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LEGAL  
DEPT OF WATER RESOURCES

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11 *and Tonto Apache Tribe*

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. W1-11-2664

**San Carlos Apache Tribe and Tonto  
Apache Tribe's Disclosure Statement  
for the Second Phase of this Contested  
Case**

18 <b>CONTESTED CASE NAME:</b>	<i>In re Redfield Canyon Wilderness Area</i>
19 <b>H.S.R. INVOLVED:</b>	San Pedro River Watershed Hydrographic Survey Report
20 <b>DESCRIPTIVE SUMMARY:</b>	The San Carlos Apache Tribe and Tonto Apache Tribe submit their disclosure statement for the second phase of this contested case pursuant to Arizona Rule of Civil Procedure 26.1, and the Special Master's Orders dated April 5, 2012 and July 9, 2014.
21 <b>STATEMENT OF CLAIMANT #:</b>	39-12676, 39-63614 (San Carlos Apache Tribe) 39-50058, 39-12675 (Tonto Apache Tribe)
22 <b>NUMBER OF PAGES:</b>	7
23 <b>DATE OF FILING:</b>	March 11, 2015

1 The San Carlos Apache Tribe and the Tonto Apache Tribe (the "Tribes") submit their  
2 Disclosure Statement pursuant to Arizona Rule of Civil Procedure 26.1, the Special Master's  
3 April 5, 2012, Case Initiation Order and Designation of Initial Issues for Briefing, and the  
4 Special Master's Order Determining the Initial Issues, Initiating the Second Phase, and  
5 Requesting a Status Report on Land Ownership, filed July 9, 2014.

7 **I. Issues Designated for Briefing**

8 In accordance with paragraphs XI(2)-(4) of the Special Master's July 9, 2014 Order,  
9 this disclosure statement is limited to matters concerning the following issues:  
10

- 11 A. How much, if any, unappropriated water was available on November 28,  
12 1990?
- 13 B. If unappropriated water was available on November 28, 1990, what is the  
14 quantity of water sufficient to fulfill the purposes of the Redfield Canyon  
15 Wilderness Area?

16 Special Master's July 9, 2014 Order at 12.

17 **II. The Tribes' Disclosure**

- 18 A. **The factual basis of a party's claim concerning each of the designated**  
19 **issues.**

20 The Tribes continue to take no position as to the amount of unappropriated water  
21 available, if any, within the Redfield Canyon Wilderness Area on November 28, 1990.<sup>1</sup> The  
22 Tribes also take no position as to the quantity of water sufficient to fulfill the purposes of the  
23 Wilderness Area.  
24  
25  
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27 <sup>1</sup> The issues designated for briefing do not directly address the objections which the Tribes  
made and filed on May 18, 1992.

1 The Tribes do note, however, as stated in their Initial Disclosure Statement filed on  
2 June 19, 2013, that as of November 28, 1990, there was no available water on the San Pedro  
3 River upstream from the Gila River Indian Community which could be appropriated for  
4 consumptive use without infringing upon the time immemorial decreed right of the Gila River  
5 Indian Community, and the 1846 priority decreed right of the San Carlos Apache Tribe under  
6 Article V of the Globe Equity No. 59 Decree. (Globe Equity Decree)  
7

8 In addition, the Tribes continue to urge the Court to consider the rights and claims of  
9 any Apache allottees, or the United States on behalf of any Apache allottees, with water rights  
10 and claims on the San Pedro River and Aravaipa Creek<sup>2</sup> which predate the United States'  
11 claims for the Redfield Canyon Wilderness Area. Any rights and claims of these Apache  
12 allottees and the United States on behalf of these Apache allottees must be considered when  
13 determining the availability of unappropriated water in the Redfield Canyon Wilderness Area.  
14  
15

16 The Tribes reserve the right to supplement this response during the course of this  
17 Contested Case, should future disclosures, arguments or both, require the Tribes to disclose  
18 additional information relevant to this paragraph.  
19

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

23 As noted above, the Tribes assert that, as of November 28, 1990, there was no available  
24 water on the San Pedro River upstream from the Gila River Indian Community which could

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25 <sup>2</sup> Neither of the Tribes, nor this Firm on behalf of the Tribes, represent the Apache allottees in  
26 this Adjudication. The land included in the Apache Allotments is held in Trust by the United  
27 States, and therefore the interests of Apache allottees should be represented by the United  
States in this proceeding.

1 be appropriated for consumptive use without infringing upon the time immemorial decreed  
2 right of the Gila River Indian Community, and the 1846 priority decreed right of the San  
3 Carlos Apache Tribe under Article V of the Globe Equity Decree.  
4

5 Beyond this, the Tribes have not taken a position on the two issues designated for this  
6 phase of the case, and so the Tribes have not developed a legal theory<sup>3</sup> about the two  
7 designated issues. The Tribes reserve the right to supplement this statement should future  
8 disclosures, arguments or both, require the Tribes to clarify or distinguish the theories upon  
9 which they base any claims they have in this matter.  
10

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

14 At this time, the Tribes do not intend to call any witnesses. The Tribes do however,  
15 reserve the right to call and examine any witness or expert witness disclosed by any other  
16 party.

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

21 As stated in the Tribes' Initial Disclosure Statement filed on June 19, 2013, on  
22 information and belief, the Phoenix Regional Office of the Bureau of Indian Affairs, the  
23 Bureau of Indian Affairs' San Carlos Agency, or both, may have management responsibilities  
24 for Apache allotted lands on the San Pedro River and Aravaipa Creek, and may have records  
25 related to them.  
26

27  

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<sup>3</sup> See footnote 1, supra.

1 In addition, the Phoenix Regional Office of the Bureau of Indian Affairs, 2600 N.  
2 Central Avenue, 4th Floor Mailroom Phoenix, AZ 85004-3050, (602) 379-6600, the San  
3 Carlos Irrigation Project, 13805 N Arizona Blvd, Coolidge, AZ 85128, (520) 796-5963, and  
4 the Gila Water Commissioner, P.O. Box 152 Safford, AZ 85548, (928) 428-3220 may have  
5 knowledge or information related to the amount of unappropriated water in the San Pedro  
6 River upstream from the Gila River Indian Community as of November 28, 1990.  
7

8 Otherwise, at this time, the Tribes know of no persons, other than those named by other  
9 parties, who may have knowledge or information relevant to the two designated issues.  
10

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

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

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

21 At this time, the Tribes do not expect to call any expert witnesses. The Tribes do,  
22 however, reserve the right to call and examine any witness or expert witness disclosed by any  
23 other party.

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

27 The Tribes reserve the right to support their claims using any tangible evidence,  
relevant documents or electronically stored information disclosed by any other party. At this

1 time, the Tribes are unaware of any tangible evidence, relevant documents or electronically  
2 stored information other than those disclosed in the United States Disclosure that the Tribes  
3 plan to use to support any claims they may have regarding the issues designated by the  
4 Special Master.  
5

6 **8. A list of the documents or electronically stored information, or in the case**  
7 **of voluminous documentary information or electronically stored**  
8 **information, a list of the categories of documents or electronically stored**  
9 **information known by the Tribes to exist whether or not in their**  
10 **possession, custody, or control and which the Tribes believe may be**  
11 **relevant to any of their claims concerning the designated issues, and those**  
12 **which appear reasonable calculated to lead to the discovery of admissible**  
13 **evidence, and the date(s) upon which those documents or electronically**  
14 **stored information will be made, or have been made, available for**  
15 **inspection, copying, testing or sampling. Unless good cause is stated for not**  
16 **doing so, a copy of the documents and electronically stored information**  
17 **listed shall be served with the disclosure. If production is not made, the**  
18 **name and address of the custodian of the document and electronically**  
19 **stored information shall be indicated. A party who produced documents**  
20 **for inspection shall produce them as they are kept in the usual course of**  
21 **business.**

22 At this time, the Tribes have no knowledge of relevant documents which would be  
23 responsive to this paragraph.  
24

25 Respectfully submitted this 11th day of March, 2015.  
26

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

By 

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ORIGINAL of the foregoing hand-delivered  
for filing this 11th day of March, 2015 to:

Clerk of the Arizona Superior Court  
Maricopa County  
Attn: Water Case  
601 W. Jackson St.  
Phoenix, AZ 85003

COPIES mailed this 11th day of March, 2015  
to all people listed on the Court Approved Mailing  
List for Contested Case No. W1-11-2664, dated March 3, 2015.



