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11 *and Tonto Apache Tribe*

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LEGAL
DEPT OF WATER RESOURCES

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. W1-11-232

**San Carlos Apache Tribe and Tonto
Apache Tribe's Initial Disclosure
Statement**

18 **CONTESTED CASE NAME:**

*In re San Pedro Riparian National Conservation
Area*

19 **H.S.R. INVOLVED:**

San Pedro River Watershed Hydrographic
Survey Report

20 **DESCRIPTIVE SUMMARY:**

The San Carlos Apache Tribe and Tonto Apache
Tribe submit their initial disclosure statement
pursuant to Arizona Rule of Civil Procedure
26.1, the Special Master's Order dated May 29,
2013, and the Special Master's Order dated
August 7, 2013.

21 **STATEMENT OF CLAIMANT #:**

39-12676, 39-63614 (San Carlos Apache Tribe)

39-50058, 39-12675 (Tonto Apache Tribe)

22 **NUMBER OF PAGES:**

6

23 **DATE OF FILING:**

January 7, 2014

1 The San Carlos Apache Tribe and the Tonto Apache Tribe (the "Tribes") submit their
2 Initial Disclosure Statement pursuant to Arizona Rule of Civil Procedure 26.1, the Special
3 Master's Order dated May 29, 2013, and the Special Master's Order dated August 7, 2013.
4

5 **I. Issues Designated for Briefing**

6 In accordance with paragraph 1(A) of the Special Master's August 7, 2013, Order, this
7 initial disclosure is limited to matters concerning the following issues and subissues
8 designated in the Special Master's May 29, 2013, Order:
9

10 A. Determination of the boundaries of the conservation area.

- 11 1. Which lands were included within the conservation area
12 established on November 18, 1988?
13 2. After November 18, 1988, which lands were acquired and when
14 were they formally incorporated within the SPRNCA?

15 B. Quantification of the federal reserved water rights claims.

- 16 1. What is the quantity of water needed to fulfill the purposes of the
17 conservation area set forth in the Arizona-Idaho Conservation Act
18 of 1988?
19 2. To what extent is groundwater required to meet those purposes?

20 C. Interaction of Certificate of Water Right No. 90103.0000 with the
21 federal reserved water rights claims.

- 22 1. Has any portion of Certificate of Water Right No. 90103.0000
23 been abandoned or forfeited?
24 2. Is Certificate of Water Right No. 90103.0000 additive or
25 complementary to the adjudicated federal reserved water rights?
26

27 Special Master's May 29, 2013, Order at 2.

///

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

2 **1. The factual basis for the Tribes' claims concerning each of the designated**
3 **issues:**

4 **A. Determination of the boundaries of the conservation area.**

5 The Tribes assert that the facts needed to determine the boundaries of the San Pedro
6 River National Conservation Area ("SPRNCA") will be found in the deeds and acquisition
7 documents which underlie the SPRNCA Land Ownership Report filed on April 15, 2011.

8 **B. Quantification of the federal reserved water rights claims.**

9 The Tribes generally agree with the United States that the Streamflow Report,
10 Groundwater Report, and Riparian Report prepared by the United States and included in
11 Appendix C of ADWR's May 2012 Report Concerning Federal Reserved Water Rights for
12 SPRNCA will provide the factual basis for quantifying the federal reserved water rights for
13 the SPRNCA. United States' Initial Disclosures on Quantification of the Federal Reserved
14 Water Right, dated December 3, 2013 ("U.S. Disclosure"), at 3.

15 **C. Interaction of Certificate of Water Right No. 90103.0000 with the**
16 **federal reserved water rights claims.**

17 At this time, the Tribes take no position on the third issue designated in the Special
18 Master's May 29, 2013, Order.¹ The Tribes reserve the right to supplement this statement
19 during the course of this Contested Case, should further disclosures, arguments or both
20 require the Tribes to disclose additional information relevant to this paragraph.
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27 ¹ The issues designated for briefing do not directly address the objections which the Tribes made and filed on May 18, 1992.

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

4 **A. Determination of the boundaries of the conservation area.**

5 The Tribes generally agree with the United States that legal documents demonstrating
6 land acquisition will form the legal basis for determining the boundaries of the SPRNCA.

7 U.S. Disclosure at 3.

8 **B. Quantification of the federal reserved water rights claims.**

9 The Tribes assert that the express reservation of water made by Congress in the
10 Arizona-Idaho Conservation Act of 1988, 16 U.S.C. § 460xx-1(d), and the purposes of the
11 reservation as set out by Congress, will provide the legal basis for quantifying the federal
12 reserved water rights claims.
13

14 **C. Interaction of Certificate of Water Right No. 90103.0000 with the**
15 **federal reserved water rights claims.**

16 At this time, the Tribes take no position on the third issue designated in the Special
17 Master's Order. The Tribes reserve the right to supplement this statement during the course of
18 this Contested Case, should further disclosures, arguments or both require the Tribes to
19 disclose additional information relevant to this paragraph.
20

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

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

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

1
2 At this time, the Tribes know of no persons, other than those named by the United
3 States in its Initial Disclosures on Quantification of the Federal Reserved Water Right dated
4 December 3, 2013, who may have relevant information knowledge or information.

- 5
6 **5. Names and addresses of all persons who have given statements, whether**
7 **written or recorded, signed or unsigned, and the custodian of the copies of**
8 **those statements:**

9 At this time, no such statements have been given.

- 10 **6. The name and address of each person whom the Tribes expect to call as an**
11 **expert witness, the subject matter on which the expert is expected to testify,**
12 **the substance of the facts and opinions to which the expert is expected to**
13 **testify, a summary of the grounds for each opinion, the qualifications of the**
14 **witness, and the name and address of the custodian of copies of any reports**
15 **prepared by the expert:**

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

- 17 **7. The existence, location, custodian, and general description of any tangible**
18 **evidence, relevant documents, or electronically stored information that the**
19 **Tribes plan to use to support their claims.**

20 The Tribes reserve the right to support their claims using any tangible evidence or
21 relevant documents disclosed by any other party. At this time, the Tribes are unaware of any
22 tangible evidence or relevant documents other than those disclosed in the U.S. Disclosure that
23 the Tribes plan to use to support any claims they may have regarding the issues and subissues
24 designated by the Special Master.

- 25 **8. A list of the documents or electronically stored information, or in the case**
26 **of voluminous documentary information or electronically stored**
27 **information, a list of the categories of documents or electronically stored**
information known by the Tribes to exist whether or not in their
possession, custody, or control and which the Tribes believe may be
relevant to any of their claims concerning the designated issues, and those
which appear reasonable calculated to lead to the discovery of admissible

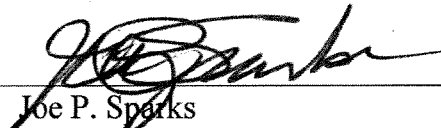
1 evidence, and the date(s) upon which those documents or electronically
2 stored information will be made, or have been made, available for
3 inspection, copying, testing or sampling. Unless good cause is stated for not
4 doing so, a copy of the documents and electronically stored information
5 listed shall be served with the disclosure. If production is not made, the
6 name and address of the custodian of the document and electronically
7 stored information shall be indicated. A party who produced documents
8 for inspection shall produce them as they are kept in the usual course of
9 business.

10 At this time, the Tribes have no knowledge of relevant documents which would be
11 responsive to this paragraph.

12 Respectfully submitted this 7th day of January, 2014.

13 **THE SPARKS LAW FIRM, P.C.**

14 By



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21 ORIGINAL of the foregoing hand-delivered
22 for filing this 7th day of January, 2014 to:

23 Clerk of the Arizona Superior Court
24 Maricopa County
25 Attn: Water Case
26 201 W. Jefferson St.
27 Phoenix, AZ 85003

COPIES mailed this 7th day of January, 2014,
to all people listed on the Court Approved Mailing
List for Contested Case No. W1-11-232, dated July 1, 2013.

