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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 W1-11-232

**YAVAPAI-APACHE NATION'S
INITIAL DISCLOSURE STATEMENT
FOR THE QUANTIFICATION OF THE
UNITED STATES' FEDERAL
RESERVED WATER RIGHTS CLAIMS**

16 CONTESTED CASE NAME: *In re San Pedro Riparian National Conservation Area.*

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

18 DESCRIPTIVE SUMMARY: The Yavapai-Apache Nation's initial disclosure statement on
19 the quantification of the United States' Federal Reserved Water Rights Claims pursuant to
20 Arizona Rule of Civil Procedure 26.1 and the Special Master's Order Designating the Issues
for an Evidentiary Hearing on Federal Reserved Water Rights Claims and Determining Related
Issues, dated May 29, 2013.

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: 6.

24 DATE OF FILING: January 7, 2014.

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1 The Yavapai-Apache Nation ("Nation") hereby submits its Initial Disclosure Statement
2 on the Quantification of the United States' Federal Reserved Water Rights Claims pursuant to
3 Arizona Rule of Civil Procedure 26.1 and the Special Master's Order Designating the Issues for
4 an Evidentiary Hearing on Federal Reserved Water Rights Claims and Determining Related
5 Issues, dated May 29, 2013 ("Order Designating Issues").¹ The Order Designating Issues
6 instructs the parties to limit their disclosure statement to matters concerning three principle
7 issues as follows:

8 1. Determination of the boundaries of the conservation area.

9 A. Which lands were included within the conservation area established on
10 November 18, 1988?

11 B. After November 18, 1988, which lands were acquired and when were they
12 formally incorporated within the SPRNCA?

13 2. Quantification of the federal reserved water rights claims.

14 A. What is the quantity of water needed to fulfill the purposes of the
15 conservation area set forth in the Arizona-Idaho Conservation Act?

16 B. To what extent is groundwater required to meet those purposes?

17 3. Interaction of Certificate of Water Right No. 90103.0000 with the federal reserved
18 rights claims.

19 A. Has any portion of Certificate or Water Right No. 90103.0000 been
20 abandoned or forfeited?

21 B. Is Certificate of Water Right No. 90103.0000 additive or complementary to
22 the adjudicated federal reserved water rights?

23 Order Designating Issues at 2. The Nation discloses the following information and data
24 relevant to the three issues set forth in the Order Designating Issues:

¹ Deadlines for filing disclosure statements in this Contested Case were set by the Special Master in his Order Setting Time Lines for Disclosure Statements, Discovery, Expert Reports, Motions, Technical Investigations, and Status Conference, dated August 7, 2013.

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

2 Issue 1. The factual circumstances, dates of incorporation, deeds and other acquisition
3 documents for SPRNCA and those lands subsequently incorporated into SPRNCA were
4 examined and outlined in the Arizona Department of Water Resources' (ADWR) Report,
5 entitled "Land Ownership within the San Pedro Riparian National Conservation Area", dated
6 June 30, 2010, and in the Supplemental Land Ownership Report which was prepared by ADWR
7 in cooperation with the Bureau of Land Management and filed with the Court on April 15, 2011.

8 The Nation takes no position at this time regarding the quantity, amounts or sources of
9 water that may be necessary to fulfill the purposes SPRNCA (Issue 2) or as to whether any
10 portion of Certificate of Water Right No. 90103.0000 has been abandoned or forfeited or
11 whether Certificate of Water Right No. 90103.000 is "additive or complementary" to the
12 adjudicated federal reserved water rights for SPRNCA (Issue 3). The Nation will file a
13 supplemental disclosure to present any new or additional facts with regard to Issues 1-3 if it is
14 determined later to be required as a result of any argument raised by the parties to this contested
15 case during a full briefing of the issues.

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

18 In general, the Nation does not contest the United States' legal theory that it is entitled to
19 federal reserved water rights for SPRNCA in a quantity or amount sufficient to fulfill the
20 purposes of the SPRNCA – the boundaries of which are outlined in ADWR's Land Ownership
21 Reports filed with this Court on June 30, 2010, and Supplemental Land Ownership Report filed
22 April 15, 2011 (Issues 1-2). The Nation presently has no legal theory or position as to whether
23 any portion of Certificate of Water Right No. 90103.0000 has been abandoned or forfeited or
24 whether Certificate of Water Right No. 90103.000 is "additive or complementary" to the

1 adjudicated federal reserved water rights for SPRNCA (Issue 3). The Nation will file a
2 supplemental disclosure to present any new or additional legal theories if it is determined later
3 to be required as a result of any argument raised by the parties to this contested case during a
4 full briefing of the issues.

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

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

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

13 All persons listed in disclosure statements submitted by other parties to this contested
14 case may have relevant knowledge or information regarding the three issues designated for
15 briefing.

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

17 No persons have given statements.

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

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

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

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

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

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

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

19 RESPECTFULLY SUBMITTED this 7th day of January, 2014.

20 **MONTGOMERY & INTERPRETER, PLC**

21 By 

22 Susan B. Montgomery, Esq.

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Attorneys for the Yavapai-Apache Nation

CERTIFICATE OF SERVICE

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The original of the foregoing sent via U.S. Mail this 7th day of January 2014, to:
Clerk of the Superior Court
Maricopa County
Attn: Water Case
601 West Jackson Street
Phoenix, AZ 85003

A copy of the foregoing sent via U.S. Mail this 7th day of June 2014, to:
Special Master George A. Schade, Jr.
Arizona General Stream Adjudication
201 West Jefferson, CCB 5B
Phoenix, AZ 85003-2205

A copy of the foregoing was mailed this 7th day of January, 2014, to all parties on the court-approved W1-11-232 mailing list dated July 1, 2013, as posted on the Special Master's website on January 7, 2014.

