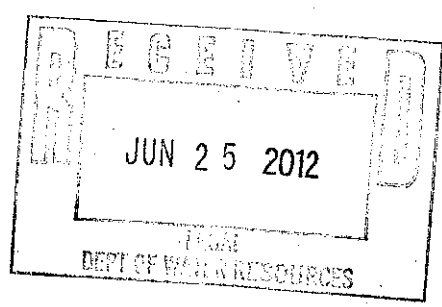


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12 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
13 **IN AND FOR THE COUNTY OF MARICOPA**

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

Civil Nos. W-1, W-2, W-3, W-4  
(Consolidated)  
  
Contested Case No. W1-11-605

**SAN CARLOS APACHE  
TRIBE AND TONTO APACHE  
TRIBE'S 26.1 INITIAL  
DISCLOSURE STATEMENT  
FOR THE SECOND PHASE OF  
THE CONTESTED CASE**

18  
19  
20  
21 **CONTESTED CASE NAME:** *In re Fort Huachuca*  
22 **H.S.R. INVOLVED:** San Pedro River Watershed Hydrographic Survey  
23 Report  
24 **DESCRIPTIVE SUMMARY:** The San Carlos Apache Tribe and Tonto Apache  
25 Tribe's initial disclosure statement filed pursuant  
26 to Arizona Rule of Civil Procedure 26.1 and the  
27 Special Master's December 19, 2011, Order  
28 Designating Issues for Consideration and Setting  
Schedule for the Second Phase of this Case  
  
**NUMBER OF PAGES:** 5  
**DATE OF FILING:** June 22, 2012

1 The San Carlos Apache Tribe and the Tonto Apache Tribe (the "Tribes") submit  
2 their Initial Disclosure Statement pursuant to Arizona Rule of Civil Procedure 26.1 and  
3 the Special Master's December 19, 2011, Order Designating Issues for Consideration and  
4 Setting Schedule for the Second Phase of this Case ("Special Master's Order").

5 **I. Issues Designated for Consideration**

6 In accordance with Paragraph 2(A) of the Special Master's Order, this initial  
7 disclosure is limited to matters concerning the following issues designated for  
8 consideration:

- 9 A. What is in detail the scope of water uses encompassed by the term "military  
10 purposes?"
- 11 B. What is the quantity of water reserved to fulfill the military purposes?
- 12 C. Are the sources of water other than groundwater adequate to accomplish the  
13 military purposes, and if not, what is the quantity of groundwater required to  
14 accomplish those purposes?

15 **II. The Tribes' Initial Disclosure**

- 16 1. **The factual basis for the Tribes' claims concerning each of the**  
17 **designated issues:**

18 At this time, the Tribes take no position on the issues designated in the Special  
19 Master's Order.<sup>1</sup> The Tribes reserve the right to supplement this statement during the  
20 course of this Contested Case, should future disclosures, arguments or both require the  
21 Tribes to disclose additional information relevant to this paragraph.

- 22 2. **The legal theory upon which the Tribes' claims are based including,**  
23 **where necessary for a reasonable understanding of the claim, citations**  
24 **of pertinent legal or case authorities:**

25 In general, the Tribes agree with the United States' discussion of the implied  
26 federal reserved rights doctrine, which was included in the United States' Initial

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27 <sup>1</sup>The issues designated for briefing do not directly address the objections which the  
28 Tribes made and filed on May 18, 1992.

1 Disclosure Statement, dated November 4, 2005. The Tribes reserve the right to  
2 supplement this statement should future disclosures, arguments or both, require the Tribes  
3 to clarify or distinguish the theories upon which they base any claims they have in this  
4 matter.

5 **3. Names, addresses, and telephone numbers of any witnesses whom the**  
6 **Tribes expect to call to substantiate their claims with a fair description**  
7 **of the substance of each witness' expected testimony:**

8 At this time, the Tribes do not intend to call any witnesses to substantiate their  
9 claims.

10 **4. Names and addresses of all persons whom the Tribes believe may have**  
11 **knowledge or information relevant to the events, transactions, or**  
12 **occurrences that gave rise to each claim, and the nature of the**  
13 **knowledge or information each such individual is believed to possess:**

14 At this time, the Tribes know of no persons, other than those named by the United  
15 States in its Initial Disclosure Statement, dated November 4, 2005, who may have relevant  
16 knowledge or information.

17 **5. Names and addresses of all persons who have given statements, whether**  
18 **written or recorded, signed or unsigned, and the custodian of the copies**  
19 **of those statements:**

20 At this time, the Tribes believe that no statements have been given.

21 **6. The name and address of each person whom the Tribes expect to call as**  
22 **an expert witness, the subject matter on which the expert is expected to**  
23 **testify, the substance of the facts and opinions to which the expert is**  
24 **expected to testify, a summary of the grounds for each opinion, the**  
25 **qualifications of the witness, and the name and address of the custodian**  
26 **of copies of any reports prepared by the expert:**

27 At this time, the Tribes do not expect to call any expert witnesses.

28 **7. The existence, location, custodian, and general description of any**  
tangible evidence or relevant documents that the Tribes plan to use to  
support their claims:

The Tribes reserve the right to support their claims using any tangible evidence or  
relevant documents disclosed by any other party. At this time, the Tribes are unaware of  
any tangible evidence or relevant documents other than those disclosed in the United  
States' Initial Disclosure Statement, dated November 4, 2005, that the Tribes plan to use

1 to support any claims they may have regarding the issues designated for briefing.

2 **8. A list of the documents or, in the case of voluminous documentary**  
3 **information, a list of the categories of documents, known by the Tribes**  
4 **to exist whether or not in their possession, custody, or control and**  
5 **which they believe may be relevant to any of their claims concerning the**  
6 **designated issues, and those which appear reasonably calculated to lead**  
7 **to the discovery of admissible evidence, and the date(s) upon which**  
8 **those documents will be made, or have been made, available for**  
9 **inspection and copying. If production is not made, the name and**  
10 **address of the custodian of the document shall be indicated. Any**  
11 **document produced for inspection shall be produced as it is kept in the**  
12 **usual course of business:**

13 The following documents may provide information on certain water rights, and/or  
14 adjudications, or the lack thereof, on the San Pedro River System:

- 15 (1) The Globe Equity No. 59 Decree dated June 29, 1935.
- 16 (2) Motions and Orders of the Globe Equity No. 59 Court prior to the date  
17 of the Decree.
- 18 (3) Complaint dated October 2, 1925, and Amended Complaint of the  
19 United States in Globe Equity No. 59 dated December 5, 1927..
- 20 (4) Answers and responsive pleadings of defendants and other parties to  
21 the Complaint and Amended Complaint in Globe Equity No. 59.
- 22 (5) The San Carlos Apache Tribe Water Settlement Agreement dated  
23 March 30, 1999.
- 24 (6) The Trial Court Order and Decree dated December 21, 1999,  
25 concerning the San Carlos Apache Water Rights Settlement of 1999.
- 26 (7) The Trial Court Order approving the Gila River Indian Community  
27 Settlement of 2004.
- 28 (8) The Gila River Indian Community Settlement of 2004.
- (9) Claims by the United States as Trustee for the Apache Alotees on the  
Aravaipa Creek and the San Pedro River.

The Tribes believe that all of the documents described above are in the records of  
the ADWR and have been previously provided to the Parties, and/or are easily available to  
the Parties from the records of the Court and/or ADWR.

1 DATED this 21<sup>st</sup> day of June, 2012.

2 THE SPARKS LAW FIRM, P.C.

3  
4 By 

5 Joe P. Sparks

6 Laurel A. Herrmann

7 *Attorneys for the San Carlos Apache Tribe  
and the Tonto Apache Tribe*

8 **ORIGINAL** of the foregoing hand-delivered  
9 for filing this 22<sup>nd</sup> day of June, 2012 to:

10 Clerk of the Arizona Superior Court  
11 Maricopa County  
12 Attn: Water Case  
13 601 W. Jackson Street  
14 Phoenix, AZ 85003

15 **COPY** of the foregoing hand-delivered  
16 this 22<sup>nd</sup> day of June, 2012 to:

17 Special Master  
18 Arizona General Stream Adjudication  
19 George A. Schade, Jr.  
20 201 W. Jefferson, CCB 5B  
21 Phoenix, AZ 85003-2205

22 **COPY** of the foregoing sent via U.S. Mail this 22<sup>nd</sup> day of June, 2012, to all parties listed  
23 on the Court Approved Mailing List for Contested Case W1-11-605, dated January 31,  
24 2012.

25  
26  
27  
28 By 

