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7 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
 8 IN AND FOR THE COUNTY OF MARICOPA

9
 10 IN THE GENERAL ADJUDICATION OF
 11 ALL RIGHTS TO USE WATER IN THE
 12 GILA RIVER SYSTEM AND SOURCE

Contested Case No. W1-11-232

**SIERRA VISTA PARTIES FIRST
 SUPPLEMENTAL DISCLOSURE STATEMENT**

14 **CONTESTED CASE NAME/NO.:** *In re San Pedro Riparian National Conservation Area/*
 15 W1-11-232

16 **HSR INVOLVED:** San Pedro River Watershed Hydrographic Survey Report

17 **DESCRIPTIVE SUMMARY:** Liberty Utilities (Bella Vista Water) Corp., Pueblo Del Sol Water
 18 Company, and the City of Sierra Vista first supplemental Disclosure Statement.

19 **STATEMENT OF CLAIMANT NUMBERS:** Liberty Utilities (Bella Vista Water) Corp.: 39-
 20 02498; 39-03800; 39-11962 through 39-11965; Pueblo Del Sol Water Company: 39-11-4262 through
 39-11-4264 and 39-11-12704; City of Sierra Vista: 39-1488-89; 39-2752; 39-5807; 39-7844-48; 39-
 2557-58 and 39-12469.

21 **NUMBER OF PAGES:** 8

DATE OF FILING: August 19, 2016

22 Pursuant to the June 14, 2016 Order, Liberty Utilities (Bella Vista Water) Corp. ("Liberty"),
 23 Pueblo Del Sol Water Company ("PDS"), and the City of Sierra Vista ("City") (collectively the "SV
 24 Parties") by and through undersigned counsel submit their supplemental Disclosure Statement.
 25

1 Discovery is ongoing and the SV Parties reserve the right to revise, correct, or supplement this
2 disclosure of information and will do so as required under any applicable orders or rules as new and
3 different information is discovered or revealed, or as the SV Parties discover that additional
4 information is relevant. The SV Parties reserve the right to rely upon any information disclosed by
5 any other party in this phase or in any other phase of this contested case.

6 **I. BACKGROUND.**

7 By Order of the Special Master dated May 29, 2013, the parties are to limit the contents of
8 their Disclosure Statements to the following Phase 2 issues:

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

10 A. Which lands were included within the conservation area established on November 18,
11 1988?

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

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

15 A. What is the quantity of water needed to fulfill the purposes of the conservation area set
16 forth in the Arizona-Idaho Conservation Act of 1988?

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

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

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

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

24 The SV Parties previously provided an initial Disclosure Statement dated February 25, 2008 in
25 Phase One of this contested case and an initial Disclosure Statement dated January 7, 2014 in Phase
Two of this contested case. By Order dated June 14, 2016, the Special Master ordered the parties to
file a supplemental disclosure statement, the sole purpose of which “shall be to provide information
which was either not provided or is a change to the information provided in the initial Disclosure

1 Statements or in the reports regarding experts due on July 29, 2016.”

2 **II. THE FACTUAL BASIS OF A PARTY’S CLAIM CONCERNING EACH ISSUE.**

3 The SV Parties on July 29, 2016 submitted an expert report demonstrating various
4 shortcomings with the methodologies utilized by the United States to quantify both the surface water
5 and groundwater aspects of the claimed federal reserved right. The report discusses the failure of the
6 United States to tie its proposed quantification to minimal needs or a long-range management plan for
7 the SPRNCA. The report was served on all persons on the Court’s service list for this contested case
8 on July 29, 2016 pursuant to the discovery schedule established by the Court.

9 The SV Parties continue to evaluate the federal claim and reserves the right to provide
10 additional and/or different factual basis of their claim if and when they are known.

11 **III. THE LEGAL THEORY UPON WHICH EACH CLAIM IS BASED INCLUDING,
12 WHERE NECESSARY FOR A REASONABLE UNDERSTANDING OF THE CLAIM,
13 CITATIONS OF PERTINENT LEGAL OR CASE AUTHORITY.**

14 There is no material difference between “minimal need” and “sufficient” in the context of a
15 federal reserved right for the SPRNCA. A clearly articulated long range management plan specifying
16 how the primary statutory purposes will be implemented is critical to independently quantifying the
17 minimum or sufficient amount of water associated with a federal reserved right for SPRNCA. Long
18 range management plans must include options to minimize water needs consistent with achieving the
19 statutory purposes. The methods used to quantify a federal reserved right must be scientifically
20 sound and directly related to identifying the minimal quantity of water needed to achieve the
21 SPRNCA’s primary purposes. Issues relating to administration of the federal reserved right and
22 coordinated management must be considered in quantifying the SPRNCA’s federal reserved right.

23 The SV Parties continue to evaluate the federal claim and reserves the right to assert different
24 and/or additional legal theories if and when they are developed.

25 / / /

1 **IV. THE NAMES, ADDRESSES, AND TELEPHONE NUMBERS OF ANY WITNESSES**
2 **WHOM THE DISCLOSING PARTY EXPECTS TO CALL TO SUBSTANTIATE ITS**
3 **CLAIMS WITH A FAIR DESCRIPTION OF THE SUBSTANCE OF EACH**
4 **WITNESS' EXPECTED TESTIMONY.**

5 The SV Parties are still evaluating whether they will call any witnesses beyond those
6 identified as experts in Part V. However, it reserves the right to call any witness identified by any
7 other party. Without limiting its right to add witnesses, it may call:

8 Richard Coffman, an officer of both Castle & Cooke, Arizona and PDS
9 c/o Law Offices of William P. Sullivan
10 501 East Thomas Road
11 Phoenix, Arizona 85012
12 602-393-1700

13 In addition to the areas identified by Freeport Minerals Corporation ("Freeport") in its first
14 supplemental Disclosure Statement dated July 29, 2016, Mr. Coffman may testify as to any personal
15 knowledge relating to actions taken in the Sierra Vista area to reduce water consumption over the past
16 several years, the efforts to work cooperatively with the Bureau of Land Management, including the
17 efforts of the Upper San Pedro Partnership and the effort to form the Upper San Pedro Management
18 District.

19 Matthew Garlick, an officer of Liberty Utilities (Bella Vista Water) Corp.
20 c/o Law Offices of William P. Sullivan
21 501 East Thomas Road
22 Phoenix, Arizona 85012
23 602-393-1700

24 Mr. Garlick may testify on the areas identified by Freeport in its first supplemental Disclosure
25 Statement dated July 29, 2016.

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1 Charles Potucek, City Manager of the City of Sierra Vista
2 c/o Law Offices of William P. Sullivan
3 501 East Thomas Road
4 Phoenix, Arizona 85012
5 602-393-1700

6 Mr. Potucek may testify on efforts of the City of Sierra Vista over the last several years to
7 encourage water conservation within the City; the City's 50 acre environmental operations park that
8 recharges the aquifer in proximity to the SPRNCA; the City's participation as member of the Upper
9 San Pedro Partnership; and the City's efforts to partner with Fort Huachuca and the Bureau of Land
10 Management on water management efforts.

11 **V. THE NAME AND ADDRESS OF EACH PERSON WHOM THE DISCLOSING**
12 **PARTY EXPECTS TO CALL AS AN EXPERT WITNESS, THE SUBJECT MATTER**
13 **ON WHICH THE EXPERT IS EXPECTED TO TESTIFY, A SUMMARY OF THE**
14 **GROUNDS FOR EACH OPINION, THE QUALIFICATIONS OF THE WITNESS,**
15 **AND THE NAME AND ADDRESS OF THE CUSTODIAN OF COPIES OF ANY**
16 **REPORTS PREPARED BY THE EXPERT.**

17 The SV Parties disclosed an Expert Report (Opinions Regarding BLM Surface Water and
18 Groundwater Claims for SPRNCA) on July 29, 2016 (the "Report") and expects to call the following
19 witnesses to discuss and support that report:

20 Ann Redmond
21 Brown and Caldwell
22 c/o Law Offices of William P. Sullivan
23 501 East Thomas Road
24 Phoenix, Arizona 85012
25 602-393-1700

Ms. Redmond is a Certified Environmental Professional in natural resource consulting and
regulation, specializing in managing complex projects relying on consensus building approached to
maximize the end results. Ms. Redmond is expected to testify consistent with the subject matter
contained in Section 4 (the current state of the SPRNCA Management Plan) and Section 5
(Management Practices that Could Reduce Water Claims), the portions of the Executive Summary
related thereto and any topics raised during her deposition.

1 Matt Lindburg
2 Brown and Caldwell
3 c/o Law Offices of William P. Sullivan
4 501 East Thomas Road
5 Phoenix, Arizona 85012
6 602-393-1700

7 Mr. Lindburg has over 20 years of experience in managing and participating in multi-
8 disciplinary projects involving agricultural and water resources planning. He has been involved in
9 several water rights-related litigations. Mr. Lindburg is expected to testify consistent with the subject
10 matter contained in Section 2 (Streamflow Claims), Section 6 (Administrative Issues), the portions of
11 the Executive Summary related thereto and any topics raised during his deposition.

12 Jeff Weaver
13 Brown and Caldwell
14 c/o Law Offices of William P. Sullivan
15 501 East Thomas Road
16 Phoenix, Arizona 85012
17 602-393-1700

18 Mr. Weaver has 27 years of experience in applying his hydrogeology knowledge to a wide
19 variety of environmental, water resource and mining sites throughout the world. He has experience on
20 assessing groundwater-surface water interactions, including data assessment, conceptual model
21 development and development of basin-scale integrated surface water/groundwater numerical flow
22 models. Mr. Weaver is expected to testify consistent with the subject matter contained in Section 3
23 (Groundwater Claims), the portions of the Executive Summary related thereto and any topics raised
24 during his deposition.

25 The SV Parties reserve the right to call any witness designated by any party, whether as an
expert or non-expert.

The SV Parties reserve the right to call any witness to testify at trial for purposes of
authenticating any exhibit, to provide foundation, to impeach another witness's testimony, or to
provide rebuttal testimony.

1 VI. A LIST OF THE DOCUMENTS OR, IN THE CASE OF VOLUMINOUS
2 DOCUMENTARY INFORMATION, A LIST OF THE CATEGORIES OF
3 DOCUMENTS, KNOWN BY THE DISCLOSING PARTY TO EXIST WHETHER OR
4 NOT IN ITS POSSESSION, CUSTODY, OR CONTROL AND WHICH IT BELIEVES
5 MAY BE RELEVANT TO ANY OF ITS CLAIMS CONCERNING THE
6 DESIGNATED ISSUES, AND THOSE WHICH APPEAR REASONABLY
7 CALCULATED TO LEAD TO THE DISCOVERY OF ADMISSIBLE EVIDENCE,
8 AND THE DATE(S) UPON WHICH THOSE DOCUMENTS WILL BE MADE, OR
9 HAVE BEEN MADE, AVAILABLE FOR INSPECTION AND COPYING. IF
10 PRODUCTION IS NOT MADE, THE NAME AND ADDRESS OF THE CUSTODIAN
11 OF THE DOCUMENT SHALL BE INDICATED. ANY DOCUMENT PRODUCED
12 FOR INSPECTION SHALL BE PRODUCED AS IT IS KEPT IN THE USUAL
13 COURSE OF BUSINESS.

14 The SV Parties have served all parties on the Court's mailing list with a copy of their Expert
15 Report on the date established by the Court – July 29, 2016. Freeport and the United States have been
16 actively involved in discovery and have exchanged what appears to be thousands of documents. The
17 SV Parties anticipate Freeport and the United States will specifically identify and disclose those
18 documents necessary to comply with this aspect of Rule 26.1.

19 DATED this 19th day of August, 2016.

20 LAW OFFICES OF
21 WILLIAM P. SULLIVAN, PLLC

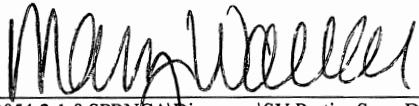
22 By: 

23 William P. Sullivan
24 501 East Thomas Road
25 Phoenix, Arizona 85012-3205
Attorneys for Liberty Utilities (Bella Vista
Water) Corp., Pueblo Del Sol Water Company
and City of Sierra Vista

Original of the foregoing filed
this 19th day of August, 2016 with:

Clerk of the Superior Court
Maricopa County
Attn: Water Case
601 West Jackson Street
Phoenix, Arizona 85003

1 Copies of the foregoing mailed this 19th
2 day of August, 2016 to those parties who
3 appear on the Court-approved mailing list
4 for Case No. W1-11-232 dated June 14, 2016.

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2054-2-1-8 SPRNCA\Discovery\SV Parties Supp Disclosure

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