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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

ROOSEVELT IRRIGATION
DISTRICT, a political subdivision of the
State of Arizona,

Plaintiff,

v.

SALT RIVER PROJECT
AGRICULTURAL IMPROVEMENT
AND POWER DISTRICT, *et al.*,

Defendants.

Case No. 2:10-CV-00290-DAE-BGM

**ORDER REGARDING DISCOVERY OF
ELECTRONICALLY-STORED
INFORMATION**

Pursuant to F.R.C.P. 26(f), and with good cause appearing, IT IS HEREBY
ORDERED:

A. Electronic Production of Hard Copy Documents.

1. If a party elects to convert hard copy documents into electronic format,
those documents existing in hard copy form shall be produced in single-page Group IV,
300-dpi TIFF format and accompanied by an Opticon and IPRO load file (or other
generally acceptable load file format). Each TIFF file will be given a unique file name
that matches the Bates number label on the corresponding page. The accompanying load

1 file shall contain (a) ProdBeg, (b) ProdEnd, (c) AttachRange, and (d) custodian name.
2 The full extracted or OCR text should be included and produced at a document level and
3 located in the same folder as their respective document image or OCR/TEXT folder.

4 2. In scanning hard copy documents, distinct documents shall not be merged
5 into a single record, and single documents shall not be split into multiple records (*i.e.*,
6 paper documents should be logically unitized). The Parties will undertake best efforts to
7 unitize documents correctly.

8 3. Text of hard copy documents shall be extracted using industry-standard
9 OCR technology. Text files shall not contain the redacted portions of the documents.

10 4. Documents containing color shall, to the extent reasonably possible be
11 produced in color. However, the party requesting production shall bear the additional
12 cost of any such production of color documents.

13 5. This Order governs only the format of electronic production of documents,
14 and does not preclude a responding party from responding to a document request by
15 allowing the requesting party to inspect and copy hard copy documents in the responding
16 party's possession, custody, or control, at the requesting party's expense.

17 6. The costs for scanning hard copy documents to TIFF format shall be borne
18 by the requesting party. Such costs will be documented by the producing party and
19 payment shall be made within thirty (30) days of presentation of such documentation.

20
21 **B. Meet and Confer Regarding Information Systems**

22 1. Meet and Confer. To facilitate the collection and, where applicable, the
23 production of ESI and to provide all Parties with an understanding of how reasonably
24 accessible electronic information is stored and how it can be retrieved, approximately
25 twenty days after the Requesting Party serves its first requests for production of
26 documents that seek the production of ESI, the Parties shall meet and confer regarding
27 the Parties' computer information systems that may contain relevant ESI. The Parties
28 shall discuss, to the extent the information is reasonably accessible, where potentially

1 discoverable ESI may reside, the dates for which active ESI and information is available,
2 the methods available to search these sources, the use of keyword screening procedures in
3 connection with the search for responsive ESI, the production of files or documents
4 attached to other files or documents, and the estimated timeframe for the search and
5 production of responsive, non-privileged ESI. The Parties shall discuss and identify all
6 backup, legacy, historic, archived, or retired systems (e.g., separate server, CD-ROMs,
7 tapes, optical disks, etc.), which may contain discoverable ESI, the form in which the ESI
8 is maintained on these systems, whether such documents are not reasonably accessible,
9 and the methods available for accessing the ESI on these systems.

10 **C. Production of ESI**

11 1. Format. The Producing Party shall produce ESI in TIFF format. As
12 explained in Section D infra, the TIFF production must be Bates numbered with
13 accompanying load files containing available metadata and extracted text. Available
14 metadata fields will be identified prior to production.

15 2. Production Media. The Producing Party shall produce ESI on readily
16 accessible computer or electronic media, including without limitation CD-ROM, DVD,
17 external hard drive (with standard PC-compatible interface), or such other media as the
18 parties may agree upon (“Production Media”). The Producing Party shall affix a unique
19 identifying label to each piece of Production Media, which shall identify the date of the
20 production and the sequence of the material in that production (for example, “RID’s
21 Production, RID-000001 – RID-001000”). The Producing Party shall properly package
22 all Production Media to ensure safe shipping and handling.

23 3. Native Format. Spreadsheets shall be produced as a native document file
24 along with the extracted text and a link to the native file in the load file. A TIFF file will
25 also be provided accompanying the file that has been produced in native format. The
26 TIFF version of the spreadsheet will also have a confidentiality endorsement, if
27 applicable, and a Bates number endorsement. The TIFF file image of the spreadsheet
28

1 will include all worksheets, fields and rows unhidden, fully expanded and printed over
2 and then down if the width is wider than one sheet. However, if a document includes
3 redacted information, it need not be produced in native format, but shall be produced
4 along with extracted text except to the extent the extracted text is itself redacted.

5 4. Power Point. PowerPoint documents shall be processed with hidden slides
6 and all speaker notes unhidden, and shall be processed to show both the slide and the
7 speaker's notes on the TIFF image, except as may be redacted for privilege.

8 5. Color. As noted above, documents containing color shall, to the extent
9 reasonably possible, be produced in color (at the expense of the parties receiving color
10 copies). In the event a document cannot be reproduced in color, the producing Party shall
11 advise the requesting Party of this fact.

12 6. Write Protection. The Producing Party shall, before producing ESI, make
13 reasonable efforts to write-protect all Production Media that is capable of write
14 protection. Such write protection should only be implemented in a manner that would
15 not preclude the reasonable use of Production ESI.

16 7. Preservation of Original Documents. The Producing Party shall retain a
17 copy of all ESI gathered and produced in this Litigation (including a copy of any
18 documents that were gathered and ultimately withheld from production) until the
19 Litigation is complete. The Producing Party shall take reasonable measures to maintain
20 such copies in a manner so as to preserve the metadata associated with these electronic
21 materials as it existed at the time of production; provided, however, that the Parties
22 acknowledge that producing ESI may effect some non-substantive changes in
23 corresponding metadata resulting from production to the Requesting Party. The
24 Producing Party will identify in writing any changes to such metadata.

25 8. De-Duplication. Removal of duplicate documents shall only be done on
26 exact duplicate documents (based on MD5 or SHA-1 hash values at the document level
27 or by message ID and other standard vendor methodology for e-mail) across custodians.
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1 However, family relationships will be maintained and only exact email family groups
2 will be de-duplicated. No email attachment will be de-duplicated against a loose file.
3 Responsive hard copy documents shall not be eliminated as duplicates of responsive ESI.
4 If, following consultation between the Parties, global de-duplication across the entire
5 collection is agreed to, a field will be provided that lists each custodian, separated by a
6 semicolon, who was a source of that document.

7 10. Excluded ESI. The Parties need not preserve, and will not seek discovery
8 of, the following categories of ESI in this action:

9 a. Data duplicated in any electronic backup system for the purpose of
10 system recovery or information restoration, including but not limited to, system recovery
11 backup tapes, continuity of operations systems, and data or system mirrors or shadows, if
12 such data are routinely purged, overwritten or otherwise made not reasonably accessible
13 in accordance with an established routine system maintenance policy;

14 b. Voicemail messages;

15 c. Text messages and instant messages that are not printed or saved or
16 maintained in a database;

17 d. Electronic mail sent to or from a Personal Digital Assistant (e.g.,
18 Blackberry or Palm handheld unit), provided that a copy of such mail is routinely
19 duplicated elsewhere;

20 e. Other electronic data stored on a Personal Digital Assistant, such as
21 calendar or contact data or notes, provided that a copy of such information is routinely
22 duplicated elsewhere;

23 f. Logs of calls made from cellular phones;

24 g. Deleted computer files, whether fragmented or whole;

25 h. Temporary or cache files, including internet history, web browser cache
26 and cookie files, wherever located;

27 i. Server, system or network logs;

1 j. Electronic data temporarily stored by laboratory equipment or attached
2 electronic equipment, provided that such data is not ordinarily preserved as part of a
3 laboratory report;

4 k. Other than Metadata identified in Exhibit A attached hereto to the extent
5 available, Metadata associated with any electronic storage device, electronic storage
6 program, or any data contained therein;

7 l. Mirror or shadow copies of files or disk drives;
8 and

9 m. Electronic data temporarily stored by scanners, copiers, and/or fax
10 machines.

11 11. If any discovery request can reasonably be construed to call for the
12 production of such electronically stored information as is listed in paragraph 10, such
13 information need not be provided and no privilege log pursuant to Fed. R. Civ. P.
14 26(b)(5) will be required as to such information.

15 12. Common system and program files (including those defined by the NIST
16 library (<http://www.nsrl.nist.gov/>), those commonly used by e-discovery vendors to
17 exclude system, non-content bearing files (e.g., logos, web page icons and lines) and
18 program files) need not be processed, reviewed or produced. Additional files may be
19 added to the list of excluded files by agreement of the Parties.
20

21 13. If any file requires proprietary software to open, then the Parties shall meet
22 and confer regarding the most reasonable and cost effective manner to allow all Parties to
23 have full access to the file.

24 **D. Miscellaneous**

25 1. By preserving electronically stored information for the purpose of this
26 litigation, the parties are not conceding that such information is discoverable, nor are they
27 waiving any claim of privilege, nor do they concede any obligation to preserve such
28 information.

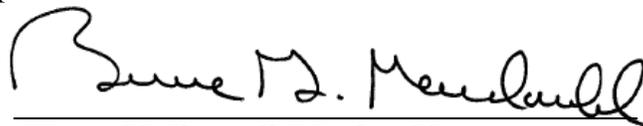
1 2. Except as specifically provided herein, nothing in this Order shall affect any
2 rights or obligations of the Parties, including the obligation of the Parties to preserve
3 electronically stored information, documents or information for purposes other than this
4 pending litigation, such as pursuant to administrative order, statute, or in response to
5 other actual or anticipated litigation.

6 3. The Parties shall work together by exchanging sample production to ensure
7 that all Parties receive productions in a format that works for them. As discovery
8 proceeds, issues regarding specific items or particular file formats may arise that are not
9 addressed in or are not contemplated by this Order. The Parties shall revisit and amend
10 this agreement as necessary to ensure that all Parties receive full disclosure of all
11 pertinent information, and to accommodate the practical realities governing their
12 respective electronic document capabilities. Only after the Parties have met and
13 conferred to resolve any disputes may a Party petition the Court for a variance from these
14 terms in the event of unforeseen or unusual circumstances that could result in excessive
15 costs or burden.
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17 4. No Party shall seek sanctions against the other Party for the other Party's
18 failure to comply with preservation obligations absent a showing of willful misconduct.

19 5. This Order shall not pertain to documents that are required to be, or are,
20 produced as part of expert disclosures or discovery. The Parties shall meet and confer at
21 least thirty days prior to the beginning of expert discovery in order to discuss whether a
22 stipulation regarding the manner for production of relevant documents can be agreed to.

23 Dated this 18th day of September, 2015.

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26 Honorable Bruce G. Macdonald
27 United States Magistrate Judge
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EXHIBIT A

EXHIBIT A

| Field Name | Specification Field Name | Field Type | Length | Introspect Field Name | Introspect Field Type | Introspect Related Comments | Description (E-Mail) | Description (E-Files/Attachments) |
|--------------|--------------------------------------|------------|------------|-------------------------|-----------------------|-----------------------------|--|--|
| BegDoc | Unique ID | Paragraph | Unlimited | Beg Bates Number | Single Value | | The Document ID number associated with the first page of a document. | The Document ID number associated with the first page of a document. |
| EndDoc | Unique ID | Paragraph | Unlimited | End Bates Number | Single Value | | The Document ID number associated with the last page of a document | The Document ID number associated with the last page of a document. |
| AttachRange | Unique ID Parent-Child Relationships | Paragraph | Unlimited | Begin Attachment Number | Single Value | | The Bates range of each attachment to an email | The Bates range of each attachment to a document |
| Doc_Date | Document Date | Date | MM/DD/YYYY | | | | The date of the attached document | |
| Sent_Date | Date Sent | Date | MM/DD/YYYY | | | | The date a document was sent. | |
| Sent_Time | Time Sent | Paragraph | Unlimited | | | | The time a document was sent | |
| Create_Date | Date created | Date | MM/DD/YYYY | | | | | The date a document was created. |
| Create_Time | Time created | Paragraph | Unlimited | | | | | The time a document was created |
| LastMod_Date | Date Last Modified | Date | MM/DD/YYYY | | | | | The date the document was last modified |

EXHIBIT A

| | | | | | | | | | |
|----------------|------------------------------|-----------|------------|-----------|--------------|--|--|--|---|
| Received_Time | Date Received | Paragraph | Unlimited | | | | | The time a document was received. | |
| Received_Date | Date Received | Date | MM/DD/YYYY | | | | | The time a document was received. | |
| ParentFolder | File Path Folder Name | Paragraph | Unlimited | Folder | Single Value | | | Denotes the folder information for a document. | Denotes the full path of a document. |
| Author | Author Display Name (e-mail) | Paragraph | Unlimited | Author | Multivalue | Combine Author and Author_Email field into one Author field. | | The display name of the author of a document. | The author of a document from entered metadata. |
| To | Recipient | Paragraph | Unlimited | Recipient | Multivalue | Combine TO and Recip_Email field into one TO field. | | The display name of the recipient(s) of a document. | |
| CC | CC | Paragraph | Unlimited | CC | Multivalue | Combine CC and CC_Email field into one CC field. | | The display name of the copyee(s) of a document. | |
| BCC | BCC | Paragraph | Unlimited | BCC | Multivalue | Combine BCC and BCC_Email field into one BCC field. | | The display name of the blind copyee(s) of a document. | |
| Subject | Subject (e-mail) | Paragraph | Unlimited | Subject | Multivalue | | | The subject of a document. | The subject of a document from entered metadata. |
| OriginalSource | Original Name | Paragraph | Unlimited | | | | | The file name of an e-mail store (e.g., Outlook.pst, MyMail.nsf, etc.) | |
| Custodian | Custodian | Paragraph | Unlimited | Custodian | Multivalue | | | The custodian of a document (if applicable). | The custodian of a document (if applicable). |
| NativePath | | Paragraph | Unlimited | | | | | The full path to a native copy of a document (if applicable). | The full path to a native copy of a document (if applicable). |

EXHIBIT A

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|-------------|----------------------|-----------|-----------|--|--|--|---|---|---|
| AttachCount | Numbered Attachments | Paragraph | Unlimited | | | | applicable). | The number of attachments to a document. | The number of attachments to a document. |
| FileExt | File Extension | Paragraph | Unlimited | | | | The file extension of a document. | The file extension of a document. | The file extension of a document. |
| FileName | Original Name | Paragraph | Unlimited | | | | The file name of a document. | The file name of a document. | The file name of a document. |
| FileSize | File Size | Paragraph | Unlimited | | | | The file size of a document (including embedded attachments). | The file size of a document (including embedded attachments). | The file size of a document (including embedded attachments). |
| MD5Hash | MD5 Hash | Paragraph | Unlimited | | | | | The MD5 Hash value or "deduplication key" assigned to a document. | The MD5 Hash value or "deduplication key" assigned to a document. |
| FullText | Text | Paragraph | Unlimited | | | | The full text of the e-mail. | The full text of the e-mail. | The full text of the e-mail. |