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6 *Attorneys for the Yavapai-Apache Nation*

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

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

9 IN RE THE GENERAL ADJUDICATION
OF ALL RIGHTS TO USE WATER IN THE
10 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

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13 **YAVAPAI-APACHE NATION'S**
INITIAL DISCLOSURE STATEMENT
14 **FOR THE SECOND PHASE OF THE**
CASE

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

16 HSR INVOLVED: San Pedro River Watershed Hydrographic Survey Report

17 DESCRIPTIVE SUMMARY: The Yavapai-Apache Nation's disclosure statement for the
second phase of the case pursuant to Arizona Rule of Civil Procedure 26.1 and the Special
18 Master's Order Determining the Initial Issues, Initiating the Second Phase, and Requesting a
Status Report on Land Ownership Order, dated July 9, 2014

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

21 NUMBER OF PAGES: 5

22 DATE OF FILING: March 11, 2015

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1 The Yavapai-Apache Nation (“Nation”) hereby submits its Disclosure Statement
2 pursuant to Arizona Rule of Civil Procedure 26.1 and the Special Master’s Order Determining
3 the Initial Issues, Initiating the Second Phase, and Requesting a Status Report on Land
4 Ownership Order, dated July 9, 2014 (“July 9 Order”). The July 9 Order instructs the parties to
5 limit their disclosure statement to matters concerning the following issues relevant to the
6 Second Phase of this Case as follows:

- 7 A. How much, if any, unappropriated water was available on November 28,
1990?
- 8 B. If any unappropriated water was available on November 28, 1990, what is
9 the quantity of water sufficient to fulfill the purposes of the Redfield
Canyon Wilderness?

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

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

20 Given the highly factual nature of this question, the Nation takes no position at this time
21 regarding the specific quantity or amounts of water that were “available” on November 28,
22 1990, to fulfill purposes of the 1990 Act. The Nation reserves the right to file a supplemental
23 disclosure to present additional and/or contested facts if it is determined later to be required as a
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1 result of the factual development of this question or any argument raised by the parties to this
2 contested case.

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

5 In general, the Nation does not contest the United States' legal theory that it is entitled to
6 express and/or implied federal reserved rights for Redfield Canyon Wilderness Area under the
7 cases and authorities cited by the United States in its initial disclosure statement. The Nation
8 takes no position at this time regarding the applicable legal theories related to the specific
9 quantity or amounts of water that were "available" on November 28, 1990, to fulfill purposes of
10 the 1990 Act. The Nation reserves the right to file a supplemental disclosure to present
11 additional and/or contested legal theories if it is determined later to be required as a result of
12 any argument raised by the parties to this contested case.

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

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

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

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

(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.

No persons have given statements on behalf of the Nation.

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

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

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

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

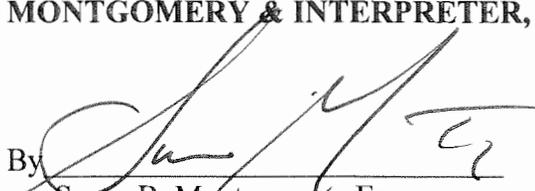
14 (8) A list of the documents or electronically stored information, or in the case of
15 voluminous documentary information, or electronically stored information, a list of the
16 categories of documents or electronically stored information, known by the disclosing party to
17 exist whether or not in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

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

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

1 RESPECTFULLY SUBMITTED this 11th day of March, 2014.

2 **MONTGOMERY & INTERPRETER, PLC**

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4 By 

Susan B. Montgomery, Esq.

Robyn L. Interpreter, Esq.

4835 E. Cactus Rd., Suite 210

Scottsdale, Arizona 85254

Attorneys for the Yavapai-Apache Nation

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8 **CERTIFICATE OF SERVICE**

9 ORIGINAL and one copy of the foregoing mailed this 11th day of March, 2015, to:

10 Clerk of the Superior Court
11 Maricopa County
12 Attn: Water Case
601 West Jackson Street
Phoenix, AZ 85003

13 COPY of the mailed this 11th day of March, 2015, to:

14 Special Master
15 Arizona General Stream Adjudication
201 West Jefferson, CCB 5B
Phoenix, AZ 85003-2205

16 The Honorable Mark H. Brain
17 Maricopa County Superior Court
18 East Court Building, #413
101 West Jefferson Street
Phoenix, AZ 85003

19 COPIES of the foregoing mailed this 11th day of March 2015, to all parties on the court-
20 approved W1-11-2664 mailing list dated March 3, 2015, as posted on the Special Master's
21 website on March 3, 2015.

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