 2 - Maricopa, Box Wash, Browns Canyon Wash, Burnt Corral Creek - Maricopa, Camp Creek, Campaign Creek, Canyon Creek - Maricopa, Cave Creek - Maricopa, Cemetery Wash, Centennial Wash, Columbus Wash, Copper Camp Creek, Copper Wash, Corbett Wash, Cottonwood Creek - Maricopa, Coyote Wash 1 - Maricopa, Coyote Wash 2 - Maricopa, Crabtree Wash, Daggs Wash, Daniels Arroyo, Davenport Wash, David Wash, Dead Horse Wash, Deadman Wash - Maricopa, Delaney Wash, Dickie Wash, East Fork Bronco, East Fork Sycamore, Enterprise Canal, First Water Creek, Flemming Wash, Flying E Wash, Fourmile Wash, Fourth of July Wash, Galloway Wash, Grapevine Wash - Maricopa, Grass Wash, Growler Wash, Hartman Wash, Hiddiwan Wash, Hidden Waters, Indian Bend Wash - Maricopa, Indian Spring Wash, Ironwood Wash, Jackrabbits Wash - Maricopa, Jimmie Wash, Kaka Wash, Kohatk Wash, La Barge Creek, Lewis and Pranty, Lime Creek, Little Maggie Ma, Little San Domin, Little Squaw Creek, Loudermilk Wash, Luke Wash, Lum Wash, Mattys Fork, Mesquite Creek, Mesquite Wash, Midway Wash, Mill Wash, Monarch Wash, Morgan City Wash, North Canyon Creek, Nottbusch Wash, Old Camp Wash, Ox Wash, Phillips Wash, Picadilla Creek, Pine Creek 1 - Maricopa, Pine Creek 2 - Maricopa, Powerline Wash, Pump Mine Wash - Maricopa, Quail Spring Wash - Maricopa, Quillcose Wash, Rainbow Wash, Red Cloud Wash - Maricopa, Reevis Creek, Rock Creek - Maricopa, Rodger Creek, Rowe Wash, San Domingo Wash, Sand Tank Wash, Sauceda Wash, Sentinel Wash, Seven Springs Wash - Maricopa, Sheep Creek, Sols Wash, South Fork Sheep, Star Wash, Sycamore Creek - Maricopa, Syndicate Wash, Tank Wash - Maricopa, Tenmile Wash, Tiger Wash - Maricopa, Tortilla Creek, Tournament Creek, Trilby Wash, Tub Spring Wash, Turtleback Wash, Vekol Wash, Wagner Wash, Waterman Wash, Weir Wash, West Fork Sycamore, West Prong Water, Willow Creek - Maricopa, Willow Springs Wash, Winters Wash, Wood-chopper Wash, Woolsey Wash - Maricopa, Yellow Medicine, a - Seg 16 Maricopa, a - Seg 6 Pima/Maricopa/Yuma, b - Seg 11 Maricopa, b - Seg 12 Maricopa, b - Seg 9 Maricopa, c - Seg 10 Pima/Maricopa, d - Seg 13 Pima/Maricopa.

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 tickets are central.com Great ticket deals! westernland.com Associated 1 800-555-452 525K EZ Terms, Inc. Ranc phone Views: Wildlife, Elk fishing, Cool 7200 elev. Elk Near National forest, skiing

THE ARIZONA REPUBLIC

STATE OF ARIZONA }
COUNTY OF MARICOPA } SS.

Diana Chavez, 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

October 6, 2005

Sworn to before me this
6TH day of
October A.D. 2005


Notary Public



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
November 16, 2005 at 9:30 a.m. in Phoenix, Arizona
(2nd 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 November 16, 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 October 20, 2005, Maricopa County.
4. All motions and responses to "SALT RIVER PROJECT'S MOTION FOR FINDING OF LACK OF STATUTORY SUBJECT MATTER JURISDICTION TO DETERMINE NAVIGABILITY OF ROOSEVELT LAKE" in both 04-008-NAV and 04-010-NAV (discussion and action).
5. Adoption of the Commission report regarding the Pima County Small & Minor Watercourses (discussion and action).
6. Hearing regarding the navigability of the Gila River 03-007-NAV.
7. Hearing regarding the navigability of the Verde River 04-009-NAV.
8. Hearing regarding the navigability of the small and minor watercourses in Maricopa County, 05-014-NAV.
9. Determination of the navigability of the Coconino County Small and Minor Watercourses 05-010-NAV (discussion and action).
10. 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.)
11. Future agenda items and establishment of future hearings and other meetings.
12. Commission budget and continuation.
13. Legal advice regarding laws and terms relating to navigability.
14. ADJOURNMENT.

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

Dated this 8th day of November, 2005, George Mehnert, Director, Navigable Stream Adjudication Commission

EXHIBIT D

Evidence Log

Hearing No. 05-014

Page No.

1

Arizona Navigable Stream Adjudication Commission

Maricopa County Small and Minor Watercourses
November 16, 2005

Item Number	Received Date	Source to ANSAC	Description	Entry By
1	02/18/97	Evidence on Hand at AN-SAC	Letter from David Baron dated February 18, 1997.	George Mehnert
2	9/7/98	Evidence on hand at AN-SAC	Small and Minor Watercourse Criteria Final Report.	George Mehnert
3	9/7/99	Evidence on hand at AN-SAC	Final Report, 3 County Pilot Study.	George Mehnert
4	10/7/00	Evidence on Hand at AN-SAC	Draft final report small & minor watercourses analysis for Maricopa County, Jon Fuller	George Mehnert
5	12/7/00	Evidence on Hand at AN-SAC	Final report small & minor watercourses analysis for Maricopa County, Jon Fuller	George Mehnert
6	4/7/03	State Land Department	Lower Salt River Update Report submitted at Lower Salt River Hearing.	George Mehnert
7	2/2/04	State Land Department	Gila River Draft Final Report.	George Mehnert
8	7/20/04	Coby Muckelroy	One page letter Re: Sycamore Creek	George Mehnert
9	10/26/04	State Land Department	Upper Salt River Draft Final Report.	George Mehnert
10	3/3/05	State Land Department	Verde River Report.	George Mehnert
11	11/16/05	Jon Fuller	PowerPoint Presentation, Gila River, used at hearing.	George Mehnert
12	1/18/06	Jon Fuller	PowerPoint Presentation, Verde River, used at hearing.	George Mehnert

EXHIBIT E



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

CONSOLIDATED MEETING MINUTES

Meeting was continued and included 3 separate dates, November 16, 2005,
November 17, 2005, and January 18, 2006.
Phoenix, Arizona

November 16, 2005

COMMISSION MEMBERS PRESENT

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

COMMISSION MEMBERS ABSENT

None, Jay arrived about 10 minutes after meeting was called to order.

STAFF PRESENT

George Mehnert, Dir and Curtis Jennings, Attorney who arrived about 10 minutes after meeting was called to order.

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. October 20, 2005 Maricopa County

Motion by: Dolly Echeverria Second by: Cecil Miller

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

- 4. All motions and responses to "SALT RIVER PROJECT'S MOTION FOR FINDING OF LACK OF STATUTORY SUBJECT MATTER JURISDICTION TO DETERMINE NAVIGABILILTY OF ROOSEVELT LAKE" in both 04-008-NAV and 04-010-NAV (discussion and action). Two people spoke on the subject, Mark McGinnis, John Helm.**

5. Adoption of the Commission report regarding the Pima County Small & Minor Watercourses (discussion and action).

Motion by: Cecil Miller Second by: Jim Henness

Motion: To adopt the Commission Report as Written. Vote: All aye.

- 6. Hearing regarding the navigability of the Gila River 03-007-NAV.**

Witnesses included: Laurie Hachtel, Jon Fuller, Dennis Gilpin, Gary Huckleberry, Douglas Littlefield, Jack August, David Weedman, Alan Gookin, and John Hestand.

7. **Hearing regarding the navigability of the Verde River 04-009-NAV.**
David Weedman testified because he cannot appear at a later date, and the balance of this hearing was completed on January 18, 2006.
8. **Hearing regarding the navigability of the small and minor watercourses in Maricopa County, 05-014-NAV.**
Matter was continued to November 17, 2005.
9. **Determination of the navigability of the Coconino County Small and Minor Watercourses 05-010-NAV (discussion and action).**
10. **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.) None.
11. **Future agenda items and establishment of future hearings and other meetings.**
12. **Commission budget and continuation.** Continued to future date.
13. **Legal advice regarding laws and terms relating to navigability.** Continued to future date.
14. **ADJOURNMENT.** Meeting was not adjourned. At approximately 4:40 P.M. the Chair continued the meeting to November 17, 2005 at 9:00 A.M.

November 17, 2005
Meeting Continued from November 16, 2005

COMMISSION MEMBERS PRESENT

Dolly Echeverria, Earl Eisenhower, & Jim Henness.

COMMISSION MEMBERS ABSENT

Jay Brashear, Cecil Miller.

STAFF PRESENT

George Mehnert, Dir and Curtis Jennings.

1. **CALL TO ORDER.**
Chair Eisenhower called the meeting to order at approximately 9:11 A.M.
2. **ROLL CALL.**
See Above.
3. **APPROVAL OF MINUTES (discussion and action).**
None.
4. **All motions and responses to "SALT RIVER PROJECT'S MOTION FOR FINDING OF LACK OF STATUTORY SUBJECT MATTER JURISDICTION TO DETERMINE NAVIGABILILTY OF ROOSEVELT LAKE" in both 04-008-NAV and 04-010-NAV (discussion and action).** No discussion.
5. **Adoption of the Commission report regarding the Pima County Small & Minor Watercourses (discussion and action).**
Completed on November 16, 2005.
6. **Hearing regarding the navigability of the Gila River 03-007-NAV.**
Witnesses included: Stanley Schumm, Douglas Littlefield, D.C. Jackson, Hjalmar Hjalmarson, and Jon Colby. The Chair closed the hearing for the taking of evidence and indicated that the deadline date for filing post hearing opening memorandums will be determined in relation to the Commission's receipt of the court reporter's transcript of the proceedings.
7. **Hearing regarding the navigability of the Verde River 04-009-NAV.**
Hearing continued to January 18, 2006.
8. **Hearing regarding the navigability of the small and minor watercourses in Maricopa County, 05-014-NAV.**
Witness was Jon Fuller. Chair closed this matter for taking of evidence.
9. **Determination of the navigability of the Coconino County Small and Minor Watercourses 05-010-NAV (discussion and action).**
Motion by: Jim Henness Second by: Dolly Echeverria
Motion: Not navigable as of statehood. Vote: All aye.
10. **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.) None.
11. **Future agenda items and establishment of future hearings and other meetings.**

12. **Commission budget and continuation.** Continued to future date.
13. **Legal advice regarding laws and terms relating to navigability.** Continued to future date.
14. **ADJOURNMENT.** Meeting was not adjourned. At approximately 8:42 P.M. the Chair continued the meeting to January 18, 2006 at 10:00 A.M.

**January 18, 2006
Meeting Continued from November 18, 2005**

COMMISSION MEMBERS PRESENT

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

COMMISSION MEMBERS ABSENT

Cecil Miller.

STAFF PRESENT

George Mehnert, Dir and Curtis Jennings.

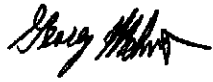
1. **CALL TO ORDER.**
Chair Eisenhower called the meeting to order at approximately 10:06 A.M.
2. **ROLL CALL.**
See Above.
Motion by: Dolly Echeverria Second by: Jim Henness
Motion: To go into executive session. Vote: All aye.
Meeting went into Executive Session beginning at approximately 10:04 A.M. regarding agenda items 4, 12, and 13, and the Executive Session ended at approximately 10:38 A.M.
3. **APPROVAL OF MINUTES (discussion and action).**
None.
4. **All motions and responses to "SALT RIVER PROJECT'S MOTION FOR FINDING OF LACK OF STATUTORY SUBJECT MATTER JURISDICTION TO DETERMINE NAVIGABILILTY OF ROOSEVELT LAKE" in both 04-008-NAV and 04-010-NAV (discussion and action).** The Chair stated that the Commission will accept jurisdiction regarding the navigability of Roosevelt Lake.
5. **Adoption of the Commission report regarding the Pima County Small & Minor Watercourses (discussion and action).**
Completed on November 16, 2005.
6. **Hearing regarding the navigability of the Gila River 03-007-NAV.**

Completed on November 17, 2005.

7. **Hearing regarding the navigability of the Verde River 04-009-NAV.**
David Weedman was permitted to testify regarding this matter on November 16, 2005 and did not appear on January 18, 2006; however, the Chair stated that his the transcript of his testimony on November 16, 2005 will be appear as Appendix a to the Verde River hearing transcript. Appearing as witnesses were: Jon Fuller, Philip Pearthree, Jon Colby, Douglas Littlefield, and Jim Slingluff. AAG Laurie Hachtel said she will write a letter to the Commission regarding the status of an appeal regarding Indian Nations and the State Land Department. Following completion of the testimony, the Chair closed the hearing for taking evidence and indicated that a date will be established for the deadline to receive post hearing legal memorandums based on the date the Commission receives the court reporter's transcript of the hearing. Attorney Joy Herr-Cardillo will mail to the Commission a copy of the CD containing the PowerPoint photographic slides presented by witness Jim Slingluff.
8. **Hearing regarding the navigability of the small and minor watercourses in Maricopa County, 05-014-NAV.**
Completed on November 17, 2005.
9. **Determination of the navigability of the Coconino County Small and Minor Watercourses 05-010-NAV (discussion and action).**
Completed on November 17, 2005
10. **Call for Public Comment (comment sheets).**
(Pursuant to Attorney General Opinion No. I99-006 [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.) None.
11. **Future agenda items and establishment of future hearings and other meetings.**
12. **Commission budget and continuation.** Continued to future date.
13. **Legal advice regarding laws and terms relating to navigability.** Continued to future date.
14. **ADJOURNMENT.** Meeting was not adjourned. At approximately 8:42 P.M. the Chair continued the meeting to January 18, 2006 at 10:00 A.M.
Motion by: Jay Brashear Second by: Jim Henness
Motion: To go into executive session. Vote: All aye.

Meeting adjourned at approximately 3:30 P.M.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "George Mehnert". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

George Mehnert, Director
January 19, 2006



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

Phoenix, Arizona, April 11, 2006

COMMISSION MEMBERS PRESENT

Cecil Miller, Earl Eisenhower, Jim Henness.

COMMISSION MEMBERS ABSENT

Jay Brashear, Dolly Echeverria.

STAFF PRESENT

Curtis Jennings, George Mehnert.

1. **CALL TO ORDER.**
Chairman Eisenhower called the meeting to order at approximately 2:00 P.M.
2. **Roll Call.**
See above.
3. **Approval of Minutes (discussion and action). Minutes of November 16, 2005, November 17, 2005, and January 18, 2006 as combined minutes.**
Motion by: Jim Henness Second by: Cecil Miller
Motion: To accept minutes as submitted. Vote: All aye.
4. **Determination of the navigability of the small and minor watercourses in Maricopa County, 05-014-NAV (discussion and action).**
Motion by: Jim Henness Second by: Cecil Miller
Motion: That the small and minor watercourses in Maricopa County were not navigable. Vote: All aye.
5. **Determination of the navigability of the Agua Fria River 05-002-NAV (discussion and action).**
Motion by: Cecil Miller Second by: Jim Henness
Motion: That the Agua Fria River was not navigable. Vote: All aye.
6. **Determination of the navigability of the Hassayampa River 05-004-NAV (discussion and action).**
Motion by: Jim Henness Second by: Cecil Miller
Motion: That the Hassayampa River was not navigable. Vote: All aye.
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. ADJOURNMENT.

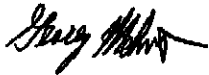
Motion by: Cecil Miller Second by: Jim Hennes

Motion: To adjourn.

Vote: All aye.

Meeting adjourned at approximately 2:40 P.M.

Respectfully submitted,



George Mehnert, Director

April 12, 2006

EXHIBIT F

Table A-1A
Watercourses in Maricopa County Rejected at Level 1

No.	W_ID	W_NAME	SEGCOUNT	W_COUNTIES	W_MILES	W_ADDRESS	W_PEAR	W_MBOAT	W_HBOAT	W_PFIH	W_STATUS	W_DAMP	MITS
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
1	26	Alder Creek - Maricopa	3	Maricopa	3.504	T3.0N.R10.0E.S16	No	No	No	No	No	No	0
2	60	Apache Wash - Maricopa	7	Maricopa	12.817	T6.0N.R3.0E.S15	No	No	No	No	No	No	0
3	74	Ash Creek - Maricopa	2	Maricopa	4.762	T3.0N.R10.0E.S12	No	No	No	No	No	No	0
4	180	Bear Butte Wash	2	Maricopa	7.797	T4.0N.R8.0W.S35	No	No	No	No	No	No	0
5	163	Bender Wash	11	Maricopa	27.875	T8.0S.R4.0W.S07	No	No	No	No	No	No	0
6	164	Big Magpie May Creek	1	Maricopa	2.769	T7.0N.R6.0E.S07	No	No	No	No	No	No	0
7	251	Blue Tank Wash - Yavapai	1	Maricopa/Yavapai	15.477	T7.0N.R6.0W.S01	No	No	No	No	No	No	0
8	252	Blue Wash 1	1	Maricopa	5.075	T4.0N.R8.0W.S22	No	No	No	No	No	No	0
9	253	Blue Wash 2	1	Maricopa	2.668	T8.0N.R6.0E.S12	No	No	No	No	No	No	0
10	271	Boollonger Wash	1	Maricopa	1.463	T3.0N.R4.0W.S05	No	No	No	No	No	No	0
11	276	Boulder Creek 1 - Maricopa	3	Maricopa	8.948	T3.0N.R8.0E.S05	No	No	No	No	No	No	0
12	278	Boulder Creek 2 - Maricopa	3	Maricopa	8.130	T8.0N.R8.0E.S20	No	No	No	No	No	No	0
13	287	Box Wash	2	Maricopa	18.202	T4.0N.R8.0W.S21	No	No	No	No	No	No	0
14	303	Browns Canyon Wash	2	Maricopa	10.134	T6.0N.R8.0W.S17	No	No	No	No	No	No	0
15	325	Building Wash	5	Maricopa/Pinal	5.405	T1.0N.R8.0E.S20	No	No	No	No	No	No	0
16	331	Burnt Cornet Creek - Maricopa	1	Maricopa	2.720	T3.0N.R11.0E.S11	No	No	No	No	No	No	0
17	355	Cademy Wash	6	Maricopa/Yavapai	4.204	T8.0N.R4.0W.S32	No	No	No	No	No	No	0
18	375	Canyon Creek - Maricopa	3	Maricopa	5.807	T8.0N.R7.0E.S10	No	No	No	No	No	No	0
19	422	Centennial Wash	8	Maricopa	86.008	T6.0N.R12.0W.S32	No	No	No	No	No	No	0
20	505	Columbus Wash	65	La Paz/Maricopa/Yavapai	22.857	T3.0S.R11.0W.S26	No	No	No	No	No	No	0
21	524	Copper Camp Creek	6	Maricopa/Yuma	4.730	T7.0N.R8.0E.S07	No	No	No	No	No	No	0
22	532	Copper Wash	3	Maricopa	26.149	T4.0S.R10.0W.S12	No	No	No	No	No	No	0
23	535	Coppell Wash	13	Maricopa	10.560	T1.0S.R2.0W.S04	No	No	No	No	No	No	0
24	544	Cottonwood Creek - Maricopa	26	Maricopa	23.617	T3.0N.R8.0E.S31	No	No	No	No	No	No	0
25	567	Coyote Wash 1 - Maricopa	1	Maricopa	4.426	T3.0N.R6.0W.S28	No	No	No	No	No	No	0
26	589	Coyote Wash 2 - Maricopa	13	Maricopa	31.728	T4.0N.R7.0W.S13	No	No	No	No	No	No	0
27	591	Crabtree Wash	1	Maricopa	1.669	T3.0N.R11.0E.S29	No	No	No	No	No	No	0
28	614	Daggs Wash	3	Maricopa	23.926	T3.0N.R5.0W.S23	No	No	No	No	No	No	0
29	616	Daniels Arroyo	33	Maricopa/Pima	37.720	T4.0S.R10.0W.S30	No	No	No	No	No	No	0
30	621	David Wash	3	Maricopa	4.408	T3.0N.R11.0E.S22	No	No	No	No	No	No	0
31	628	Dead Horse Wash	11	Maricopa	14.615	T6.0N.R8.0W.S34	No	No	No	No	No	No	0
32	632	Deasman Wash - Maricopa	5	Maricopa	12.289	T6.0N.R11.0E.S14	No	No	No	No	No	No	0
33	650	Delaney Wash	5	Maricopa	9.197	T1.0N.R8.0W.S07	No	No	No	No	No	No	0
34	662	Dickey Wash	2	Maricopa	5.790	T1.0N.R6.0W.S19	No	No	No	No	No	No	0
35	718	East Fork Bronco	1	Maricopa	2.900	T7.0N.R5.0E.S17	No	No	No	No	No	No	0
36	726	East Fork Sycamore	4	Maricopa	6.030	T7.0N.R9.0E.S19	No	No	No	No	No	No	0
37	746	Enterprise Canal	6	Maricopa	4.900	T4.0S.R4.0W.S20	No	No	No	No	No	No	0
38	764	First Walker Creek	5	Maricopa/Pinal	8.462	T2.0N.R6.0E.S08	No	No	No	No	No	No	0
39	778	Flamingo Wash	3	Maricopa	1.811	T8.0N.R4.0E.S11	No	No	No	No	No	No	0
40	781	Flying E Wash	2	Maricopa	6.830	T7.0N.R6.0W.S03	No	No	No	No	No	No	0
41	781	Fourmile Wash	2	Maricopa	13.357	T1.0N.R8.0W.S20	No	No	No	No	No	No	0
42	792	Fourth of July Wash	6	Maricopa	21.728	T4.0S.R8.0W.S14	No	No	No	No	No	No	0
43	812	Gallop Wash	3	Maricopa	7.654	T6.0N.R4.0E.S27	No	No	No	No	No	No	0
44	856	Grapevine Wash - Maricopa	6	Maricopa	7.968	T6.0N.R5.0E.S07	No	No	No	No	No	No	0
45	858	Grass Wash	3	Maricopa	5.167	T1.0N.R8.0W.S31	No	No	No	No	No	No	0

NOTES: The column headings are defined as follows:
W_ID: Unique ID number given to the watercourse
W_NAME: Name of the watercourse
SEGCOUNT: Number of segments merged together to comprise the watercourse
W_COUNTIES: County(ies) where the watercourse is located
W_MILES: Length of the watercourse in miles
W_ADDRESS: Township, Range and Section of the mouth of the watercourse.
W_PEAR: Stream classification-perennial or not
W_HBOAT: With modern boating or not
W_PFIH: With historical boating or not
W_DAMP: With fish or not
W_STATUS: Impacted by dam or not
MITS: Number of alternative lists based on the six altitude data.

Table A-1A
Watercourses in Maricopa County Rejected at Level 1

No.	W_ID	W_NAME	SECCOUNT	W_COUNTIES	W_MILES	W_ADDRESS	W_PIER	W_MBOAT	W_FISH	W_STAT	W_DAMP	HITS	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
46	877	Growler Wash	94	Maricopa/Pinal/Yuma	178.007	T10.OS.R11.OW.S26	No	No	No	No	No	No	0
47	37833	Hartman Wash	2	Maricopa	9.453	T7.ON.R6.OW.S04	No	No	No	No	No	No	0
48	37862	Hochman Wash	26	Maricopa/Pima	33.202	T13.OS.R2.OW.S10	No	No	No	No	No	No	0
49	37721	Indian Spring Wash	6	Maricopa	6.326	T6.ON.R7.OE.S05	No	No	No	No	No	No	0
50	37732	Ironwood Wash	3	Maricopa	4.053	T4.ON.R7.OE.S25	No	No	No	No	No	No	0
51	37741	Jacrabob Wash - Maricopa	60	Maricopa	52.543	T6.ON.R6.OW.S21	No	No	No	No	No	No	0
52	37756	Jimmie Wash	3	Maricopa	16.685	T6.ON.R6.OW.S31	No	No	No	No	No	No	0
53	37778	Kaka Wash	22	Maricopa/Pinal/Prinal	21.756	T10.OS.R1.OE.S14	No	No	No	No	No	No	0
54	37798	Kohak Wash	28	Maricopa/Pinal	38.083	T10.OS.R2.OE.S16	No	No	No	No	No	No	0
55	37801	La Barge Creek	12	Maricopa/Pinal	16.166	T2.ON.R8.OE.S10	No	No	No	No	No	No	0
56	37834	Lewis and Prandy	7	Maricopa	7.700	T2.ON.R10.OE.S10	No	No	No	No	No	No	0
57	37890	Little Moggie Me	3	Maricopa	3.302	T7.ON.R6.OE.S05	No	No	No	No	No	No	0
58	37898	Little San Dornin	4	Maricopa	12.001	T8.ON.R4.OW.S14	No	No	No	No	No	No	0
59	37899	Little Squaw Creek	5	Maricopa	12.244	T8.ON.R2.OE.S21	No	No	No	No	No	No	0
60	37902	Loudermilk Wash	3	Maricopa/Yavapai	18.094	T4.OS.R6.OW.S30	No	No	No	No	No	No	0
61	37909	Lube Wash	4	Maricopa	10.716	T1.ON.R5.OW.S15	No	No	No	No	No	No	0
62	37909	Lum Wash	4	Maricopa	8.833	T1.OS.R2.OW.S08	No	No	No	No	No	No	0
63	37936	Malys Fork	1	Maricopa	4.383	T7.ON.R4.OE.S10	No	No	No	No	No	No	0
64	37962	Measque Creek	3	Maricopa	3.526	T5.ON.R8.OE.S34	No	No	No	No	No	No	0
65	37983	Merquale Wash	7	Maricopa	10.475	T2.ON.R9.OE.S12	No	No	No	No	No	No	0
66	37978	Midway Wash	12	Maricopa	20.737	T9.OS.R7.OW.S12	No	No	No	No	No	No	0
67	37987	Mill Wash	3	Maricopa	17.814	T4.ON.R5.OW.S28	No	No	No	No	No	No	0
68	38004	Michell Wash	1	Maricopa	3.180	T7.ON.R3.OW.S16	No	No	No	No	No	No	0
69	38006	Mocingbird Wash	1	Maricopa/Yavapai	4.016	T7.ON.R4.OW.S18	No	No	No	No	No	No	0
70	38012	Monarch Wash	2	Maricopa/Yavapai	9.703	T7.ON.R4.OW.S18	No	No	No	No	No	No	0
71	38024	Morgan City Wash	11	Maricopa/Yavapai	14.966	T8.ON.R1.OE.S32	No	No	No	No	No	No	0
72	38101	Northusch Wash	6	Maricopa/Yavapai	22.560	T6.OS.R10.OW.S17	No	No	No	No	No	No	0
73	38123	Old Camp Wash	6	Maricopa/Yuma	16.107	T4.ON.R6.OW.S13	No	No	No	No	No	No	0
74	38140	Ox Wash	1	Maricopa	8.887	T6.ON.R4.OW.S10	No	No	No	No	No	No	0
75	38202	Phillips Wash	3	Maricopa	12.286	T4.ON.R8.OE.S02	No	No	No	No	No	No	0
76	38206	Picacillis Creek	6	Maricopa	9.909	T3.ON.R11.OE.S16	No	No	No	No	No	No	0
77	38219	Pine Creek	15	Maricopa	11.920	T5.ON.R9.OE.S23	No	No	No	No	No	No	0
78	38221	Pine Creek 1 - Maricopa	6	Maricopa	9.068	T6.ON.R8.OW.S33	No	No	No	No	No	No	0
79	38221	Pine Creek 2 - Maricopa	2	Maricopa	23.220	T5.ON.R9.OW.S06	No	No	No	No	No	No	0
80	38271	Powerline Wash	3	Maricopa	8.800	T3.OS.R6.OW.S27	No	No	No	No	No	No	0
81	38286	Pump Mine Wash	2	Maricopa	10.847	T6.OS.R6.OW.S27	No	No	No	No	No	No	0
82	38298	Quail Spring Wash - Maricopa	3	Maricopa	17.008	T3.OS.R4.OW.S07	No	No	No	No	No	No	0
83	38301	Quailos Wash	12	Maricopa	13.972	T8.ON.R8.OW.S25	No	No	No	No	No	No	0
84	38318	Rainbow Wash	1	Maricopa	2.711	T2.ON.R12.OE.S08	No	No	No	No	No	No	0
85	38332	Red Cloud Wash - Maricopa	6	Maricopa/Pinal	8.307	T6.ON.R8.OE.S21	No	No	No	No	No	No	0
86	38357	Reavis Creek	1	Maricopa	2.139	T8.ON.R3.OE.S19	No	No	No	No	No	No	0
87	38396	Rock Creek - Maricopa	1	Maricopa	7.794	T6.ON.R4.OE.S29	No	No	No	No	No	No	0
88	38376	Rodger Creek	2	Maricopa	4.801	T8.ON.R4.OE.S29	No	No	No	No	No	No	0
89	38411	Rowe Wash	8	Maricopa/Yavapai	14.816	T6.OS.R5.OW.S15	No	No	No	No	No	No	0
90	38424	Sand Tank Wash	23	Maricopa	31.283		No	No	No	No	No	No	0

NOTES: The column headings are defined as follows:
W_ID: Unique ID number given to the watercourse
W_NAME: Name of the watercourse.
SECCOUNT: Number of segments merged together to comprise the watercourse.
W_COUNTIES: County(ies) where the watercourse is located.
W_MILES: Length of the watercourse in miles.
W_ADDRESS: Township, Range and Section of the mouth of the watercourse.
W_PIER: Stream classification-perennial or not.
W_MBOAT: With modern boating or not.
W_FISH: With fish or not.
W_STAT: Impacted by dam or not.
W_DAMP: With special status designations or not.
HITS: Number of affirmative hits based on the six attribute data.

Table A-1A
Watercourses in Maricopa County Rejected at Level 1

No.	W_ID (1)	W_NAME (2)	SEGCOUNT (4)	W_COUNTIES (6)	W_MILES (8)	W_ADDRESS (7)	W_PER (9)	W_ABOAT (10)	W_ABOAT (18)	W_FISH (11)	W_STATUS (13)	W_DMFP (15)	HITS (14)
91	38442	Saucedo Wash	9	Maricopa	40.736	T6.0S.R6.0W.S16	No	No	No	No	No	No	0
92	38461	Schothouse Wash	4	Chia/Maricopa	7.162	T4.0N.R13.0E.S30	No	No	No	No	No	No	0
93	38461	Sentinel Wash	1	Maricopa	6.178	T6.0S.R10.0W.S08	No	No	No	No	No	No	0
94	38473	Sheep Creek	10	Maricopa/Yavapai	14.283	T7.0N.R7.0E.S28	No	No	No	No	No	No	0
95	38545	Sole Wash	20	Maricopa/Yavapai	19.715	T7.0N.R5.0W.S01	No	No	No	No	No	No	0
96	38572	South Fork Sheep	7	Maricopa	11.547	T7.0N.R7.0E.S22	No	No	No	No	No	No	0
97	38613	Star Wash	11	Maricopa	10.016	T4.0N.R5.0W.S33	No	No	No	No	No	No	0
98	38661	Syndicate Wash	1	Maricopa	1.070	T6.0N.R5.0W.S07	No	No	No	No	No	No	0
99	38668	Tank Wash - Maricopa	1	Maricopa	12.855	T6.0N.R6.0W.S31	No	No	No	No	No	No	0
100	38687	Tennessee Wash	31	Maricopa/Pima/Yuma	96.322	T1.0S.R5.0W.S29	No	No	No	No	No	No	0
101	38706	Tiger Wash - Maricopa	28	Maricopa	38.440	T2.0N.R10.0W.S23	No	No	No	No	No	No	0
102	38730	Tortise Creek	10	Maricopa/Pinal	10.349	T2.0N.R9.0E.S10	No	No	No	No	No	No	0
103	38731	Tournament Creek	1	Maricopa	2.747	T7.0N.R8.0E.S20	No	No	No	No	No	No	0
104	38756	Tub Spring Wash	6	Maricopa/Yavapai	4.686	T7.0N.R4.0W.S24	No	No	No	No	No	No	0
105	38785	Turkey Wash	7	Maricopa	5.875	T7.0N.R4.0W.S16	No	No	No	No	No	No	0
106	38809	Velvet Wash	51	Maricopa/Pinal	56.458	T3.0S.R2.0E.S10	No	No	No	No	No	No	0
107	38820	Wagner Wash	9	Maricopa	12.600	T3.0N.R5.0W.S23	No	No	No	No	No	No	0
108	38842	Waterman Wash	34	Maricopa	44.368	T3.0S.R1.0W.S09	No	No	No	No	No	No	0
109	38860	Weir Wash	1	Maricopa	3.346	T4.0N.R1.0E.S12	No	No	No	No	No	No	0
110	38874	West Prong Weir	9	Maricopa	12.647	T4.0S.R1.0W.S33	No	No	No	No	No	No	0
111	38921	Willow Creek - Maricopa	1	Maricopa	4.110	T3.0N.R9.0E.S32	No	No	No	No	No	No	0
112	38931	Willow Springs Wash	4	Maricopa	4.969	T6.0N.R4.0E.S20	No	No	No	No	No	No	0
113	38939	Western Wash	12	Maricopa	23.017	T1.0S.R8.0W.S09	No	No	No	No	No	No	0
114	38944	Woodchopper Wash	2	Maricopa	8.578	T5.0N.R8.0W.S32	No	No	No	No	No	No	0
115	38948	Woolley Wash - Maricopa	9	Maricopa	11.862	T4.0S.R8.0W.S12	No	No	No	No	No	No	0
116	38963	Yellow Medicine	6	Maricopa	15.809	T3.0S.R8.0W.S11	No	No	No	No	No	No	0
117	38974	a - Seg 16 Maricopa	2	Maricopa	8.197	T5.0N.R7.0W.S14	No	No	No	No	No	No	0
118	38980	b - Seg 8 Pima/Maricopa/Yuma	9	Maricopa	36.120	T8.0S.R11.0W.S23	No	No	No	No	No	No	0
119	38986	b - Seg 11 Maricopa	3	Maricopa	12.408	T10.0S.R5.0W.S25	No	No	No	No	No	No	0
120	38997	b - Seg 12 Maricopa	5	Maricopa	10.864	T6.0S.R8.0W.S10	No	No	No	No	No	No	0
121	39010	b - Seg 9 Maricopa	2	Maricopa	2.364	T10.0S.R8.0W.S03	No	No	No	No	No	No	0
122	39011	c - Seg 9 Maricopa	11	Maricopa/Pima	21.985	T10.0S.R8.0W.S14	No	No	No	No	No	No	0
123	39020	d - Seg 13 Pima/Maricopa	19	Maricopa/Pima	27.980	T9.0S.R8.0W.S07	No	No	No	No	No	No	0
124-2435	-	2312 Unnamed Washes	-	-	Varies	Varies	No	No	No	No	No	No	0

NOTES: The column headings are defined as follows:
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SEGCOUNT: Number of segments merged together to comprise the watercourse.
W_COUNTIES: County(ies) where the watercourse is located.
W_MILES: Length of the watercourse in miles.
W_ADDRESS: Township, Range and Section of the mouth of the watercourse.
W_PER: Stream classification-perennial or not.
W_ABOAT: With modern boating or not.
W_ABOAT: With historical boating or not.
W_FISH: With fish or not.
W_DMFP: Impacted by dam or not.
W_STATUS: With special status designations or not.
HITS: Number of admissible hits based on the six attribute data.

EXHIBIT G

Table A-1B
Watercourses in Maricopa County Not Rejected at Level 1

No. (1)	W_ID (2)	W_NAME (3)	BEGCOUNT (4)	W_COUNTIES (5)	W_MILES (6)	W_ADDRESS (7)	W_PER (8)	W_IMCOAT (9)	W_HRCOAT (10)	W_FISH (11)	W_STATUS (12)	W_DAMP (13)	HITS (14)
1	408	Cave Creek - Maricopa	36	Maricopa/Prescott	45.54	T5.0N.R13.0E.S34	No	No	No	Yes	Yes	Yes	3
2	37713	Indian Bend Wash - Maricopa	8	Maricopa	4.85	T2.0N.R4.0E.S35	Yes	Yes	No	No	No	No	3
3	36290	Queen Creek - Maricopa	43	Maricopa/Prescott	48.82	T1.0S.R13.0E.S17	No	No	No	Yes	Yes	Yes	3
4	36464	Seven Springs Wash - Maricopa	9	Maricopa	5.17	T7.0N.R5.0E.S08	Yes	Yes	No	No	No	No	3
5	36850	Spokane Creek - Maricopa	59	Maricopa	34.43	T3.0N.R7.0E.S05	Yes	Yes	No	No	Yes	Yes	3
6	363	Cayman Creek - Maricopa	50	Maricopa	16.57	T3.0N.R13.0E.S10	Yes	Yes	No	No	No	No	2
7	32337	H75 0462	2	Maricopa	6.09	T3.0S.R4.0W.S18	Yes	Yes	No	No	Yes	Yes	2
8	37955	Hudson Waters	1	Maricopa	2.16	T3.0N.R9.0E.S20	Yes	Yes	No	No	No	No	2
9	381	Camp Creek	34	Maricopa	26.20	T5.0N.R7.0E.S18	Yes	Yes	No	No	No	No	2
10	421	Cameron Wash	1	Maricopa	7.89	T7.0N.R4.0W.S07	No	No	No	No	Yes	Yes	1
11	619	Devonport Wash	15	Maricopa/Prescott	14.28	T7.0N.R7.0E.S08	No	No	No	No	Yes	Yes	1
12	13750	H35 0124	1	Maricopa	3.35	T2.0N.R8.0W.S34	No	No	No	No	No	No	1
13	14003	H35 0455	3	Maricopa	19.45	T2.0N.R9.0W.S12	No	No	No	No	No	No	1
14	28256	H89 0145	1	Maricopa	0.20	T2.0N.R7.0E.S05	Yes	Yes	No	No	Yes	Yes	1
15	28258	H89 0147	1	Maricopa	0.10	T3.0N.R7.0E.S05	Yes	Yes	No	No	No	No	1
16	28260	H89 0164	1	Maricopa	4.93	T3.0N.R8.0E.S01	Yes	Yes	No	No	No	No	1
17	28248	H89 0265	2	Maricopa	0.64	T7.0N.R8.0E.S08	Yes	Yes	No	No	No	No	1
18	28910	H89 0684	1	Maricopa	0.83	T7.0N.R8.0E.S11	Yes	Yes	No	No	No	No	1
19	28925	H89 0810	9	Maricopa	8.49	T6.0N.R7.0E.S13	Yes	Yes	No	No	No	No	1
20	28991	H89 0887	1	Maricopa	1.04	T3.0N.R7.0E.S17	Yes	Yes	No	No	No	No	1
21	28985	H89 0971	2	Maricopa	0.52	T4.0N.R7.0E.S17	Yes	Yes	No	No	No	No	1
22	29001	H89 0977	1	Maricopa	1.18	T4.0N.R7.0E.S31	Yes	Yes	No	No	No	No	1
23	29011	H89 0987	4	Maricopa	1.32	T3.0N.R7.0E.S07	Yes	Yes	No	No	No	No	1
24	29012	H89 0988	4	Maricopa	0.49	T3.0N.R7.0E.S07	Yes	Yes	No	No	No	No	1
25	29013	H89 0989	4	Maricopa	8.00	T3.0N.R7.0E.S07	Yes	Yes	No	No	No	No	1
26	29014	H89 0990	2	Maricopa	6.89	T3.0N.R8.0E.S11	No	No	No	No	Yes	Yes	1
27	29015	H89 0991	2	Maricopa	5.86	T3.0N.R8.0E.S10	No	No	No	No	Yes	Yes	1
28	29016	H89 0992	1	Maricopa	3.08	T3.0N.R8.0E.S10	No	No	No	No	Yes	Yes	1
29	29023	H89 0999	1	Maricopa	0.73	T3.0N.R8.0E.S23	No	No	No	No	Yes	Yes	1
30	29024	H89 1000	1	Maricopa	2.82	T3.0N.R8.0E.S15	No	No	No	No	Yes	Yes	1
31	29026	H89 1002	3	Maricopa	5.58	T3.0N.R8.0E.S25	No	No	No	No	Yes	Yes	1
32	29464	H71 0251	1	Maricopa	0.54	T2.0N.R1.0W.S10	Yes	Yes	No	No	Yes	Yes	1
33	29468	H71 0258	1	Maricopa	3.88	T2.0N.R1.0W.S15	Yes	Yes	No	No	No	No	1
34	30548	H71 0388	1	Maricopa	0.35	T2.0N.R1.0W.S15	Yes	Yes	No	No	No	No	1
35	30007	H71 1033	1	Maricopa	3.88	T2.0N.R1.0W.S15	Yes	Yes	No	No	No	No	1
36	30009	H71 1036	1	Maricopa	0.83	T2.0N.R1.0W.S15	Yes	Yes	No	No	Yes	Yes	1
37	31490	H75 0201	1	Maricopa	0.84	T2.0N.R1.0W.S15	Yes	Yes	No	No	No	No	1
38	31550	H75 0134	1	Maricopa	3.27	T1.0N.R2.0E.S23	Yes	Yes	No	No	No	No	1
39	31826	H75 0353	1	Maricopa	0.04	T2.0N.R4.0E.S02	Yes	Yes	No	No	No	No	1
40	31797	H75 0543	1	Maricopa	1.02	T1.0S.R4.0E.S05	Yes	Yes	No	No	No	No	1
41	31841	H75 0728	2	Maricopa	2.83	T4.0N.R12.0E.S18	No	No	No	No	Yes	Yes	1
42	31842	H75 0730	1	Maricopa	0.43	T3.0N.R7.0E.S36	Yes	Yes	No	No	No	No	1
43	31843	H75 0733	1	Maricopa	0.28	T2.0N.R7.0E.S04	Yes	Yes	No	No	No	No	1
44	31844	H75 0738	1	Maricopa	0.38	T2.0N.R7.0E.S04	Yes	Yes	No	No	No	No	1
45	31945	H75 0739	1	Maricopa	0.05	T2.0N.R8.0E.S08	Yes	Yes	No	No	No	No	1

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W_ADDRESS: Township, Range and Section of the mouth of the watercourse.
W_PER: Stream classification-perennial or not
W_IMCOAT: With modern boating or not
W_HRCOAT: With historical boating or not
W_FISH: With fish or not
W_STATUS: Impacted by dam or not
W_DAMP: With special status designations or not
HITS: Number of affirmative hits based on the six attribute data.

Table A-1B
Watercourses in Maricopa County Not Rejected at Level 1

No.	W_ID (2)	W_NAME (3)	SECCOUNT (4)	W_COUNTIES (5)	W_MILES (6)	W_ADDRESS (7)	W_PER (8)	W_MBOAT (9)	W_MBOAT (10)	W_FISH (11)	W_STATUS (12)	W_DAMP (13)	HITS (14)
46	31848	H75_0740	1	Maricopa	0.48	T2.ON.R9.0E.S08	Yes	No	No	No	No	No	1
47	31868	H76_0022	2	Maricopa	8.81	T1.ON.R4.0W.S14	No	No	No	No	Yes	No	1
48	31883	H76_0034	2	Maricopa	3.21	T1.ON.R3.0W.S09	No	No	No	No	Yes	No	1
49	31894	H76_0038	1	Maricopa	4.12	T1.ON.R3.0W.S17	No	No	No	No	Yes	No	1
50	32101	H76_0205	1	Maricopa	6.43	T1.ON.R3.0W.S12	No	No	No	No	Yes	No	1
51	32554	H77_0241	3	Maricopa/Pinal	6.08	T1.OS.R7.0E.S35	No	No	No	No	Yes	No	1
52	32872	H77_0683	1	Maricopa	4.56	T1.ON.R9.0E.S12	No	No	No	No	Yes	No	1
53	32980	H77_0872	1	Maricopa/Pinal	7.24	T1.OS.R7.0E.S27	No	No	No	No	Yes	No	1
54	33842	H77_1977	7	Maricopa/Pinal	14.08	T1.OS.R7.0E.S12	No	No	No	No	Yes	No	1
55	37836	Line Creek	23	Maricopa/Pinal	14.83	T8.ON.R8.0E.S33	No	No	No	No	Yes	No	1
56	37834	Maricopa Wash - Yavapai	18	Maricopa/Yavapai	24.98	T10.ON.R5.0W.S24	No	No	No	Yes	No	No	1
57	38076	North Canyon Creek	7	Maricopa/Yavapai	4.24	T7.ON.R3.0E.S04	No	No	No	Yes	No	No	1
58	38740	Tribby Wash	10	Maricopa/Yavapai	30.27	T4.ON.R2.0W.S27	No	No	No	Yes	No	No	1
59	38848	Weeks Wash	9	Maricopa/Pinal	13.33	T2.ON.R9.0E.S31	No	No	No	No	Yes	No	1
60	38857	West Fork System	7	Maricopa	8.68	T7.ON.R9.0E.S19	Yes	No	No	No	Yes	No	1

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W_MILES: Length of the watercourse in miles.
W_ADDRESS: Township, Range and Section of the mouth of the watercourse.
W_PER: Stream classification-potential or not.
W_MBOAT: With modern boating or not.
W_MBOAT: With historical boating or not.
W_FISH: With fish or not.
W_STATUS: Inspected by dam or not.
W_DAMP: With special status designations or not.
HITS: Number of affirmative hits based on the dam attribute class