

STATEMENT OF CLAIMANT FORM FOR

OTHER USES<sup>1</sup> AMENDMENT

SUPERIOR COURT OF APACHE COUNTY

File No. 39- 91441
Date Filed:
WFN 034-0-XXXX-7

1. Claimant Name: United States for the benefit of White Mountain Apache Tribe
Claimant Address: P.O. Box 10 City Phoenix
State: AZ Zip Code 85001 Telephone (602) 379-6789

- 2. Basis of Claim:
A. Appropriation Right acquired prior to June 12, 1919. 1974 Water Rights Registration Act Registry No.
B. Appropriation Right acquired after June 12, 1919. Application No. Permit No. or Certificate of Water Right No.
C. Decreed water right. Principal litigants, court, date and case no.
D. Right to withdraw groundwater. Grandfathered Right No.
E. Other, describe: Federal reserved and aboriginal reserved water right (See Attached)

3. Claimed Priority Date: Time Immemorial (month/day/year)

- 4. Use:
A. Municipal
B. Commercial or Industrial
C. Mining
D. Stockwatering other than from a stockpond
E. Recreation, Fish & Wildlife
F. Other, describe: SEE ATTACHED
Domestic, agricultural and other uses deemed beneficial by the White Mountain Apache Tribe

- 5. Source of Water:
A. Stream: name SEE ATTACHED, tributary to
B. Spring: name SEE ATTACHED, tributary to
C. Lake or Reservoir: name SEE ATTACHED, tributary to
D. Groundwater. SEE ATTACHED

6. Legal description of the Point of Diversion: (attach additional sheet if required) Fort Apache Indian Reservation
1/4, 1/4, 1/4, Section, Township N/S, Range E/W

7. If there are Irrigation, Domestic or Stockpond Uses also supplied from the Point of Diversion, describe:

- 8. Means of Diversion:
A. Instream pump.
B. Gravity flow into a ditch, canal or pipeline.
C. Well: Arizona Department of Water Resources Well Registration No. 55-
D. Other, describe: wells on lands owned for the benefit of the White Mountain Apache Tribe

1 See Instructions for explanation of uses in this category

9. Means of Conveyance:

A.  Ditch, canal or pipeline. If the means of conveyance is owned and/or operated by some other entity, please give name and address: \_\_\_\_\_

B.  Other, describe: groundwater pumping

10. Place of Use, If other than point of diversion: (attach additional sheet if required)

County Fort Apache Indian Reservation

Legal Subdivision	Section	Township	Range
_____	_____	_____ N/S	_____ E/W
_____	_____	_____ N/S	_____ E/W

11. Claimed Right:

A. Maximum Flow Rate: SEE ATTACHED  cubic-feet per second  gallons per minute  Arizona miner's inches

B. Annual Volume of Water Use: \_\_\_\_\_ acre-feet

C. Storage Right: \_\_\_\_\_ acre-feet

12. Attach photographs, maps or sketches necessary to show the point of diversion, storage reservoir(s) place(s) of use and means of conveyance.

13. It may be necessary for a representative from the Department of Water Resources to inspect the diversion, conveyance and place of use. Your signature following will grant permission to enter your property for the purpose of inspection: Signature of Claimant Barry W. Welch

14. Should it be necessary for a representative of the Department to contact you as the claimant or your representative, are there any special instructions regarding time of day or address to aid in locating the specified person? No

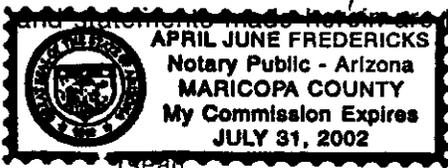
15. Additional comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(attach additional sheet if required)

16. Mail form(s) to: Department of Water Resources, Adjudications Division, 15 South 15th Avenue, Phoenix, Arizona 85007.

17. Notarized Statement:

I (We), Barry W. Welch  
the claimant(s) named in this claim, do hereby certify under penalty of perjury, that the information contained and statements made herein are to the best of my (our) knowledge and belief true, correct and complete.



Barry W. Welch

July 31, 2002  
My Commission Expires

April June Fredericks  
Notary Public

or, \_\_\_\_\_  
Authorized Personnel of the Department of Water Resources

ATTACHMENT  
STATEMENT OF CLAIMANT FORM FOR OTHER USES/AMENDMENT  
SUPERIOR COURT OF APACHE COUNTY  
BY THE UNITED STATES AS TRUSTEE FOR  
WHITE MOUNTAIN APACHE TRIBE AND  
THE FORT APACHE INDIAN RESERVATION

The United States as trustee for the White Mountain Apache Tribe (Tribe) and the Fort Apache Indian Reservation (Reservation) submits this Amendment to the Statement of Claims filed previously in this proceeding on November 22, 1994. This is in addition to and not a substitute for claims previously filed by the United States as trustee for the Tribe and the Reservation.

A. Legal Basis for the Amended Claim

In December 1999, the Arizona Supreme Court issued an opinion holding that: "Federal reserved rights extend to groundwater to the extent groundwater is necessary to accomplish the purpose of a reservation. Holders of federal reserved rights enjoy greater protection from groundwater pumping than do holders of state law rights to the extent that greater protection may be necessary to maintain sufficient water to accomplish the purpose of a reservation." *In Re The General Adjudication Of All Rights To Use Water In The Gila River System And Source*, 195 Ariz. 411, 989 P.2d 739 (Ariz.Sup.Ct. 1999) (*en banc*). The White Mountain Apache Indians have an unbroken chain of aboriginal title and priority rights to the transbasin aquifer sources described herein, to pump or otherwise extract water therefrom and to sustain the base flow of the springs and streams on the Reservation without diminishment from off-Reservation pumping.

**B. Factual Basis for the Amended Claim**

Technical work completed recently by the United States indicates the following. The Reservation comprises lands which lie in the Salt River Basin and the Little Colorado River Basin, and groundwater within the Coconino Aquifer (“C Aquifer”) system is continuous beneath the surface water divide between the Little Colorado River Basin and the Salt River Basin on and in the vicinity of the Reservation. Groundwater in the C Aquifer on the Reservation flows in a southerly direction and discharges to springs and Reservation streams within the Salt River Basin. Groundwater in the C Aquifer on the Reservation also flows in a northerly direction and discharges to springs and streams within the Little Colorado River Basin.

The Pinetop-Lakeside Aquifer<sup>1</sup> overlies the C Aquifer along and north of the Mogollon Rim on and off the Reservation. Groundwater in the Pinetop-Lakeside Aquifer is recharged on and off the Reservation and discharges into Silver Creek and the Little Colorado River in the Little Colorado River Basin, and into the North and East Forks of the White River, Carrizo Creek, and the Black River in the Salt River Basin.

**C. Nature of the Amended Claim**

The United States as trustee for the Tribe and the Reservation amends the water rights claims to include:

1. All groundwater underneath and outside the Reservation from the transbasin Coconino Aquifer, Pinetop-Lakeside Aquifer and other aquifers by pumping and extraction for all beneficial

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<sup>1</sup>As defined by the Arizona Department of Water Resources in the Hydrographic Survey Report for the Silver Creek Watershed, November 30, 1990, and including the volcanic aquifer on the Reservation, and the White Mountains, Springerville and Basalt aquifers as defined by Larry J. Mann and E.A. Nemecek in “Geohydrology and Water Use in Southern Apache County, Arizona,” (Arizona Department of Water Resources, Phoenix, Bulletin 1, 1983).

uses to accomplish the purpose of the Reservation;

2. All groundwater underneath and outside the Reservation which sustains Reservation wells and the base flow of springs and streams which arise on, border, or flow through the Reservation without diminishment from off-Reservation pumping; and

3. All groundwater underneath and outside the Reservation, in conjunction with surface water in the Gila River Basin, to satisfy the Statement of Claims previously filed by the United States for the benefit of the Tribe and the Reservation in the Gila River Stream Adjudication, pending in the Maricopa County Superior Court, and as may be subsequently amended.

D. Priority Date for the Amended Claim

The White Mountain Apache Indians have occupied the area of their present Reservation and adjacent lands for many hundreds of years. See *San Carlos Apache Tribe of Arizona, White Mountain Apache Tribe of Arizona, and Western Apache Indians, et al. v. United States*, No. 22-D, 21 Indian Claims Commission 189 (June 27, 1969). Accordingly, this amended water rights claim is based on a priority date of time immemorial.

E. Protective Filing

The United States as trustee for the Tribe and the Reservation makes this amended water rights claim in furtherance of Federal law, the recent Arizona Supreme Court ruling on Issues 4 and 5 respecting groundwater rights, the aboriginal reserved rights of the Tribe, and upon the best available technical information currently in the possession of the United States. Significant on and off-Reservation work needs to be done in order to refine the nature and extent of this amended water right claim. This amended claim may be subsequently amended. A parallel amended claim has been filed by the United States as trustee for the Tribe and the Reservation in the Gila River

Adjudication currently pending in the Superior Court of Arizona in Maricopa County.

Barry W Welch  
Assistant Regional Director  
Western Regional Office  
Bureau of Indian Affairs

9/28/00  
Date

I, Barry W Welch, the claimant named in this claim, do hereby certify under penalty of perjury, that the information contained and the statements made herein are to the best of my knowledge and belief true, correct and complete.

Barry Welch

July 31, 2002  
My Commission Expires

April June Fredericks  
Notary Public

