

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF APACHE

APACHE CO. SUPERIOR COURT
FILED

IN RE THE GENERAL ADJUDICATION OF ALL RIGHT TO USE
WATER IN THE LITTLE COLORADO RIVER SYSTEM AND SOURCE

No. 6417

NO. _____ DOCKETED

MAY 28 1991

AT 9 O'CLOCK AM
RICHARD D. LUPKE, CLERK
DEPUTY

RECOMMENDED FORM
FOR OBJECTIONS TO THE
Hydrographic Survey Report for the
Silver Creek Watershed

Please file a separate objection for each watershed file report. Objections to information contained in Volumes 1 & 2 can be stated on one objection form. Objections must be written. Use of this form is suggested. Objections must be received on or before May 29, 1991.

=====
This objection is directed to Watershed File Report No. 033-56-ACDA-012
(Please insert no.)
=====

OBJECTOR INFORMATION

Objector's Name: Salt River Project
Objector's Address: Post Office Box 52025
Phoenix, Arizona 85072-2025
Objector's Telephone No: (602) 236-2210
Objector's Watershed File Report No. (If the Objector's claimed water rights are located within the Silver Creek Watershed): 033 - -

Or Objector's Statement of Claimant No. (if the Objector's claimed water rights are located outside the Silver Creek Watershed):
39- 82193 - 82206
39- 87343
=====

STATEMENT OF THE OBJECTION

The following are the main categories of the typical watershed file report (not all watershed file reports have all these categories). Please check the category(ies) of the watershed file report to which you object, and state the reason for the objection on the following page.

- 1. I object to the description of LAND OWNERSHIP
- 2. I object to the description of APPLICABLE FILINGS AND DECREES
- 3. I object to the description of DWR'S ANALYSIS OF FILINGS AND DECREES
- 4. I object to the description of the DIVERSIONS for the claimed water right(s)
- 5. I object to the description of the USES for the claimed water right(s)
- 6. I object to the description of RESERVOIRS used for the claimed water right(s)
- 7. I object to the description of SHARED USES & DIVERSIONS for the claimed water right(s)
- 8. I object to the PWR (POTENTIAL WATER RIGHT) SUMMARY of the claimed water right(s)
- X 9. I object to the description of the QUANTITIES OF USE for the claimed water right(s)
- 10. I object to the EXPLANATION provided for the claimed water right(s)
- 11. Other Objections (please state volume number, page number and line number for each objection)

My reason for my objection is as follows (please number your objections to correspond to the lines listed above; please attach supporting information and additional pages as necessary).

SEE ATTACHMENT 1

I hereby make this objection on this 14th day of May, 1991.

David C. Roberts

Signature of Objector

FOR: Salt River Project
(if in a representative capacity)

STATE OF Arizona
COUNTY OF Maricopa

VERIFICATION

(Must be completed by Objector)

I declare under penalty of perjury that I am a claimant in this proceeding; that I have read the contents of the foregoing Objection and know the contents thereof; and that the information contained in the foregoing Objection is true based on my own personal knowledge, except for those portions of the Objection which are indicated as being known to me on information and belief and, as to those portions, I believe them to be true.

David C. Roberts

Signature of Objector

SUBSCRIBED AND SWORN to before me this 14th day of May, 1991.



Margaret A. Sullivan

Notary Public for the State of Arizona
Residing at Maricopa County
My commission expires _____

CERTIFICATE OF MAILING

(Must be completed if you object to another Claimant's watershed file report. Does not need to be completed if you file an Objection to your own watershed file report or to information contained in Volumes 1 or 2 of the Hydrographic Survey Report.)

I hereby certify that a copy of the foregoing Objection was served upon the following Claimant(s) by mailing true and correct copies thereof on the 28th day of May, 1991 postage prepaid and addressed as follows:

Name: LARSON, JEFFERSON J.
Address: 8215 E. WILSHIRE
SCOTTSDALE, AZ 85257

David C. Roberts

(Signature of Objector or person mailing in Objector's behalf)

Objections must be filed with the Clerk of the Superior Court in and for Apache County, Apache County Courthouse, P.O. Box 365, St. Johns, AZ 85936, on or before May 29, 1991. This means that the Objection must be received at the Clerk's office no later than 5:00 p.m. on Wednesday, May 29, 1991.

ATTACHMENT 1

WFR CATEGORY 9 - QUANTITIES OF USE

The Salt River Project objects to the quantities of use assigned to this Potential Water Right (PWR). The methods used by DWR for determining quantities of use for agricultural, recreational and other irrigation PWRs are inconsistent with the Arizona doctrine of prior appropriation; these methods are also technically inaccurate. For an additional discussion of the problems associated with DWR's methods of quantification for these types of PWRs, see the Salt River Project's Volume 1 objections to these methods, a copy of which is attached to this objection and incorporated herein by reference. (This objection applies to: IR001.)

* * * *

The Salt River Project objects to the failure of DWR to calculate a diversion rate for this Potential Water Right (PWR). All PWRs assigned a point or points of diversion should be assigned a separate diversion rate for each point of diversion. Diversion rates should be calculated at the point of diversion and should include transportation losses from the point of diversion to the place of use. (This objection applies to: IR001.)

**EXCERPT FROM
SALT RIVER PROJECT OBJECTIONS TO
VOLUME 1 OF THE SILVER CREEK HSR**

IRRIGATION QUANTITY ESTIMATES

(page numbers refer to Volume 1)

Introduction

The Salt River Project objects to DWR's estimation methods and results for irrigation water quantities for the following reasons:

First, there are several technical errors in DWR's calculation of crop consumptive use including estimates of relative humidity, wind, evapotranspiration (ET) for pine trees, pasture peak use and effective precipitation. Although these problems are relatively small, the effect of these errors is magnified since consumptive use is divided by irrigation efficiency to calculate the water duty for irrigated land.

Second, the efficiency estimates used by DWR are inappropriate for the reasons set forth below in that section of the objections. Again, the effect of even a small error in efficiency estimates can result in a larger error in the resulting water duty.

Third, the irrigation water duties computed by DWR are inaccurate as a result of the technical errors in consumptive use and efficiency estimates discussed above and, further, are inconsistent with Arizona water law. The "maximum annual" and "average efficient" quantification methods employed by DWR do not properly estimate actual historic beneficial use as required by statute.

These objections are more fully set forth in the following sections.

Relative Humidity

p. A-4, lines 23-25

The Salt River Project objects to DWR's failure to specify whether it used minimum relative humidity as specified in Food and Agricultural Organization (FAO) Paper 24. The Salt River Project also objects to DWR's use of relative humidity from Winslow when data for the Show Low, Snowflake and Snowflake 15W weather stations can be converted to mean minimum relative humidity through the use of the 6AM and 6PM estimates adjusted with the assistance of "Useful Arizona Climatic Graphs and Data, Series #7."

Wind

p. A-4, lines 26-32

The Salt River Project object's to DWR's use of wind travel data at a height of 2 feet (Snowflake #15) and windspeed data at a height of 10 meters (Winslow) without converting to a 2 meter height as required by FAO Paper 24.¹

¹The wind travel data for Snowflake can be adjusted by use of the formula:

$$WT_2 = WR_{.61}(2/0.61)^2 = 1.27 WT_{.61}$$

The windspeed data for Winslow can be adjusted by use of the formula:

$$W_2 = W_{10}(2/10)^2 = 0.72 W_{10}$$

Evapotranspiration for Pine Trees

p. A-6, Table A-2; p. A-10, Table A-4

The Salt River Project objects to DWR's reporting of inexplicably high evapotranspiration (consumptive use) values for pine trees as compared to all other crops. DWR has reported Christmas tree or pine tree consumptive use in its various management plans for Active Management Areas at about one-half of the value shown in Table A-2.

Pasture Peak Use

p. A-5, lines 30-31; p. A-7, Fig. A-1; p. A-8, Fig. A-2

The Salt River Project objects to DWR's reporting of pasture peak use that exceeds corn peak use. Corn peak use should be higher than pasture since it is taller and has a crop coefficient (kc) that is higher than that of pasture at peak use.

Effective Precipitation

p. A-9, lines 1-31

The Salt River Project objects to DWR's failure to report how it estimates effective precipitation during the non-growing season. The Salt River Project also objects to the use of a 3-inch rather than 4-inch depth of irrigation water application in its estimation of growing season effective precipitation for alfalfa. Furthermore, the Salt River Project objects to DWR's use of a 50 percent probability of precipitation, which results in an inadequate supply in one-half of the years. A 50 percent probability indicates that average effective precipitation is subtracted from crop consumptive use when DWR calculates the irrigation requirement. This means that in years of below-average precipitation, irrigation users would be unable to replace the lack of precipitation with additional irrigation water. The amount of precipitation that is available 80 percent of the time for field crops and 90 percent of the time for orchards and vegetables is appropriate.

Efficiency Estimates

pp. A-10 through A-13; pp. A-31 through A-65

The Salt River Project objects to DWR's estimates of efficiencies for water uses served by irrigation districts and major surface water diverters where average rates of diversion from a few measurements are used to calculate total deliveries and no consideration is given to supplemental supplies obtained by individual users. The Salt River Project also objects to the failure of DWR to include conveyance losses where appropriate in efficiency estimates in the "second procedure," which employs categories of systems.

Irrigation Water Duties

pp. 101 through 125; pp. A-3 through A-65

The Salt River Project objects to DWR's estimation of water duty under both the "maximum annual" and "average efficient" methods. In the absence of decreed rights, which must be accepted by the court in the absence of abandonment, Arizona law requires that the extent of an appropriative right be measured according to the quantity of water that the appropriator diverted for beneficial use since the time of the appropriation. A.R.S. § 45-141.(B) ("Beneficial use shall be the basis, measure and limit to the use of water"). Neither the "maximum annual" or "average efficient" quantification methods employed by DWR properly estimate actual historic beneficial use as required by law.

Maximum Annual Quantification

The Salt River Project objects to DWR's estimates of maximum annual water duty since inaccurate crop irrigation requirements, low consumptive use crops or overly high efficiency estimates are used to calculate maximum annual water duty. An accurate estimate of maximum annual water duty is essential since that value will closely approximate the quantity of actual historic beneficial use. This objection applies to all irrigation (IR) and most recreation (RC) PWRs.

In addition, the Salt River Project objects to DWR's failure to report maximum annual water duties at all for other (OT) and some recreation-related (RC) irrigation uses. The maximum annual water duties for these uses must be reported by DWR for consideration by the Master in determining entitlements.

Average Efficient Quantification

The Salt River Project objects to DWR's reporting of average efficient water duties in WFRs for irrigation uses since the methodology and results are inconsistent with Arizona law. In determining average efficient water duties, DWR uses the Arizona Groundwater Code Method of "areas of similar farming conditions" (ASFC). The ASFC method assigns a weighted average consumptive use requirement to the water duty equation based upon the types of crops recently grown by appropriators in a designated area. Historic information or records evincing an individual claimant's actual cropping patterns and the quantities of water actually used to cultivate such crops since the time of appropriation are not considered. The use of the ASFC method to calculate water entitlements is objectionable for the following reasons.

First, the ASFC concept is entirely inconsistent with Arizona's doctrine of prior appropriation, which requires that the extent of an appropriator's water right be measured according to actual, rather than average, water use. Under the prior appropriation doctrine, an appropriator who has grown alfalfa on his property historically is entitled to a water duty that will support alfalfa, regardless of the crops that he or his neighbors are currently growing. Under DWR's "averaging" approach, an appropriator in this situation would be assigned an apparent entitlement inadequate to meet his needs.

Additionally, under the ASFC concept, the efficiency of various irrigation methods is averaged between appropriators, thus further exacerbating the inadequate water duty for the appropriator who does not have a system with above-average efficiency.

6417-033-02220

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA CO. SUPERIOR COURT
IN AND FOR THE COUNTY OF APACHE FILED

0. _____ DOCKETED

IN RE THE GENERAL ADJUDICATION OF ALL RIGHTS TO USE
WATER IN THE LITTLE COLORADO RIVER SYSTEM AND SOURCE

No. 6417 MAY 28 1991

RECOMMENDED FORM
FOR OBJECTIONS TO THE
Hydrographic Survey Report for the
Silver Creek Watershed

A. C.
RICHARD D. LUPKE, CLERK
D. M. DEPUT

Please file a separate objection for each watershed file report. Objections to information contained in Volumes 1 & 2 can be stated on one objection form. Objections must be written. Use of this form is suggested. Objections must be received on or before May 29, 1991.

This Objection is directed to Watershed File Report No.

033- 56- ACDA- 012

(please insert no.)

OBJECTOR INFORMATION

Objector's Name: United States of America
Objector's Address: P.O. Box 607, Albuquerque, New Mexico 87103
Objector's Telephone No.: (505) 766 - 1060
Objector's Watershed File Report No. (if the Objector's claimed water rights are located within the Silver Creek Watershed):

033- 42 - 088 -

Or Objector's Statement of Claimant No. (if the Objector's claimed water rights are located outside the Silver Creek Watershed):

39-

STATEMENT OF THE OBJECTION

The following are the main categories of the typical watershed file report (not all watershed file reports have all these categories). Please check the category(ies) of the watershed file report to which you object, and state the reason for the objection on the following page.

Please check appropriate box(es)


- 1. I object to the description of **Land Ownership**
- 2. I object to the description of **Applicable Filings and Decrees**
- 3. I object to the description of **DWR's Analysis of Filings and Decrees**
- 4. I object to the description of the **Diversions** for the claimed water right(s)
- 5. I object to the description of the **Uses** for the claimed water right(s)
- 6. I object to the description of **Reservoirs** used for the claimed water right(s)
- 7. I object to the description of **Shared Uses & Diversions** for the claimed water right(s)
- 8. I object to the **PWR (Potential Water Right) Summary** of the claimed water right(s)
- 9. I object to the description of **Quantities of Use** for the claimed water right(s)
- 10. I object to the **Explanation** provided for the claimed water right(s)
- 11. Other Objections (please state volume number, page number and line number for each objection)

The reason for my objection is as follows (please number your objections to correspond to the boxes checked and please attach supporting information and additional pages as necessary):

CATEGORY
NUMBER

SEE ATTACHED SHEET(S)

I hereby make this Objection on this 28TH day of May, 1991.



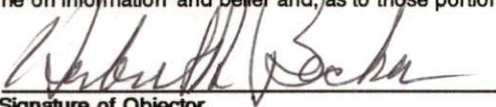
Signature of Objector

FOR: UNITED STATES OF AMERICA

(If in a representative capacity)

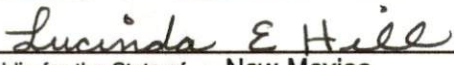
STATE OF New Mexico } **VERIFICATION**
COUNTY OF Bernalillo } (Must be completed by Objector)

I declare under penalty of perjury that I am a claimant in this proceeding; that I have read the contents of the foregoing Objection and know the contents thereof; and that the information contained in the foregoing Objection is true based on my own personal knowledge, except for those portions of the Objection which are indicated as being known to me on information and belief and, as to those portions, I believe them to be true.



Signature of Objector

SUBSCRIBED AND SWORN to before me this 28th day of May, 1991.



Notary Public for the State of New Mexico
Residing at Albuquerque
My commission expires 7-21-92

{SEAL}

CERTIFICATE OF MAILING

(Must be completed if you object to another Claimant's watershed file report. Does not need to be completed if you file an Objection to your own watershed file report or to information contained in Volumes 1 or 2 of the Hydrographic Survey Report.)

I hereby certify that a copy of the foregoing Objection was served upon the following Claimant(s) by mailing true and correct copies thereof on the 28th day of May, 1991, postage prepaid and addressed as follows:

03356ACDA012

Name: LARSON, JEFFERSON J.
Address: 8215 E. WILSHIRE
SCOTTSDALE AZ 85257



(Signature of Objector or person mailing in Objector's behalf)

Objections must be filed with the Clerk of the Superior Court in and for Apache County, Apache County Courthouse, P.O. Box 365, St. Johns, AZ 85936, on or before May 29, 1991. This means that the Objection must be received at the Clerk's office no later than 5:00 p.m. on Wednesday, May 29, 1991.

033-56-ACDA-012
39-88372

2. The claimant for this stockpond (39-88372) failed to register the stockpond under the terms set forth in the Arizona Stockpond Registration Act (1977). Further, the claimant failed to file for use of surface water as mandated by the Arizona Surface Water Act (1974). Thus, the claimant has not complied with the legally enacted procedures for registering this stockpond, therefore the potential water right should be denied.

8. The Arizona Department of Water Resources (ADWR) assigned this stockpond a potential water right despite the failure of the claimant to properly register the pond as required under the terms of the 1977 Stockpond Registration Act. Further, ADWR has recognized the claimant's use of surface water even though the claimant did not file under the terms of the Arizona Surface Water Act (1974). ADWR should rescind the potential water right assigned to this stockpond.

6417-033-02983

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF APACHE

APACHE CO. SUPERIOR COURT
FILED

NO. _____ DOCKETED

IN RE THE GENERAL ADJUDICATION OF ALL RIGHTS TO USE
WATER IN THE LITTLE COLORADO RIVER SYSTEM AND SOURCE

MAY 28 1991

No. 6417

AT 2 O'CLOCK P.M.
RICHARD D. LUPKE, CLERK
DEPUTY

RECOMMENDED FORM
FOR OBJECTIONS TO THE
Hydrographic Survey Report for the
Silver Creek Watershed

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033- 56 - ACDA - 012

(please insert no.)

OBJECTOR INFORMATION

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Objector's Address: P.O. Box 607, Albuquerque, New Mexico 87103
Objector's Telephone No.: (505) 766 - 1060
Objector's Watershed File Report No. (if the Objector's claimed water rights are located within the Silver Creek Watershed):

033- 42 - 088 -

Or Objector's Statement of Claimant No. (if the Objector's claimed water rights are located outside the Silver Creek Watershed):

39-

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CATEGORY
NUMBER

SEE ATTACHED SHEET(S)

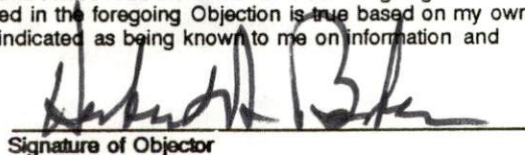
I hereby make this Objection on this 28 day of May, 1991.


Signature of Objector


FOR: United States of America
(If in a representative capacity)

STATE OF New Mexico } VERIFICATION
COUNTY OF Bernalillo } (Must be completed by Objector)

I declare under penalty of perjury that I am a claimant in this proceeding; that I have read the contents of the foregoing Objection and know the contents thereof; and that the information contained in the foregoing Objection is true based on my own personal knowledge, except for those portions of the Objection which are indicated as being known to me on information and belief and, as to those portions, I believe them to be true.


Signature of Objector

SUBSCRIBED AND SWORN to before me this 28 day of May, 1991.


Notary Public for the State of New Mexico
Residing at San Mateo Albuquerque
My commission expires 10/3/93

{SEAL}

CERTIFICATE OF MAILING

(Must be completed if you object to another Claimant's watershed file report. Does not need to be completed if you file an Objection to your own watershed file report or to information contained in Volumes 1 or 2 of the Hydrographic Survey Report.)

I hereby certify that a copy of the foregoing Objection was served upon the following Claimant(s) by mailing true and correct copies thereof on the 28th day of May, 1991, postage prepaid and addressed as follows:

03356ACDA012

LARSON, JEFFERSON J.
8215 E. WILSHIRE
SCOTTSDALE AZ 85257


(Signature of Objector or person mailing in Objector's behalf)

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WFR #:

033-56-ACDA-012

2. Statement of Claimant is based only on a protested water right application. Accordingly, there is presently no legal basis for this claim.

There is no valid foundation for this water right. The filing 39-88372 must have a valid water right permit as a legal basis before this development was constructed. Claim dates are also inconsistent. At the earliest, the date of first application (1985) should be used.

8. There are no applicable pre-adjudication filings to support this claim.

Priority date should be the date of a valid water right permit or first use. This use should not legally have been developed without a valid water right.

9. The average efficient water duty of 5.5 acre-ft/acre estimated by ADWR is unreasonable. The maximum annual water duty estimated for individual landowner by ADWR is too high. Water duty should be 3.1 acre-ft/acre.

APACHE CO. SUPERIOR COURT
FILED
NO. 454 DOCKETED
MAY 28 1991
AT 4:50 P.M.
RICHARD D. LUPKE, CLERK
DL, DEPUTY

1 Stanley M. Pollack (S.B. No. 011046)
Navajo Nation Department of Justice
2 P.O. Drawer 2010
Window Rock, AZ 86515
3 Attorneys for THE NAVAJO NATION

4 Reid Peyton Chambers
Sonosky, Chambers, Sachse & Endreson
5 1250 Eye Street, N.W., Suite 1000
Washington, D.C. 20005
6 Attorneys for THE HOPI TRIBE

7 Jeanne S. Whiteing
Whiteing & Thompson
8 1136 Pearl Street, Suite 203
Boulder, CO 80302
9 Attorneys for THE SAN JUAN
SOUTHERN PAIUTE TRIBE

10

11

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

12

IN AND FOR THE COUNTY OF APACHE

13

IN RE THE GENERAL ADJUDICATION)
14 OF ALL RIGHTS TO USE WATER IN)
THE LITTLE COLORADO RIVER)
15 SYSTEM AND SOURCE)

No. 6417

16

17

18

19

) JOINDER AND CONCURRENCE OF
) THE NAVAJO NATION, THE
) HOPI TRIBE, THE SAN JUAN
) SOUTHERN PAIUTE TRIBE WITH
) ALL OBJECTIONS SUBMITTED
) BY THE UNITED STATES TO THE
) HYDROGRAPHIC SURVEY REPORT
) FOR THE SILVER CREEK
) WATERSHED

20

Descriptive Summary: The Navajo Nation, the Hopi Tribe,
21 and the San Juan Southern Paiute Tribe (Tribes) join in, concur
22 with, and adopt the Statements of Objection for all Watershed File
23 Reports submitted by the United States.

24

Statement of Claimant Numbers: Not Applicable.

25

Date of Filing: May 29, 1991.

26

Number of Pages: 2 (Excluding Exhibit).

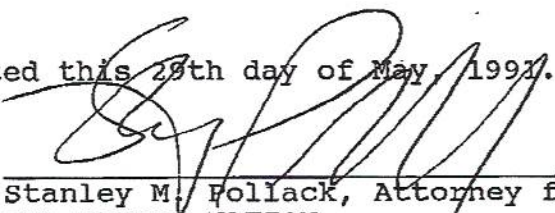
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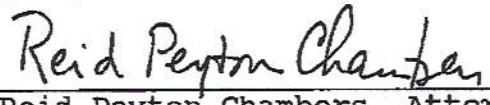
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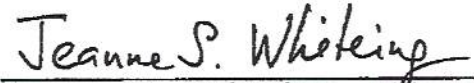
THE NAVAJO NATION, THE HOPI TRIBE, and THE SAN JUAN
SOUTHERN PAIUTE TRIBE join in, concur with, and adopt the

1 Statements of Objection for all Watershed File Reports submitted
2 by the United States, as though each Tribe had submitted said
3 objection on its own behalf.

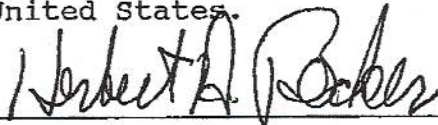
4 Respectfully submitted this 29th day of May, 1997.

5
6 
7 Stanley M. Follack, Attorney for
8 THE NAVAJO NATION
9 Navajo Nation Department of Justice
10 P.O. Drawer 2010
11 Window Rock, AZ 86515
12 (602) 871-6931

13 
14 Reid Peyton Chambers, Attorney for
15 THE HOPI TRIBE
16 Sonosky, Chambers, Sachse & Endreson
17 1250 Eye Street, N.W., Suite 1000
18 Washington, D.C. 20005
19 (202) 682-0240

20 
21 Jeanne S. Whiteing, Attorney for
22 THE SAN JUAN SOUTHERN PAIUTE TRIBE
23 Whiteing & Thompson
24 1136 Pearl Street, Suite 203
25 Boulder, CO 80302
26 (303) 444-2549

27
28
29 Copies of the foregoing were
30 served upon each claimant to
31 which an objection was filed by
32 the United States. Service was
33 made by attaching a copy of this
34 pleading to the objections
35 served on each claimant by the
36 United States.

37 
38