

1 Susan B. Montgomery, 020595
2 Robyn L. Interpreter, 020864
3 **MONTGOMERY & INTERPRETER, PLC**
4 4835 E. Cactus Rd., Suite 210
5 Scottsdale, Arizona 85254
6 Ph (480) 513-6825
7 Fax (480) 513-6948
8 smontgomery@milawaz.com
9 rinterpreter@milawaz.com

RECEIVED
JUN 27 2013
LEGAL
DEPT OF WATER RESOURCES

10 *Attorneys for the Yavapai-Apache Nation*

11 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

12 **IN AND FOR THE COUNTY OF MARICOPA**

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

No. W-1 (Salt)
No. W-2 (Verde)
No. W-3 (Upper Gila)
No. W-4 (San Pedro)

Contested Case W1-11-2664

**YAVAPAI-APACHE NATION'S
INITIAL DISCLOSURE STATEMENT**

16 CONTESTED CASE NAME: *In re Redfield Canyon Wilderness Area*

17 HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report

18 DESCRIPTIVE SUMMARY: The Yavapai-Apache Nation's initial disclosure statement
19 pursuant to Arizona Rule of Civil Procedure 26.1 and the Special Master's Case Initiation
20 Order and Designation of Initial Issues for Briefing April 5, 2012

21 STATEMENT OF CLAIMANT NUMBERS: Yavapai-Apache Nation 39-50059; United
22 States on behalf of the Yavapai-Apache Nation 39-54025

23 NUMBER OF PAGES: 5.

24 DATE OF FILING: June 26, 2013

The Yavapai-Apache Nation ("Nation") hereby submits its Initial Disclosure Statement
pursuant to Arizona Rule of Civil Procedure 26.1 and the Special Master's April 5, 2012, Case

1 Initiation Order and Designation of Initial Briefing Issues (“Case Initiation Order”).¹ The
2 Scheduling Order instructs the parties to limit their disclosure statement to matters concerning
3 the following initial issues:

- 4 A. Did Congress in enacting the legislation establishing the Redfield Canyon
5 Wilderness Area expressly intend to reserve unappropriated waters to
6 accomplish the purpose of the reservation?
- 7 B. If so, what were the purposes of the reservation?
- 8 C. If Congress did not expressly intend to reserve water, does the evidence
9 establish that the United States withdrew land from the public domain and
10 reserved the Redfield Canyon Wilderness Area for a federal purpose?
- 11 D. If the land was withdrawn and reserved, what were the purposes of the
12 reservation?
- 13 E. If the land was withdrawn and reserved, did the United States impliedly
14 reserve unappropriated waters to accomplish the purposes of the
15 reservation?
- 16 F. If unappropriated waters were reserved for the purposes of the reservation,
17 what is the date or dates of priority of the reserved waters rights?
- 18 G. If unappropriated waters were reserved for the purposes of the reservation,
19 did Congress intend to reserve all unappropriated waters at the time of
20 designation?

21 Case Initiation Order at 4-5. The Nation discloses the following information and data relevant
22 to the initial issues set forth in the Case Initiation Order:

23 (1) The factual basis of a party’s claim concerning each of the designated issues.

24 The Redfield Canyon Wilderness Area was created through Section 101(a)(24) of the
Arizona Desert Wilderness Act of 1990 (“1990 Act”), which set aside 6,600 acres of land in
Graham and Cochise Counties as wilderness in furtherance of the 1964 Wilderness Act. Under
the reserved water rights doctrine, the United States reserved sufficient water as of the date of
the enactment of the 1990 Act to fulfill the purposes of these wildernesses as outlined therein.
Section 101(f)(1) of the 1990 Act expressly reserved water as of the date of the Act to fulfill the
purposes of the wilderness areas being designated in the Act: “[w]ith respect to each wilderness

¹ The Special Master extended the original deadlines found within the Case Initiation Order in his Order Denying the Motion of the United States to Stay and Modifying the Case Initiation Order to Set New Time Lines, dated January 17, 2013.

1 area designated by this title, Congress hereby reserves a quantity of water sufficient to fulfill the
2 purposes of this title.”

3 The Nation takes no position at this time regarding the quantity or amounts of water
4 necessary to fulfill purposes of the 1990 Act. The Nation reserves the right to file a
5 supplemental disclosure to present additional and/or contested facts if it is determined later to
6 be required as a result of any argument raised by the parties to this contested case during a full
7 briefing of the issues.

8 (2) The legal theory upon which each claim is based including, where necessary for a
9 reasonable understanding of the claim, citations of pertinent legal or case authorities.

10 In general, the Nation does not contest the United States’ legal theory that it is entitled to
11 express and/or implied federal reserved rights for Redfield Canyon Wilderness Area under the
12 cases and authorities cited by the United States in its initial disclosure statement. The Nation
13 reserves the right to file a supplemental disclosure to present additional and/or contested legal
14 theories if it is determined later to be required as a result of any argument raised by the parties
15 to this contested case during a full briefing of the issues.

16 (3) The names, addresses, and telephone numbers of any witnesses whom the disclosing
17 party expects to call to substantiate its claims with a fair description of the substance of each
18 witness’ expected testimony.

19 All witnesses listed in disclosure statements submitted by other parties to this contested
20 case may be called by the Nation. No additional witnesses are expected to be called by the
21 Nation at this time.

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

1 All persons listed in disclosure statements submitted by other parties to this contested
2 case may have relevant knowledge or information regarding the issue designated for briefing.

3 (5) The names and addresses of all persons who have given statements, whether written or
4 recorded, signed or unsigned, and the custodian of the copies of those statements.

5 No persons have given statements.

6 (6) The name and address of each person whom the disclosing party expects to call as an
7 expert witness, the subject matter on which the expert is expected to testify, the substance of the
8 facts and opinions to which the expert is expected to testify, a summary of the grounds for each
9 opinion, the qualifications of the witness, and the name and address of the custodian of copies
10 of any reports prepared by the expert.

11 All experts listed in disclosure statements submitted by other parties to this contested
12 case may be called by the Nation. No additional experts are expected to be called by the Nation
13 at this time.

14 (7) The existence, location, custodian, and general description of any tangible evidence,
15 relevant documents, or electronically stored information that the party plans to use to support its
16 claims.

17 All tangible evidence, relevant documents, or electronically store information disclosed
18 by the other parties to this contested case may be used by the Nation to support its claims.

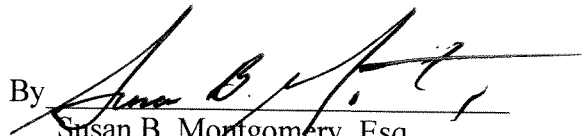
19 (8) A list of the documents or electronically stored information, or in the case of
20 voluminous documentary information, or electronically stored information, a list of the
21 categories of documents or electronically stored information, known by the disclosing party to
22 exist whether or not in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

All documents or electronically stored information disclosed by other parties to this
contested case may be used by the Nation. At this time, there are no other documents or
electronically stored information known by the Nation to be relevant.

1 The Nation will not be providing an Electronic Data Base and Index to the Arizona
2 Department of Water Resources, as there are no documents to disclose at this time.

3 RESPECTFULLY SUBMITTED this 26th day of June, 2013.

4 **MONTGOMERY & INTERPRETER, PLC**

5
6 By 
7 Susan B. Montgomery, Esq.
8 Robyn L. Interpreter, Esq.
9 4835 E. Cactus Rd., Suite 210
10 Scottsdale, Arizona 85254
11 *Attorneys for the Yavapai-Apache Nation*

12 **Certificate of Service**

13 The original of the foregoing hand-delivered this 26th day of June, 2013, to:

14 Clerk of the Superior Court
15 Maricopa County
16 Attn: Water Case
17 601 West Jackson Street
18 Phoenix, AZ 85003

19 A copy of the foregoing hand-delivered this 26th day of June, 2013, to:

20 Special Master George A. Schade, Jr.
21 Arizona General Stream Adjudication
22 201 West Jefferson, CCB 5B
23 Phoenix, AZ 85003-2205

24 A copy of the foregoing mailed this 26th day of June 2013, to all parties on the court-approved
W1-11-2664 mailing list dated January 10, 2013, as posted on the Special Master's website on
June 26, 2013.

