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12 *Improvement and Power District and Salt River*  
13 *Valley Water Users' Association*

RECEIVED  
JUL 18 2016  
LEGAL  
DEPT OF WATER RESOURCES

14 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
15 **IN AND FOR THE COUNTY OF MARICOPA**

16 IN RE: THE GENERAL  
17 ADJUDICATION OF ALL RIGHTS  
18 TO USE WATER IN THE GILA  
19 RIVER SYSTEM AND SOURCE

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

Contested Case No. W1-11-2664

**SALT RIVER PROJECT'S  
SUPPLEMENTAL DISCLOSURE  
STATEMENT FOR SECOND PHASE  
OF THIS CASE**

(Assigned to the Hon. Mark H. Brain)

20 Contested Case Name: *In re Redfield Canyon Wilderness Area.*

21 HSR Involved: San Pedro River Watershed Hydrographic Survey Report.

22 Descriptive Summary: The Salt River Project submits its supplemental disclosure  
23 statement for Phase II of this contested case.

24 Statement of Claimant Nos.: 39-07-1040, -1041, -1998, -1206, -1207; 39-05-50053, -  
25 50054, -50055; 39-L8-35212 and -35213.

26 Date of Filing: July 15, 2016.

27 Number of Pages: 6.

1 **I. Introduction**

2 This Supplemental Disclosure Statement is made on behalf of the Salt River Project  
3 Agricultural Improvement and Power District and the Salt River Valley Water Users'  
4 Association (collectively, "SRP"). SRP's Supplemental Disclosure Statement sets forth  
5 statements of its positions on the two issues identified for decision by the Special Master's  
6 Order dated July 9, 2014. The two issues are:

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

11 The information and positions set forth in this Supplemental Disclosure Statement are  
12 based on materials disclosed by the United States and other parties to date. The information  
13 and positions are subject to change pending SRP's review of (1) documents disclosed by the  
14 United States and other parties in their Supplemental Disclosure Statements and (2) any  
15 information or documents disclosed in connection with the ongoing discovery process in this  
16 contested case.

17 With these reservations, and consistent with the requirements of Rule 26.1 of the  
18 Arizona Rules of Civil Procedure and the Special Master's Order dated May 12, 2016 (the  
19 "Order"), SRP's disclosures relevant to the above-referenced two issues are set forth below.  
20 The Order provides that this supplemental disclosure is to include only "information which  
21 was either not provided or is a change to the information provided in the initial Disclosure  
22 Statements, any supplemental Disclosure Statements, or in the reports regarding experts due  
23 on June 30, 2016." Accordingly, only those sections that include additional information  
24 beyond what already has been disclosed in SRP's initial disclosure statement are included in  
25 this disclosure. The specific information that has not been previously disclosed is set forth in  
26 **bold** herein.

1 **II. Rule 26.1(a)(1)-(2): Factual Basis for Each Claim Concerning the Designated**  
2 **Issues and the Legal Theory Upon Which Each Claim is Based.**

3 A. How much, if any, unappropriated water was available on November 28, 1990?

4 The Special Master previously addressed this question in *In Re San Pedro Riparian*  
5 *National Conservation Area*, Contested Case No. W1-11-232 (“SRPNCA”), and held in his  
6 October 17, 2013 Order that “it is necessary to determine the quantity of unappropriated water  
7 available for use as of the dates of reservation [of the SRPNCA], but it is not required to do so  
8 prior to quantifying the reserved right.” *Id.* at 7. The Special Master subsequently adopted  
9 this approach in *In re Aravaipa Canyon Wilderness Area*, Contested Case No. W1-11-3342  
10 (“ACWA”), in an Order dated June 9, 2014. In the June 9, 2014 Order, the Special Master  
11 held that “the Court can quantify a federal reserved water right without first determining the  
12 availability of unappropriated water on the date of the reservation.” *Id.* at 3.

13 The approach taken in SRPNCA and ACWA as it relates to this issue should be  
14 adopted in this contested case as well. The amount of water available for appropriation for the  
15 Redfield Canyon Wilderness Area (“RCWA”) federal reserved right need not be determined at  
16 this time. Rather, the RCWA’s federal reserved right should be quantified and placed in  
17 priority with all other rights to surface water and administered as part of a final decree.  
18 Proceeding in this manner assures that the United States will not be able to “jump ahead” of  
19 those holding senior rights and will be able to utilize the RCWA’s federal reserved right only  
20 to the extent that unappropriated water remains in the system after senior right holders are  
21 satisfied.

22 B. If unappropriated water was available on November 28, 1990, what is the  
23 quantity of water sufficient to fulfill the purposes of the Redfield Canyon  
24 Wilderness Area?

25 SRP’s position is that the Arizona Desert Wilderness Act of 1990 (“1990 Act”)  
26 expressly reserved water sufficient to fulfill the purposes of the designated wilderness areas.  
27 SRP has no position as to the quantity of water that is necessary to fulfill such purposes.

1           **The United States claims all natural flows within the RCWA.<sup>1</sup> SRP does not take**  
2 **a position on whether the United States is entitled to all such natural flows. However, if**  
3 **the United States can demonstrate at trial that all natural flows are required to satisfy**  
4 **the purposes of the RCWA, then the United States is entitled to receive all natural flows**  
5 **within the RCWA as part of its decreed federal reserved right and does not need to**  
6 **specifically quantify the location and annual volume of every source of such natural**  
7 **flows. The quantification must reflect the fact that the United States is not entitled to**  
8 **receive a federal reserved right to springs that are located on lands that fall outside the**  
9 **boundaries of the RCWA, including any state trust lands.**

10 **III. Rule 26.1(a)(7): The Existence, Location, Custodian, and General Description of**  
11 **Any Tangible Evidence or Relevant Documents that the Disclosing Party Plans to**  
12 **Use to Support Its Claims.**

13           See SRP's Phase I Rule 26.1 Initial Disclosure Statement (Doc. No. 103) and all  
14 documents identified therein (SRP000001 – SRP05920). SRP also reserves the right to  
15 utilize: (1) all documents disclosed by any party in this contested case in any initial or  
16 supplemental disclosure; (2) all written discovery requests and responses served by any  
17 party in this contested case; (3) the transcripts of all depositions that occur in this  
18 contested case, including all exhibits to any such depositions; (4) all documents filed with  
19 the Court or the Special Master in connection with this contested case; and (5) all  
20 documents produced in response to any subpoena or request for production of  
21 documents that any party serves in connection with this contested case.

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25 <sup>1</sup> See United States' Initial Disclosure Statement, dated April 19, 2013 ("The United  
26 States is entitled to a right, as a matter of law, for the entire amount of unappropriated  
27 water constituting the natural flow in the wilderness area in order to fulfill Congress'  
intent to preserve and protect the wilderness areas.").

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DATED this 15<sup>th</sup> day of July, 2016.

Salmon, Lewis & Weldon, PLC

By: 

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Attorneys for Salt River Project

1 Original and one copy of the foregoing  
2 hand-delivered this 15th day of July, 2016 to:

3 Clerk of the Superior Court  
4 Maricopa County  
5 Attn: Water Case  
6 601 West Jackson Street  
7 Phoenix, AZ 85003

8 One copy of the foregoing hand-delivered  
9 this 15th day of July, 2016 to:

10 Hon. Mark H. Brain  
11 Judge of the Superior Court  
12 Central West Building, Suite 12A  
13 201 West Jefferson Street  
14 Phoenix, AZ 85003

15 Susan Ward Harris  
16 Special Master  
17 Central Court Building, Suite 3A  
18 201 West Jefferson Street  
19 Phoenix, AZ 85003

20 Copies of the foregoing mailed this 15<sup>th</sup> day of  
21 July, 2016 to all persons appearing on the court-approved  
22 mailing list for W1-11-605 dated July 7, 2016.

23 By: Nicole Villa  
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