

1 Linus Everling (State Bar No. 017960)
2 Thomas L. Murphy (State Bar No. 022953)
3 Gila River Indian Community
4 Office of General Counsel
5 Post Office Box 97
6 Sacaton, Arizona 85147
7 Tel (520) 562-9760
8 Fax (520) 562-9769
9 linus.everling@gric.nsn.us
10 thomas.murphy@gric.nsn.us

11 *Attorneys for the Gila River Indian Community*

DEPT OF WATER RESOURCES
LEGAL

AUG 21 2017

RECEIVED

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 TO
16 USE WATER IN THE GILA RIVER
17 SYSTEM AND SOURCE

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

Contested Case No. W1-103

**GILA RIVER INDIAN COMMUNITY'S
ARIZ. R. CIV. P. 26.1 INITIAL
DISCLOSURE STATEMENT**

(Assigned to the Hon. Mark H. Brain)

(Referred to Special Master Susan Ward
Harris)

18
19
20 **Descriptive Summary:** The Gila River Indian Community submits its initial
21 disclosure statement pursuant to Ariz. R. Civ. P. 26.1(a) as directed in the Case
22 Management Order Regarding Cone of Depression Testing Methodology.

23 **Statement of Claimant Nos.:** 39-11-54-78, 39-05-41142, 39-07-12652, 39-U8-
24 60083, 39-L8-36340, and 39-L8-37360 (Gila River Indian Community)

25 **Date of Filing:** August 18, 2017

26 **Number of Pages:** 5

1 Pursuant to Ariz. R. Civ. P. 26.1(a), the Gila River Indian Community provides
2 the following initial disclosures:

3 **(1) The factual basis of each of the disclosing party's claims or defenses.**

4 **(2) The legal theory on which each of the disclosing party's claims or defenses is**
5 **based including—if necessary for a reasonable understanding of the claim or**
6 **defense—citations to relevant legal authorities.**

7 On December 8, 2016, the Court referred the cone of depression testing to the
8 Special Master for further proceedings, including “the consideration of the Cone of
9 Depression Test and responses and objections filed to the Cone of Depression Test.” On
10 April 6, 2017, the Special Master entered a Case Management Order Regarding Cone of
11 Depression Test Methodology. The purpose of these ongoing proceedings is the
12 development of an appropriate methodology to determine whether wells outside of the
13 subflow zone are to be included in this adjudication because the cone of depression of
14 those wells reaches the subflow zone. These legal principles are outlined in Judge
15 Goodfarb's June 30, 1994 Order; *In re the Gen. Adjudication of All Rights to Use Water*
16 *in the Gila River System and Source*, 198 Ariz. 330, 9 P.3d 1069 (Ariz. 2000); and
17 Judge Ballinger's September 28, 2005 Order Re: Report of the Special Master on the
18 Arizona Department of Water Resources' Subflow Technical Report, San Pedro River
19 Watershed and Motion for Approval of Report.
20
21
22

23 **(3) The name, address, and telephone number of each witness whom the**
24 **disclosing party expects to call at trial, and a description of the substance—**
25 **and not merely the subject matter—of the testimony sufficient to fairly**
26 **inform the other parties of each witness' expected testimony.**

(4) The name, address, and telephone number of each witness whom the
disclosing party believes may have knowledge or information relevant to the

1 **subject matter of the action, and a fair description of the nature of the**
2 **knowledge or information each such person is believed to possess.**

3 The Community is only aware of the individuals who have previously testified or
4 submitted reports in these proceedings.

5 **(5) The name and address of each person who has given a statement—as**
6 **defined in Rule 26(b)(3)(C)(i) and (ii)—relevant to the subject matter of the**
7 **action, and the custodian of each of those statements.**

8 The Community is only aware of the statements previously disclosed by the
9 parties in these proceedings.

10 **(6) The name and address of each person whom the disclosing party expects to**
11 **call as an expert witness at trial, the subject matter on which the expert is**
12 **expected to testify, the substance of the facts and opinions to which the**
13 **expert is expected to testify, a summary of the grounds for each opinion, the**
14 **expert’s qualifications, and the name and address of the custodian of copies**
15 **of any reports prepared by the expert.**

16 Peter Mock, Ph.D., R.G., P.H.
17 Peter Mock Groundwater Consulting, Inc.
18 Paradise Valley, Arizona
19 <http://pmgc.net/home.html>

20 Dr. Mock is expected to testify regarding the opinions expressed in his
21 previous reports in this matter:

- 22 • November 5, 2015 report, Comments on: “Arizona Department of Water
23 Resources’ Initial Progress Report Concerning Implementation of Cone of
24 Depression Tests”;
- 25 • June 17, 2002 report, Review of: “Subflow Technical Report San Pedro
26 Watershed In Re The General Adjudication of the Gila River System and
Source”;
- June 26, 2003 report, Rebuttal to Technical Review Comments Submitted
June, 2002 on ADWR’s March, 2002 Subflow Technical Report.

Copies of these reports were previously provided to the parties.

1 Dr. Mock's qualifications as an expert have been previously provided to the
2 parties.

3 **(7) The existence, location, custodian, and general description of any tangible**
4 **evidence, documents, or electronically stored information that the disclosing**
5 **party intends to use at trial, including any material to be used for**
6 **impeachment.**

7 The Community has not at this time determined what exhibits it will use at trial
8 of this matter. The Community's exhibits may include, without limitation, some or all
9 of the following categories of documents:

- 10 A. Any documents identified in this Initial Disclosure Statement;
- 11 B. Any documents previously disclosed in these proceedings;
- 12 C. Any exhibits attached to any pleadings;
- 13 D. Any exhibits identified through further discovery; and
- 14 E. Any exhibits identified by any other party.

15 **(8) The existence, location, custodian, and general description of any tangible**
16 **evidence, documents, or electronically stored information that may be**
17 **relevant to the subject matter of the action.**

18 The Community is only aware of the documents and exhibits previously
19 disclosed by the parties and introduced into evidence in these proceedings.

20 RESPECTFULLY SUBMITTED this 18th day of August, 2017.

21 GILA RIVER INDIAN COMMUNITY

22 By 

23 Thomas L. Murphy
24 Deputy General Counsel
25
26

1 ORIGINAL and ONE COPY of the
foregoing hand-delivered on August 18, 2017 to:

2 Clerk of the Superior Court
3 Attention: Water Case
4 101/201 West Jefferson Street
Phoenix, Arizona 85003-2205

5 COPY of the foregoing mailed
on August 18, 2017 to:

6 The Honorable Mark H. Brain
7 Maricopa County Superior Court
8 East Court Building
101 West Jefferson Street, Suite 413
Phoenix, Arizona 85003

9 The Honorable Susan Ward Harris
10 Special Master
11 Arizona General Stream Adjudications
12 Maricopa County Superior Court
201 West Jefferson Street, Suite 5B
Phoenix, Arizona 85003-2205

13 Arizona Department of Water Resources
14 Legal Division
Janet L. Miller
3550 North Central Avenue
Phoenix, Arizona 85012-2129

15 AND A COPY of the foregoing mailed on
16 August 18, 2017 to all parties appearing
17 on the July 25, 2017 Court Approved Mailing
List in W1-103.

18
19 By Rolla Trager

20
21
22
23
24
25
26