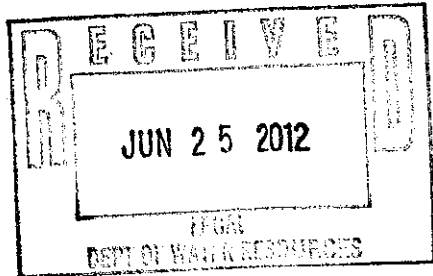


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8 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
9
10 IN AND FOR THE COUNTY OF MARICOPA

11 IN THE GENERAL ADJUDICATION OF
12 ALL RIGHTS TO USE WATER IN THE
13 GILA RIVER SYSTEM AND SOURCE

W1-11-605
SIERRA VISTA PARTIES INITIAL
DISCLOSURE STATEMENT FOR SECOND
PHASE OF CONTESTED CASE

(Special Master George A. Schade, Jr.)

16 **CONTESTED CASE/ NO:** *In re Fort Huachuca/W1-11-605.*

17 **HSR INVOLVED:** San Pedro River Watershed Hydrographic Survey Report.

18 **DESCRIPTIVE SUMMARY:** The Bella Vista Water Co. Inc., Pueblo Del Sol Water Company,
19 and the City of Sierra Vista (the "Sierra Vista Parties") initial disclosure statement pursuant to
20 Arizona Rule of Civil Procedure 26.1 and the Special Master's *Order Designating Issues for*
21 *Consideration and Setting Schedules for the Second Phase of this Case*, dated December 19, 2011.

20 **STATEMENT OF CLAIMANT NUMBERS:** Bella Vista Water Co., Inc.: 39-02498; 39-03800;
21 39-11962 through 39-11965; Pueblo Del Sol Water Co.: 39-11-4262 through 39-11-4264 and 39-11-
22 12704; City of Sierra Vista: 39-1488-89; 39-2752; 39-5807; 39-7844-48; 39-2557-58 and 39-12469.

22 **NUMBER OF PAGES:** 5 **DATE OF FILING:** June 22, 2012

23
24 The Bella Vista Water Co. Inc., Pueblo Del Sol Water Company and the City of
25 Sierra Vista (the "Sierra Vista Parties") hereby submit its initial disclosure statement pursuant
to Arizona Rule of Civil Procedure 26.1 and the Special Master's *Order Designating Issues for*

1 Consideration and Setting Schedules for the Second Phase of this Case, dated December 19,
2 2011 (“Scheduling Order”).¹ The Scheduling Order instructs the parties to limit their
3 disclosure statement to matters concerning three designated issues:

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

10 *Id.* at 3-4. The Sierra Vista Parties are in the early stages of investigating the foregoing issues
11 and reviewing the initial disclosure of the United States. This initial disclosure will be
12 supplemented as necessary and appropriate.

- 13 1. The factual basis of a party's claim concerning each of the designated
14 issues.

15 Issue A. The Sierra Vista Parties are in the early stages of investigating the
16 scope of water uses for Fort Huachuca’s “military purposes” and have yet to determine what
17 facts are relevant to the United States’ claim. However, the Sierra Vista Parties contend the
18 scope of water uses encompassed by the term “military purposes” is not as broad and
19 amorphous as contended by the United States and must be construed narrowly consistent with
20 the principles underlying the concept of an implied Federal reserved water right.

21 Issue B. The Sierra Vista Parties are in the early stages of investigating the
22 quantity of water reserved to fulfill the Fort's “military purposes” and have yet to determine
23 what facts are relevant to the United States’ claim.

24 _____
25 ¹ Nothing herein, nor participation in this phase of the proceeding, is to be construed as a waiver or abandonment of the arguments raised or supported by the Sierra Vista Parties relating to the lack of Federal reserved water rights for the Fort or that the term ‘military purposes’ is limited to those uses intended at the time of the reservation’s creation.

1 Issue C. The Sierra Vista Parties are in the early stages of investigating the
2 amount of surface water available for use to fulfill the Fort's "military purposes" and have yet
3 to determine what facts are relevant to the United States' claim. The Sierra Vista Parties
4 believe it is appropriate to evaluate all unappropriated surface waters existing appurtenant to
5 and, in the case of the Fort's water uses for "military purposes", within the vicinity of the Fort,
6 including those of the San Pedro River, that were available to satisfy the Fort's military
7 purposes at the time of the Fort's reservation and whether groundwater can be impliedly
8 reserved if all such sources would be sufficient to satisfy the water demands of the Fort's
9 military purposes.

10 2. The legal theory upon which each claim is based including, where
11 necessary for a reasonable understanding of the claim, citations of
12 pertinent legal or case authorities.

13 The United States claims water rights under the implied Federal reserved water
14 rights doctrine. See e.g., *Winters v. United States*, 207 U.S. 564, 576-578 (1908) (holding that
15 the establishment of an Indian reservation implies a right to sufficient unappropriated water to
16 accomplish its purposes); *Arizona v. California*, 373 U.S. 546, 600 (1963) (applying the
17 *Winters* rationale to non-Indian federal reservations). *In re General Adjudication of All Rights*
18 *to Use Water in Gila River System and Source*, 195 Ariz. 411, 989 P.2d 739, (1999) ("*Gila*
19 *III*") (discussing the reserved water rights doctrine in the context of Arizona law).

20 Water is reserved only "to the extent necessary" to satisfy the reservation's
21 purpose. *Cappaert v. United States*, 426 U.S. 128, 141 (1976); *United States v. New Mexico*,
22 438 U.S. 696, 700 (1978); *Gila III*, 989 P.2d at 750 ¶ 38. The reserved water rights doctrine
23 applies to unappropriated groundwater appurtenant to the reservation, but only to the extent it
24 is shown that other waters are inadequate to accomplish the primary purpose of a reservation.
25 *Gila III*, 989 P.2d at 748 ¶ 31.

1 3. The names, addresses, and telephone numbers of any witnesses whom the
2 disclosing party expects to call to substantiate its claims with a fair
3 description of the substance of each witness' expected testimony.

4 Undetermined.

5 4. The names and addresses of all persons whom the disclosing party
6 believes may have knowledge or information relevant to the events,
7 transactions, or occurrences that gave rise to each claim, and the nature of
8 the knowledge or information each such individual is believed to possess.

9 Undetermined.

10 5. The names and addresses of all persons who have given statements,
11 whether written or recorded, signed or unsigned, and the custodian of the
12 copies of those statements.

13 Undetermined.

14 6. The name and address of each person whom the disclosing party expects
15 to call as an expert witness, the subject matter on which the expert is
16 expected to testify, the substance of the facts and opinions to which the
17 expert is expected to testify, a summary of the grounds for each opinion,
18 the qualifications of the witness, and the name and address of the
19 custodian of copies of any reports prepared by the expert.

20 Undetermined.

21 7. The existence, location, custodian, and general description of any
22 tangible evidence or relevant documents that the disclosing party plans
23 to use to support its claims.

24 Undetermined.


25 8. A list of the documents or, in the case of voluminous documentary
information, a list of the categories of documents, known by the
disclosing party to exist whether or not in its possession, custody, or
control and which it believes may be relevant to any of its claims
concerning the designated issues, and those which appear reasonably
calculated to lead to the discovery of admissible evidence, and the date(s)
upon which those documents will be made, or have been made, available

1 for inspection and copying. If production is not made, the name and
2 address of the custodian of the document shall be indicated. Any
3 document produced for inspection shall be produced as it is kept in the
 usual course of business.

4 Undetermined.

5 RESPECTFULLY SUBMITTED this 22nd day of June, 2012.

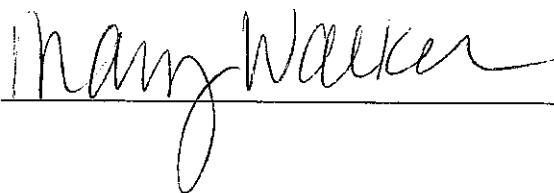
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9 By: 
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11 501 East Thomas Road
12 Phoenix, Arizona 85012-3205
13 Attorneys for Bella Vista Water Co. Inc.,
14 Pueblo Del Sol Water Company and the
15 City of Sierra Vista

15 The original of the foregoing filed
16 this 22nd day of June, 2012 with:

17 Clerk of the Superior Court
18 Maricopa County
19 Attn: Water Case
20 601 West Jackson Street
21 Phoenix, Arizona 85003

22 Copies of the foregoing mailed this 22nd
23 day of June, 2012 to those parties who
24 appear on the Court-approved mailing list
25 for Case No. W1-11-605 dated January 31, 2012.

23 
24 _____
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