Montezuma Castle National Monument

Docket No: 5

BEAVER CREEK, INSTREAM FLOW MAINTENANCE

Preliminary Docket Information

01-25-2012: Enabling Legislation

25 January 2012

USA National Park Service

Montezuma Castle National Monument

Instream Flow Water Right Application for Beaver Creek

Enabling Legislation

51. Montezuma Castle National Monument

Establishment: Proclamation (No. 696) of December 8, 1906..... Page 233
Boundaries enlarged: Proclamation (No. 2226) of February 23, 1937..... 237

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

[No. 696—December 8, 1906—34 Stat. 3265]

WHEREAS, it is provided by section two of the Act of Congress, approved June 8, 1906, entitled, "An act for the preservation of American antiquities," "That the President of the United States is hereby authorized, in his discretion, to declare by public proclamation historic land marks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and may reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected";

AND, WHEREAS, the prehistoric structure known as Montezuma's Castle in the Territory of Arizona, situated upon public lands owned by the United States, is of the greatest ethnological value and scientific interest and it appears that the public good would be promoted by reserving this ruin as a national monument with as much land as may be necessary for the proper protection thereof;

NOW, THEREFORE, I, Theodore Roosevelt, President of the United States of America, by virtue of the power in me vested by section two of the aforesaid Act of Congress, do hereby set aside as the Montezuma Castle National Monument the prehistoric structure aforesaid and for the proper protection thereof do hereby reserve from settlement, entry or other disposal, all those certain tracts, pieces or parcels of land lying and being in the Territory of Arizona, and within, what will be when surveyed, the tracts particularly described as follows, to wit:

The northwest quarter of the northwest quarter of section sixteen, the north half of the northeast quarter and northeast quarter of northwest quarter of section seventeen, township fourteen north, range five east, Gila and Salt River Meridian, as shown upon the map hereto attached and made a part of this proclamation.

Warning is hereby expressly given to all persons not to appropriate, excavate, injure or destroy said monument or to settle upon any of the lands reserved by this proclamation.

IN WITNESS WHEREOF, I have hereunto set my hand and cause the seal of the United States to be affixed.

DONE at the city of Washington this 8th day of December, in the year of our Lord one thousand nine hundred and six, and of the Independence of the United States the one hundred and thirty first.

[SEAL]

THEODORE ROOSEVELT.

By the President:

ELIHU ROOT,
Secretary of State.

652315° — 47 — 16

Montezuma Castle NM Land Parcel 01-108

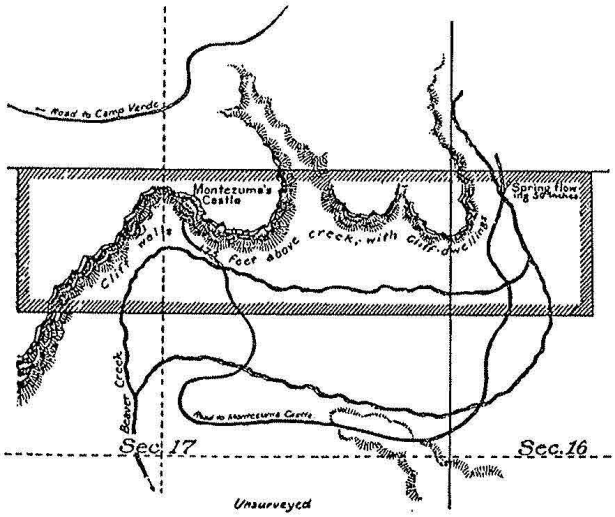
VIII. NATIONAL MONUMENTS—MONTEZUMA CASTLE

MONTEZUMA CASTLE NATIONAL MONUMENT

Embracing the N.W.¼ of NW.¼ of Sec. 16, the N½ of NE.¼ and NE.¼ of NW.¼ of Sec. 17, T. 14 N., R. 5 E. of Gila and Salt River Meridian,

ARIZONA.

Containing 160 acres.



DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE,
Wm. A. Richards, Commissioner.

[MAP ATTACHED TO AND MADE A PART OF THE PROCLAMATION DATED DECEMBER 8, 1906.]

Montezuma Castle NM Land Parcel 01-108

VIII. NATIONAL MONUMENTS—MONTEZUMA CASTLE

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

[No. 2226—Feb. 23, 1937—50 Stat. 1817]

WHEREAS the area in the State of Arizona established as the Montezuma Castle National Monument by Proclamation of December 8, 1906, has situated thereon prehistoric ruins and ancient cliff dwellings which are of great interest to the public; and

WHEREAS it appears that there are certain government-owned lands reserved by Proclamation of September 29, 1919, as a part of Coconino National Forest, adjacent to the boundaries of the said monument, which are required for the proper care, management, and protection of the said prehistoric ruins and ancient cliff dwellings:

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States of America, under and by virtue of the authority vested in me by section 1 of the act of June 4, 1897, ch. 2, 30 Stat. 11, 36 (U. S. C., title 16, sec. 473), and section 2 of the act of June 8, 1906, ch. 3060, 34 Stat. 225 (U. S. C., title 16, sec. 431), do proclaim that, subject to all valid existing rights, the following-described lands in Arizona are hereby excluded from the Coconino National Forest and reserved from all forms of appropriation under the public-land laws and added to and made a part of the Montezuma Castle National Monument:

GILA AND SALT RIVER MERIDIAN

T. 14 N., R. 5 E., sec. 8, S½SE¼, S½NW¼ SE¼, SE¼SW¼, S½NE¼SW¼;
sec. 16, E½NW¼, SE¼SW¼NW¼, N½SW¼ NW¼;
sec. 17, N½SE¼NE¼, N½SW¼NE¼, SW¼ SW¼NE¼, SE¼NW¼, containing 360 acres.

Warning is hereby expressly given to all unauthorized persons not to appropriate, injure, destroy, or remove any feature of this monument and not to locate or settle upon any of the lands thereof.

The Director of the National Park Service, under the direction of the Secretary of the Interior, shall have the supervision, management, and control of this monument as provided in the act of Congress entitled "An Act To establish a National Park Service, and for other purposes", approved August 25, 1916 (ch. 408, 39 Stat. 535, U. S. C., title 16, secs. 1 and 2), and acts supplementary thereto or amendatory thereof: *Provided*, that the administration of the monument shall be subject to the withdrawal for the Salt River Irrigation project, Arizona.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 23d day of February in the year of our Lord nineteen hundred and thirty-seven and of the Independence of the United States of America the one hundred and sixty-first.

[SEAL]

FRANKLIN D. ROOSEVELT.

By the President:
CORDELL HULL,
The Secretary of State.

Montezuma Castle NM Land Parcels 01-107, 01-109, 01-110

01-25-2012: Enabling Legislation, cont

[CHAPTER 261]

AN ACT

October 18, 1943
[H. R. 2250]
[Public Law 161]

To extend the provisions of the Reclassification Act of February 28, 1925, to include custodial employees in the Postal Service.

Postal Service, custodial employees.
43 Stat. 1053.
39 U. S. C. § 59 *et seq.*; Supp. II, §§ 197, 607, 607a, 621.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of February 28, 1925, Postal Salary Classification Act, is hereby amended to include officers and employees of the custodial service of the Post Office Department: *Provided*, That the salary ranges of the designated grades shall be as allocated by the Post Office Department under the provisions of the Classification Act of 1923, as amended: *And provided further*, That such action shall not result in the reduction of the grade or salary of any employee by reason hereof.

42 Stat. 1488.
5 U. S. C. § 661; Supp. II, § 661 *et seq.*

Approved October 18, 1943.

[CHAPTER 264]

AN ACT

October 19, 1943
[H. R. 128]
[Public Law 162]

To authorize a per capita payment of $10 to the members of the Santa Clara Pueblo of New Mexico from funds on deposit to their credit in the Treasury of the United States.

Santa Clara Pueblo, N. Mex.
Per capita payment authorized.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized to withdraw from the Treasury so much as may be necessary of the funds to the credit of the Santa Clara Pueblo in the State of New Mexico which have accrued under the Act of March 4, 1929 (45 Stat. 1586), and to make therefrom a payment of not to exceed $10 to each member of the pueblo, under such rules and regulations as said Secretary may prescribe.

Approved October 19, 1943.

[CHAPTER 265]

AN ACT

October 19, 1943
[H. R. 2640]
[Public Law 163]

To revive and reenact the Act entitled "An Act granting the consent of Congress to the State of Minnesota to construct, maintain, and operate a free highway bridge across the Mississippi River at or near the village of Brooklyn Center, Minnesota", approved April 20, 1942.

Mississippi River.
Bridge across, at Brooklyn Center, Minn.
56 Stat. 217.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act approved April 20, 1942, granting the consent of Congress to the State of Minnesota to construct, maintain, and operate a free highway bridge and approaches thereto across the Mississippi River, at or near the village of Brooklyn Center, Minnesota, be, and is hereby, revived and reenacted: *Provided*, That this Act shall be null and void unless the actual construction of the bridge herein referred to be commenced within two years and completed within four years from the date of approval hereof.

SEC. 2. The right to alter, amend, or repeal this Act is hereby expressly reserved.

Approved October 19, 1943.

[CHAPTER 266]

AN ACT

October 19, 1943
[S. 378]
[Public Law 164]

To provide for the addition of certain land in the State of Arizona to the Montezuma Castle National Monument.

Montezuma Castle National Monument.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Interior, on behalf of the United States, is authorized to

Montezuma Castle NM Land Parcel 01-104

01-25-2012: Enabling Legislation, cont

acquire, in his discretion, certain lands located in the State of Arizona known as the Montezuma Well property, containing approximately one hundred and eighty acres and situated within section 36, township 15 north, range 5 east, and section 31, township 15 north, range 6 east, Gila and Salt River meridian. Such lands, when acquired, shall become a detached unit of Montezuma Castle National Monument. Addition of lands.

(b) Effective on the date of the acquisition of such property, the south half of the northwest quarter of section 31, township 15 north, range 6 east, Gila and Salt River meridian, containing eighty acres of land owned by the United States, shall also become a part of such national monument.

SEC. 2. All laws, rules, and regulations applicable to such national monument shall be applicable with respect to the lands described in the first section of this Act upon the addition of such lands to such national monument. The title to real property acquired pursuant to this Act shall be satisfactory to the Secretary of the Interior. Administration.

SEC. 3. There are hereby authorized to be appropriated such sums as may be necessary but not to exceed $25,000 to carry out the provisions of this Act. Appropriation authorized.

Approved October 19, 1943.

[CHAPTER 269]

AN ACT

To amend section 11 of the Naval Aviation Cadet Act of 1942.

October 21, 1943
[S. 1113]
[Public Law 169]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 11 of the Naval Aviation Cadet Act of 1942 (56 Stat. 738; 34 U. S. C. 850j), be, and the same is hereby, amended to read as follows: "When first commissioned pursuant to this Act officers shall be paid a uniform allowance of $150 if commissioned as ensigns in the Naval Reserve, and of $250 if commissioned as second lieutenants in the Marine Corps Reserve: *Provided*, That any officer who has heretofore received the cash uniform gratuity of $150 provided in section 302 of the Naval Reserve Act of 1938 (52 Stat. 1180) shall not be entitled to this uniform allowance." Naval Aviation Cadet Act of 1942, Amendment. 34 U. S. C., Supp. II, § 850j. Uniform allowance. 34 U. S. C. § 855a.

SEC. 2. This Act shall become effective as of August 4, 1942.

Approved October 21, 1943.

[CHAPTER 270]

AN ACT

Authorizing the conveyance to the State of Virginia, for highway purposes only, of a portion of the Naval Mine Depot Reservation at Yorktown, Virginia.

October 21, 1943
[S. 1170]
[Public Law 166]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Navy is hereby authorized to convey to the State of Virginia, for highway purposes only, upon such terms and conditions as he may prescribe, all right, title, and interest of the United States of America in and to a strip or parcel of land of the Naval Mine Depot Reservation at Yorktown, York County, Virginia, containing eight and three one-hundredths acres, more or less, metes and bounds description of which is on file in the Navy Department. State of Virginia. Conveyance of land.

Approved October 21, 1943.

Montezuma Castle NM Land Parcel 01-104

28. Montezuma Castle National Monument

		Page
Boundaries of monument revised	Act of June 23, 1959	443

An Act To revise the boundaries of the Montezuma Castle National Monument, Arizona, and for other purposes, approved June 23, 1959 (73 Stat. 108)

Montezuma Castle National Monument, Ariz. Boundary revision.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to facilitate the administration and protection of the Montezuma Castle National Monument, Arizona, the boundaries thereof are hereby revised to include the following described lands:

GILA AND SALT RIVER BASE AND MERIDIAN

Township 14 north, range 5 east: section 9, that portion of the southwest quarter southwest quarter located south and west of Beaver Creek, comprising about 2 acres; and section 16, southwest quarter southwest quarter northwest quarter and section 17, southeast quarter southwest quarter northeast quarter and south half southeast quarter northeast quarter, comprising about 40 acres.

Township 15 north, range 6 east: section 31, that portion of the northwest quarter southeast quarter located south and east of Beaver Creek and not heretofore included in the Montezuma Well section of the said monument, comprising approximately 17 acres.

Acquisition of lands.

SEC. 2. The Secretary of the Interior is authorized to acquire by purchase, donation, with donated funds, or otherwise and subject to such terms, reservations, and conditions as he may deem satisfactory, the land and interests in lands that are included within the boundaries of the Montezuma Castle National Monument as revised by section 1 of this Act. When so acquired, they shall be administered as a part of the Montezuma Castle National Monument, in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended.

16 U.S.C. 1–4, 22, 43.

Montezuma Castle NM Land Parcels 01-101, 01-102

17. Montezuma Castle

An Act to authorize additional appropriations for the acquisition of lands and interests in lands within the Sawtooth National Recreation Area in Idaho. (92 Stat. 3467) (P.L. 95-625)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE III—BOUNDARY CHANGES

SEC. 301. The boundaries of the following units of the National Park System are revised as follows, and there are authorized to be appropriated such sums as may be necessary, but not exceed the amounts specified in the following paragraphs for acquisitions of lands and interests in lands within areas added by reason of such revisions:

* * * * * * *

(13) Montezuma Castle National Monument, Arizona: To add approximately thirteen acres, and to delete approximately five acres as generally depicted on the map entitled "Montezuma Castle National Monument, Arizona", numbered 20,006, and dated April 1978.

SEC. 302. Within twelve months after the date of the enactment of this Act, the Secretary shall publish in the Federal Register a detailed map or other detailed description of the lands added or excluded from any area pursuant to section 301.

SEC. 303. (a) Within the boundaries of the areas as revised in accordance with section 301, the Secretary is authorized to acquire lands and interests therein by donation, purchase with donated or appropriated funds, exchange, or transfer from any other Federal agency. Lands and interests therein so acquired shall become part of the area to which they are added, and shall be subjected to all laws, rules, and regulations applicable thereto. When acquiring any land pursuant to this title, the Secretary may acquire any such land subject to the retention of a right of use and occupancy for a term not to exceed twenty-five years or for the life of the owner or owners. Lands owned by a State or political subdivision thereof may be acquired only by donation.

(b) (1) Lands and interests therein deleted from any area pursuant to section 301 may be exchanged for non-Federal lands within the revised boundaries of such area, or transferred to the jurisdiction of any other Federal agency or to a State or political subdivision thereof, without monetary consideration, or be administered as public lands by the Secretary, as the Secretary may deem appropriate.

(2) In exercising the authority contained in this section with respect to lands and interests therein deleted

Montezuma Castle NM Land Parcel 01-111

from any such area which were acquired from a State, the Secretary may, on behalf of the United States, transfer to such State exclusive or concurrent legislative jurisdiction over such lands, subject to such terms and conditions as he may deem appropriate, to be effective upon acceptance thereof by the State.

(c) It is the established policy of Congress that wilderness, wildlife conservation, and park and recreation values of real property owned by the United States be conserved, enhanced, and developed. It is further declared to be the policy of Congress that unutilized, underutilized, or excess Federal real property be timely studied as to suitability for wilderness, wildlife conservation, or park and recreation purposes. To implement this policy, the Secretary, the Administrator of General Services, and the Director of the Office of Management and Budget shall establish a system with appropriate procedures to permit the secretary full and early opportunity to make such studies and propose appropriate recommendations to disposing agencies for consideration in connection with determinations of further utilization or disposal of such property under existing law. Each affected executive agency is authorized and directed to provide to the Secretary such advice and information relating to such studies as the Secretary may request.

SEC. 304. The authorities in this title are supplementary to any other authorities available to the Secretary with respect to the acquisition, development, and administration of the areas referred to in section 301.

* * * * * * *

Approved November 10, 1978.

Public Law 108–190
108th Congress

An Act

To provide for the exchange of certain lands in the Coconino and Tonto National Forests in Arizona, and for other purposes.

Dec. 19, 2003
[H.R. 622]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

16 USC 431 note.

SECTION 1. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Certain private lands adjacent to the Montezuma Castle National Monument in Yavapai County, Arizona, are desirable for Federal acquisition to protect important riparian values along Beaver Creek and the scenic backdrop for the National Monument.

(2) Certain other inholdings in the Coconino National Forest are desirable for Federal acquisition to protect important public values near Double Cabin Park.

(3) Approximately 108 acres of land within the Tonto National Forest, northeast of Payson, Arizona, are currently occupied by 45 residential cabins under special use permits from the Secretary of Agriculture, and have been so occupied since the mid-1950s, rendering such lands of limited use and enjoyment potential for the general public. Such lands are, therefore, appropriate for transfer to the cabin owners in exchange for lands that will have higher public use values.

(4) In return for the privatization of such encumbered lands the Secretary of Agriculture has been offered approximately 495 acres of non-Federal land (known as the Q Ranch) within the Tonto National Forest, east of Young, Arizona, in an area where the Secretary has completed previous land exchanges to consolidate public ownership of National Forest lands.

(5) The acquisition of the Q Ranch non-Federal lands by the Secretary will greatly increase National Forest management efficiency and promote public access, use, and enjoyment of the area and surrounding National Forest System lands.

(b) PURPOSE.—The purpose of this Act is to authorize, direct, facilitate, and expedite the consummation of the land exchanges set forth herein in accordance with the terms and conditions of this Act.

SEC. 2. DEFINITIONS.

As used in this Act:

(1) DPSHA.—The term "DPSHA" means the Diamond Point Summer Homes Association, a nonprofit corporation in the State of Arizona.

(2) FEDERAL LAND.—The term "Federal land" means land to be conveyed into non-Federal ownership under this Act.

(3) FLPMA.—The term "FLPMA" means the Federal Land Policy Management Act of 1976 (43 U.S.C. 1701 et seq.).

(4) MCJV.—The term "MCJV" means the Montezuma Castle Land Exchange Joint Venture Partnership, an Arizona Partnership.

(5) NON-FEDERAL LAND.—The term "non-Federal land" means land to be conveyed to the Secretary of Agriculture under this Act.

(6) SECRETARY.—The term "Secretary" means the Secretary of Agriculture, unless otherwise specified.

SEC. 3. MONTEZUMA CASTLE LAND EXCHANGE.

(a) LAND EXCHANGE.—Upon receipt of a binding offer from MCJV to convey title acceptable to the Secretary to the land described in subsection (b), the Secretary shall convey to MCJV all right, title, and interest of the United States in and to the Federal land described in subsection (c).

(b) NON-FEDERAL LAND.—The land described in this subsection is the following:

(1) The approximately 157 acres of land adjacent to the Montezuma Castle National Monument, as generally depicted on the map entitled "Montezuma Castle Contiguous Lands", dated May 2002.

(2) Certain private land within the Coconino National Forest, Arizona, comprising approximately 108 acres, as generally depicted on the map entitled "Double Cabin Park Lands", dated September 2002.

(c) FEDERAL LAND.—The Federal land described in this subsection is the approximately 222 acres in the Tonto National Forest, Arizona, and surveyed as Lots 3, 4, 8, 9, 10, 11, 16, and 17, and Tract 40 in section 32, Township 11 North, Range 10 East, Gila and Salt River Meridian, Arizona.

(d) EQUAL VALUE EXCHANGE.—The values of the non-Federal and Federal land directed to be exchanged under this section shall be equal or equalized as determined by the Secretary through an appraisal performed by a qualified appraiser mutually agreed to by the Secretary and MCJV and performed in conformance with the Uniform Appraisal Standards for Federal Land Acquisitions (U.S. Department of Justice, December 2000), and section 206(d) of FLPMA (43 U.S.C. 1716(d)). If the values are not equal, the Secretary shall delete Federal lots from the conveyance to MCJV in the following order and priority, as necessary, until the values of Federal and non-Federal land are within the 25 percent cash equalization limit of section 206(b) of FLPMA (43 U.S.C. 1716(b)):

(1) Lot 3.
(2) Lot 4.
(3) Lot 9.
(4) Lot 10.
(5) Lot 11.
(6) Lot 8.

Applicability.

(e) CASH EQUALIZATION.—Any difference in value remaining after compliance with subsection (d) shall be equalized by the payment of cash to the Secretary or MCJV, as the circumstances dictate, in accordance with section 206(b) of FLPMA (43 U.S.C.

1716(b)). Public Law 90–171 (16 U.S.C. 484a; commonly known as the "Sisk Act") shall, without further appropriation, apply to any cash equalization payment received by the United States under this section.

SEC. 4. DIAMOND POINT—Q RANCH LAND EXCHANGE.

(a) IN GENERAL.—Upon receipt of a binding offer from DPSHA to convey title acceptable to the Secretary to the land described in subsection (b), the Secretary shall convey to DPSHA all right, title, and interest of the United States in and to the land described in subsection (c).

(b) NON-FEDERAL LAND.—The land described in this subsection is the approximately 495 acres of non-Federal land generally depicted on the map entitled "Diamond Point Exchange—Q Ranch Non-Federal Lands", dated May 2002.

(c) FEDERAL LAND.—The Federal land described in this subsection is the approximately 108 acres northeast of Payson, Arizona, as generally depicted on the map entitled "Diamond Point Exchange—Federal Land", dated May 2002.

(d) EQUAL VALUE EXCHANGE.—The values of the non-Federal and Federal land directed to be exchanged under this section shall be equal or equalized as determined by the Secretary through an appraisal performed by a qualified appraiser mutually agreed to by the Secretary and DPSHA and in conformance with the Uniform Appraisal Standards for Federal Land Acquisitions (U.S. Department of Justice, December 2000), and section 206(d) of FLPMA (43 U.S.C. 1716(d)). If the values are not equal, they shall be equalized by the payment of cash to the Secretary or DPSHA pursuant to section 206(b) of FLPMA (43 U.S.C. 1716(b)). Public Law 90–171 (16 U.S.C. 484a; commonly known as the "Sisk Act") shall, without further appropriation, apply to any cash equalization payment received by the United States under this section. Applicability.

(e) SPECIAL USE PERMIT TERMINATION.—Upon execution of the land exchange authorized by this section, all special use cabin permits on the Federal land shall be terminated.

SEC. 5. MISCELLANEOUS PROVISIONS.

(a) EXCHANGE TIMETABLE.—Not later than 6 months after the Secretary receives an offer under section 3 or 4, the Secretary shall execute the exchange under section 3 or 4, respectively, unless the Secretary and MCJV or DPSHA, respectively, mutually agree to extend such deadline. Deadline.

(b) EXCHANGE PROCESSING.—Prior to executing the land exchanges authorized by this Act, the Secretary shall perform any necessary land surveys and required preexchange clearances, reviews, and approvals relating to threatened and endangered species, cultural and historic resources, wetlands and floodplains and hazardous materials. If 1 or more of the Federal land parcels or lots, or portions thereof, cannot be transferred to MCJV or DPSHA due to hazardous materials, threatened or endangered species, cultural or historic resources, or wetland and flood plain problems, the parcel or lot, or portion thereof, shall be deleted from the exchange, and the values of the lands to be exchanged adjusted in accordance with subsections (d) and (e) of section 3 or section 4(d), as appropriate. In order to save administrative costs to the United States, the costs of performing such work, including the appraisals required pursuant to this Act, shall be paid by MCJV or DPSHA for the relevant property, except for the costs of any

such work (including appraisal reviews and approvals) that the Secretary is required or elects to have performed by employees of the Department of Agriculture.

(c) FEDERAL LAND RESERVATIONS AND ENCUMBRANCES.—The Secretary shall convey the Federal land under this Act subject to valid existing rights, including easements, rights-of-way, utility lines and any other valid encumbrances on the Federal land as of the date of the conveyance under this Act. If applicable to the land conveyed, the Secretary shall also retain any right of access as may be required by section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9620(h)) for remedial or corrective action relating to hazardous substances as may be necessary in the future.

(d) ADMINISTRATION OF ACQUIRED LAND.—The land acquired by the Secretary pursuant to this Act shall become part of the Tonto or Coconino National Forest, as appropriate, and be administered as such in accordance with the laws, rules, and regulations generally applicable to the National Forest System. Such land may be made available for domestic livestock grazing if determined appropriate by the Secretary in accordance with the laws, rules, and regulations applicable thereto on National Forest System land.

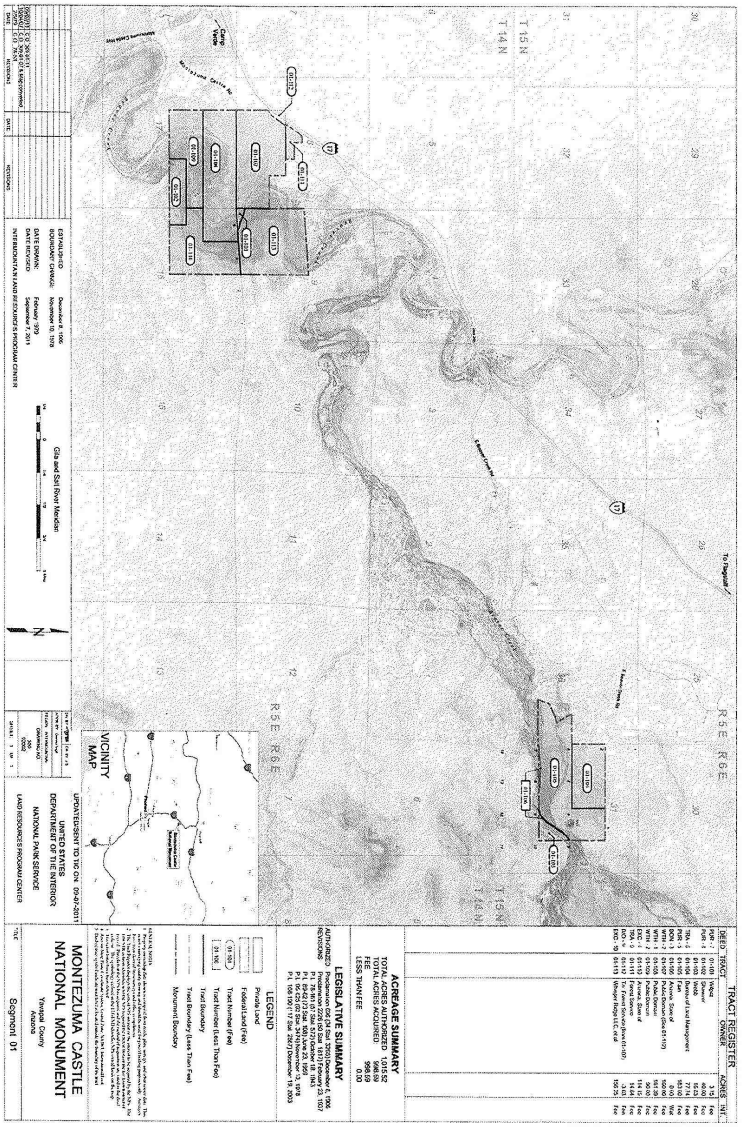
(e) TRANSFER OF LAND TO NATIONAL PARK SERVICE.—Upon their acquisition by the United States, the "Montezuma Castle Contiguous Lands" identified in section 3(b)(1) shall be transferred to the administrative jurisdiction of the National Park Service, and shall thereafter be permanently incorporated in, and administered by the Secretary of the Interior as part of, the Montezuma Castle National Monument.

Approved December 19, 2003.

LEGISLATIVE HISTORY—H.R. 622

SENATE REPORTS: No. 108–137 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 149 (2003):
Apr. 1, considered and passed House.
Nov. 24, considered and passed Senate, amended.
Dec. 8, House concurred in Senate amendments.

○



State Water Rights Documentation

November 4, 2014
NOTE TO FILE by Jim Harte, NPS, WRD
MOCA – Beaver Creek Water Rights
Re: Mr. Ronald D. Lodge, Amendment to Statement of Claim of Right No. 36-105298

On Monday November 3, 2014, a telephone conference call was initiated by the Superintendent of Montezuma Castle National Monument (MOCA) for the purpose of discussing with Mr. Ronald Lodge and others issues related to Mr. Lodge's request with the Arizona Department of Water Resources (Department) to amend Statement of Claim of Right No. 36-105298 (Claim). The Claim was filed with the Department on October 28, 2004, and Mr. Ronald Lodge is listed as the claimant. The Claim asserts a priority date of July 1, 1870, for the use of water from Beaver Creek for irrigation, stock, and domestic uses.

Among other issues, the land at the places of use listed in the Claim was acquired by NPS in 2007 and is now included as part of the Montezuma Castle National Monument. "It is the Department's position that only the current owners of the lands on which the places of use are located may amend Statements of Claim of Water Rights." Mr. Lodge has contacted the MOCA Superintendent and requested NPS approval, in writing, of his proposed amendment to Right No. 36-105298. The MOCA Superintendent contacted NPS WRD for assistance in working with Mr. Lodge. Mr. Peter Fahmy, NPS WRD, has been working with this issue since his letter to the Department of July 13, 2007 in which he requested that the Department give notice to the NPS in the event that the Department *"proposes to take any action of any kind concerning the Statement of Claim of Right (36-105298) filed by Ronald D. Lodge."* (June 8, 2014, letter from ADWR to Mr. Ronald D. Lodge).

On Monday November 3, 2014 at 10:30 am, the telephone conference call began with the following in attendance: Dorothy FireCloud (MOCA Superintendent), Peter Fahmy (NPS WRD), Jim Harte (NPS WRD), Charles German (Mayor, Camp Verde), Russ Martin (General Manager, Camp Verde) and Steve Ayers (Economic Development Specialist, Camp Verde). Although Mr. Lodge was invited to the meeting he did not attend.

The meeting took place without Mr. Lodge with Mr. Fahmy giving a brief history of the Ronald Lodge water right issue and Mr. Harte giving a brief description of MOCA water rights for Beaver Creek. The Camp Verde representatives asked a number of questions in an effort to acquaint themselves with the Ronald Lodge issue and MOCA water rights. The meeting ended in less than 30 minutes.

Jim Harte
NPS WRD Hydrologist

JANICE K. BREWER
Governor

MICHAEL J. LACEY
Director

ARIZONA DEPARTMENT of WATER RESOURCES
3550 North Central Avenue, Second Floor
Phoenix, Arizona 85012-2105
602.771.8500
azwater.gov

June 18, 2014

Mr. Ronald D. Lodge
P.O. Box 5313
Lake Montezuma, Arizona 86342

RE: Statement of Claim of Right No. 36-105298.

Dear Mr. Lodge,

You contacted the Arizona Department of Water Resources ("Department") by email and telephone requesting to amend Statement of Claim of Right No. 36-105298 ("Claim"). This letter is in response to your requests.

The Claim was filed with the Department on October 28, 2004, and you are listed as the claimant. The Claim asserts a priority date of July 1, 1870 for the use of water from Beaver Creek for the purposes of irrigation (137.5 acre-feet per annum), stock (1.8 acre-feet per annum) and domestic (.4 acre-feet per annum) uses. It is the Department's understanding that at a minimum you wish to amend the quantity of water associated with the uses listed above. It is the Department's position that only the current owners of the lands on which the places of use are located may amend Statements of Claim of Water Rights. As you know, the current owner of the places of use listed in the Claim is the National Park Service ("NPS") and therefore the Department can only accept an amendment to the Claim filed by NPS.

In Arizona, water rights are appurtenant to the land at the places of use. Sometime after receipt of the Claim, the Department became aware that there were disputes involving the ownership of the land for the places of use listed in the Claim. These places of use were described as "*the W½SW¼NW¼SW¼, W½NW¼SW¼SW¼ and SW¼SE¼SW¼SW¼, Section 9, Township 14 North, Range 5 East.*"

Disputes regarding the ownership of the land for the places of use were bought to the attention of the Department by letter dated July 13, 2007 from Mr. Fahmy, attorney for the NPS. Mr. Fahmy requested that the Department give notice to the NPS in the event that the Department "*proposes to take any action of any kind concerning the Statement of Claim of Right (36-105298) filed by Ronald D. Lodge. This request is based upon the determination of the National Park Service that any administrative and/or legal action regarding this claim has the potential to affect property that is to be acquired by the National Park Service.*" It is the Department's understanding that the land at the places of use listed in the Claim was acquired by NPS in 2007 and is now included as part of the Montezuma Castle National Monument.

Mr. Fahmy's letter included two letters as attachments, which maintain that you did not have authority to file the Claim in 2004. The first letter, from Mr. Tim Wohlgenant of Western Land Group, Inc. to Mr. Fahmy, indicated that the land at the places of use listed in the Claim is *"...owned by four entities"* including Tom Col Investments LLC, and that *"Ron Lodge is a member of the Tom Col Investments LLC but does not act on behalf of the LLC."* The second letter, dated May 24, 2006, from Mr. Lonnie K. McDowell, attorney for Tom Col Investments, L.L.C., to Mr. Glenna F. Vigil of the NPS, indicated that the land at the places of use was part of a federal land exchange with NPS. This letter also indicated that the Claim was filed *"without permission or authority from Tom Col, LLC and without the permission of any of the other owners of the property"* and that *"Title to the interest controlled by Tom Col, LLC is vested in the LLC, not its members."*

In December 2013, we exchanged emails regarding the Claim and your intention to amend it. On December 3, 2013, you submitted by email an amendment to the Claim which was on the wrong form. The next day, the Department sent you the correct form as an attachment to an email. On December 5, 2013, you requested by email that I send you a letter confirming that you are the "holder" of the Claim so that you could use it in your negotiations with Camp Verde to sell the surface water right claim. By email dated December 20, 2013, the Department explained that it could only confirm that the Claim was filed by you. The Department also explained that by accepting and processing a Statement of Claim, as well as amendments or supporting documentation, the Department does not make a determination of whether the original Statement of Claim or any amendment complies with applicable law, and that eventually the adjudication court with jurisdiction over the watershed where the claimed water right is located will determine the validity of the Claim.

As required by A.R.S., Title 45, Section 186 (A.R.S. § 45-186), the Department maintains a registry of Statements of Claim of Right that are filed under the Water Rights Registration Act (see A.R.S. § 45-181 and following). In order to amend a Statement of Claim, the enclosed amendment form must be submitted by the ***current owner*** of the land at the places of use listed in the Claim. Along with the amendment form, the current owner of the land, which appears to be the NPS, will need to submit a completed Request for Assignment form with evidence of land ownership in the form of a recorded warranty deed or equivalent documentation that includes a legal description of the places of use listed in the Claim. A $75.00 filing fee must be submitted with the Request for Assignment form. The filing fee is authorized by Arizona Administrative Code R12-15-104.

Please let me know if I can be of any further assistance.

Thank you,

Elizabeth V. Logan

Elizabeth V. Logan, Manager
Surface Water Permitting Unit, Engineering and Permits Division

Enclosure

CC: Peter A. Fahmy, Attorney
Bill Hansen, National Park Service

JANICE K. BREWER
Governor

SANDRA A. FABRITZ-WHITNEY
Director

ARIZONA DEPARTMENT OF WATER RESOURCES

3550 North Central Avenue, Second Floor
PHOENIX, ARIZONA 85012-2105
Telephone (602) 771-8621
Fax (602) 771-8689

June 4, 2012

US Department of the Interior – National Park Service
Attn: James Harte, Hydrologist
1201 Oakridge Dr., Ste 250
Fort Collins, CO 80525

RE: Application for Permit to Appropriate Public Water No. 33-96995 (Beaver Creek) – Instream Flow

Applicant:

Enclosed is a copy of a protest submitted by Soda Springs Ranch, LLC against the above-referenced application. Carefully review the issues brought forth. The Arizona Department of Water Resources (Department) requests that you respond **directly to the protesting party** within thirty (30) days from the date of this letter.

The Department urges both parties to make a sincere effort at resolving the protest. It is requested that both parties attempt to negotiate a resolution of the issues. The negotiation may include an agreement to modify the application.

The Department must be notified of any agreement reached through negotiation. Please send copies of all correspondence for inclusion in the official record.

Please do not hesitate to contact me at (602) 771-8612 or toll free (within Arizona only) at 1-800-352-8488 if you require further information or assistance.

Sincerely,

Kevin Hadder
Surface Water Rights Specialist
Permitting Unit

ENCLOSURE

CC: Soda Springs Ranch, LLC

Arizona Department of Water Resources
Permitting Unit
3550 North Central Avenue
Phoenix, Arizona 85012

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PERMITS DIVISION

STATEMENT OF PROTEST

COPY

The statement of protest must describe the grounds for the protest. The grounds for protest shall be limited to an assertion that the proposed application conflicts with vested rights, is a menace to public safety, or is against the interests and welfare of the public. For a new application and amendment to an application for stockpond certificate, the grounds for protest are that the claim contains a misstatement of one or more of the following: date of construction of stockpond, capacity of stockpond on August 27, 1977, sole purpose for which the stockpond was constructed and is used is watering livestock or wildlife, except fish, stockpond is not used primary for fishing or culturing of fish, or pond was not the subject of water rights litigation or protest to the state land department prior to August 27, 1977, in accordance with Arizona Revised Statute (A.R.S.) § 45-274(D).

In the matter of the Application of: Montezuma Castle National Monument, PO Box 219, 527 S. Main St., Camp Verde, AZ 86322

Application Number: 33-96995

1. Protestor's Name: Soda Springs Ranch, LLC

   Mailing Address 5555 East Van Buren Street #210

   City Phoenix State AZ ZIP 85012

   Phone number: 602-264-0000

2. Check one or more as appropriate:

   X Conflict with prior vested right

   ☐ Menace to public safety

   X Against the interest and welfare of public

   ☐ Application for stockpond certificate contains a misstatement of one or more of the following: date of construction of the stockpond, capacity of stockpond on August 27, 1977, sole purpose for which the stockpond was constructed and is used is watering livestock or wildlife, except fish, stockpond is not used primary for fishing or culturing of fish, or pond was not the subject of water rights litigation or protest to the state land department prior to August 27, 1977.

3. Complete only if you indicated conflict with a prior vested right.

   Registry number of prior vested water right or claim: Various - See Addendum Attached

   Describe uses and quantities of water: Irrigation; Stock; Domestic; Power Generation

   Irrigation: 610 acre/feet; Stock: 5.2 acre/feet: Domestic: 26.54 acre/feet. Plus all water necessary for stock, domestic and power generation at Soda Springs. Priority dates from 1879 - 1956.

Printed on recycled paper. Each ton of recycled paper saves 7,000 gallons of water.

Point of diversion of water right or claim: Beaver Creek, Soda Springs

Place of use of water right or claim: Soda Springs Ranch; Soda Springs; Natural Channel of Beaver Creek

4. If menace to public safety or against interests and welfare of the public was indicated, provide a description of the manner of the menace or how the appropriation would be a detriment to the public. Attachments may be utilized.

Application #33-96995, not only conflicts with prior vested and historical use rights at Soda Springs Ranch, it is against the interest and welfare of the public by permitting a State-based water right that would otherwise exceed a Federal reserved right, if any, for interpretative purposes at the Montezuma Castle National Monument.

5. If the application for stockpond certificate contains a misstatement, list the misstatement and the reason why.

6. Check the appropriate box to indicate how you were informed of the proposed application:

- ☐ Public notice subscription service
- ☐ Publication in the newspaper
- ☐ Notice posted at the point of diversion
- X Other: Protestor's Water Attorney

The original of this form shall be mailed to the Arizona Department of Water Resources at the address listed on the top of the first page *and* a copy mailed directly to the applicant. Any interested party may protest the approval of a newly filed application, amended application, and application for change in type of use within sixty (60) days after the date of issuance listed on the public notice. A protest to an application for severance and transfer must be submitted within thirty (30) days after the last date of newspaper publication.

Signature of Protesting Party or Representative
(If representative, provide authority)

5-29-2012
Date

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SODA SPRINGS RANCH WATER RIGHTS SUMMARY

Registered Wells Located on Soda Springs Ranch

Water Right Claim or Registration No.	Type of Water Use	ADWR Status	Water Right Assignment RDS, Inc.	Water Right Assignment Soda Springs Ranch, LLC
55-590663	New Domestic Well (2002)	Active		
55-619160	Domestic/Stock Well	Active		
55-619162	Domestic/Stock Well	Active	Complete	Complete
55-619166	Domestic/Stock Well	Active	Complete	Complete
55-619167	Domestic/Stock Well	Active	Complete	Complete

COPY

Surface Water: Pre 1919 Statement of Claim

Water Right Claim or Registration No.	Type of Water Use	ADWR Status	Water Right Assignment RDS, Inc.	Water Right Assignment Soda Springs Ranch, LLC
36-028573	Irrigation, Stock, Domestic	Active	Complete	Complete
36-104175	Power Generation	Active		

Gila River Adjudication: Statement of Claimant Filings

Water Right Claim or Registration No.	Type of Water Use	ADWR Status	Water Right Assignment RDS, Inc.	Water Right Assignment Soda Springs Ranch, LLC
39-050753	Irrigation, Domestic, Other	Active	Complete	Complete
39-050754	Domestic, Other	Active	Complete	Complete
39-050755	Domestic, Other	Active	Complete	Complete
39-050756	Domestic, Other	Active	Complete	Complete

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GILA RIVER ADJUDICATION (VERDE RIVER WATERSHED)

Claimant No.	Claimed Use	Volume Claimed	Priority Date	Basis of Claim
39-050753	Irrigation	610 Ac. Ft.	1879-1906	36-28573; Decree # 3583
"	Domestic	8.4 Ac. Ft.	1879-1906	36-28573; Decree # 3583
"	Other – Stock	2.52 Ac. Ft.	1879-1906	36-28573; Decree # 3583
Amendment	Other – Power	Non-consumptive	1879-1906	Additional basis 36-104175
39-050754	Domestic	9.07 Ac. Ft.	1882	55-619166 [A(15-6)32c]
"	Other - Stock	1.34 Ac. Ft.	1882	55-619166 [A(15-6)32c]
39-050755	Domestic	9.07 Ac. Ft.	1956	55-619167 [A(15-6)32c]
"	Other - Stock	1.34 Ac. Ft.	1956	55-619167 [A(15-6)32c]
39-050756	Domestic	Unknown	1888	55-619162 [A(15-6)31]
"	Other - Stock	Unknown	1888	55-619162 [A(15-6)31]

JANICE K. BREWER
Governor

SANDRA A. FABRITZ-WHITNEY
Director

ARIZONA DEPARTMENT OF WATER RESOURCES

3550 North Central Avenue, Second Floor
PHOENIX, ARIZONA 85012-2105
Telephone (602) 771-8621
Fax (602) 771-8689

May 7, 2012

US Department of the Interior – National Park Service
Attn: James Harte, Hydrologist
1201 Oakridge Dr., Ste 250
Fort Collins, CO 80525

RE: Application for Permit to Appropriate Public Water No. 33-96995 – Instream Flow (Beaver Creek)

Applicant:

Enclosed is a copy of a protest submitted by Salt River Valley Water Users' Association (SRP) against the above-referenced application. Carefully review the issues brought forth. The Arizona Department of Water Resources (Department) requests that you respond **directly to the protesting party** within thirty (30) days from the date of this letter.

The Department urges both parties to make a sincere effort at resolving the protest. It is requested that both parties attempt to negotiate a resolution of the issues. The negotiation may include an agreement to modify the application.

The Department must be notified of any agreement reached through negotiation. Please send copies of all correspondence for inclusion in the official record.

Please do not hesitate to contact me at (602) 771-8612 or toll free (within Arizona only) at 1-800-352-8488 if you require further information or assistance.

Sincerely,

Kevin Hadder
Surface Water Permitting
Engineering & Permits Division

ENCLOSURE

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PERMITS DIVISION

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Arizona Department of Water Resources
Permitting Unit
3550 North Central Avenue
Phoenix, Arizona 85012

STATEMENT OF PROTEST

The statement of protest must describe the grounds for the protest. The grounds for protest shall be limited to an assertion that the proposed application conflicts with vested rights, is a menace to public safety, or is against the interests and welfare of the public. For a new application and amendment to an application for stockpond certificate, the grounds for protest are that the claim contains a misstatement of one or more of the following: date of construction of stockpond, capacity of stockpond on August 27, 1977, sole purpose for which the stockpond was constructed and is used is watering livestock or wildlife, except fish, stockpond is not used primary for fishing or culturing of fish, or pond was not the subject of water rights litigation or protest to the state land department prior to August 27, 1977, in accordance with Arizona Revised Statute (A.R.S.) §45-274(D).

In the matter of the Application of Montezuma Castle National Monument
(Name of Applicant)

Application Number 33-96995

1. Protestor's Name Salt River Valley Water Users' Association

   Mailing Address P. O. Box 52025

   City Phoenix State AZ ZIP 85072-2025

   Phone number (602) 236-2020

2. Check one or more as appropriate:

   X Conflict with prior vested right

   □ Menace to public safety

   □ Against the interest and welfare of public

   □ Application for stockpond certificate contains a misstatement of one or more of the following: date of construction of the stockpond, capacity of stockpond on August 27, 1977, sole purpose for which the stockpond was constructed and is used is watering livestock or wildlife, except fish, stockpond is not used primary for fishing or culturing of fish, or pond was not the subject of water rights litigation or protest to the state land department prior to August 27, 1977.

COPY

3. Complete only if you indicated conflict with a prior vested right.

Registry number of prior vested water right or claim For a complete description and basis of the water rights claimed by the Salt River Valley Water Users' Association ("Association"), the Salt River Project Agricultural Improvement and Power District ("District"), and the Association and District on behalf of their shareholders, see: Notices of Appropriation listed in Attachment 1 and subsequent conveyances and assignments of the same; Water Rights Registration Act filing 36-64086 filed May 5, 1978 and attachments, supplements and amendments thereto; Statements of Claimant 39-07-1040, 1041, 1998, 1206 and 1207 filed December 21, 1979, 39-50053, 50054 and 50055 filed January 3, 1986, 39-L8-35212 and 35213 filed January 20, 1987 and attachments, supplements and amendments thereto.

Describe uses and quantities of water See Attachment 2

Point of diversion of water right or claim Granite Reef Diversion Dam located as follows: NW1/4 SE1/4, Section 13 Township 2 North, Range 6 East

Place of use of water right or claim Member lands of the Salt River Valley Water Users' Association ("Association") located within the Salt River Reservoir District more specifically described in Attachment 3. A map of Salt River Reservoir District is shown in Attachment 4. In addition, the Association delivers surface water under contract to various entities, including: Buckeye Irrigation Company, Fort McDowell Indian Community, Lakin Cattle Company, Maricopa Garden Farms, New State Irrigation and Drainage District, Roosevelt Water Conservation District, and the Salt River Pima Maricopa Indian Community.

4. If menace to public safety or against interests and welfare of the public was indicated, provide a description of the manner of the menace or how the appropriation would be a detriment to the public. Attachments may be utilized.

5. If the application for stockpond certificate contains a misstatement, list the misstatement and the reason why.

6. Check the appropriate box to indicate how you were informed of the proposed application:

X Public notice subscription service

□ Publication in the newspaper

□ Notice posted at the point of diversion

□ Other _____

The original of this form shall be mailed to the Arizona Department of Water Resources at the address listed on the top of the first page *and* a copy mailed directly to the applicant. Any interested party may protest the approval of a newly filed application, amended application, and application for change in type of use within sixty (60) days after the date of issuance listed on the public notice. A protest to an application for severance and transfer must be submitted within thirty (30) days after the last date of newspaper publication.

Signature of Protesting Party or Representative
(If representative, provide authority)

4/30/12
Date

COPY

COPY

ATTACHMENT 1

1. Notices of appropriation of water posted and subsequently recorded by the Hudson Reservoir and Canal Company:
   a. On April 22, 1893, with the Gila County, Arizona, Recorder's Office in Book of Miscellaneous Records No. 1 at Pages 478-480;
   b. On April 25, 1893, with the Maricopa County, Arizona, Recorder's Office in Book of Canals No. 1 at pages 283-285;
   c. On April 29, 1893, with the Yuma County, Arizona, Recorder's Office in Book of Homestead and Pre-emption Claims No. 1 at Pages 76-78;
   d. On May 1, 1893, with the Office of the Secretary of the Arizona Territory in Book of Water Filings and Locations No. 1 at Pages 8-13;
   e. On August 26, 1893, with the Gila County, Arizona, Recorder's Office in Book of Miscellaneous Records No. 1 at Pages 534-538;
   f. On August 26, 1893, with the Pinal County, Arizona, Recorder's Office in Book of Land Claims No. 5 at Page 239;
   g. On February 1, 1894, with the Office of the Secretary of the Arizona Territory in Book of Water Filings and Locations No. 1 at Pages 53-57;
   h. On February 25, 1900, in the Office of the Secretary of the Arizona Territory in Book of Filings and Locations No. 2 at pages 131-133;
   i. On March 3, 1900, in the Office of the Secretary of the Arizona Territory in Book of Water Filings and Locations No. 2 at pages 154-157;
   j. On August 30, 1901, with the Gila County, Arizona, Recorder's Office in Book of Miscellaneous Records No. 2 at Pages 292-293;
   k. On August 31, 1901, with the Maricopa County, Arizona, Recorder's Office in Book of Canals No. 2 at Pages 74-76;
   l. On August 31, 1901, with the Office of the Secretary of the Arizona Territory in the Book of Water Filings and Locations No. 2 at Pages 191-195;
   m. On August 31, 1901, with the Office of the Secretary of the Arizona Territory in the Book of Water Filings and Locations No. 2 at Pages 239-242.
2. Agreement between the United States of America and the Salt River Valley Water Users' Association, dated June 25, 1904.
3. U. S. Department of Interior. Letter of July 14, 1905. Secretarial Order, July 20, 1905, L. & R.R. Div. 19-1903 (Washington D.C.).
4. Notice of Appropriation of Water posted and recorded by Frank H. Parker, Secretary of the Salt River Valley Water Users' Association, with the Maricopa County, Arizona, Recorder's Office in Book of Canals No. 2 at page 155 on February 8, 1906.
5. Notice of Appropriation of Water posted on February 6, 1906, and recorded by Louis C. Hill, Supervising Engineer, United States Geological Survey, with the Maricopa County, Arizona, Recorder's Office in Book of Canals No. 2 at page 156 on February 8, 1906.
6. Decision and Decree, and all Decrees supplemental thereto, entered in Hurley v. Abbott, In the District Court of the Third Judicial District of the Territory of Arizona, In and For the County of Maricopa, No. 4564, March 1, 1910.
7. Notice of Appropriation of Water posted on March 4, 1914, and recorded by John P. Orme, President of the Salt River Valley Water Users' Association, with the Maricopa County, Arizona, Recorder's Office in Book of Canals No. 2 at page 379 on March 6, 1914.
8. U. S. Department of Interior, Water Power Designation No. 8, Arizona No. 5, February 9, 1917.
9. Application for Permit to Appropriate the Public Waters of the State of Arizona, Nos. 4A-135 (October 2, 1920), 4A-136 (October 2, 1920), and E-11 (December 12, 1921).
10. Application for Permit to Construct a Reservoir and to Store for Beneficial Use the Unappropriated Waters of the State of Arizona, Nos. R-30 (August 30, 1920), R-45

(October 2, 1920), R-46 (October 2, 1920), R-71 (December 12, 1921), and R-72 (December 12, 1921).

11. Salt River Valley Water Users' Association Articles of Incorporation, as amended, in existence as of the date of this Statement of Water Exchange Contract application.
12. Water right applications approved and accepted by authority of the Secretary of Interior for Homestead Lands under the Reclamation Act and for lands in private ownership and lands other than Homesteads under the Reclamation Act between the United States of America, Department of Interior, Bureau of Reclamation, and individual shareholders of the Salt River Valley Water Users' Association.
13. Contract between the United States of America and the Salt River Valley Water Users' Association, dated September 6, 1917, as amended on July 26, 1922, April 25, 1928, June 30, 1930, November 29, 1930, September 10, 1941, and June 30, 1950.
14. Agreement between the Salt River Valley Water Users' Association and the Roosevelt Water Conservation District, dated October 24, 1924 (as amended).
15. Contract between the United States of America and the Salt River Valley Water Users' Association, dated June 3, 1935 (Verde River Storage Works).
16. Contract between the United States of America and the Salt River Valley Water Users' Association, dated November 26, 1935, as amended on October 14, 1936, October 2, 1939, and September 10, 1941 (Construction of Bartlett Dam).
17. Agreement between the Salt River Valley Water Users' Association, Phelps Dodge Corporation, and Defense Plant Corporation, dated March 1, 1944 (Horseshoe Dam Construction and Operation).
18. Contract between the Salt River Valley Water Users' Association and the Salt River Project Agricultural Improvement and Power District, dated March 22, 1937, as amended on February 28, 1944, and September 12, 1949.
19. Agreement between the Salt River Valley Water Users' Association, Salt River Project Agricultural Improvement and Power District, and the Phelps Dodge Corporation, dated February 23, 1962 (Blue Ridge/Show Low Reservoirs).
20. Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988, P.L. 100-512, 102 Stat. 2549.
21. Fort McDowell Indian Community Water Rights Settlement Act of 1990, P.L. 101-628, Title IV, 104 Stat. 4480.
22. San Carlos Apache Tribe Water Rights Settlement Act of 1992, P.L. 102-575, 106 Stat. 4740, as amended
23. Arizona Water Settlement Act of 2004, P.L. 108-451.
24. Service area right pursuant to ARS §45-494.

ATTACHMENT 2

COPY

The types of uses and quantity of water stored and delivered by the Salt River Project and used by Shareholders of the Salt River Valley Water Users' Association varies substantially from year to year. Uses of water included, but are not limited to, irrigation, municipal, industrial, commercial, hydropower generation, domestic, stockwatering, recreation and others.

The Salt River Project operates six dams and associated storage reservoirs on the Salt and Verde Rivers with a combined capacity of 2,328,201 acre feet. Additionally, Salt River Project operates 263 wells with a combined capacity of 888,423 acre feet. In calendar year 2009, Salt River Project captured and stored 528,173 acre feet and shareholders of the Salt River Valley Water Users' Association used 192,799 acre feet for irrigation purposes and 331,224 acre feet for municipal and industrial purposes.[1]

As reported in the 2009 Operations and Statistics Report, shareholders of the Salt River Valley Water Users' Association irrigated 55,477 acres in 2009. This includes lands typically referred to as urban irrigated lands. This does not include land irrigated with water delivered by Salt River Valley Water Users' Association through municipal systems or other uses of water on member lands.

The amount of water used solely for stockwatering purposes by shareholders of the Salt River Valley Water Users' Association has not been calculated separately.

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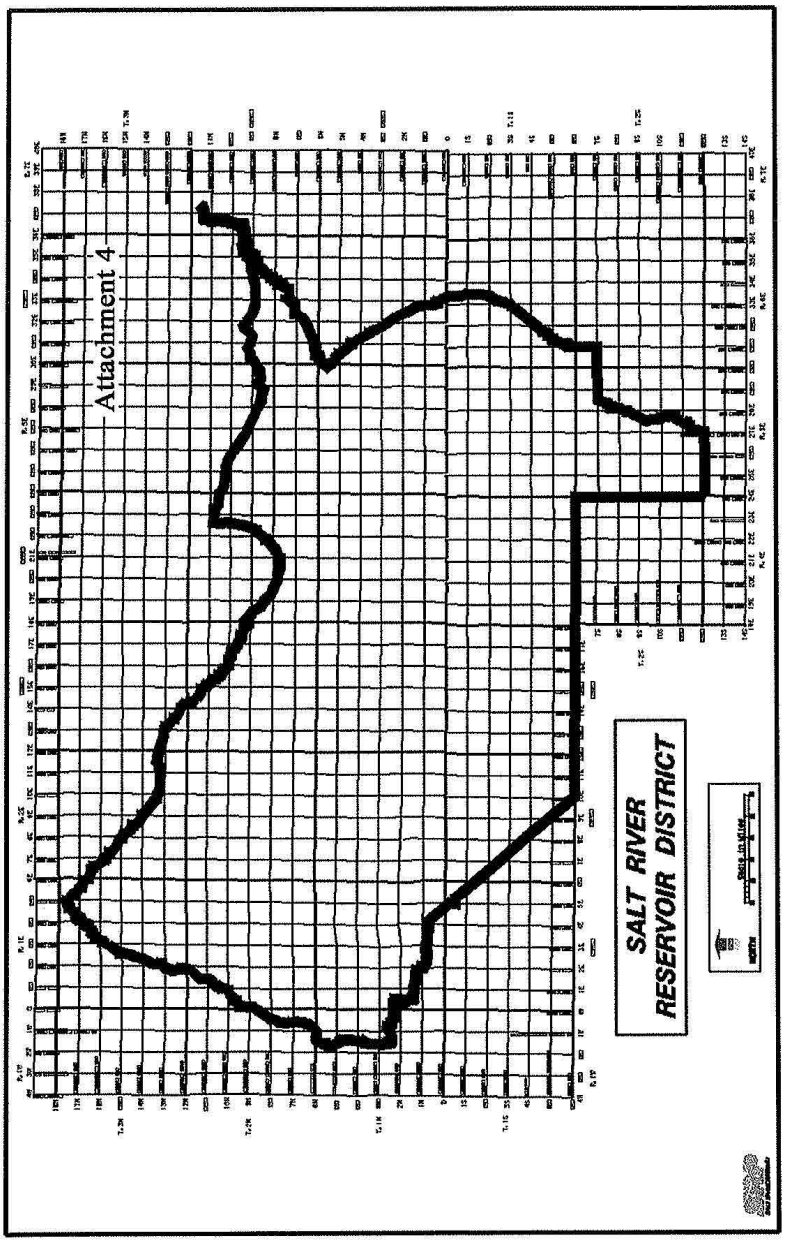
1 Quantities of use for domestic purposes are included in municipal and industrial category. Quantities of use for stockwatering are not calculated separately. Irrigation quantities include water used for urban irrigation purposes.

COPY

ATTACHMENT 3

Commencing at a point on the right bank of the Salt River at the mouth of the Verde River; thence in a southerly direction to the headgates of the Arizona Canal; thence in a general westerly direction along the north line of the right of way of the Arizona Canal to a ditch leading out of said canal on its north side in the northwest quarter of Sec. 28, T2N, R4E; thence along or near said ditch in a northwesterly direction to the township line between T2N, R3E and T2N, R4E, thence in a southerly direction to the Arizona Canal; thence along the north line of right of way of the Arizona Canal to Skunk Creek; thence along the east bank of Skunk Creek to its intersection with New River; thence in a southerly direction along the left bank of New River to its intersection with the Agua Fria River; thence in a general southerly direction along the left bank of the Agua Fria River to a point in Sec. 14, T1N, R1W, where the line of the St. John's Canal intersects with the Agua Fria River; thence in a southeasterly direction along the north line of the right of way of the St. John's Canal to the north bank of the Salt River; thence across the Salt River to a point in Sec. 35, T1N, R1E, where the east line of the Gila River Indian Reservation intersects the south bank of the Salt River; thence in a southerly direction along the east line of the said Gila River Indian Reservation to the township line between T1S and T2S; thence following the boundary of said Gila River Indian Reservation, east along the said township line to the range line between R4E and R5E; thence south between R4E and R5E; thence east between T2S and T3S to the east line of the right of way of the east branch of the Consolidated Canal; thence north, following the east line of the right of way of the east branch of the Consolidated Canal to the south line of Sec. 2, T2S, R5E; thence east to the section corner common to Sec. 5, 6, 7 and 8, T2S, R6E; thence north between Sec. 5 and 6, T2S, R6E, to the east bank of the Highland Canal; thence in a general northerly direction along the east bank of the Highland Canal, now known as Lateral 12 1/2 of the Eastern Canal, to a point in the northeast quarter of the northwest quarter of the southeast quarter of Sec. 29, T1S, R6E, where it intersects the Eastern Canal; thence in a general northerly direction along the east bank of the Eastern Canal to the left bank of the Salt River; thence in a general northerly direction along the left bank of the Salt River to a point opposite the mouth of the Verde River to the place of beginning.

COPY



Arizona Department of Water Resources
3550 North Central Avenue
Phoenix, Arizona 85012

NOTICE OF APPLICATION TO APPROPRIATE PUBLIC WATER INSTREAM FLOW MAINTENANCE

In the matter of application assigned number 33-96994. Montezuma Castle National Monument, PO Box 219, 527 S. Main St., Camp Verde, AZ 86322 has filed an Application for Permit to Appropriate Public Water dated February 3, 2012. An instream flow right is a surface water right that remains in-situ, or "in-stream" and will not be physically diverted or consumptively used.

The application states:

1. Source of Water: Wet Beaver Creek a tributary to Beaver Creek within the Verde River watershed.

2. Proposed use and amount: 11,317.8 acre-feet per annum for recreation and wildlife, including fish.

3. Place of use: within the natural channel of Wet Beaver Creek, beginning in the Southwest quarter of the Northeast quarter (SW¼NE¼), Section 31, Township 15 North, Range 6 East and ending in the Northeast quarter of the Southeast quarter (NE¼SE¼), Section 36, Township 15 North, Range 5 East, Gila and Salt River Baseline and Meridian, Yavapai County, Arizona.

SUBMITTED MAPS AVAILABLE AT THE DEPARTMENT OF WATER RESOURCES

Protests to the issuance of the Permit to Appropriate Public Water may be filed by any person who alleges that the proposed appropriation conflicts with vested water rights, is a menace to public safety, or is against the interests and welfare of the public. Protests must be submitted either in writing or on a form provided by the Department to the Arizona Department of Water Resources, Surface Water Permitting, 3550 North Central Avenue, Phoenix, Arizona 85012, within sixty (60) days of the date of issuance of the Notice. A copy of the stated protests must also be forwarded to the applicant.

The Notice is issued this 9th day of April 2012.

ARIZONA DEPARTMENT OF WATER RESOURCES

Arizona Department of Water Resources
3550 North Central Avenue
Phoenix, Arizona 85012

NOTICE OF APPLICATION TO APPROPRIATE PUBLIC WATER INSTREAM FLOW MAINTENANCE

In the matter of application assigned number 33-96995. Montezuma Castle National Monument, PO Box 219, 527 S. Main St., Camp Verde, AZ 86322 has filed an Application for Permit to Appropriate Public Water dated February 3, 2012. An instream flow right is a surface water right that remains in-situ, or "in-stream" and will not be physically diverted or consumptively used.

The application states:

1. Source of Water: Beaver Creek a tributary to the Verde River within the Verde River watershed.

2. Proposed use and amount: 9,409.29 acre-feet per annum for recreation and wildlife, including fish.

3. Place of use: within the natural channel of Beaver Creek, beginning in the Northeast quarter of the Southwest quarter (NE¼SW¼), Section 9, Township 14 North, Range 5 East and ending in the Southwest quarter of the Northeast quarter (SW¼NE¼), Section 17, Township 14 North, Range 5 East, Gila and Salt River Baseline and Meridian, Yavapai County, Arizona.

SUBMITTED MAPS AVAILABLE AT THE DEPARTMENT OF WATER RESOURCES

Protests to the issuance of the Permit to Appropriate Public Water may be filed by any person who alleges that the proposed appropriation conflicts with vested water rights, is a menace to public safety, or is against the interests and welfare of the public. Protests must be submitted either in writing or on a form provided by the Department to the Arizona Department of Water Resources, Surface Water Permitting, 3550 North Central Avenue, Phoenix, Arizona 85012, within sixty (60) days of the date of issuance of the Notice. A copy of the stated protests must also be forwarded to the applicant.

The Notice is issued this 10th day of April 2012.

ARIZONA DEPARTMENT OF WATER RESOURCES

Arizona Department of Water Resources
3550 North Central Avenue
Phoenix, Arizona 85012

NOTICE OF APPLICATION TO APPROPRIATE PUBLIC WATER INSTREAM FLOW MAINTENANCE

In the matter of application assigned number 33-96995, Montezuma Castle National Monument, PO Box 219, 527 S. Main St., Camp Verde, AZ 86322 has filed an Application for Permit to Appropriate Public Water dated February 3, 2012. An instream flow right is a surface water right that remains in-situ, or "in-stream" and will not be physically diverted or consumptively used.

The application states:

1. Source of Water: Beaver Creek a tributary to the Verde River within the Verde River watershed.

2. Proposed use and amount: 9,409.29 acre-feet per annum for recreation and wildlife, including fish.

3. Place of use: within the natural channel of Beaver Creek, beginning in the Northeast quarter of the Southwest quarter (NE¼SW¼), Section 9, Township 14 North, Range 5 East and ending in the Southwest quarter of the Northeast quarter (SW¼NE¼), Section 17, Township 14 North, Range 5 East, Gila and Salt River Baseline and Meridian, Yavapai County, Arizona.

SUBMITTED MAPS AVAILABLE AT THE DEPARTMENT OF WATER RESOURCES

Protests to the Issuance of the Permit to Appropriate Public Water may be filed by any person who alleges that the proposed appropriation conflicts with vested water rights, is a menace to public safety, or is against the interests and welfare of the public. Protests must be submitted either in writing or on a form provided by the Department to the Arizona Department of Water Resources, Surface Water Permitting, 3550 North Central Avenue, Phoenix, Arizona 85012, within sixty (60) days of the date of issuance of the Notice. A copy of the stated protests must also be forwarded to the applicant.

The Notice is issued this 10th day of April 2012.

ARIZONA DEPARTMENT OF WATER RESOURCES

3TC PUB April 27, May 4, 11, 2012

AFFIDAVIT OF PUBLICATION

STATE OF ARIZONA)
County of Yavapai) ss.

I, **Aileen Kemper,** being first duly sworn on her oath says:
That she is the Legals Clerk of PRESCOTT NEWSPAPERS, INC., an Arizona corporation, which owns and publishes **THE DAILY COURIER**, a Daily Newspaper published in the City of Prescott, County of Yavapai that the notice attached hereto, namely,

Montezuma Castle & Tuzigoot National Monuments
NOTICE OF APPLICATION TO APPROPRIATE PUBLIC WATER INSTREAM FLOW MAINTENANCE
33-96995

has, to the personal knowledge of affidavit, been published in the news paper aforesaid, according to law, on **27** day of **APRIL, 2012** to **11** day of **MAY, 2012** both inclusive without change, interruption or omission, amounting in all 3 insertions, made on the following dates:
APRIL 27, MAY 4, 11, 2012

By: _____
Dated this **11** Day of **MAY, 2012**

By: _____
Notary Public

My commission expires:

JESSICA D WALTHER
Notary Public - Arizona
Yavapai County
My Commission Expires
December 19, 2015

Arizona Department of Water Resources
3550 North Central Avenue
Phoenix, Arizona 85012

NOTICE OF APPLICATION TO APPROPRIATE PUBLIC WATER INSTREAM FLOW MAINTENANCE

In the matter of application assigned number 33-96994. Montezuma Castle National Monument, PO Box 219, 527 S. Main St., Camp Verde, AZ 86322 has filed an Application for Permit to Appropriate Public Water dated February 3, 2012. An instream flow right is a surface water right that remains in-situ, or "in-stream" and will not be physically diverted or consumptively used.

The application states:

1. Source of Water: Wet Beaver Creek a tributary to Beaver Creek within the Verde River watershed.

2. Proposed use and amount: 11,317.8 acre-feet per annum for recreation and wildlife, including fish.

3. Place of use: within the natural channel of Wet Beaver Creek, beginning in the Southwest quarter of the Northeast quarter (SW¼NE¼), Section 31, Township 15 North, Range 6 East and ending in the Northeast quarter of the Southeast quarter (NE¼SE¼), Section 36, Township 15 North, Range 5 East, Gila and Salt River Baseline and Meridian, Yavapai County, Arizona.

SUBMITTED MAPS AVAILABLE AT THE DEPARTMENT OF WATER RESOURCES

Protests to the issuance of the Permit to Appropriate Public Water may be filed by any person who alleges that the proposed appropriation conflicts with vested water rights, is a menace to public safety, or is against the interests and welfare of the public. Protests must be submitted either in writing or on a form provided by the Department to the Arizona Department of Water Resources, Surface Water Permitting, 3550 North Central Avenue, Phoenix, Arizona 85012, within sixty (60) days of the date of issuance of the Notice. A copy of the stated protests must also be forwarded to the applicant.

The Notice is issued this 9th day of April 2012.

ARIZONA DEPARTMENT OF WATER RESOURCES

3TC PUB April 27, May 4, 11, 2012

AFFIDAVIT OF PUBLICATION

STATE OF ARIZONA)
County of Yavapai) ss.

I, **Aileen Kemper,** being first duly sworn on her oath says:
That she is the Legals Clerk of PRESCOTT NEWSPAPERS, INC., an Arizona corporation, which owns and publishes **THE DAILY COURIER**, a Daily Newspaper published in the City of Prescott, County of Yavapai that the notice attached hereto, namely,

Montezuma Castle & Tuzigoot National Monuments
NOTICE OF APPLICATION TO APPROPRIATE PUBLIC WATER INSTREAM FLOW MAINTENANCE
33-96994

has, to the personal knowledge of affidavit, been published in the news paper aforesaid, according to law, on **27** day of **APRIL, 2012** to **11** day of **MAY, 2012** both inclusive without change, interruption or omission, amounting in all 3 insertions, made on the following dates:
APRIL 27, MAY 4, 11, 2012

By: _____
Dated this **11** Day of **MAY, 2012**

By: _____
Notary Public

JESSICA D WALTHER
Notary Public - Arizona
Yavapai County
My Commission Expires
December 19, 2015

My commission expires:

ARIZONA DEPARTMENT OF WATER RESOURCES
3550 North Central Avenue 2nd Floor
Phoenix, Arizona 85012

AFFIDAVIT OF POSTING AND PUBLICATION

STATE OF ARIZONA)
)ss.
County of Yavapai)

Application No 33-96994

Duane C. Hubbard, being first duly sworn, state the following:

1. One copy of the Notice associated with the above referenced application was posted at the point of diversion of water within twenty (20) days of the date of issuance of the notice and remained posted for three consecutive weeks.

2. An abbreviated notice associated with the above referenced application was published in the newspaper identified by the Department of Water Resources. The first publication was within twenty (20) days of the date of issuance of the notice and the notice was published once per week for three consecutive weeks.

3. Required Attachment: Affidavit of Publication from the appropriate newspaper.

Dane C. Hubbard
Affiant

Subscribed and sworn to me this 21st day of May, 2012.

Notary Seal: OFFICIAL SEAL ELISSA JEWELL NOTARY PUBLIC - STATE OF ARIZONA YAVAPAI COUNTY My Comm. Expires Feb. 24, 2015

Elissa Jewell
Notary Public

My commission expires Feb 24, 2015

Printed on recycled paper. Each ton of recycled paper saves 7,000 gallons of water.

ARIZONA DEPARTMENT OF WATER RESOURCES
3550 North Central Avenue 2nd Floor
Phoenix, Arizona 85012

AFFIDAVIT OF POSTING AND PUBLICATION

STATE OF ARIZONA)
)ss.
County of Yavapai)

Application No 33-96995

Duane C. Hubbard, being first duly sworn, state the following:

1. One copy of the Notice associated with the above referenced application was posted at the point of diversion of water within twenty (20) days of the date of issuance of the notice and remained posted for three consecutive weeks.

2. An abbreviated notice associated with the above referenced application was published in the newspaper identified by the Department of Water Resources. The first publication was within twenty (20) days of the date of issuance of the notice and the notice was published once per week for three consecutive weeks.

3. Required Attachment: Affidavit of Publication from the appropriate newspaper.

Duane C. Hubbard
Affiant

Subscribed and sworn to me this 21st day of May, 2012.

OFFICIAL SEAL
ELISSA JEWELL
NOTARY PUBLIC - STATE OF ARIZONA
YAVAPAI COUNTY
My Comm. Expires Feb. 24, 2015

Elissa Jewell
Notary Public

My commission expires Feb 24, 2015

Printed on recycled paper. Each ton of recycled paper saves 7,000 gallons of water.

JANICE K. BREWER
Governor

SANDRA A. FABRITZ-WHITNEY
Director

ARIZONA DEPARTMENT OF WATER RESOURCES

3550 North Central Avenue, Second Floor
PHOENIX, ARIZONA 85012-2105
Telephone (602) 771-8621
Fax (602) 771-8689

COPY

April 10, 2012

National Park Service
Attn: Jim Harte, Hydrologist
Water Resources Division
1201 Oakridge Dr., Ste 250
Ft. Collins, CO 80525

RE: Applications for Permit to Appropriate Public Water Nos. 33-96994 (Wet Beaver Creek) and 33-96995 (Beaver Creek) – Instream Flow

Applicant:

Enclosed are copies of the Notice of Application to Appropriate Public Water (Notices) and Affidavits of Posting and Publication forms for the above-referenced applications.

The Notices must be posted at the claimed places of use within twenty (20) days from the dates of issuance appearing at the bottom thereof. The Notices must remain posted continuously for 3 consecutive weeks. The Notices must also be published as legal publications once per week for 3 consecutive weeks with the first publication being within twenty (20) days from the date of issuance of the Notices. The Notices must be published in:

The Daily Courier
P.O. Box 312
Prescott, AZ 86302
(928) 445-3333

Applicants must return the Affidavits of Posting and Publication and the Notices to the Arizona Department of Water Resources no later than sixty (60) days after the date of issuance listed in the Notices.

Please do not hesitate to contact me at (602) 771-8612 or toll free (within Arizona only) at 1-800-352-8488 if you require further information or assistance.

Sincerely,

Kevin Hadder
Surface Water Rights Specialist
Surface Water Permitting, Engineering & Permits Division

COPY

ENCLOSURES

JANICE K. BREWER
Governor

SANDRA A. FABRITZ-WHITNEY
Director

ARIZONA DEPARTMENT OF WATER RESOURCES

3550 North Central Avenue, Second Floor
PHOENIX, ARIZONA 85012-2105
Telephone (602) 771-8621
Fax (602) 771-8689

April 10, 2012

National Park Service
Attn: Jim Harte, Hydrologist
Water Resources Division
1201 Oakridge Dr., Ste 250
Ft. Collins, CO 80525

RE: Applications for Permit to Appropriate Public Water Nos. 33-96994 (Wet Beaver Creek) and 33-96995 (Beaver Creek) – Instream Flow

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Sincerely,

Kevin Hadder
Surface Water Rights Specialist
Surface Water Permitting, Engineering & Permits Division

ENCLOSURES

Arizona Department of Water Resources
3550 North Central Avenue
Phoenix, Arizona 85012

COPY

NOTICE OF APPLICATION TO APPROPRIATE PUBLIC WATER
INSTREAM FLOW MAINTENANCE

In the matter of application assigned number 33-96995. Montezuma Castle National Monument, PO Box 219, 527 S. Main St., Camp Verde, AZ 86322 has filed an Application for Permit to Appropriate Public Water dated February 3, 2012. An instream flow right is a surface water right that remains in-situ, or "in-stream" and will not be physically diverted or consumptively used.

The application states:

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SUBMITTED MAPS AVAILABLE AT THE DEPARTMENT OF WATER RESOURCES

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The Notice is issued this 10th day of April 2012.

ARIZONA DEPARTMENT OF WATER RESOURCES

COPY

ARIZONA DEPARTMENT OF WATER RESOURCES
3550 North Central Avenue 2nd Floor
Phoenix, Arizona 85012

AFFIDAVIT OF POSTING AND PUBLICATION

STATE OF ARIZONA)
)ss.
County of _____)

Application No_____

_____, being first duly sworn, state the following:

1. One copy of the Notice associated with the above referenced application was posted at the point of diversion of water within twenty (20) days of the date of issuance of the notice and remained posted for three consecutive weeks.

2. An abbreviated notice associated with the above referenced application was published in the newspaper identified by the Department of Water Resources. The first publication was within twenty (20) days of the date of issuance of the notice and the notice was published once per week for three consecutive weeks.

3. Required Attachment: Affidavit of Publication from the appropriate newspaper.

_____
Affiant

Subscribed and sworn to me this _____ day of _____, 20_____.

(Notary Seal)

_____
Notary Public

My commission expires _____

Printed on recycled paper. Each ton of recycled paper saves 7,000 gallons of water.

Arizona Department of Water Resources
3550 North Central Avenue
Phoenix, Arizona 85012

NOTICE OF COMPLETENESS

APPLICATION FOR PERMIT TO APPROPRIATE NO. 33-96995
INSTREAM FLOW MAINTENANCE (Beaver Creek)

Applicant Name	Montezuma Castle National Monument
Applicant Address	P.O. Box 219 527 S. Main St. Camp Verde, AZ 86322

The applicant is hereby informed that the above-referenced application has been determined to be complete.

This terminates the administrative completeness review time frame and initiates the substantive review time frame as described by Arizona Revised Statutes § 41-1072.

Notice of Completeness Prepared by	Kevin Hadder
Date Mailed	March 21, 2012

Printed on recycled paper. Each ton of recycled paper saves 7,000 gallons of water.

8/MAR/2012
WRD COPY

Ana Wayman-Trujillo, Recorder
OFFICIAL RECORDS OF YAVAPAI COUNTY
FIRST AMERICAN TITLE INS WD

B-4560 P-215
12/10/2007 03:34P
14.00 4196354

B-4560 P-215
Page: 1 of 4
WD 4196354

FEE
$ 5
$8
$5
$1
$ 14

at the request of Pioneer Title Agency, Inc.

when recorded mail to
Pioneer Title Agency, Inc.
P. O. Box 250
Payson, AZ 85547

4241248

00127532-MPH

WARRANTY DEED

For the consideration of Ten Dollars, and other valuable consideration, I or we,

WHISPER RIDGE L.L.C., an Arizona limited liability company, as to an undivided 24.75% interest, and TOM COL INVESTMENTS, L.L.C., an Arizona limited liability company, as to an undivided 54.78% interest, and PETELIN VENTURES LLLP, an Arizona limited liability limited partnership and THOMAS C. WAITZ, MD., as Trustee of the Thomas C. Waitz, MD., P.C. Restated Profit Sharing Plan, formerly known as Thomas C. Waitz M.D., P.C. Pension Plan No. 2, as to an undivided 20.47% interest

do/does hereby convey to

PIONEER TITLE AGENCY, INC., an Arizona corporation, as Trustee under Trust No. 127532

the following real property situated in Yavapai County, Arizona:

SEE ATTACHED EXHIBIT "A" LEGAL DESCRIPTION

Pursuant to ARS 33-404, the names and address of the beneficiaries of the herein named trust are: See attached Exhibit "B"
Exempt from Affidavit of Property Value per ARS 11-1134-B-8

TO HAVE AND TO HOLD the above described property as Trustee with full power and authority to sell, mortgage, convey or otherwise deal with said property and every part thereof in all ways and for such consideration as it would be lawful for any person owning said property so to do.

SUBJECT TO: Current taxes and other assessments, reservations in patents and all easements, rights of way, encumbrances, liens, covenants, conditions, restrictions, obligations and liabilities as may appear of record.

The Grantor warrants the title against all persons whomsoever.

DATED this **3rd day of October, 2007**

WHISPER RIDGE L.L.C., an Arizona limited liability company

BY: _____
KEVIN D. SOKOL, Manager

TOM COL INVESTMENTS, L.L.C., an Arizona limited liability company

BY: _____
THOMAS F. COLLINS, Manager

PETELIN VENTURES LLLP, an Arizona limited liability partnership

BY: _____
PAUL M. PETELIN, SR., as Co-Trustee

BY: _____
JOAN E. PETELIN, as Co-Trustee

THOMAS C. WAITZ, MD., P.C. RESTATED PROFIT SHARING PLAN, FORMERLY KNOWN AS THOMAS C. WAITZ M.D., P. C. PENSION PLAN NO. 2

BY: _____
THOMAS C. WAITZ, MD, as Trustee

UNOFFICIAL DOCUMENT

B-4560 P-215
Page: 2 of 4
WD 4196354

No. 235-4241218

EXHIBIT "A"

PARCEL NO. 1:

THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 14 NORTH, RANGE 5 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, YAVAPAI COUNTY, ARIZONA;

EXCEPT THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 14 NORTH, RANGE 5 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, YAVAPAI COUNTY, ARIZONA, LYING SOUTH AND WEST OF BEAVER CREEK, WHICH WAS PREVIOUSLY CONVEYED TO THE UNITED STATES OF AMERICA IN THAT CERTAIN WARRANTY DEED DATED MAY 16, 1973 AND RECORDED ON JULY 18, 1973, IN BOOK 852, PAGE 179 OF OFFICIAL RECORDS OF YAVAPAI COUNTY, ARIZONA.

EXCEPTING ONE-HALF OF OIL, GAS AND MINERALS, ON OR UNDER THE SURFACE OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 14 NORTH, RANGE 5 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, YAVAPAI COUNTY, ARIZONA, AS RESERVED IN THE DEED FROM PEARL ALDANA PARSLEY TO JOHN CHARLES MAY, DATED DECEMBER 9, 1955, RECORDED DECEMBER 19, 1955 AS BOOK 64 OF OFFICIAL RECORDS, PAGE 574, RECORDS OF YAVAPAI COUNTY, ARIZONA.

Official Copy

B-4560 P-215
Page: 3 of 4
MO 4196354

State of ARIZONA }
} ss.
County of Gila }

The foregoing instrument was acknowledged before me this 4th day of December, 2007, by KEVIN D. SOKOL, the Manager on behalf of WHISPER RIDGE L.L.C., an, Arizona limited liability company.

Notary Public

My commissi

OFFICIAL SEAL
MEME HEFLIN
NOTARY PUBLIC - State of Arizona
GILA COUNTY
My Comm. Expires Jan. 23, 2010

State of ARIZONA }
} ss.
County of }

The foregoing instrument was acknowledged before me this 6th day of December, 2007, by THOMAS F. COLLINS, the Manager on behalf of TOM COL INVESTMENTS, L.L.C., an Arizona limited liability company.

Notary Public
My commission expires:

OFFICIAL SEAL
MEME HEFLIN
NOTARY PUBLIC - State of Arizona
GILA COUNTY
My Comm. Expires Jan. 23, 2010

State of ARIZONA }
} ss.
County of Maricopa }

The foregoing instrument was acknowledged before me this 21st day of November, 2007, by PAUL M. PETELIN, SR., and JOAN E. PETELIN, as Co-Trustees, of The Petelin Family Trust dated August 1, 1997, as General Partners on behalf of PETELIN VENTURES LLLP, an Arizona limited liability limited partnership.

Notary Public
My commission expires:

CYNTHIA A. CARRERA
Notary Public - Arizona
Maricopa County
Expires 10/31/09

SEAL

State of ARIZONA }
} ss.
County of Gila }

The foregoing instrument was acknowledged before me this 20th day of Nov, 2007, by THOMAS C. WAITZ, MD., as Trustee of the THOMAS C. WAITZ, MD., P.C. RESTATED PROFIT SHARING PLAN , formerly known as Thomas C. Waitz M.D., P.C. Pension Plan No. 2.

Notary Public
My commission expires:

OFFICIAL SEAL
MEME HEFLIN
NOTARY PUBLIC - State of Arizona
GILA COUNTY
My Comm. Expires Jan. 23, 2010

Unofficial Copy

B-4560 P-215
Page: 4 of 4
WD 4196354

EXHIBIT "B"

THOMAS C. WAITZ, MD P.C. RESTATED PROFIT SHARING PLAN, FORMERLY KNOWN AS THOMAS C. WAITZ M.D., P.C. PENSION PLAN NO. 2:

Claire Ann Waitz
7720 N. 17th Ave.
Phoenix, AZ 85021

PIONEER TITLE AGENCY, INC., TRUST NO. 127532:

Whisper Ridge L.L.C.
c/o Kevin Sokol
620 E. Hwy. 260, Ste. E2
Payson, AZ 85541

Tom Col Investment Co., LLC
606 S. Beeline Hwy.
Payson, AZ 85541

Petelin Ventures LLLP
500 W. Thomas Rd. Ste. 980
Phoenix, AZ 85013

Thomas C. Waitz MD., P.C. Restated Profit Sharing Plan
formerly known as The Thomas C. Waitz, MD., P.C. Pension Plan No. 2.
7720 N. 17th Ave.
Phoenix, AZ 85021

Southridge Development Company, LLC
c/o Harold R. Snyder
HC 4 Box 20-55
Payson, AZ 85541
and
c/o Kevin Sokol
620 E. Hwy. 260, Ste. E-2
Payson, AZ 85541

Double Cabin Park, LLC
c/o Kevin T. Ahern, Esq.
Broening Oberg Woods & Wilson, P.C.
1122 E. Jefferson
Phoenix, AZ 85034
P.O. Box 20527
Phoenix, AZ 85036

Official Copy

Ana Wayman-Trujillo, Recorder
OFFICIAL RECORDS OF YAVAPAI COUNTY
FIRST AMERICAN TITLE INS WO

B-4560 P-216
12/18/2007 03:34P
14.00 4196355

B-4560 P-216
Page: 1 of 5
WO 4196355

FEE
$ 5
$8
$5
$1
$ 14

After recording, return original to:
USDA Forest Service – Debrah Solano
333 Broadway SE
Albuquerque NM 87102

AZA 033667 Montezuma Castle
Coconino NF
Montezuma Castle Parcel

424218

WARRANTY DEED

Exempt from Affidavit of Property Value Pursuant to ARS 11-1134(A)(3).

THIS INDENTURE, made this 6th day of December 2007, between **PIONEER TITLE AGENCY, INC.**, an Arizona corporation, 421 S. Beeline Hwy, Payson, Arizona, 85541, as Trustee, and not personally, under Trust No. 127532, for the benefit of Montezuma Castle Land Exchange Joint Venture, Inc., acting through Western Land Group, Inc., 1760 High Street, Denver, Colorado, 80218, **Grantor**, and the **UNITED STATES OF AMERICA** and its assigns, whose address is 333 Broadway SE, Albuquerque, New Mexico 87102, **Grantee,**

Approved as to description, consideration and the condition of conveyance.
Deborah Solano

WITNESSETH: That the Grantor, pursuant to the General Exchange Act of March 20, 1922 (42 Stat. 465; 16 U.S.C. 485, 486); the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2743, as amended; 43 U.S.C. 1716, 1717); and the Federal Land Exchange Facilitation Act of August 20, 1988 (102 Stat. 1086; 43 U.S.C. 1716), and Public Law 108-190 enacted December 19, 2003, and in consideration of an exchange of certain National Forest land and cash equal in value to the land herein conveyed, does by these presents grant, bargain, sell, and convey unto the Grantee, and its assigns, the following described land containing **156.25 acres**, more or less, situated in **Yavapai County**, Arizona:

Unofficial Document

B-4560 P-216
Page: 2 of 5
WD 4196355

SEE ATTACHED EXHIBIT A FOR COMPLETE LEGAL

ALSO KNOWN AS:

GILA AND SALT RIVER MERIDIAN, Yavapai County
T. 14 N., R. 5 E.
sec. 9--SW¼ Less and Excepting Lot 1, containing 3.75 acres, more or less, which was previously conveyed to the United States of America, National Parks Service, as 2.17 acres in that Certain Warranty Deed dated May 16, 1973, and recorded on July 18, 1973, in Book 852, Page 179, Official Records of Yavapai County, Arizona.

The acquiring Federal agency is the Department of Agriculture, Forest Service.

This Deed does not convey water rights.

SUBJECT TO:

1. Exceptions contained in the Patent from the United States of America.
2. An easement for a public Right-of-Way along the north line of the SW¼NW¼ of section 9, and rights incident thereto, between Tom Col Investments LLC, an Arizona limited liability company, Whisper Ridge LLC, an Arizona limited liability company, Petelin Ventures LLLP, an Arizona limited liability limited partnership, and Thomas C. Waitz, M.D., as Trustee of the Thomas C. Waitz M.D., PC Pension Plan #2 and Yavapai County Public Works as granted May 4, 2007, and recorded August 2, 2007, in Yavapai County, Arizona, Book 4528, Page 574.

The Grantor warrants the title against all persons whomsoever.

Pursuant to ARS 33-404, Beneficiaries names and addresses under said Trust are disclosed in Instrument recorded in Document No. SEE EXHIBIT "B" ATTACHED Records of Yavapai County, Arizona.

IN WITNESS WHEREOF, the Grantor has hereunto set its hand on the above written date.

ATTEST:
By: Amy Sandrell
Title: Escrow Officer

PIONEER TITLE AGENCY, INC., an Arizona corporation, as Trustee, Trust No. 127532, and not personally.
By: Michelle L. Halenar
Michelle L. Halenar
Trust Officer

Unofficial Copy

B-4560 P-216
Page: 3 of 5
WD 4196355

ACKNOWLEDGMENT

STATE OF ARIZONA)
) ss.
County of Gila)

On December 6, 2007, before me, the undersigned Notary Public, personally appeared Michelle L. Halenar, Trust Officer, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Notary Public

My Commission Expires:

OFFICIAL SEAL
MEME HEFLIN
NOTARY PUBLIC - State of Arizona
GILA COUNTY
My Comm. Expires Jan. 23, 2010

Unofficial Copy

B-4560 P-216
Page: 4 of 5
WD 4196355

No. 235-4241218

EXHIBIT "A"

PARCEL NO. 1:

THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 14 NORTH, RANGE 5 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, YAVAPAI COUNTY, ARIZONA;

EXCEPT THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 14 NORTH, RANGE 5 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, YAVAPAI COUNTY, ARIZONA, LYING SOUTH AND WEST OF BEAVER CREEK, WHICH WAS PREVIOUSLY CONVEYED TO THE UNITED STATES OF AMERICA IN THAT CERTAIN WARRANTY DEED DATED MAY 16, 1973 AND RECORDED ON JULY 18, 1973, IN BOOK 852, PAGE 179 OF OFFICIAL RECORDS OF YAVAPAI COUNTY, ARIZONA.

EXCEPTING ONE-HALF OF OIL, GAS AND MINERALS, ON OR UNDER THE SURFACE OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 14 NORTH, RANGE 5 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, YAVAPAI COUNTY, ARIZONA, AS RESERVED IN THE DEED FROM PEARL ALDANA PARSLEY TO JOHN CHARLES MAY, DATED DECEMBER 9, 1955, RECORDED DECEMBER 19, 1955 AS BOOK 64 OF OFFICIAL RECORDS, PAGE 574, RECORDS OF YAVAPAI COUNTY, ARIZONA.

Official Copy

B-4560 P-216
Page: 5 of 5
WD 4196355

EXHIBIT "B"

THOMAS C. WAITZ, MD P.C. RESTATED PROFIT SHARING PLAN, FORMERLY KNOWN AS THOMAS C. WAITZ M.D., P.C. PENSION PLAN NO. 2:

Claire Ann Waitz
7720 N. 17th Ave.
Phoenix, AZ 85021

PIONEER TITLE AGENCY, INC., TRUST NO. 127532:

Whisper Ridge L.L.C.
c/o Kevin Sokol
620 E. Hwy. 260, Ste. E2
Payson, AZ 85541

Tom Col Investment Co., LLC
606 S. Beeline Hwy.
Payson, AZ 85541

Petelin Ventures LLLP
500 W. Thomas Rd. Ste. 980
Phoenix, AZ 85013

Thomas C. Waitz MD., P.C. Restated Profit Sharing Plan
formerly known as The Thomas C. Waitz, MD., P.C. Pension Plan No. 2.
7720 N. 17th Ave.
Phoenix, AZ 85021

Southridge Development Company, LLC
c/o Harold R. Snyder
HC 4 Box 20-55
Payson, AZ 85541
and
c/o Kevin Sokol
620 E. Hwy. 260, Ste. E-2.
Payson, AZ 85541

Double Cabin Park, LLC
c/o Kevin T. Ahern, Esq.
Broening Oberg Woods & Wilson, P.C.
1122 E. Jefferson
Phoenix, AZ 85034
P.O. Box 20527
Phoenix, AZ 85036

Official Copy

FEE
$ 5
$8
$5
$1
$14

Ana Wayman-Trujillo, Recorder
OFFICIAL RECORDS OF YAVAPAI COUNTY
FIRST AMERICAN TITLE INS WD

B-4560 P-214
12/10/2007 03:34P
14.00 4196353

B-4560 P-214
Page: 1 of 5
WD 4196353

After recording, return original to:
USDA Forest Service – Debrah Solano
333 Broadway SE
Albuquerque, NM 87102
4241218

AZA 033667 Montezuma Castle
Coconino NF
Montezuma Castle Parcel

COURTESY RECORDING
NO TITLE LIABILITY
OR ESCROW LIABILITY

WARRANTY DEED
(Minerals)

Exempt from Affidavit of Property Value Pursuant to ARS 11-1134(A)(3).

THIS INDENTURE, made this 27th day of November, 2007, between **Whisper Ridge, L.L.C.,** an Arizona limited liability company, 620 E. Highway 260, Suite E2, Payson, Arizona, 85541, as to an undivided 24.75% interest, and **Tom Col Investments, L.L.C.,** an Arizona limited liability company, 606 S. Beeline Highway, Payson, Arizona, 85541, as to an undivided 54.78% interest, and **Petelin Ventures L.L.L.P.,** an Arizona limited liability limited partnership, 500 W. Thomas Road, Suite 980, Phoenix, Arizona, 85013, and **Thomas C. Waitz, MD.,** as Trustee of the Thomas C. Waitz, MD., P.C. Restated Profit Sharing Plan, formerly known as Thomas C. Waitz M.D., P.C. Pension Plan No. 2, 7720 N. 17th Ave., Phoenix, AZ 85021, as to an undivided 20.47% interest, **Grantors,** and the **UNITED STATES OF AMERICA** and its assigns, whose address is 333 Broadway, SW, Albuquerque, New Mexico 87102, **Grantee,**

Approved as to description, consideration and the condition of conveyance.
Debrah Solano

WITNESSETH: That the Grantors do by these presents donate to the Grantee, and its assigns, under the authority of the Act of October 10, 1978 (P.L. 95-442, 92 Stat. 1065; 7 U.S.C. 2269), and Public Law 108-190, minerals rights incident thereto within the following described land containing **156.25** acres, more or less.

Unofficial Copy

Gila and Salt River Base Meridian, Yavapai County
T. 14 N., R. 5 E.
sec. 9--One half of oil, gas and minerals on or under the surface of the Southwest quarter as reserved in the deed from Pearl Aldana Parsley to John Charles May, dated December 9, 1955, recorded December 19, 1955 as Book 64 of official records, page 574, records of Yavapai County, Arizona.

The acquiring Federal agency is the Department of Agriculture, Forest Service.

The Grantors warrant the title against all persons whomsoever.

Pursuant to ARS 33-404, Beneficiaries names and addresses for Thomas C. Waitz, MD., Trust are disclosed in Instrument recorded in Document No. see exh "B" hereto, Records of Yavapai County, Arizona.

IN WITNESS WHEREOF, The Grantors have hereunto set their names on the above written date.

ATTEST:

By: Cindy Landress
Title: Escrow Officer

WHISPER RIDGE L.L.C., an Arizona limited liability company

By: Kevin D. Sokol
Kevin D. Sokol
Manager

ACKNOWLEDGMENT

STATE OF ARIZONA)
) §
COUNTY OF Gila)

This instrument was duly acknowledged before me this 30th day of November, 2007, by Kevin D. Sokol, Manager, on behalf of Whisper Ridge LLC, an Arizona limited liability company.

My Commission Expires:

Meme Heflin
Notary Public

OFFICIAL SEAL
MEME HEFLIN
NOTARY PUBLIC - State of Arizona
GILA COUNTY
My Comm. Expires Jan. 23, 2010

Unofficial Copy

B-4560 P-214
Page: 3 of 5
WD 4196353

ATTEST:

By: Cruz Landress
Title: Escrow Officer

TOM COL INVESTMENTS, L.L.C.,
an Arizona limited liability company

By: Thomas F. Collins
Thomas F. Collins
Manager

ACKNOWLEDGMENT

STATE OF ARIZONA)
) §
COUNTY OF Gila)

This instrument was duly acknowledged before me this 27th day of November, 2007, by Thomas F. Collins, Manager on behalf of Tom Col Investments, LLC, an Arizona limited liability company.

My Commission Expires: OFFICIAL SEAL MEME HEFLIN NOTARY PUBLIC - State of Arizona GILA COUNTY My Comm. Expires Jan. 23, 2010

Meme Heflin
Notary Public

ATTEST:

By: CApl
Title: Secretary

PETELIN VENTURES LLLP, an
Arizona limited liability limited
partnership

By: Paul M. Petelin
Paul M. Petelin, SR, as Co-Trustee

By: Joan E. Petelin
Joan E. Petelin, as Co-Trustee

ACKNOWLEDGMENT

STATE OF Arizona)
) §
COUNTY OF Maricopa)

This instrument was duly acknowledged before me this 3rd day of December, 2007, by Paul M. Petelin, SR., and Joan E. Petelin, as Co-Trustees of The Petelin Family Trust dated August 1, 1997, as General Partners on behalf of Petelin Ventures LLLP, an Arizona limited liability limited partnership.

My Commission Expires: CYNTHIA A. CARRERA Notary Public - Arizona Maricopa County Expires 10/31/09

Cynthia A. Carrera
Notary Public

Unofficial Document

B-4560 P-214
Page: 4 of 5
WD 4196353

ATTEST:

By: Cruz Landress

Title: Escrow Officer

THOMAS C. WAITZ, MD., P.C.
Restated Profit Sharing Plan, formerly known as Thomas C. Waitz M.D., P.C. Pension Plan No. 2

By: Thomas C. Waitz
Thomas C. Waitz, M.D., as Trustee

ACKNOWLEDGMENT

STATE OF ARIZONA)
) §
COUNTY OF Gila)

This instrument was duly acknowledged before me this 30th day of November, 2007, by Thomas C. Waitz, MD., as Trustee of the Thomas C. Waitz, MD., P.C. Restated Profit Sharing Plan, formerly known as Thomas C. Waitz M.D., P.C. Pension Plan No. 2.

My Commission Expires:

Notary Public

OFFICIAL SEAL
MEME HEFLIN
NOTARY PUBLIC - State of Arizona
GILA COUNTY
My Comm. Expires Jan. 23, 2010

Official Copy

B-4560 P-214
Page: 5 of 5
WD 4196353

EXHIBIT "B"

THOMAS C. WAITZ, MD P.C. RESTATED PROFIT SHARING PLAN, FORMERLY KNOWN AS THOMAS C. WAITZ M.D., P.C. PENSION PLAN NO. 2:

Claire Ann Waitz
7720 N. 17th Ave.
Phoenix, AZ 85021

PIONEER TITLE AGENCY, INC., TRUST NO. 127532:

Whisper Ridge L.L.C.
c/o Kevin Sokol
620 E. Hwy. 260, Ste. E2
Payson, AZ 85541

Tom Col Investment Co., LLC
606 S. Beeline Hwy.
Payson, AZ 85541

Petelin Ventures LLLP
500 W. Thomas Rd. Ste. 980
Phoenix, AZ 85013

Thomas C. Waitz MD., P.C. Restated Profit Sharing Plan
formerly known as The Thomas C. Waitz, MD., P.C. Pension Plan No. 2.
7720 N. 17th Ave.
Phoenix, AZ 85021

Southridge Development Company, LLC
c/o Harold R. Snyder
HC 4 Box 20-55
Payson, AZ 85541
and
c/o Kevin Sokol
620 E. Hwy. 260, Ste. E-2.
Payson, AZ 85541

Double Cabin Park, LLC
c/o Kevin T. Ahern, Esq.
Broening Oberg Woods & Wilson, P.C.
1122 E. Jefferson
Phoenix, AZ 85034
P.O. Box 20527
Phoenix, AZ 85036

Official Copy

[Federal Register: April 13, 2010 (Volume 75, Number 70)]
[Notices]
[Page 18783]
From the Federal Register Online via GPO Access [wais.access.gpo.gov]
[DOCID:fr13ap10-21]

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Transfer of Land to the Department of Interior

AGENCY: Forest Service, USDA.

ACTION: Notice of land transfer.

SUMMARY: Public Law 108-190 provides for the transfer of approximately 157 acres of National Forest System lands to the administrative jurisdiction of the National Park Service, to be thereafter permanently incorporated in and administered by the Secretary of the Interior as part of the Montezuma Castle National Monument.

DATES: This notice becomes effective April 13, 2010.

FOR FURTHER INFORMATION CONTACT: Louisa Herrera, National Title Program Manager, (202) 205-1255, Lands and Realty Management.

SUPPLEMENTARY INFORMATION: Section 3 of Public Law 108-190 (117 Stat. 2867), authorized the federal acquisition by the Secretary of Agriculture of approximately 157 acres of land depicted on a map dated May 2002, and entitled ``Montezuma Castle Contiguous Lands''. Upon acquisition, section 5(e) of Public Law 108-190 provides that the land ``shall be transferred to the administrative jurisdiction of the National Park Service, and shall be thereafter permanently incorporated

in, and administered by the Secretary of the Interior as part of, the Montezuma Castle National Monument.'' (117 Stat. 2870). The Montezuma Castle Contiguous Lands have been acquired for the United States by the Forest Service by deed dated December 6, 2007, and recorded December 10, 2007, in the land records of Yavapai County at Book 4560, Page 216. The lands are described as follows:

Coconino National Forest

Gila and Salt River Meridian, Yavapai County, Arizona

T.14 N., R. 5 E.
Sec. 9, SW \1/4\, less and excepting Lot 1, containing 3.75 acres, previously conveyed to the United States of America, National Park Service, by warranty deed dated May 16, 1973, and recorded July 18, 1973, Book 852, Page 179 of official records of Yavapai County, Arizona.

The area described contains 156.25 acres, Yavapai County, Arizona.

As provided by Public Law 108-190, and acting pursuant to the authority delegated to the Chief, Forest Service, at Title 7, Code of Federal Regulations, section 2.60(a)(2), these described lands are hereby transferred to the administrative jurisdiction of the National Park Service to be permanently incorporated in, and administered by the Secretary of the Interior.

Dated: April 2, 2010.
Thomas L. Tidwell,
Chief, Forest Service.
[FR Doc. 2010-8377 Filed 4-12-10; 8:45 am]
BILLING CODE 3410-11-P

Arizona Department of Water Resources
3550 North Central Avenue
Phoenix, Arizona 85012

FIRST NOTICE OF DEFICIENCY

APPLICATION FOR PERMIT TO APPROPRIATE NO. 33-96995
INSTREAM FLOW MAINTENANCE (Beaver Creek)

Applicant Name	Montezuma Castle National Monument
Applicant Address	P.O. Box 219 527 S. Main St Camp Verde, AZ 86322

The above referenced application is being returned for completion. The following information must be provided before the application can be considered for further review and processing.

1) The "Deed of Trust and Assignment of Rents" included with the application does not include proof of ownership of land located in the SW¼ of Section 9, Township 14 North, Range 5 East. Please provide proof of ownership for Section 9.

2) Based on a review of the topographic map submitted with the application, it appears that two (2) of the legal locations highlighted on the map are not listed in item five (5) of the application: the NW¼NE¼ and the NE¼NW¼, Section 17, Township 14 North, Range 5 East. Please review the application and make any necessary corrections.

Notice of Deficiency Prepared by	Kevin Hadder
Date Mailed	February 28, 2012

To obtain additional information or assistance in completing this application, contact the above referenced individual at (602) 771-8612 or toll free (within Arizona only) 1-800-352-8488.

Per Arizona Administrative Code Rule R12-15-401(2), an applicant shall supply missing information within sixty (60) days of the date of the first Notice of Deficiency. If the application is not completed within that time period, the Department may deny the application. The applicant may submit a written request for additional time to make corrections to the application. The written request for additional time will be subject to approval from the Department. **If the information requested above is not received by the Department before April 28, 2012, this application may be deemed withdrawn and fees may not be refunded.**

ARIZONA DEPARTMENT OF WATER RESOURCES
WATER RIGHTS SECTION
MAIL TO: 3550 North Central Avenue
Phoenix, Arizona 85012-2105
Telephone (602) 771-8621
Fax (602) 771-8688

(For office use only)
33-96995 Registry No:
2/3/2012 Date Filed:

APPLICATION FOR PERMIT TO APPROPRIATE PUBLIC WATER OF THE STATE OF ARIZONA INSTREAM FLOW MAINTENANCE

1. Applicant Montezuma Castle National Monument Telephone (928) 567-5276

   Address P.O. Box 219, 527 S. Main Street City Camp Verde State AZ Zip 86322

2. Type of water source and name Public waters flowing in Beaver Creek, including subflow

   a tributary to Verde River within the Verde River watershed.
   (For office use only)

3. Describe the proposed use of the instream flow appropriation for wildlife (including fish) and/or recreation:

   Water will be used concurrently to protect recreational uses and wildlife, including fish.

4. Amount of proposed instream flow appropriation (see item #9 for required attachments):

   a. Monthly instream flow requirement (cubic feet/second):

JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
21.0	53.0	42.0	7.8	4.1	1.0	0.4	5.0	2.4	3.9	7.2	11.0

   b. Total annual volume 9,409.29 acre feet/year

5. Location of proposed instream flow appropriation: County Yavapai

   Describe entire reach to be covered by this application, utilizing legal land parameters. Also attach a U.S.G.S. topographic quadrangle map(s) clearly showing the location of the entire reach or segment of the proposed instream flow appropriation.

   NE ¼ SW ¼, Section 09, Township 14 N, Range 5 E

   NW ¼ SW ¼, Section 09, Township 14 N, Range 5 E

   SE ¼ SE ¼, Section 08, Township 14 N, Range 5 E

   SW ¼ SW ¼, Section 09, Township 14 N, Range 5 E

   NW ¼ NW ¼, Section 16, Township 14 N, Range 5 E

   NE ¼ NW ¼, Section 16, Township 14 N, Range 5 E

RECEIVED
FEB 03 2012
Surface Water Division

Revised 6/2010

5. (Continued)

Describe entire reach to be covered by this application, utilizing legal land parameters. Also attach a U.S.G.S. topographic quadrangle map(s) clearly showing the location of the entire reach or segment of the proposed instream flow appropriation.

SE ¼ NW ¼, Section 16, Township 14 N, Range 5 E

SW ¼ NW ¼, Section 16, Township 14 N, Range 5 E

SE ¼ NE ¼, Section 17, Township 14 N, Range 5 E

NE ¼ NE ¼, Section 17, Township 14 N, Range 5 E

SE ¼ NW ¼, Section 17, Township 14 N, Range 5 E

SW ¼ NE ¼, Section 17, Township 14 N, Range 5 E

Add NW ¼ NE ¼, Section 17, Township 14 N, Range 5 E

Add NE ¼ NW ¼, Section 17, Township 14 N, Range 5 E

6. Owner of land on which the proposed instream flow appropriation is located

Montezuma Castle National Monument

Private_____ State_____ BLM_____ National Forest_____ Other__X__

Does the applicant have legal access to the proposed stream segment? Yes__X__ No

If "No", explain in item 8 below.

7. Is the water to be used supplementally with other water(s)? Yes_____ No__X__ If "Yes," identify other waters or water rights, and explain_____

8. Additional comments or explanations The National Park Service reserves the right to amend this application at a later date.

Deeds are attached. Study substantiating streamflow amounts is attached.

Nothing in this Application shall constitute an admission, waiver, or precedent as to any party for any federal reserved water right claim for Montezuma Castle National Monument. Nothing in this Application should be construed or interpreted to establish any precedent or standard to be used for the quantification of federal reserved water rights for Montezuma Castle National Monument or restrict the power of the United States to reserve water in the future, or to acquire additional rights to the use of water under the laws of Arizona.

9. **REQUIRED ATTACHMENTS:**

- ☐ **Initial Application Fee** of $2,000 as authorized by A.A.C. R12-15-103.
- ☐ **U.S.G.S. Topographical Quadrangle map** or equivalent, or copy thereof, clearly showing the proposed stream segment.
- ☐ **Copy of recorded deed** showing land ownership. If owned by other than applicant, provide copies of all pertinent leases, grazing permits, allotments, or a letter from the landowner authorizing the proposed appropriation.
- ☐ **Streamflow Study:** Applicant must develop a study that 1) substantiates that the streamflow amounts requested in item #4 are available at the rates specified, and 2) quantifies the relationship between a claimed beneficial use(s) and requested streamflow rates. The study should be submitted at the time of filing this application, but must be submitted no later than two years after the filing date.

Submit the completed application, with the examination fee and any supporting or required documents to: Arizona Department of Water Resources, Water Rights Section, 3550 North Central Avenue, Phoenix, Arizona 85021-2105.

C. Jennifer Back, acting Chief - Water Rights Branch, 2/2/2012

Signature of Applicant/Representative (if representative, include authorization) Date

RECEIVED

FEB 03 2012

Surface Water Division

Revised 6/2010

United States Department of the Interior

NATIONAL PARK SERVICE
Water Resources Division
1201 Oakridge Drive, Suite 250
Fort Collins, Colorado 80525-5596

IN REPLY REFER TO:

February 2, 2012

Elizabeth V. Logan, Manager
Surface Water Permitting Unit, Engineering and Permits Division
Arizona Department of Water Resources
3550 North Central Avenue
Phoenix, Arizona 85012-2105

Dear Ms. Logan,

The National Park Service, on behalf of Montezuma Castle National Monument (MOCA), is submitting APPLICATIONS FOR PERMIT TO APPROPRIATE PUBLIC WATER OF THE STATE OF ARIZONA INSTREAM FLOW MAINTENANCE for Wet Beaver Creek and Beaver Creek, within MOCA. The National Park Service quantifed Monthly Median Flows using continuous gage height data collected on Wet Beaver Creek from October 2004 through September 2008 and on Beaver Creek from September 2004 through July 2009. All continuous gage height data, rating curves, and computed continuous discharge data were checked for Quality Assurance/Quality Control by the U.S. Geological Survey.

Please find attached for the Wet Beaver Creek and Beaver Creek Applications;

1. Application fees of $1,000 per application,
2. Completed Applications,
3. U.S.G.S. Topographical map showing the proposed instream flow reaches,
4. Copies of the warranty deeds and legislation verifying land ownership,
5. Streamflow Studies (Instream Flow Assessment Reports), and
6. Disks with electronic copies of all submitted documents and flow data used to compute Monthly Median Flows.

Please contact Jim Harte (970) 225-3538 at the National Park Service, Water Resources Division with any questions. Thank you very much.

Sincerely,

Jennifer Back

Jennifer Back
Acting Chief, Water Rights Branch

ARIZONA DEPARTMENT OF WATER RESOURCES
WATER RIGHTS SECTION
MAIL TO: 3550 North Central Avenue
Phoenix, Arizona 85012-2105
Telephone (602) 771-8621
Fax (602) 771-8688

(For office use only)

Registry No: _____

Date Filed: _____

APPLICATION FOR PERMIT TO APPROPRIATE PUBLIC WATER OF THE STATE OF ARIZONA INSTREAM FLOW MAINTENANCE

1. Applicant Montezuma Castle National Monument Telephone (928) 567-5276

   Address P.O. Box 219, 527 S. Main Street City Camp Verde State AZ Zip 86322

2. Type of water source and name Public waters flowing in Beaver Creek, including subflow

   a tributary to Verde River within the _____ watershed.
   (For office use only)

3. Describe the proposed use of the instream flow appropriation for wildlife (including fish) and/or recreation:

   Water will be used concurrently to protect recreational uses and wildlife, including fish.

4. Amount of proposed instream flow appropriation (see item #9 for required attachments):

   a. Monthly instream flow requirement (cubic feet/second):

JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
21.0	53.0	42.0	7.8	4.1	1.0	0.4	5.0	2.4	3.9	7.2	11.0

   b. Total annual volume 9,409.29 acre feet/year

5. Location of proposed instream flow appropriation: County Yavapai

   Describe entire reach to be covered by this application, utilizing legal land parameters. Also attach a U.S.G.S. topographic quadrangle map(s) clearly showing the location of the entire reach or segment of the proposed instream flow appropriation.

   NE ¼ SW ¼, Section 09, Township 14 N, Range 5 E

   NW ¼ SW ¼, Section 09, Township 14 N, Range 5 E

   SE ¼ SE ¼, Section 08, Township 14 N, Range 5 E

   SW ¼ SW ¼, Section 09, Township 14 N, Range 5 E

   NW ¼ NW ¼, Section 16, Township 14 N, Range 5 E

   NE ¼ NW ¼, Section 16, Township 14 N, Range 5 E

5. (Continued)

Describe entire reach to be covered by this application, utilizing legal land parameters. Also attach a U.S.G.S. topographic quadrangle map(s) clearly showing the location of the entire reach or segment of the proposed instream flow appropriation.

SE ¼ NW ¼, Section 16, Township 14 N, Range 5 E

SW ¼ NW ¼, Section 16, Township 14 N, Range 5 E

SE ¼ NE ¼, Section 17, Township 14 N, Range 5 E

NE ¼ NE ¼, Section 17, Township 14 N, Range 5 E

SE ¼ NW ¼, Section 17, Township 14 N, Range 5 E

SW ¼ NE ¼, Section 17, Township 14 N, Range 5 E

6. Owner of land on which the proposed instream flow appropriation is located

   Montezuma Castle National Monument

   Private_____ State_____ BLM_____ National Forest_____ Other___X

   Does the applicant have legal access to the proposed stream segment? Yes___X___ No

   If "No", explain in item 8 below.

7. Is the water to be used supplementally with other water(s)? Yes_____ No___X___ If "Yes," identify other waters or water rights, and explain_____

8. Additional comments or explanations The National Park Service reserves the right to amend this application at a later date. Deeds are attached. Study substantiating streamflow amounts is attached.

   Nothing in this Application shall constitute an admission, waiver, or precedent as to any party for any federal reserved water right claim for Montezuma Castle National Monument. Nothing in this Application should be construed or interpreted to establish any precedent or standard to be used for the quantification of federal reserved water rights for Montezuma Castle National Monument or restrict the power of the United States to reserve water in the future, or to acquire additional rights to the use of water under the laws of Arizona.

9. **REQUIRED ATTACHMENTS:**

   ☐ **Initial Application Fee** of $2,000 as authorized by A.A.C. R12-15-103.

   ☐ **U.S.G.S. Topographical Quadrangle map** or equivalent, or copy thereof, clearly showing the proposed stream segment.

   ☐ **Copy of recorded deed** showing land ownership. If owned by other than applicant, provide copies of all pertinent leases, grazing permits, allotments, or a letter from the landowner authorizing the proposed appropriation.

   ☐ **Streamflow Study:** Applicant must develop a study that 1) substantiates that the streamflow amounts requested in item #4 are available at the rates specified, and 2) quantifies the relationship between a claimed beneficial use(s) and requested streamflow rates. The study should be submitted at the time of filing this application, but must be submitted no later than two years after the filing date.

Submit the completed application, with the examination fee and any supporting or required documents to:
Arizona Department of Water Resources, Water Rights Section, 3550 North Central Avenue, Phoenix, Arizona 85021-2105.

_____

Signature of Applicant/Representative (if representative, include authorization) Date

REC'd 3/26/13

JANICE K. BREWER
Governor

SANDRA A. FABRITZ-WHITNEY
Director

ARIZONA DEPARTMENT OF WATER RESOURCES

3550 North Central Avenue, Second Floor
Phoenix, Arizona 85012-2105

GENERAL INFORMATION

You are being served with the enclosed New Use Summons because the records of the Arizona Department of Water Resources indicate that you may have initiated a new use of water by applying for a surface water right or notice of intent drill a new well, or filed a late well registration between January 1, 2011 and December 31, 2012. This is an important legal document regarding the use of water on your property. Please read it carefully.

The enclosed documents describe how the use of water on your property may be affected by an on-going court proceeding known as the Gila River Adjudication. The adjudication is a comprehensive court proceeding to determine the nature, extent and relative priority of rights to use water in the Gila River System and Source.

As described in the enclosed documents, claims to water rights may be asserted by filing a statement of claimant form with the Arizona Department of Water Resources. The enclosed summons and brochure provide information regarding the forms, the filing fee, when and where to file, and the impact of failing to file. These documents also provide other important information regarding the adjudication.

If you have any questions regarding this process, please contact the Arizona Department of Water Resources. The Department may be reached by phone at 1-866-246-1414 (toll free), 602-771-8634, or by mail at the following address:

Arizona Department of Water Resources
Adjudication Support
3550 North Central Avenue
Phoenix, Arizona 85012-2105

Fax (602) 771-8689
www.azwater.gov

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

IN RE THE GENERAL ADJUDICATION OF ALL RIGHTS TO USE WATER IN THE GILA RIVER SYSTEM AND SOURCE	)	W-1 (Salt)
	)	W-2 (Verde)
	)	W-3 (Upper Gila)
	)	W-4 (San Pedro)
	)	Consolidated
	)	
	)	NEW USE
	)	SUMMONS

TO: ALL WATER CLAIMANTS IN THE GILA RIVER SYSTEM AND SOURCE

PLEASE BE ADVISED that a general adjudication of water rights is in progress for the area in which you use water or claim water rights. The adjudication is a comprehensive court proceeding to determine the nature, extent and relative priority of rights to use water in the Gila River system and source.

YOU ARE HEREBY SUMMONED and required to appear and to assert any claims to water you may have in the Gila River system and source by filing the appropriate court-approved form. All rights to use water appropriable under section 45-141, ARIZONA REVISED STATUTES, and water subject to claims based upon federal law, will be determined pursuant to section 45-251 *et seq.*, ARIZONA REVISED STATUTES.

Filing Forms. Claims to water rights may be asserted by filing the appropriate court-approved statement of claimant form with the Arizona Department of Water Resources, which has been authorized by the Superior Court to receive claims. There are four court-approved statement of claimant forms: an irrigation water rights form, a stockpond water rights form, a domestic water rights form, and a form for other water rights. You may obtain the form(s) you need for filing your claim(s) from the Arizona Department of Water Resources. All groundwater users should file the appropriate statement of claimant form for their groundwater use to defend their use in the event other claimants assert that groundwater is appropriable under section 45-141, ARIZONA REVISED STATUTES, or is subject to claims based upon federal law.

Filing Fee. The filing fee for an individual is twenty dollars. The filing fee for a corporation, municipal corporation, the state or any political subdivision, or an association or partnership, is two cents for every acre-foot of water claimed, or twenty dollars, whichever is greater. The filing fee should be paid by check or money order made payable to the order of the "Arizona Department of Water Resources." The Court or Special Master will not consider your claim unless the filing fees for the claim have been paid.

When and Where to File. Under section 45-254(A), ARIZONA REVISED STATUTES, all statements of claimant must be filed with the Arizona Department of Water Resources at 3550 North Central Avenue, Phoenix, Arizona 85012-2105, within ninety days of the service of this summons unless an extension of time is granted by the Court. Section 45-254(E) describes under what circumstances statements of claimant may be filed after this ninety-day period.

Failure to File. According to section 45-254(F), "[A]ny potential claimant who is properly served and who failed to file a statement of claimant as prescribed by this article for any water right…is barred and estopped from subsequently asserting any right that was previously acquired on the river system and source…and forfeits any rights to the use of water in the river system and source that were not included in a properly filed statement of claimant."

Previous Filings with ADWR are Not Claims in the Adjudication. You may lose the right to use the water of the Gila River system and source if you fail to file a statement of claimant with the Arizona Department of Water Resources. This may happen even though you have received a permit, certificate or other approval from the Arizona Department of Water Resources.

A Statement of Claimant is Not Permission to Use Water. You do not obtain a right to use water by filing a statement of claimant form. Rights to use water must be acquired in accordance with state or federal law. In many cases, you cannot initiate a new or increased use under state law until the appropriate permit, certificate or other approval has been received from the Arizona Department of Water Resources.

Address and Ownership Changes. After you have filed a statement of claimant in this adjudication, you must notify the Arizona Department of Water Resources of any of the following changes in, or concerning, your statement of claimant: (1) a change in your address, (2) an assignment of your statement of claimant to another person, (3) a transfer to another person of all or part of the land for which a water right has been claimed, and (4) a transfer to another person of all or part of the water right claimed, if the claimed water right has been severed and transferred to another parcel of land. Notice of any of the changes identified in this paragraph must be filed with the Arizona Department of Water Resources within thirty (30) days of the change using a form approved by the Court. This form is available from the Arizona Department of Water Resources.

GIVEN UNDER MY HAND AND SEAL of the Superior Court of the State of Arizona in and for the County of Maricopa this 20th day of July, 2006.

For Information:
Arizona Department of Water Resources
3550 North Central Avenue
Phoenix, Arizona 85012-2105
Telephone: 1-866-246-1414
www.azwater.gov

MICHAEL JEANES
Clerk of the Court

By Michael K Jeanes

The Little Colorado River and Gila River System boundaries



This brochure provides information concerning the New Use Summons you have just received and the steps you need to take to file a claim to protect your water rights in the Arizona General Stream Adjudications. For more information concerning the adjudication of water rights and New Use Summons, please visit the ADWR website at www.azwater.gov/azdwr under "Programs" then "Adjudications." Additional information concerning the adjudication process may be found at www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication, which is a website maintained by the Special Master for the adjudications.

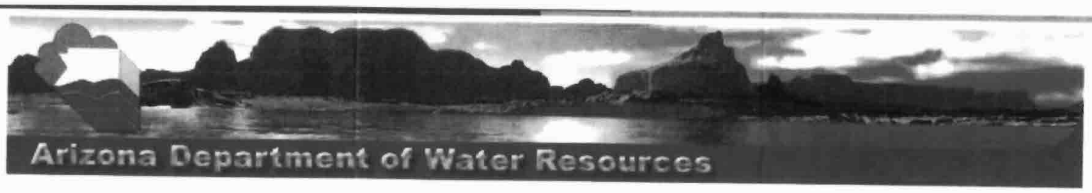
Phone: 1-866-246-1414
Fax: 602-771-8689
Revised: January 15, 2013

Arizona General Stream Adjudications



New Use Summons and

Filing a Claim for your Water Rights



Arizona Department of Water Resources

What is a New Use Summons?
A New Use Summons is from the Arizona Superior Court that adjudicates water rights for watersheds in the Gila River System and the Little Colorado River System. The summons directs you to make any claims to water rights that you may have by filing the appropriate court-approved forms. These forms are known as Statements of Claimants (SOCs), and are filed with ADWR. You do not need to appear in court to file SOCs.

Why did I receive a New Use Summons?
You received a New Use Summons because ADWR's records indicate that you may have initiated a new water use by applying for a surface water right or notice of intent to drill a well or registering a well.

What do I need to file?
For each type of water use, you must file an SOC that describes your claimed water right. There is a separate form for each type of use (domestic, irrigation, stockpond and other uses), and the form you need to file depends on your type of water use. You may be required to file more than one form.

The SOC forms may be downloaded from www.azwater.gov under "Permits/Reporting" "Permits/Forms/Applications."

To receive by mail, complete the attached card and return it to ADWR. The watershed in which your water use is located is indicated on this card. If you have any questions, you may call 1-866-246-1414.

What happens if I do not file?
If you do not file an SOC, you may lose your water rights, and you may be prevented from claiming those water rights later. This could happen even though you have received a permit, certificate, or other approval from ADWR.

Should I file an SOC if I use water from a well?
The adjudication process may include water uses from wells, depending upon the location of the well and other factors. ADWR provides reports to the adjudication court that identify all uses of water within a particular watershed, including uses from wells. If the court determines that your well should be included in the adjudication process and you do not file an SOC, you could lose your right to withdraw and use water from that well.

How long do I have to file?
You should file your SOC within 90 days of receipt of the New Use Summons. However, you may also file your SOC after the initial 90-day period, as long as the court has not entered a final decree. Upon filing an SOC, you will be entitled to receive notification of adjudication activities that may affect your water rights.

Is there a fee for filing?
Yes. The filing fee for an individual is $20.00 and the filing fee for a corporation, municipal corporation, the State or any political subdivision, or an association or partnership is two cents for every acre-foot of water claimed per year, or $20.00, whichever is greater. Multiple uses from the same source only require one fee. The filing fee may be paid by cash (in person), by credit card, or by check or money order made payable to the "Arizona Department of Water Resources."

Why does this process exist?
By state law, the Arizona Superior Court must quantify and prioritize existing water rights claimed in the Gila River and Little Colorado River watersheds. These proceedings are known as general stream adjudications. Any person or entity that uses or makes claim to use water on property within these watersheds, including water uses from a well, potentially may be affected by the general stream adjudications. The final court decrees will establish the nature, extent and relative priority of claimed water rights, including important characteristics such as the location of the points of diversion and the places of use, the types of water uses, the quantity of water used, and the date of priority.

How is ADWR involved?
ADWR provides technical assistance to the Arizona Superior Courts and informs potential claimants about the general stream adjudications by mailing out the New Use Summons. After SOCs are filed, ADWR enters the information into a database, and then forwards the fees and the original SOCs to the Superior Courts. ADWR retains copies of the SOCs for its records.

VERDE RIVER WATERSHED

STATEMENT OF CLAIMANT FORM(S) REQUEST CARD

If you want to submit a claim(s) for water right(s), please indicate type of use and number of forms required. Please print your name and address in the

TYPE OF USE	NUMBER OF FORMS
☐ DOMESTIC	_____
☐ STOCKPOND	_____
☐ IRRIGATION	_____
☐ OTHER	_____

Name: _____

Address: _____

City: _____ State _____ Zip Code _____

Land History

25 January 2012

USA National Park Service

Montezuma Castle National Monument

Instream Flow Water Right Application for Beaver Creek

Warranty Deeds

STATE OF ARIZONA, County of Yavapai ss. 25776 TRANSAMERICA TITLE INS. CO.
I do hereby certify that the within instrument was filed and recorded at the request of
on July 5 A.D. 1973 at 4:30 o'clock P M. Book 852 Official Records
Page 179 Records of Yavapai County, Arizona.
WITNESS my hand and official seal the day and year first above written.
ALICE JENNEY, County Recorder
By Dorothy J Chapman Deputy
Fee $

After recording return to:
National Park Service, Western Region
Division of Lands
450 Golden Gate Avenue, Box 36063
San Francisco, California 94102

AREA: Montezuma Castle N.M.
TRACT NO.: 01-101 (Old No. 2)

WARRANTY DEED

Ronald W. Wilpitz and Vivian M. Wilpitz, husband and wife, Emil Mongini and Catherine P. Mongini, husband and wife, and J. R. Selna and Ida N. Selna, husband and wife, GRANTORS, in consideration of Three Thousand Two Hundred Fifty-five and no/100 Dollars ($3,255.00), the receipt of which is hereby acknowledged, do hereby grant and convey to the UNITED STATES OF AMERICA and its assigns, the following described property located in the County of Yavapai, State of Arizona, containing 2.17 acres, more or less, to wit:

That portion of the Southwest quarter of the Southwest quarter of Section 9, Township 14 North, Range 5 East, Gila and Salt River Base and Meridian, lying south and west of Beaver Creek.

TOGETHER WITH all buildings and improvements thereon and all water rights appurtenant thereto and all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in any wise appertaining and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

FOR THE NATIONAL PARK SERVICE

The land is conveyed subject to existing easements for public roads and highways, public utilities, railroads and pipelines.

Reserving, however, unto the Grantors, previously reserved minerals.

TO HAVE AND TO HOLD the same unto the said UNITED STATES OF AMERICA and its assigns, forever.

And said Grantors, for themselves, their heirs, executors, administrators and assigns, do hereby covenant with the UNITED STATES OF AMERICA that they are now seized in fee simple of the property hereby granted; that the said UNITED STATES OF AMERICA shall enjoy the same without any lawful disturbance; that title to the property hereby conveyed is free from any encumbrances.

The Grantors further remise, release and forever quitclaim to the UNITED STATES OF AMERICA and its assigns, all right, title and interest which the Grantors may have in the banks, beds and waters of any streams bordering the said land to be conveyed and also all interest in any alleys, roads, streets, ways strips, gores or rights-of-way abutting or adjoining said land and in any means of ingress or egress appurtenant thereto.

EXECUTED this 16 day of May, 1973.

Roland W. Wilpitz

Vivian M. Wilpitz

Emil Mongini

Catherine P. Mongini

J. R. Selna

Ida N. Selna

ACKNOWLEDGMENT

STATE OF ARIZONA)
) ss
COUNTY OF Yavapai)

This instrument was acknowledged before me this 16 day of May, 1973, by Roland W. Wilpitz, Vivian M. Wilpitz, Emil Mongini, Catherine P. Mongini, J. R. Selna, and Ida N. Selna.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this day and year above written.

BOOK 852 PAGE 179

Notary Public

My commission expires: 10/25/76

Montezuma Castle NM Land Parcel 01-101

STATE OF ARIZONA, County of Yavapai—ss. 22719 TRANSAMERICA TITLE INS. CO.
I do hereby certify that the within instrument was filed and recorded at the request of
on Aug 29 A.D. 1973 at 4:02 o'clock P M. Book 864 Official Records
Page 641 Records of Yavapai County, Arizona.
WITNESS my hand and official seal the day and year first above written.
PATSY C. JENNEY, County Recorder
By Dorothy J Thompson Deputy

RETURN TO:
National Park Service, Western Region
Division of Land, Box 36063
450 Golden Gate Avenue
San Francisco, California 94102

Montezuma Castle NM
Area
01-102
Tract

4.00

WARRANTY DEED

Wallace N. Shawver and Patricia E. Shawver, his wife, and John Shawver and Wanda W. Shawver, his wife, GRANTORS, In consideration of SEVENTY FIVE THOUSAND and no/100-Dollars ($75,000.00), the receipt of which is hereby acknowledged, do hereby grant and convey to the UNITED STATES OF AMERICA and its assigns, the following described property located in the County of Yavapai, State of Arizona, containing 40 acres, more or less, to wit:

The Southwest Quarter of the Southwest Quarter of the Northwest Quarter of Section 16, and the Southeast Quarter of the Southwest Quarter of the Northeast Quarter and the South one-half of the Southeast Quarter of the Northeast Quarter of Section 17, Township 14 North, Range 5 East, Gila and Salt River Base and Meridian, Yavapai County, Arizona.

TOGETHER WITH all building and improvements thereon and all water rights appurtenant thereto and all and singular the tenements, hereditments and appurtenances thereunto belonging, or in any wise appertaining and the reversion and reversions, remainder and remainders, rents, issues and profits thereof,

FOR THE NATIONAL PARK SERVICE

The land is conveyed subject to existing easements for public roads and highways, public utilities, railroads and pipelines.

Reserving, however, unto the Grantors, previously reserved minerals.

TO HAVE AND TO HOLD the same unto the said UNITED STATES OF AMERICA and it assigns, forever.

And said Grantors, for themselves, their heirs, executors, administrators and assigns, do hereby covenant with the UNITED STATES OF AMERICA that they are now seized in fee simple of the property hereby granted; that the said UNITED STATES OF AMERICA shall enjoy the same without any lawful disturbances; that title to the property hereby conveyed is free from any encumbrances.

The Grantors further remise, release and forever quitclaim to the UNITED STATES OF AMERICA and its assigns, all right, title and interest which the Grantors may have in the banks, beds and waters of any streams bordering the said land to be conveyed and also all interest in any alleys, roads, streets, ways strips, gores or rights-of-way abutting or adjoining said land and in any means of ingress or egress appurtenant thereto.

EXECUTED this 27th day of August, 1973.

John Shawver — Wallace N. Shawver

Wanda W. Shawver — Patricia E. Shawver

STATE OF ARIZONA)
) ss
COUNTY OF MARICOPA)

This instrument was acknowledged before me this 27th day of August, 1973 by Wallace N. Shawver and Patricia E Shawver.

My commission will expire:
My Commission Expires Sept. 30, 1975

Notary Public

STATE OF ARIZONA)
) ss
COUNTY OF MARICOPA)

This instrument was acknowledged before me this 27th day of August, 1973, by John Shawver and Wanda W. Shawver.

My commission will expire:
My Commission Expires Sept. 30, 1975

Notary Public

BOOK 864 PAGE 641

Montezuma Castle NM Land Parcel 01-102

383 RW-2

STATE OF ARIZONA, County of Yavapai—ss. 33374
I do hereby certify that the within instrument was filed and recorded at the request of TRANSAMERICA TITLE INSURANCE CO.
on Feb 10 A.D. 1976 at 10:20 o'clock A M. Book 951 Official Records
Page 520-521 Records of Yavapai County, Arizona.
WITNESS my hand and official seal the day and year first above written.
PATSY C. JENNEY, County Recorder
By Kathryn D. Hinton Deputy

STATE OF ARIZONA, County of Yavapai—ss. 40378
I do hereby certify that the within instrument was filed and recorded at the request of TRANSAMERICA TITLE INS. CO.
on May 29 A.D. 1979 at 3:55 o'clock P M. Book 877 Official Records
Page 648-649 Records of Yavapai County, Arizona.
WITNESS my hand and official seal the day and year first above written.
INDEXED
Microfilmed
PATSY C. JENNEY, County Recorder
By Mary Jane Watkins Deputy

STATE OF ARIZONA, County of Yavapai—ss. 32719
I do hereby certify that the within instrument was filed and recorded at the request of TRANSAMERICA TITLE INS. CO.
on Aug 29 A.D. 1973 at 4:00 o'clock P M. Book 764 Official Records
Page 641 Records of Yavapai County, Arizona.
WITNESS my hand and official seal the day and year first above written.
INDEXED
Microfilmed
PATSY C. JENNEY, County Recorder
By Doralie J. Clapper Deputy

RETURN TO:
National Park Service, Western Region
Division of Land, Box 36063
450 Golden Gate Avenue
San Francisco, California 94102

Montezuma Castle NM
Area
01-102
Tract

4.00
2 cert

WARRANTY DEED

Wallace N. Shawver and Patricia B. Shawver, his wife, and John Shawver and Wanda W. Shawver, his wife, GRANTORS, In consideration of SEVENTY FIVE THOUSAND and no/100-Dollars ($75,000.00), the receipt of which is hereby acknowledged, do hereby grant and convey to the UNITED STATES OF AMERICA and its assigns, the following described property located in the County of Yavapai, State of Arizona, containing 40 acres, more or less, to wit:

The Southwest Quarter of the Southwest Quarter of the Northwest Quarter of Section 16, and the Southeast Quarter of the Southwest Quarter of the Northeast Quarter and the South one-half of the Southeast Quarter of the Northeast Quarter of Section 17, Township 14 North, Range 5 East, Gila and Salt River Base and Meridian, Yavapai County, Arizona.

TOGETHER WITH all building and improvements thereon and all water rights appurtenant thereto and all and singular the tenements, hereditments and appurtenances thereunto belonging, or in any wise appertaining and the reversion and reversions, remainder and remainders, rents, issues and profits thereof.

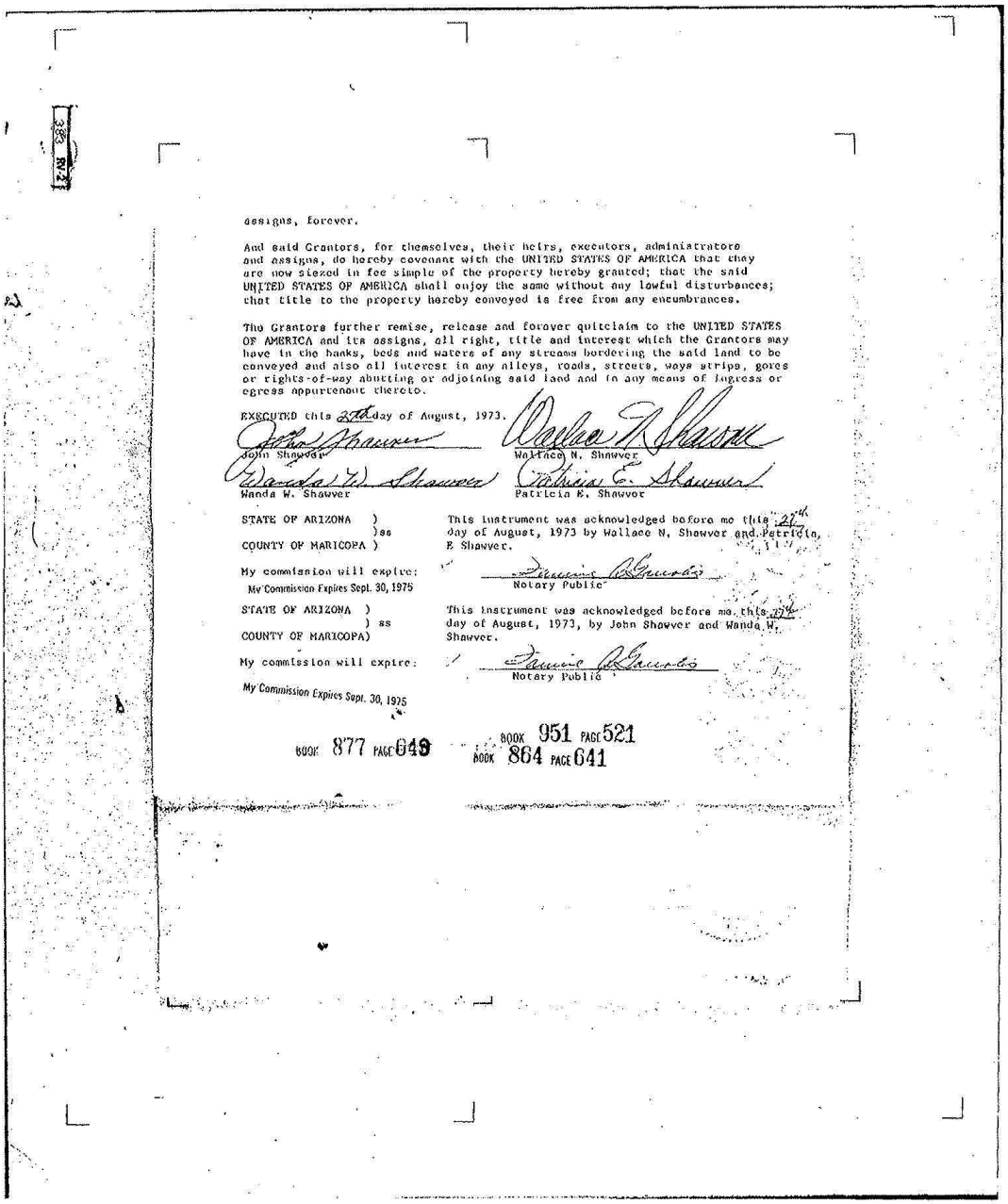
FOR THE NATIONAL PARK SERVICE

The land is conveyed subject to existing easements for public roads and highways, public utilities, railroads and pipelines. BOOK 877 PAGE 648

~~Reserving, however, unto the Grantors, previously reserved minerals.~~

TO HAVE AND TO HOLD the same unto the said UNITED STATES OF AMERICA and its BOOK 951 PAGE 520

Montezuma Castle NM Land Parcel 01-102



assigns, forever.

And said Grantors, for themselves, their heirs, executors, administrators and assigns, do hereby covenant with the UNITED STATES OF AMERICA that they are now seized in fee simple of the property hereby granted; that the said UNITED STATES OF AMERICA shall enjoy the same without any lawful disturbances; that title to the property hereby conveyed is free from any encumbrances.

The Grantors further remise, release and forever quitclaim to the UNITED STATES OF AMERICA and its assigns, all right, title and interest which the Grantors may have in the banks, beds and waters of any streams bordering the said land to be conveyed and also all interest in any alleys, roads, streets, ways strips, gores or rights-of-way abutting or adjoining said land and to any means of ingress or egress appurtenant thereto.

EXECUTED this 24th day of August, 1973.

John Shawver — Wallace N. Shawver

Wanda W. Shawver — Patricia E. Shawver

STATE OF ARIZONA)
) ss
COUNTY OF MARICOPA)

This instrument was acknowledged before me this 24th day of August, 1973 by Wallace N. Shawver and Patricia E. Shawver.

My commission will expire:
My Commission Expires Sept. 30, 1975

Notary Public

STATE OF ARIZONA)
) ss
COUNTY OF MARICOPA)

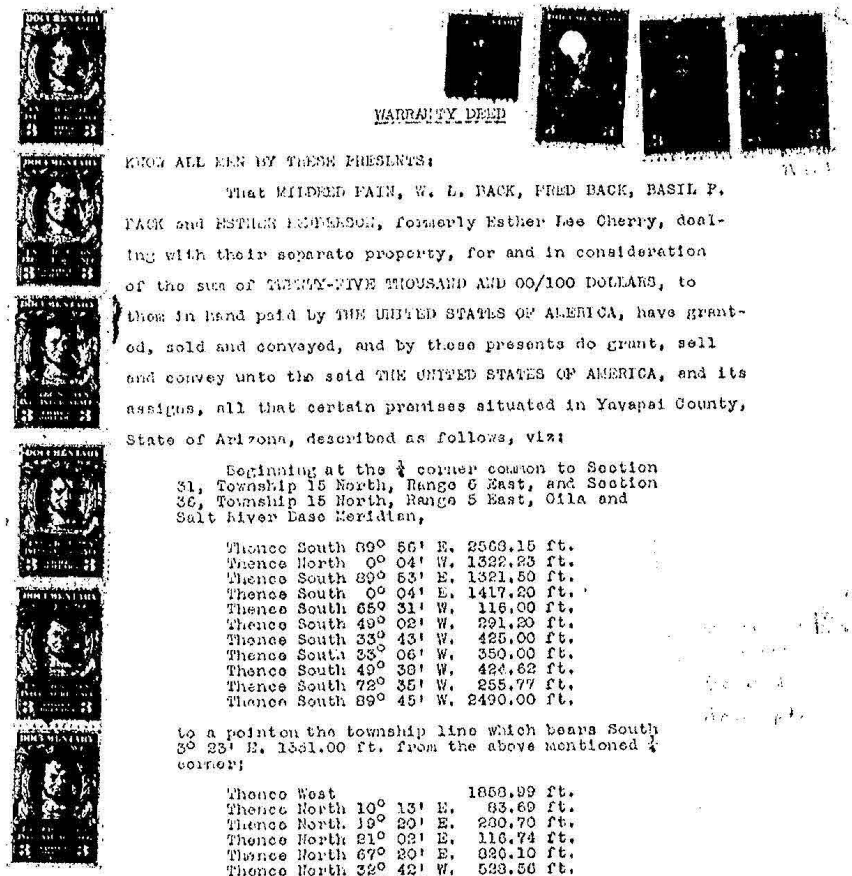
This instrument was acknowledged before me this 24th day of August, 1973, by John Shawver and Wanda W. Shawver.

My commission will expire:
My Commission Expires Sept. 30, 1975

Notary Public

BOOK 877 PAGE 619 BOOK 951 PAGE 521
BOOK 864 PAGE 641

Montezuma Castle NM Land Parcel 01-102



WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS:

That MILDRED FAIN, W. L. BACK, FRED BACK, BASIL P. BACK and ESTHER ROBERSON, formerly Esther Lee Cherry, dealing with their separate property, for and in consideration of the sum of TWENTY-FIVE THOUSAND AND 00/100 DOLLARS, to them in hand paid by THE UNITED STATES OF AMERICA, have granted, sold and conveyed, and by these presents do grant, sell and convey unto the said THE UNITED STATES OF AMERICA, and its assigns, all that certain premises situated in Yavapai County, State of Arizona, described as follows, viz:

Beginning at the ¼ corner common to Section 31, Township 15 North, Range 6 East, and Section 36, Township 15 North, Range 5 East, Gila and Salt River Base Meridian,

Thence South	89°	56'	E. 2568.15 ft.
Thence North	0°	04'	W. 1322.23 ft.
Thence South	89°	53'	E. 1321.50 ft.
Thence South	0°	04'	E. 1417.20 ft.
Thence South	65°	31'	W. 116.00 ft.
Thence South	49°	02'	W. 291.20 ft.
Thence South	33°	43'	W. 425.00 ft.
Thence South	33°	06'	W. 350.00 ft.
Thence South	49°	38'	W. 424.62 ft.
Thence South	72°	35'	W. 255.77 ft.
Thence South	89°	45'	W. 2490.00 ft.

to a pointon the township line which bears South 3° 23' E. 1361.00 ft. from the above mentioned ¼ corner;

Thence West			1858.99 ft.
Thence North	10°	13'	E. 83.69 ft.
Thence North	19°	20'	E. 280.70 ft.
Thence North	21°	02'	E. 116.74 ft.
Thence North	67°	30'	E. 820.10 ft.
Thence North	32°	42'	W. 523.56 ft.
Thence North	14°	10'	W. 133.45 ft.
Thence E.			1185.60 ft.

to the point of beginning containing 183.6 acres more or less.

TO HAVE AND TO HOLD, the above described premises, together with all and singular the rights and appurtenances thereto in any wise belonging unto the said THE UNITED STATES OF AMERICA and its assigns forever.

-1-

Montezuma Castle NM Land Parcel 01-105

And we hereby bind ourselves, our heirs, executors and administrators, to warrant and forever defend, all and singular, the premises unto the said THE UNITED STATES OF AMERICA and its assigns against every person whomsoever, lawfully claiming or to claim the same or any part thereof.

WITNESS our hands this 3rd day of December, A. D. 1946.

W. L. Back (SEAL)

Mildred Fain (SEAL)

Mildred Back (SEAL)

Basil E. Back (SEAL)

(SEAL)

STATE OF ARIZONA }
COUNTY OF YAVAPAI } ss.

On this the 3rd day of December, 1946, before me, the undersigned, a Notary Public, personally appeared MILDRED FAIN, W. L. BACK and ESTHER HENDERSON, known to me to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Notary Public

(SEAL)

My Commission Expires:

March 1, 1948

Filed for record May 6, 1947 at 8:30 A.M.

-2-

Montezuma Castle NM Land Parcel 01-105

STATE OF ARIZONA }
COUNTY OF MARICOPA } ss.

On this the 30th day of December, 1916, before me, the undersigned, a Notary Public, personally appeared FRED BACK, known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Notary Public

(SEAL)

My Commission Expires:

STATE OF CALIFORNIA }
COUNTY OF Los Angeles } ss.

On this the 2 day of ~~December~~ June, 1947, before me, the undersigned, a Notary Public, personally appeared CASIL I. BACK, known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Notary Public

(SEAL)

My Commission Expires:

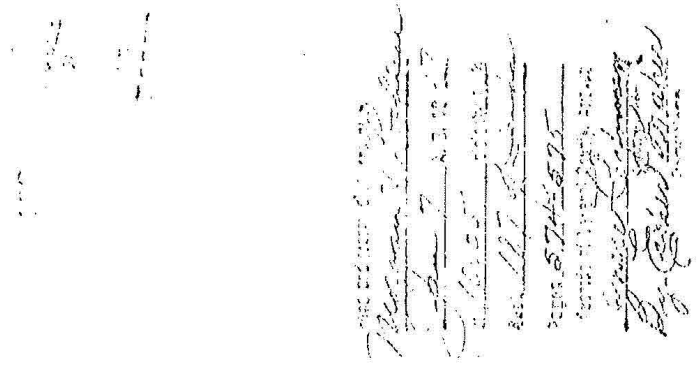
UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY
WASHINGTON

SEP 4 1947

The within deed is hereby accepted on behalf of the United States pursuant to the act of October 19, 1945 (57 Stat. 572).

Assistant Secretary of the Interior.

Montezuma Castle NM Land Parcel 01-105



MONTEZUMA CASTLE N.M. D-105

Montezuma Castle NM Land Parcel 01-105

Recording Requested by:
First American Title Insurance Agency, Inc.

When recorded mail to:
David L Rowley and Stephen D. Grimes
2629 E. E. Ridge Crest Rd.
Cave Creek, AZ 85331

3847380 BK 4255 PG 577
Yavapai County, Arizona
Ana Wayman-Trujillo, Recorder
04/21/2005 03:43P PAGE 1 OF 6
FIRST AMERICAN TITLE INS
RECORDING FEE 6.00
SURCHARGE 8.00
POSTAGE 1.00

DEED OF TRUST AND ASSIGNMENT OF RENTS

Escrow No. **237-4341403 (pjw)** **March 23, 2005**

TRUSTOR:	**Whisper Ridge, LLC, an Arizona limited liability company**
Address:	**2300 E. Buckbrush Circle, Payson, AZ 85541**
BENEFICIARY:	**Stephen D. Grimes and David L. Rowley**
Address:	**2629 E. E. Ridge Crest Rd., Cave Creek, AZ 85331**
TRUSTEE:	**First American TItle Insurance Company**
Address:	**PO Box 1922, Phoenix, AZ 85062**

PROPERTY in Yavapai County, State of AZ, described as:

AN UNDIVIDED 18.20% INTEREST IN THE FOLLOWING LAND:

THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 14 NORTH, RANGE 5 EAST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, YAVAPAI COUNTY, ARIZONA;

EXCEPT APPROXIMATELY 3 ACRES LYING SOUTHWEST OF BEAVER CREEK PREVIOUSLY CONVEYED TO THE NATIONAL PARKS SERVICE;

EXCEPTING ONE-HALF OF OIL, GAS AND MINERALS, ON OR UNDER THE SURFACE OF THE LAND, AS RESERVED IN THE DEED FROM PEARL ALDANA PARSLEY TO JOHN CHARLES MAYR, DATED DECEMBER 9, 1955 RECORDED DECEMBER 19, 1955 AS BOOK 64 OF OFFICIAL RECORDS, PAGE 574, RECORDS OF YAVAPAI COUNTY, ARIZONA.

This Deed of Trust, made on the above date between the Trustor, Trustee and Beneficiary above named,

WITNESSETH: That Trustor irrevocably grants and conveys to Trustee in Trust, with Power of Sale, the above described real property together with leases, rents, issues, profits, or income thereof (all of which are hereinafter called "property income"); SUBJECT HOWEVER, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply such property income; AND SUBJECT TO existing taxes, assessments, liens, encumbrances, covenants, conditions, restrictions, rights of way and easements of record.

FOR THE PURPOSE OF SECURING:

Montezuma Castle NM Land Parcel 01-113

Escrow No: **237-4341403 (pjw)**
A.P.N.: **405-22-005 3**

DEED OF TRUST WITH ASSIGNMENT OF RENTS - CONTINUED

A. Performance of each agreement of Trustor herein contained. B. Payment of the indebtedness evidenced by promissory note or notes of even date herewith, and any extension or renewal thereof, in the principal sum of **$200,000.00** executed by Trustor in favor of Beneficiary or order. C. Payment of additional sums and interest thereon which may hereafter be loaned to Trustor, or his successors or assigns, when evidenced by a promissory note or notes reciting that they are secured by this Deed of Trust.

TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR AGREES:

(1) To keep said property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefore; to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law; and do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general.

(2) To provide, maintain and deliver to Beneficiary hazard insurance satisfactory to and with loss payable to Beneficiary. The amount collected under any hazard or other insurance policy may be applied by Beneficiary upon any indebtedness secured hereby and in such order as Beneficiary may determine, or at option of Beneficiary the entire amount so collected or any part thereof may be released to Trustor. Such application or release shall not cure or waive any default or notice of Trustee's sale hereunder or invalidate any act done pursuant to such notice.

(3) To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses of Beneficiary and Trustee, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear or be named, and in any suit brought by Beneficiary or Trustee to foreclose this Deed of Trust.

(4) To pay before delinquent, all taxes and assessments affecting said property; when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto; all costs, fees and expenses of the Trust, including, without limiting the generality of the foregoing, the fees of Trustee for issuance of any Deed of Partial Release and Partial Reconveyance, or Deed of Release and Full Reconveyance, and all lawful charges, costs and expenses in the event of reinstatement of, following default in, this Deed of Trust or the obligations secured hereby.

Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such power, pay necessary expenses, employ counsel and pay his reasonable fees.

(5) To pay immediately and without demand all sums so expended by Beneficiary or Trustee pursuant to the provisions hereof, together with interest from date of expenditure at the same rate as is provided for in the note secured by this Deed of Trust or at the highest legal rate, whichever be the greater rate. Any amounts so paid by the Beneficiary or Trustee shall become a part of the debt secured by this Deed of Trust and a lien on said premises or immediately due and payable at option of Beneficiary or Trustee.

IT IS MUTUALLY AGREED:

Escrow No: **237-4341403 (pjw)**
A.P.N.: **405-22-005 3**

DEED OF TRUST WITH ASSIGNMENT OF RENTS - CONTINUED

(6) That any award of damages in connection with any condemnation or any such taking, or for injury to the property by reason of public use, or for damages for private trespass or injury thereto, is assigned and shall be paid to Beneficiary as further security for all obligations secured hereby (reserving unto the Trustor, however, the right to sue therefor and the ownership thereof subject to this Deed of Trust), and upon receipt of such moneys Beneficiary may hold the same as such further security, or apply or release the same in the same manner and with the same effect as the above provided or disposition of proceeds of hazard or other insurance.

(7) That time is of the essence of this Deed of Trust, and that by accepting payment of any sum secured hereby after its due date, Beneficiary does not waive his right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

(8) That at any time or from time to time, and without notice, upon written request of Beneficiary and presentation of this Deed of Trust and said note(s) for endorsement, and without liability therefor, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, and without affecting the security hereof for the full amount secured hereby on all property remaining subject hereto, and without the necessity that any sum representing the value or any portion thereof of the property affected by the Trustee's action be credited on the indebtedness, the Trustee may: (a) release and reconvey all or any part of said property; (b) consent to the making and recording, or either, of any map or plat of the property or any part thereon; (c) join in granting any easement thereon; (d) join in or consent to any extension agreement or any agreement subordinating the lien, encumbrance, or charge hereof.

(9) That upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed of Trust and said note(s) to Trustee for cancellation and retention, and upon payment of its fees. Trustee shall release and reconvey, without covenant or warranty, express or implied, the property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The Grantee in such reconveyance may be described as "the person or persons legally entitled thereto."

(10) That as additional security, Trustor hereby gives to and confers upon Beneficiary the right, power and authority, during continuance of this Trust, to collect the property income, reserving to Trustor the right, prior to any default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such property income as it becomes due and payable. Upon any such default, Beneficiary may at any time, without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in his own name sue for or otherwise collect such property income, including that past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of said property, the collection of such property income, and the application thereof as aforesaid, shall not cure or waive any default or notice of Trustee's sale hereunder or invalidate any act done pursuant to said notice.

(11) That upon default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written notice thereof, setting forth the nature thereof, and of election to cause to be sold said property under this Deed of Trust. Beneficiary also shall deposit with Trustee this Deed of Trust, said note(s), and all documents evidencing expenditures secured hereby.

Trustee shall record and give notice of Trustee's sale in the manner required by law, and after lapse of such time as may then be required by law, Trustee shall sell, in the manner required by law, said property at public auction at the time and place fixed by it in said notice of Trustee's sale to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone or continue the sale by giving notice of postponement or continuance by public declaration at the time and place last appointed for the sale. Trustee shall deliver to such purchaser its Deed conveying the property so sold, but without any covenant or warranty, expressed or implied. Any persons, including Trustor, Trustee, or Beneficiary, may purchase at such sale.

Escrow No: **237-4341403 (pjw)**
A.P.N.: **405-22-005 3**

DEED OF TRUST WITH ASSIGNMENT OF RENTS - CONTINUED

After deducting all costs, fees, and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale and reasonable attorney's fees, Trustee shall apply the proceeds of sale to payment of: All sums then secured hereby and all other sums due under the terms hereof, with accrued interest; and the remainder, if any, to the person or persons legally entitled thereto, or as provided in A.R.S. □33-812. To the extent permitted by law, an action may be maintained by Beneficiary to recover a deficiency judgment for any balance due hereunder. Beneficiary may foreclose this Deed of Trust as a realty mortgage.

If the property under this Deed of Trust is located in more than one county, regardless of whether the property is contiguous or not, the Trustee may sell all of said property in any one of the counties in which part of said property is located; and, unless Trustee receives contrary written instructions from the Beneficiary or Trustor, Trustee may sell all of said property either in parcels or in whole.

If the indebtedness secured hereby is secured by one or more other Deeds of Trust, then upon default of Trustor in the payment of said indebtedness or performance of any other agreements secured hereby, the Trustee may sell the property subject to the Deed of Trust and to any other Deeds of Trust securing said indebtedness at Trustee's sale conducted serially. In the absence of written instructions from the Beneficiary to the contrary, the Trustee may, in its sole discretion, designate the order in which property subject to the various Deeds of Trust is to be sold.

(12) That Beneficiary may appoint a successor Trustee in the manner prescribed by law. A successor Trustee herein shall, without conveyance from the predecessor Trustee, succeed to all the predecessor's title, estate, rights, powers and duties. Trustee may resign by mailing or delivering notice thereof to Beneficiary and Trustor.

(13) That this Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Beneficiary shall mean the owner and holder of the note(s) secured hereby, whether or not named as Beneficiary herein. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and neuter, and the singular number includes the plural.

(14) The Trustor/Mortgagor hereby waives, releases and discharges any homestead exemption claimed or declared against the property.

Beneficiary named on this Deed of Trust shall be subrogated to the lien, notwithstanding its release of record of any prior mortgage, Trust Deed or other encumbrance paid or discharged from the proceeds of the note secured hereby or from any advance made by the Beneficiary. This right of subrogation shall not be affected by the creation or declaration of homestead on the property.

(15) That Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be party unless brought by Trustee.

The undersigned Trustor requests that a copy of any notice of Trustee's sale hereunder be mailed to him at his address set forth herein.

DATED: March 23, 2005

Escrow No: **237-4341403 (pjw)**
A.P.N.: **405-22-005 3**

DEED OF TRUST WITH ASSIGNMENT OF RENTS - CONTINUED

Whisper Ridge, LLC, an Arizona limited liability company

By: Kevin D. Sokol, Managing Member

By: Whisper Ridge Holdings, L.L.C. an Arizona Limited Liability Company-Member

By: Jack Lundeen, Manager

By: Four Dakotans, L.L.P., an Arizona Limited Liability Partnership - Member

By: Jack Lundeen, General Partner

STATE OF **AZ**)
)ss.
County of Gila)

On 4-13-2005, before me, the undersigned Notary Public, personally appeared **Kevin Sokol and Jack Lundeen**, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

My Commission Expires: 8-4-08

"OFFICIAL SEAL"
Paulette J. Weaver
Notary Public-Arizona
Gila County
My Commission Expires 8/4/08

Notary Public

Montezuma Castle NM Land Parcel 01-113

PAGE 6 OF 6
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Escrow No: **237-4341403 (pjw)**
A.P.N.: **405-22-005 3**

DEED OF TRUST WITH ASSIGNMENT OF RENTS - CONTINUED

Whisper Ridge, LLC, an Arizona limited liability company

By: Kevin D. Sokol, Managing Member

By: Whisper Ridge Holdings, L.L.C. an Arizona Limited Liability Company- Member

By: Jack Lundeen, Manager

By: Four Dakotans, L.L.P., an Arizona Limited Liability Partnership - Member

By: Jack Lundeen, General Partner

STATE OF AZ)
)ss.
County of Maricopa)

On 4/15/05, before me, the undersigned Notary Public, personally appeared ~~Kevin Sokol and~~ **Jack Lundeen**, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

My Commission Expires: 2/26/08

Notary Public

NOTARY PUBLIC
STATE OF ARIZONA
County of Maricopa
DEAN S. JACOBSON
My Commission Expires February 26, 2008

Montezuma Castle NM Land Parcel 01-113

Supporting Hydro Data

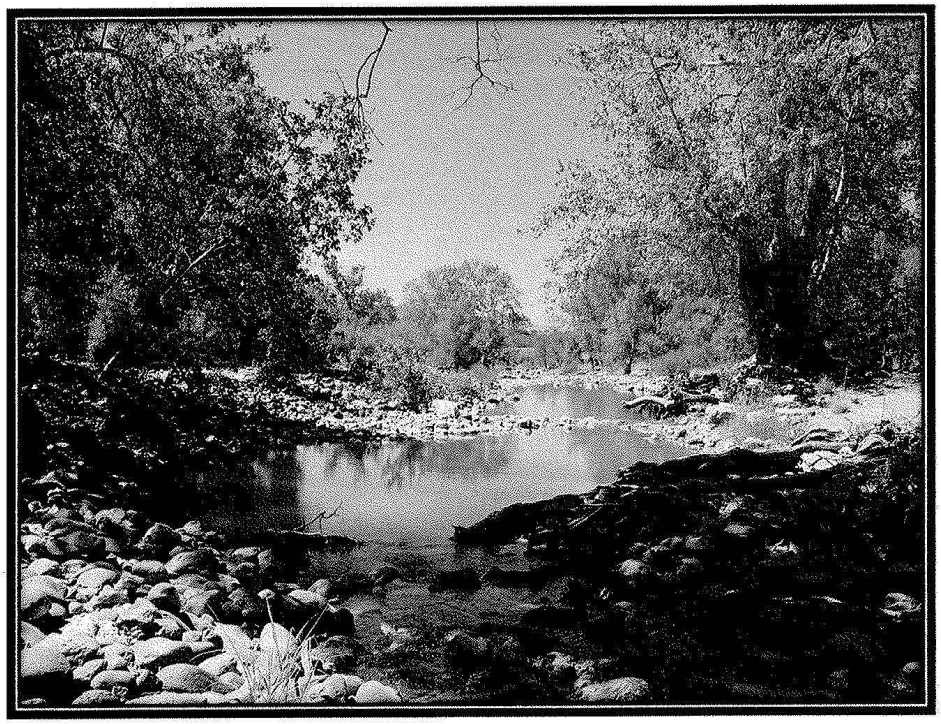
National Park Service
U.S. Department of the Interior

Natural Resource Stewardship and Science

Beaver Creek Instream Flow Assessment Report

Submitted in Support of an Application by the National Park Service for an Instream Flow Water Right for Beaver Creek, in the Castle Unit of Montezuma Castle National Monument, Arizona

January 2012



ON THE COVER
Beaver Creek within Montezuma Castle National Monument
Photograph by: National Park Service

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EXECUTIVE SUMMARY

Beaver Creek is a tributary of the Verde River formed below the confluence of Dry Beaver Creek and Wet Beaver Creek. Both Dry Beaver Creek and Wet Beaver Creek originate from springs on the Colorado Plateau and descend through canyons cut into the Mogollon Rim on the western edge of the plateau. Beaver Creek supports a rich and diverse riparian ecosystem uncommon in the semi-arid region of the desert southwest. The perennial flow of the creek provides sufficient surface water and shallow groundwater to support high quality riparian habitats comprised largely of cottonwood, sycamore, and Goodding willow. Numerous avian, mammal, reptile, amphibian, and fish populations, including several with special federal and state management status, are found in these habitats. The National Park Service seeks an appropriation of 9,409 acre feet of water per year along the Beaver Creek stream reaches located within the Castle Unit of Montezuma Castle National Monument for the purpose of maintaining the concurrent beneficial uses of recreation and wildlife. These beneficial uses are non-consumptive and are needed by the National Park Service to meet its objective of preserving the unique and important riparian ecosystems present in Montezuma Castle National Monument.

INTRODUCTION

Beaver Creek is a tributary of the Verde River formed below the confluence of Dry Beaver Creek and Wet Beaver Creek. Both Dry Beaver Creek and Wet Beaver Creek originate from springs on the Colorado Plateau and descend through canyons cut into the Mogollon Rim on the western edge of the plateau. The creeks flow in a west-southwesterly direction through the Coconino National Forest onto the Verde River valley floor joining to the southwest of McGuireville, Arizona to form Beaver Creek. Beaver Creek and its tributaries support a rich and diverse riparian ecosystem uncommon in the semi-arid region of the desert southwest. The riparian environments along Beaver Creek are occupied by numerous mammals, birds, and aquatic species including species with special federal or state management status.

The National Park Service is filing an application for an instream flow water right with the Arizona Department of Water Resources (ADWR). The water right seeks to protect streamflow within the boundaries of the Castle Unit of Montezuma Castle National Monument (Castle Unit of MCNM) from the upstream point where Beaver Creek enters the Castle Unit of MCNM to the most downstream point where it crosses the Castle Unit of MCNM boundary again. Two stream reaches are defined in the application. The upstream reach begins in the NE1/4, NE1/4, SW1/4 Section 9, Township 14 North, Range 5 East and extends to NW1/4, NW1/4, SW1/4 Section 9, Township 14 North, Range 5 East and the downstream reach begins in the NW1/4, SE1/4, SE1/4 Section 8, Township 14 North, Range 5 East and extends downstream to SW1/4, SW1/4, NE1/4 Section 17, Township 14 North, Range 5 East. The instream flow reaches lie completely within the Camp Verde 7.5" topographic quadrangle, are continuous, and do not include private property.

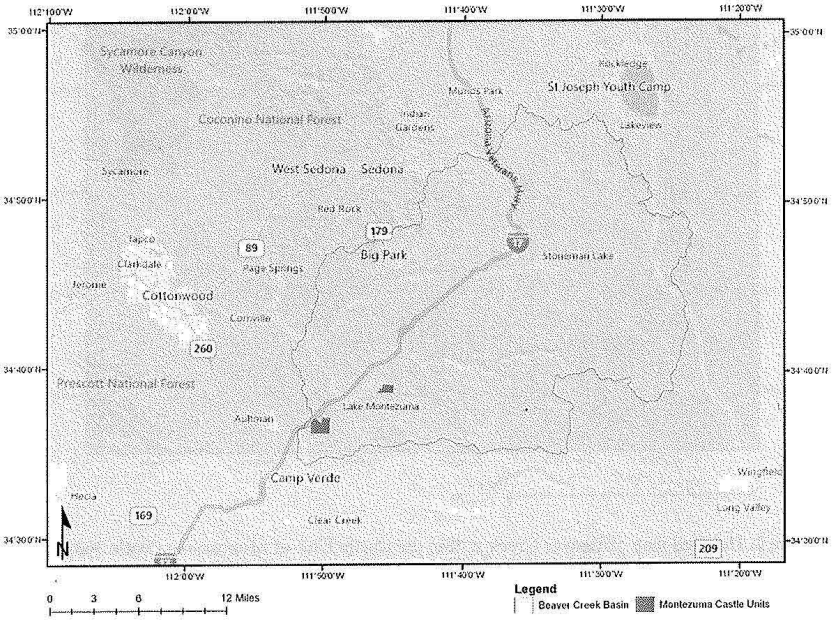


Figure 1. Map of Beaver Creek basin location in central Arizona. Map base was obtained through Microsoft Bing Map Services (c) 2010 Microsoft Corporation and its data suppliers.

The National Park Service seeks to appropriate 9,409 acre feet of water per year with this application. Requested median flow rates are based on approximately five years of streamflow record collected by the United States Geological Survey at a stream gaging station established within the Castle Unit of MCNM boundaries. The United States Geological Survey has maintained a stream gage on Wet Beaver Creek near Rimrock just upstream of the Well Unit of Montezuma Castle National Monument (Well Unit of MCNM) since 1962. Based on the longer record available at that stream gage (1962-2010), the mean annual discharge is 23,480 acre feet per year. The requested flow rates would be maintained within the Castle Unit of MCNM instream flow reaches of Beaver Creek for the concurrent beneficial uses of recreation and wildlife that are supported by the creek and its associated riparian environment.

This assessment report describes the physiographic, climatological, physical, and biological setting of the entire Beaver Creek basin and specific characteristics related to the proposed instream flow designated reaches. It includes a description of the wildlife community supported by the creek and documents the association between the riparian environment created by the creek and the resident wildlife. The link between the water dependent riparian ecosystem and wildlife and the beneficial use of the requested flows is also presented.

The report was prepared according to the guidelines set forth in *A Guide to Filing Applications for Instream Flow Water Rights in Arizona*, dated November 1997 (ADWR 1997).

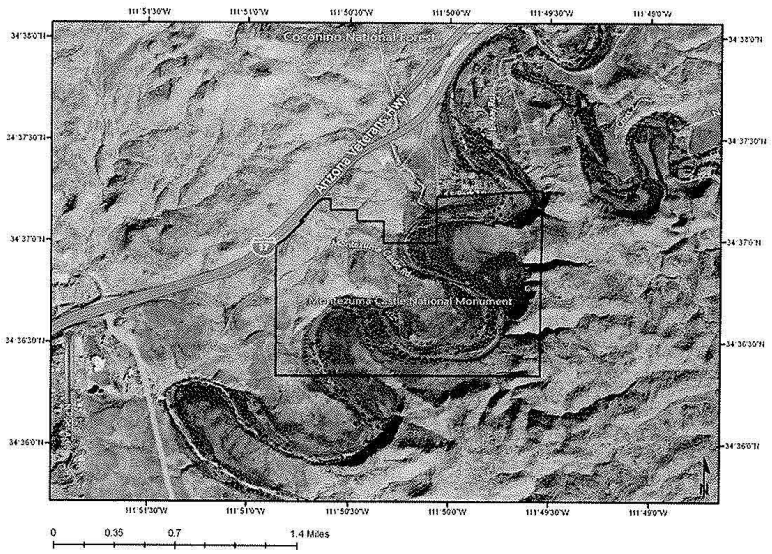


Figure 2. Detailed map of Beaver Creek within the Castle Unit of Montezuma Castle National Monument. Map base was obtained through Microsoft Bing Map Services (c) 2010 Microsoft Corporation and its data suppliers.

Note: Maps are provided in this document for the reader's reference only. They are not intended to be a substitute for materials provided to ADWR in the water right application. For a more detailed legal description, please refer to water right application materials on file with ADWR.

PHYSICAL SETTING

Physiography

Montezuma Castle National Monument is located approximately 25 miles south of Sedona, Arizona. The Monument is comprised of two units; the Well Unit to the northeast of Lake Montezuma and the Castle Unit to the southwest of Lake Montezuma. The Beaver Creek basin is composed of two sub-basins, Dry Beaver Creek and Wet Beaver Creek, which originate in canyons to the east of Lake Montezuma along the western edge of the Colorado Plateau in the Central Highland area of Arizona. Dry Beaver Creek and Wet Beaver Creek converge near McGuireville, Arizona forming Beaver Creek. The creek continues westward from the confluence to the Verde Valley, ultimately flowing into the Verde River near Camp Verde, Arizona. Elevations within the basin range from 8,532 feet at Hutch Mountain to 3,080 feet at the Verde River.

Bedrock Geology

The high elevation areas of the basin on the Colorado Plateau are Paleozoic sedimentary rock formations that have been covered by volcanic basalt flows. The Mogollon Rim or western edge of the Colorado Plateau has been eroded by Wet Beaver Creek and Dry Beaver Creek, exposing the sandstone, limestone, and shale layers of the sedimentary rock. The lower elevation areas of the basin were once the site of a series of lakes and marshes stretching across the present day Verde River valley. The cycle of evaporation and expansion of the lakes left behind limestone and travertine deposits in the lower elevation areas of the basin, including the Beaver Creek stream reaches within the Castle Unit of MCNM.

Soils

A soil survey of the Beaver Creek basin was completed by the United States Department of Agriculture, Natural Resource Conservation Service on September 11, 2008 (NRCS 2011). The soil types present in the watershed result from weathering of the predominant landforms of volcanic basalt or cinders and sedimentary rock such as limestone or sandstone. Clay soils formed from the weathering of basalt or cinders comprise slightly over 50% of the soils in the Beaver Creek area. Loamy soils formed from the weathering of sandstone or limestone comprise 20% of the area's soil types, and rock outcroppings accounted for an additional 19% of the land surface. The remaining 11% of the area's land surface is made up of mixed alluvium soils, riverwash and water. Depth to bedrock ranges from zero where the bedrock resides at the surface to a depth greater than the depth of the soil profile examined during the survey. Soils were consistently considered well drained with a depth to the water table that universally exceeded 80 inches. The available water capacity ranged from very low to high with low and moderate being the most common characteristic. Soils with an available water capacity of high account for less than 10% of the Beaver Creek basin area.

Climate

Elevation and season are the principal determinants of precipitation in the central highland area of Arizona. The Beaver Creek basin receives precipitation in the winter from storms originating in the Pacific Ocean that move eastward across the state (NOAA 1974). Mountainous locations at higher elevation can experience heavy snowfalls from the frequent Pacific storms. The headwaters of Beaver Creek located in the Coconino National Forest receives approximately one-third of its annual precipitation as snowfall (WRCC 2011). Mean annual precipitation within the basin tends to decrease as elevations decrease. The Happy Jack Ranger Station (7,480 feet) receives mean annual precipitation of 27.53 inches, the Beaver Creek Ranger Station (3,820 feet) receives 16.71 inches, and the Castle Unit of Montezuma Castle National Monument (3,180 feet) receives 14.49 inches (ADWR 2009). The months of April through June are drier compared to the remaining months of the year. Summer monsoon weather typically begins in July and continues through mid-September. Summer precipitation occurs when moisture-laden air is transported from the Gulf of Mexico into central Arizona (NOAA 1974).

Thunderstorms develop when the warm moist air from the Gulf rises along the mountain ranges of central Arizona. These storms can produce locally heavy rainfall and flash floods. Much of Arizona, like most of the Southwestern United States, has been experiencing persistent drought conditions during the last two decades (ADWR 2011).

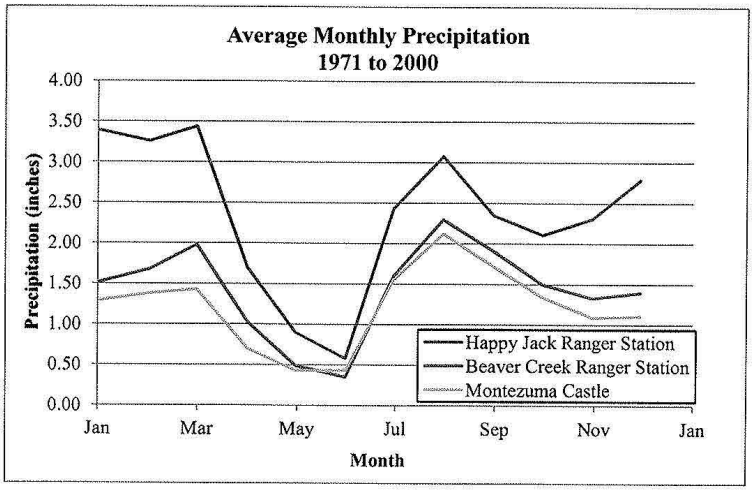


Figure 3. Average monthly precipitation at the Happy Jack Ranger Station, Beaver Creek Ranger Station, and Montezuma Castle National Monument, 1971 to 2000 (WRCC 2011)

Vegetation

The highest elevations of the headwater areas (above 8,000 feet) are dominated by Rocky Mountain (Petran) and Madrean montane conifer forests that can contain a mix of Douglas-fir, white fir, limber pine, blue spruce, and white pine (ADWR 2009). Aspen and Gambel oak can occur in disturbed high elevation areas. Elevations below 8,000 feet and warmer slopes above 8,000 feet are predominantly ponderosa pine forests (ADWR 2009). Areas between 5,000 and 7,000 feet are covered by Great Basin conifer woodlands with junipers and piñon pine (ADWR 2009). Interior chaparral communities are found at lower elevations (4,000 to 6,000 feet) and include a mix of dense shrubs of approximately the same height interspersed among occasional trees or larger shrubs (ADWR 2009). Shrub species found in chaparral communities include mountain mahogany, shrub live oak, and Manzanita. Cactus, agave, and yucca are also present in areas of chaparral (ADWR 2009).

Riparian vegetation areas occur along perennial streams such as Beaver Creek. Riparian communities are composed of mixed broadleaf, cottonwood, willow, mesquite and strand vegetation (ADWR 2009). Vegetation found along riparian corridors is frequently adapted to cycles of periodic flooding, scouring, and sediment deposition. The Verde River basin, which includes Beaver Creek, has been noted as having the largest number of woody riparian vegetation species observed in the southwest (Webb et al. 2007).

Land Ownership and Use

The overwhelming majority of land within the Beaver Creek basin is owned by the United States Forest Service (ADWR 2009). The headwater area lies within the Coconino National Forest, and the remaining federal land holding is within Montezuma Castle National Monument (MCNM). There are private land holdings scattered within the Coconino National Forest, upstream from the Castle Unit of MCNM boundaries, but the majority of private land exists west of the Mogollon Rim in the communities of Rimrock, Lake Montezuma, and McGuireville. The Coconino National Forest and MCNM areas are relatively undeveloped. The Forest Service manages livestock grazing, timber harvest, and recreational uses within its boundaries, and MCNM is maintained primarily for cultural preservation and recreational uses (ADWR 2009). The private land uses include domestic, commercial, mining, farming, and ranching activities.

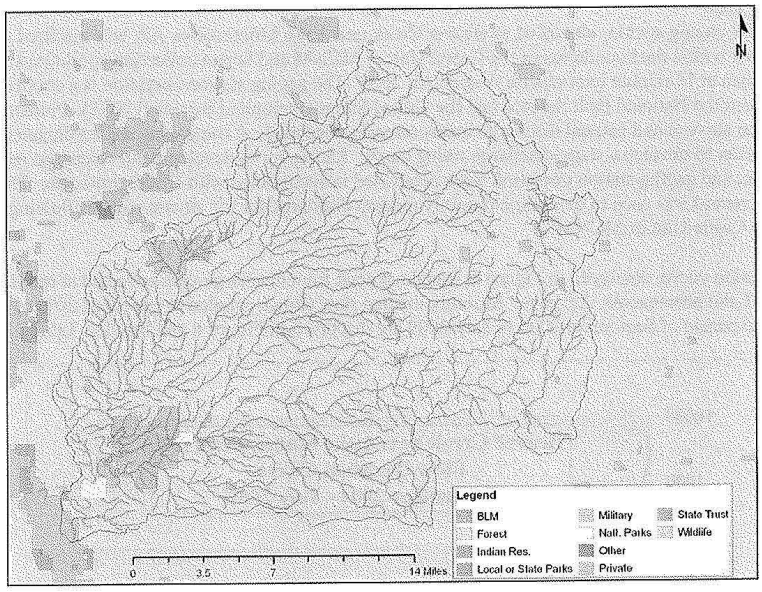


Figure 4. Stream network and land ownership in the Beaver Creek basin and surrounding area.

HYDROLOGICAL ASSESSMENT

Valley and Channel Morphology

The Beaver Creek reaches identified in the instream flow water right application flow across valley alluvium with an active channel and terraced floodplains. The active channel bed has gravels and cobbles with a few boulders. There are sequences of pools and riffles along the stream reaches, and changes in the channel occur on a sub-annual basis as finer sediments are scoured during storm flood events and then deposited again as water levels decline. The terraced floodplain closest to the channel is flooded frequently during storm events, and there is evidence of higher historical floodplain terraces beyond the terrace adjacent to the stream channel.

Streamflow Data

A streamflow gaging station, identified as Beaver Creek near Lake Montezuma, AZ, was installed on Beaver Creek within the boundaries of the Castle Unit of MCNM and began collecting continuous gage height (ft) data at 15 minute intervals on August 25, 2004. The gaging station operation is a cooperative effort between the National Park Service and the United States Geological Survey (USGS). Numerous cross-section surveys and manual discharge measurements were made at the gaging station channel cross section in order to develop a stage-discharge rating curve. Rating curve development, discharge record computation, and gaging station operation were conducted in accordance with USGS protocols. The streamflow record was used to determine monthly median discharge for the stream reaches flowing through the Castle Unit of MCNM.

A flow duration curve, displayed in Figure 5, was developed from discharge data collected at the Beaver Creek near Lake Montezuma, AZ gage. Monthly median flow (flows equaled or exceeded 50% of the time) for the period of September 2004 to July 2009 are displayed in Figure 6 and listed in Table 1.

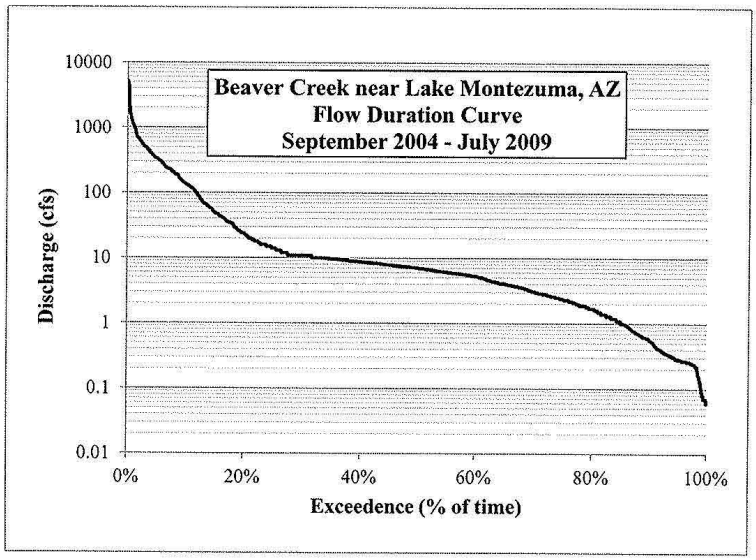


Figure 5. Flow Duration Curve calculated for the Beaver Creek near Lake Montezuma, AZ gage, September 2004 – July 2009.

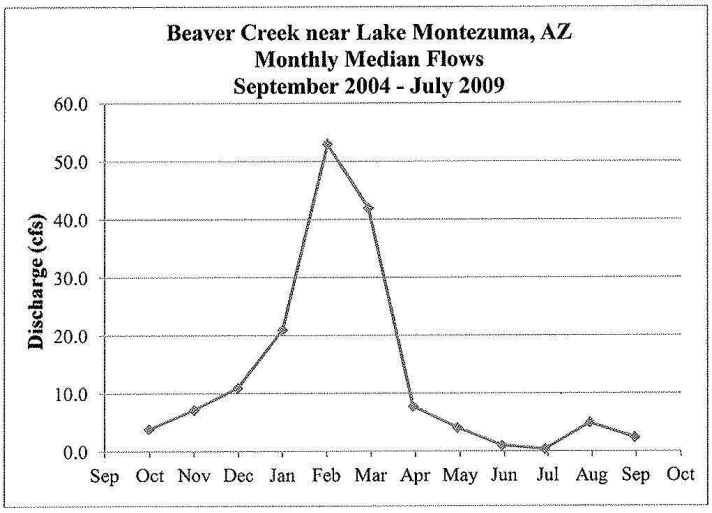


Figure 6. Beaver Creek monthly median discharge developed from Beaver Creek near Lake Montezuma, AZ discharge data and requested in the application.

Table 1. Monthly median flows (cfs) and annual discharge volume (acre ft/yr) from the Beaver Creek near Lake Montezuma, AZ gage during the period of September 2004 to July 2009.

	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Acre ft/yr
Monthly Median Flows	3.9	7.2	11.0	21.0	53.0	42.0	7.8	4.1	1.0	0.4	5.0	2.4	9,409.29

Water Rights

During November 1985, the National Park Service, with the U.S. Department of Justice, submitted a Statement of Claimant in the Verde River General Adjudication for a reserved right to unquantified natural flows for all surface water sources including Beaver Creek and its unnamed tributaries. That claim is pending.

Additionally, three instream water right applications have been filed in the Wet Beaver Creek basin. Two rights are still pending, one in Rarick Canyon and one on Walker Creek. Both of these applications are located within the Coconino National Forest. The third water right, on Wet Beaver Creek upstream to the Well Unit of MCNM, was granted to the United States Forest Service in the Coconino National Forest with a filing date of July 29, 1985.

Wildlife

The instream flow reaches of Beaver Creek within the Castle Unit of MCNM provide habitat for numerous wildlife species including those with special federal and state status (see Table 2). The species having a special federal status that use the riparian habitat along the instream flow reaches include the endangered southwestern willow flycatcher *(Empidonax traillii extimus)* and the yellow-billed cuckoo *(Coccyzus americanus)*. Also occupying these habitats are the following avian members of the Arizona State Species of Concern list: the previously mentioned willow flycatcher and cuckoo, bald eagle *(Haliaeetus leucocephalus)*, common black-hawk *(Buteogallus anthracinus)*, American peregrine falcon *(Falco pergrinus anatum)*, belted kingfisher *(Megaceryle alcyon)*, and osprey *(Pandion haliaetus)*. In addition, two mammals, the western red bat *(Lasiurus blossevillii)* and Arizona myotis *(Myotis occultus)*, that are listed as Arizona State Species of Concern are found in these riparian habitats.

Table 2. Federally-listed Species and State Species of Concern found in the Castle Unit of MCNM instream flow reaches.

Taxa	Species	Status
Bird	Southwestern Willow Flycatcher *(Empidonax traillii extimus)*	Federally-listed Endangered
Bird	Yellow-billed Cuckoo *(Coccyzus americanus)*	Federally-listed Candidate
Bird	Osprey *(Pandion haliaetus)*	Arizona State Species of Concern
Bird	Bald eagle *(Haliaeetus leucocephalus)*	Arizona State Species of Concern
Bird	Common black-hawk *(Buteogallus anthracinus)*	Arizona State Species of Concern
Bird	Peregrine falcon *(Falco peregrines)*	Arizona State Species of Concern
Bird	Belted kingfisher *(Megaceryle alcyon)*	Arizona State Species of Concern
Bird	Olive-sided flycatcher *(Contopus cooperi)*	Arizona State Species of Concern
Mammal	Western red bat *(Lasiurus blossevillii)*	Arizona State Species of Concern
Mammal	Arizona myotis *(Myotis occultus)*	Arizona State Species of Concern

The southwestern willow flycatcher is known to occur in Beaver Creek and the southwestern willow flycatcher has been documented in the monument (Van Riper et al. 2010). The southwestern willow flycatcher was federally listed as endangered in 1995 (60 FR 10694) with critical habitat designated in 2005 (50 CFR 60886). The southwestern willow flycatcher occurs in dense riparian habitats along streams, rivers and other wetlands where cottonwood, willow, boxelder, tamarisk, Russian olive, buttonbush and arrowweed are present (U.S. Fish and Wildlife Service 2004). Nests are found in thickets of trees and shrubs primarily 13 to 23 feet in height, among dense homogenous foliage (U.S. Fish and Wildlife Service 2004); flycatcher habitat is dependent on a perennially flowing stream.

The yellow-billed cuckoo has been documented in the Beaver Creek reaches within Montezuma Castle National Monument (Holmes et al. 2008). The yellow-billed cuckoo was federally listed as a candidate species by U.S. Fish and Wildlife Service in 2001 (66 CFR 38611). The yellow-billed cuckoo is found in large blocks of riparian gallery forests dominated by large cottonwood and willows, and feeds exclusively on insects. These riparian gallery forests are dependent on stream reaches that flow perennially and periodically overflow onto floodplain terraces. Yellow-billed cuckoo populations, once common in Arizona, have severely declined due to habitat loss.

The osprey and bald eagle are two State Species of Concern that have been documented in Montezuma Castle National Monument (Schmidt et al. 2006a; Van Riper et al. 2010). The osprey requires riparian habitats due to its diet; the osprey feeds almost exclusively on fish (Poole 1989) which require perennial streamflow. While the bald eagle can feed on carrion, they typically feed on fish, waterfowl, and other

water-dependent prey and are also frequently dependent on riparian habitats with perennial streamflow. Van Riper et al. (2010) had winter/spring sightings of bald eagles along Beaver Creek.

The common black-hawk is a State Species of Concern that has been documented on Beaver Creek, nesting within the Castle Unit of MCNM (Van Riper et al. 2010). The black-hawk is an obligate riparian nester preferring mature cottonwood and sycamore habitat (Schnell 1994) and requires a stream reach that flows perennially.

The peregrine falcon is a State Species of Concern that has been documented within Montezuma Castle National Monument, although breeding has not been confirmed (Van Riper et al. 2010). The peregrine falcon feeds almost exclusively on birds and bats and typically breeds in steep, sheer cliffs overlooking riparian areas, or other habitats supporting abundant prey species.

The belted kingfisher is a State Species of Concern documented on open water habitat along Beaver Creek riparian areas (Van Riper et al. 2010). The diet of the kingfisher is primarily fish, although they will eat other prey items such as amphibians, reptiles, and even berries. Kingfishers are closely tied to water reaches with perennial flow.

The olive-sided flycatcher, a State Species of Concern and a U.S. Fish and Wildlife Service Species of Conservation Concern, has been documented on Beaver Creek in the Castle Unit of MCNM, although no breeding pairs have been documented (Van Riper et al. 2010). These birds are thought to rely on riparian habitats for access to deciduous trees and abundant insect species.

Two bat species observed within Montezuma Castle National Monument are listed on the State Species of Concern: Western red bat and Arizona myotis. Both species require riparian forests and water sources that are greatly dependent on perennial streamflow. The Western red bat roosts in cottonwood trees and its decline is associated with the decline in cottonwood habitat (Arizona Game and Fish Department Heritage Data Management System). Arizona myotis is also found along perennial water or in riparian forest in some desert areas such as along the lower Colorado and Verde rivers (Arizona Game and Fish Department Heritage Data Management System). The habitats of both species are dependent on perennial stream flows.

In addition to these listed and sensitive species, other terrestrial wildlife depend closely on Beaver Creek within the Castle Unit of MCNM for drinking water and for the diverse assemblage of vegetation, and aquatic and terrestrial animal communities. Mammal species found in the Castle Unit of MCNM with a strong dependence on perennial stream flows and riparian habitat are raccoon *(Procyon lotor)*, southwestern river otter *(Lontra canadensis)*, ringtail *(Bassariscus astutus)*, and American beaver *(Castor canadensis)*. Species that depend on riparian areas for drinking water and/or riparian habitat at Beaver Creek in the Castle Unit of MCNM include elk *(Cervus canadensis)*, American black bear *(Ursus americanus)*, mountain lion *(Puma concolor)*, mule deer *(Odocoileus hemionus)*, white-tailed deer *(Odocoileus virginianus)*, and bobcat *(Lynx rufus)*.

Fisheries

Three special status fish are found within the instream flow reaches of Beaver Creek in the Castle Unit of MCNM (see Table 3; Schmidt et al. 2006a; Montgomery et al. 1995; Montgomery and Hardwick 1998). The federally-listed candidate roundtail chub (*Gila robusta*) was documented at Beaver Creek at the Castle Unit of MCNM (Montgomery and Hardwick 1998); the authors speculated that finding the chub in October could potentially indicate seasonal movement of the species from Wet Beaver Creek to Beaver Creek. The two Arizona Species of Concern, Sonora sucker *(Catostomus insignis)* and desert sucker *(Catostomus clarkii)*, were documented in one and two reaches respectively within the creek at the Castle Unit of MCNM (Montgomery et al. 1995; Montgomery and Hardwick 1998). All of these special status

fish species inhabit Beaver Creek within the Castle Unit of MCNM and are dependent on the presence of perennial flow.

Table 3. Federally-listed Species and State Species of Concern found in the instream flow reaches of the Castle Unit of MCNM.

Taxa	Species	Status
Fish	Roundtail Chub (*Gila robusta*)	Federally-listed Candidate
Fish	Sonora sucker *(Catostomus insignis)*	Arizona State Species of Concern
Fish	Desert sucker *(Catostomus clarkii)*	Arizona State Species of Concern

There are two federally-listed fish, the loach minnow *(Tiaroga cobitis)* and spikedace *(Meda fulgida)*, that have designated critical habitat within instream flow reaches of Beaver Creek within the Castle Unit of MCNM. Six other fish are also found in Beaver Creek within the Castle Unit of MCNM and are dependent on perennial flow (Montgomery et al. 1995, Montgomery and Hardwick 1998). The native longfin dace *(Agosia chrysogaster)* was found in one reach of the creek within the Castle Unit of MCNM. Five other non-native fish, the smallmouth bass *(Micropterus dolomieu)*, red shiner *(Cyprinella lutrensis)*, yellow bullhead *(Ameiurus natalis)*, carp *(Cyprinus carpio)*, and green sunfish *(Lepomis cyanellus)* were all documented in Beaver Creek within the Castle Unit of MCNM.

In particular, a deep pool habitat located along Beaver Creek in the Castle Unit of MCNM was particularly productive and all nine of the fish species were found in this particular habitat. Furthermore, the absence of the invasive red shiner from this particular deep pool habitat was considered "notable" by Montgomery and Hardwick (1998) and was speculated to be tied to high, late spring runoff transporting the red shiners downstream. This deep pool habitat is directly tied to perennial instream flows.

Reptiles and Amphibians

An inventory conducted at Montezuma Castle National Monument during 1993 and 1994 documented thirty species of reptiles and four species of amphibians (Schmidt et al. 2006b). The greatest diversity (thirteen species) was observed in the lizard population, and the lowest diversity (three native species) amongst the amphibian population. None of the reptiles and amphibians that have been currently documented on the instream flow reach of Beaver Creek at the Castle Unit of MCNM have special management status, although this reach is recognized as suitable habitat for species such as those listed in Table 4. "Suitable habitat" refers to a site having suitable ecological components to sustain species individuals, but the species may or may not have been found during surveys for the site. The Northern Mexican Gartersnake has been documented nearby at Tuzigoot National Monument and may occur within the Castle Unit of MCNM, but has not been documented in surveys.

Table 4. Special Status Reptiles and Amphibians for which Beaver Creek is Suitable Habitat

Taxa	Species	Status
Reptile	Northern Mexican Gartersnake *(Thamnophis eques megalops)*	Federally-listed Candidate
Reptile	Narrow-headed Gartersnake *(Thamnophis rufipunctatus)*	Arizona State Species of Concern
Amphibian	Arizona Toad *(Anaxyrus microscaphus)*	Arizona State Species of Concern
Amphibian	Lowland Leopard Frog *(Rana yavapaiensis)*	Arizona State Species of Concern
Amphibian	Northern Leopard Frog *(Rana pipiens)*	Arizona State Species of Concern

Invertebrates

The proposed instream flow reach of Beaver Creek at the Castle Unit of MCNM is suitable habitat for the invertebrate species with special management status listed in Table 5. While these species may be present, no surveys have been conducted to document their presence.

Table 5. Special Status Invertebrates for which Beaver Creek is Suitable Habitat

Taxa	Species	Status
Invertebrate	Maricopa Tiger Beetle *(Cicindela oregona maricopa)*	Arizona State Species of Concern
Invertebrate	Balmorhea Saddle-case Caddisfly *(Protoptila balmorhea)*	Arizona State Species of Concern

The Importance of Riparian Environments

The importance of riparian environments for wildlife, especially around perennial streams, has been well-documented (Brown et al. 1977; Lohman 2004) for various wildlife taxa including birds, mammals, amphibians, reptiles, and invertebrates. Many species are restricted to riparian habitats for reproduction and greater species richness has been shown in riparian habitats compared to upland habitats. Brinson et al. (1981) attributed four features: (1) the predominance of woody plant communities, (2) the presence of surface water and abundant soil moisture, (3) structural diversity, and (4) the linear nature of riparian habitats, which allows migratory corridors for many species. These four characteristics of riparian habitats are particularly important in a desert habitat where surface water and broad leaf vegetation communities are limited in distribution; these four characteristics are directly dependent on instream flows.

Although riparian ecosystems occupy less than 2% of the total land area of Arizona (Strong and Bock [1990] state that riparian woodlands are less than 0.5% of the land area), they are the most productive and unique of all of the state's ecosystems (Debano et al. 2003). In Arizona, 80% of all vertebrates depend on riparian ecosystems during at least half of their life cycle, and more than half are totally dependent on riparian areas (Chaney et al. 1990). For the Castle Unit of MCNM, the perennial flow of Beaver Creek and corresponding riparian habitats run through approximately two-thirds of the Castle Unit of MCNM and greatly contribute to both the wildlife and fish diversity. Schmidt et al. (2006a) attributed the perennially flowing Beaver Creek and the surrounding riparian vegetation as being responsible for the Castle Unit of MCNM having one of the highest numbers of bird species out of the eleven National Park Service units in the Sonoran Desert Network.

Instream Flow and Riparian Habitat

Riparian ecosystems are identified by soil characteristics or distinctive vegetation communities that require free or unbound water (DeBano and Schmidt 1989). Streamflow, which is strongly correlated with many critical physicochemical characteristics of rivers, such as water temperature, channel geomorphology, and habitat diversity, can be considered a "master variable" that limits the distribution and abundance of riverine species and regulates the ecological integrity (Poff et al. 1997). The timing and predictability of flow events is critical ecologically because the life cycles of many aquatic and riparian species are timed to either avoid or take advantage of flows of variable magnitudes (Poff et al. 1997).

The riparian communities in Beaver Creek are dominated by cottonwood *(Populus fremonti)*, Goodding willow *(Salix gooddingii)*, Arizona sycamore *(Platanus wrightii)*, and various baccharis species. Riparian trees are dependent on perennial water sources, and forests dominated by cottonwood and willow have diminished greatly over the past 100 years because of the diversion, interruption, and elimination of streamflows in Arizona (Brown et al. 1977).

Cottonwoods have been clearly shown to be dependent on water originating from streamflow (Rood et al. 2003). Merritt et al. (2010) showed that cottonwood and Goodding willow were more abundant along free-flowing reaches compared to both diverted and xeroriparian sites; species composition clearly shifted from being dominated by native riparian forest species to desert shrub communities along a perennial to intermittent flow gradient. Merritt et al. (2010) also concluded that the maintenance of riparian forests requires perennial streamflow and that reductions in streamflow and streamflow intermittency may result in the decline of forest structures, loss of mature cottonwood stands, and conversion of forests towards a grassland-shrubland ecosystem.

The permanence of surface flow was shown to best explain the variance in cottonwood *(Populus fremontii)* and Goodding willow *(Salix gooddingii)* abundance (Lite and Stromberg 2005); where surface flow was perennial, the greatest abundance of those two tree species were found. Bird, small mammal, and reptile habitat indices were significantly greater in riparian forest communities dominated by cottonwood as compared to non-cottonwood, shrub-dominated habitats (Merritt et al. 2010).

Finally, there is a direct relationship between surface flows and sub-surface water, and both these water sources are important to riparian vegetation during both the growing season as well as the dry season during May and June. Shallow groundwater was shown to be the most significant variable for predicting obligate wetland plants such as Goodding's willow and facultative wetland plants such as Fremont's cottonwood and *Baccharis salicifolia*. The perennial surface water and shallow groundwater tables in Beaver Creek and other riparian habitats allow for greater density and diversity of plant and animal species than any other known ecological type in the Sonoran desert. Perennial instream flows of particular magnitude maintain elevated groundwater tables that sustain the most structurally and compositionally complex bird and mammal habitats with a riparian forest component (Merritt et al. 2010).

Maintenance of Wildlife and Fish Beneficial Uses

Forests dominated by cottonwood and willow are dependent on perennial water sources, and these forests have diminished greatly over the past 100 years because of the diversion, interruption, and elimination of streamflows in Arizona (Brown et al. 1977). Homogenous cottonwood areas were shown to support significantly more species and denser populations of nesting birds than mixed deciduous plots (Carothers et al. 1974). Bird species diversity of cottonwood and mesquite habitats of the Southwest appears to be correlated with foliage height diversity (Stamp 1978), which is directly dependent on perennial water sources and shallow groundwater levels.

Studies have definitively shown that riparian woodlands in the desert Southwest support substantially higher avian species richness and relative abundance than adjacent uplands (Hubbard 1977, Johnson et al. 1977, Strong and Bock 1990, Kirkpatrick et al. 2009). Carothers and Johnson (1970) found breeding bird densities in cottonwood stands along the Verde River in excess of 1000 pairs per 100 acres, which was one of the highest populations of birds found in North America (Beaver Creek is a tributary of the Verde River). They also determined that over 50% of these bird species were dependent on riparian vegetation. Similarly, studies in the Gila River Valley have shown that nearly half (49%) of the breeding birds would not occur in the absence of riparian habitat (Hubbard 1977).

For riparian birds, surface water has been directly correlated with both total relative abundance and species richness (Kirkpatrick et al. 2009). In particular, Kirkpatrick et al. (2009) showed that greater surface water was shown to be directly correlated with increased arthropod biomass in aerial and arthropod sampling, which could explain higher numbers for riparian birds that prey on arthropods.

Several species of wildlife are totally or largely dependent on these riparian communities along Beaver Creek (Brown et al. 1977): the Arizona grey squirrel *(Sciurus arizonensis),* otter *(Lutra canadensis),*

black-hawk *(Buteogallus anthracinus)*, summer tanager *(Piranga rubra)*, bullock oriole *(Icterus bullock)*, yellow warbler *(Dendroica petechia)*, Arizona alligator lizard *(Gerrhonotus kingi* [=Madrean alligator lizard, *Elgaria kingii*]), Sonoran mud turtle *(Kinosternon sonoriense)*, and canyon tree frog *(Hyla arenicolor)*. Hubbard (1977) also included four other riparian-dependent species the beaver *(Castor canadensis)*, muskrat *(Ondatra zibethica)*, raccoon *(Procyon lotor)*, and gartersnakes *(Thamnophis* spp.); these animals have been documented in Beaver Creek.

Montgomery et al. (1995) compared the distribution of fishes, amphibians, and aquatic reptiles in perennial and ephemeral reaches of Wet Beaver Creek and Beaver Creek. They found that the sites with perennial waters were the most similar in species abundance and composition, and that sites with ephemeral waters had the lowest diversity of fish, as well as only one native fish species. Physical characteristics, such as dissolved oxygen levels, temperature, pH, and conductivity, of perennial streams contributed to greater species diversity and abundance when compared to the ephemeral stream reaches. Lower dissolved oxygen and higher temperatures in ephemeral streams adversely affect fish productivity and contribute to fish mortality as streams de-water.

Thus, perennial flow provides sufficient surface water and shallow groundwater to sustain high quality riparian habitats with cottonwood, sycamore, and Goodding willow which directly support avian, mammal, reptile, amphibian, and fish populations at Beaver Creek within the Castle Unit of MCNM. In particular, because the uplands of the Castle Unit of MCNM are dominated by creosote and other water-scarce habitats, the high wildlife and fish species diversity for the Castle Unit of MCNM is directly attributable to the perennially flowing Beaver Creek and the surrounding riparian vegetation.

SUMMARY

Water is a precious resource in the desert areas of Arizona, and the State of Arizona has recognized the need for keeping perennial streams flowing in the state. Governor Rose Mofford issued Executive Order No. 91-6 in February of 1991 stating "The state of Arizona shall encourage the preservation, maintenance, and restoration of instream flows throughout the state." The order demonstrates the state's appreciation of the importance of riparian habitats and the role that such habitats play in preserving fish, wildlife, and other water-dependent species. This appropriation will advance the interests of Arizona citizens and enhance visitors' enjoyment of the state's natural resources. The beneficial use of water for fish and wildlife purposes will help to implement the policy expressed in Executive Order No. 91-6.

The perennial flow of Beaver Creek is a unique and important water resource in the region, delivering water to numerous species dependent on riparian habitat for water, food, migration, and shelter. The Castle Unit of Montezuma Castle National Monument has protected riparian habitats since its inclusion in the National Park system in 1906. Unprotected riparian areas in the surrounding region have declined due to the impact of human activities, particularly development. Consequently, the riparian areas within the Monument represent important undisturbed habitats and support diverse communities of fish and wildlife. Beaver Creek and the riparian habitats that it supports are vulnerable to reductions in flow due to increasing demands for water from new diversions for domestic use, irrigation, or mining and increased levels of groundwater pumping. Diminished streamflow would result in a degradation of existing riparian habitat and reduced fish and wildlife populations. Preservation of median stream flow is a step towards safeguarding the future of this rich riparian habitat and the discharge amounts displayed in Table 1 provide a minimal level of protection for current fish and wildlife populations along Beaver Creek. An instream flow water right will provide necessary protection for the continued health of riparian habitats and the ecosystems they support.

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APPENDIX I

Endangered:
Any species which is in danger of extinction throughout all or a significant portion of its range as determined by the Secretary of the Interior.

Threatened:
Any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range as determined by the Secretary of the Interior.

Proposed:
Any species of fish, wildlife, or plant that has been proposed in the Federal Register to be listed under the Endangered Species Act.

Candidate:
Species for which USFWS has sufficient information on biological vulnerability and threats to support proposals to list as Endangered or Threatened under ESA. However, proposed rules have not yet been issued because such actions are precluded at present by other listing activity.

Species of Concern:
The terms "Species of Concern" or "Species at Risk" should be considered as terms-of-art that describe the entire realm of taxa whose conservation status may be of concern to USFWS. Neither term has official status (currently all former C2 species).

Sensitive:
Those taxa occurring on National Forests in Arizona which are considered sensitive by the Regional Forester.

APPENDIX II

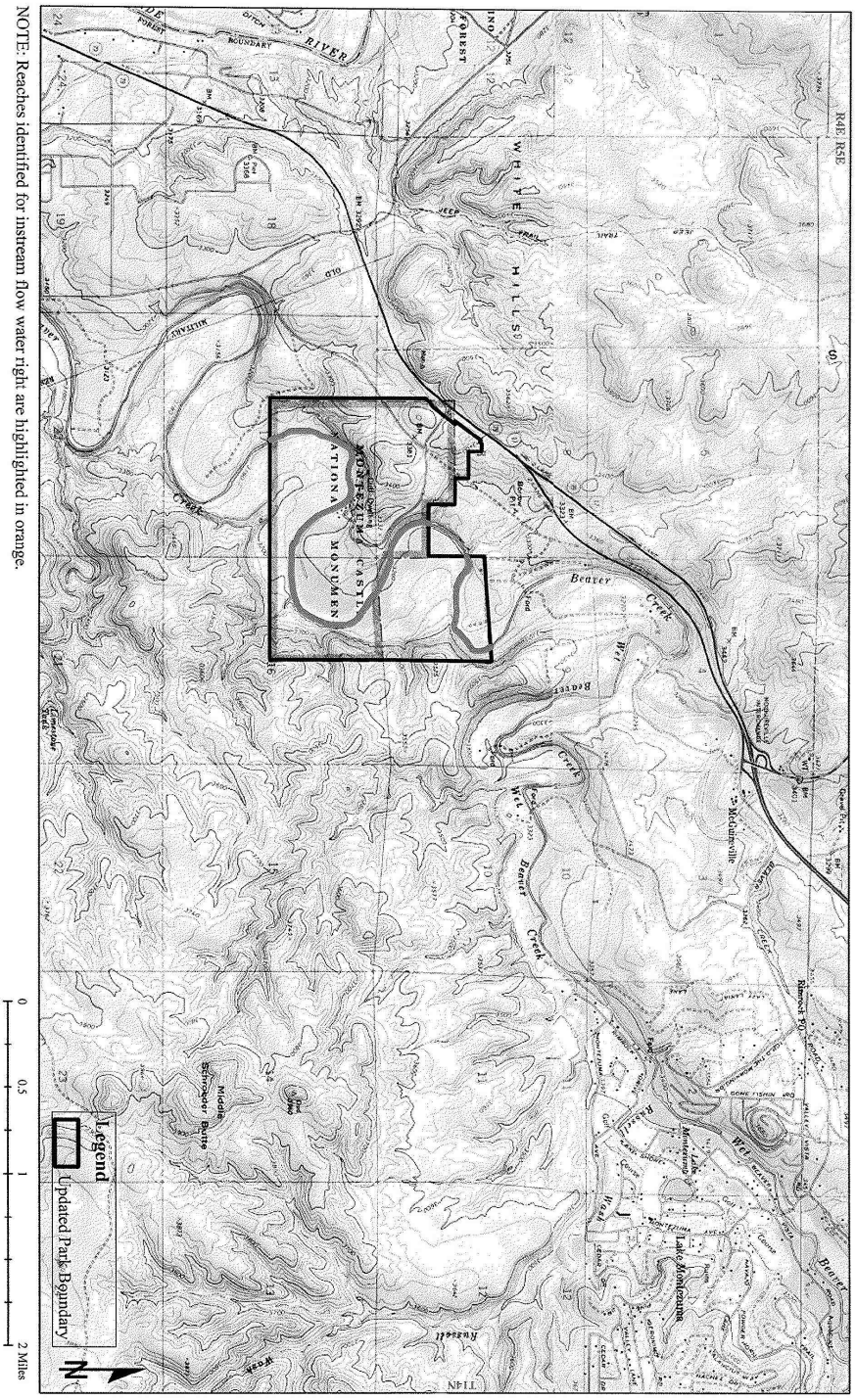
Riparian Dependent Birds of Beaver Creek in the Castle Unit of Montezuma Castle National Monument

This list is not all inclusive but was derived from Van Riper et al. 2010 which documented birds at Montezuma Castle National Monument and indicated habitat preferences.

Species	Latin name
Snow Goose	*Chen caerulescens*
Wood Duck	*Aix sponsa*
Mallard	*Anas platyrhynchos*
American Wigeon	*Anas Americana*
Redhead	*Aythya americana*
Ring-necked Duck	*Aythya collaris*
Lesser Scaup	*Aythya affinis*
Common Merganser	*Mergus merganser*
Great Blue Heron	*Ardea vivescens*
Osprey	*Pandion halieatus*
Bald Eagle	*Haliaeetus leucocephalus*
Common Black-Hawk	*Buteogallus anthracinus*
Peregrine Falcon	*Falco peregrines*
American Kestrel	*Falco sparverius*
Killdeer	*Charadrius vociferus*
Spotted Sandpiper	*Actitus macularis*
Wilson's Snipe	*Gallinago delicate*
Yellow-billed Cuckoo	*Coccyzus americanus*
Western Screech-Owl	*Megascops kinnicottii*
Elf Owl	*Micrathene whitneyi*
Belted Kingfisher	*Megaceryle alcyon*
Red-naped Sapsucker	*Sphyrapicus nuchalis*
Ladder-backed Woodpecker	*Picoides scalaris*
Northern Flicker	*Colaptes auratus*
Olive-sided Flycatcher	*Contopus cooperi*
Western Wood-Pewee	*Contopus sordidulus*
Black Phoebe	*Sayornis nigricans*
Say's Phoebe	*Sayornis saya*
Vermilion Flycatcher	*Pyrocephalus rubinus*
Cassin's Kingbird	*Tyrannus vociferans*
Bell's Vireo	*Vireo bellii*
Northern Rough-winged Swallow	*Stelgidopteryx serripennis*
Cliff Swallow	*Petrochelidon pyrrhonota*
Bridled Titmouse	*Baeolophus wollweberi*
House Wren	*Troglodytes aedon*

Ruby-crowned Kinglet	*Regulus calendula*
American Robin	*Turdus migratorius*
Cedar Waxwing	*Bombycilla cedrorum*
Orange-crowned Warbler	*Vermivora celata*
Virginia's Warbler	*Vermivora virginiae*
Lucy's Warbler	*Vermivora luciae*
Yellow Warbler	*Dendroica petechia*
Black-billed Gray Warbler	*Dendroica nigrescens*
MacGillivray's Warbler	*Oporornis tolmiei*
Yellow-breasted Chat	*Icteria virens*
Summer Tanager	*Piranga rubra*
Northern Cardinal	*Cardinalis cardinalis*
Blue Grosbeak	*Passerina caerulea*
Indigo Bunting	*Passerina cyanea*
Green-tailed Towhee	*Pipilo chlorurus*
Spotted Towhee	*Pipilo maculatus*
Hooded Oriole	*Icterus cucullatus*
Bullock's Oriole	*Icterus bullockii*

00-00-0000: Map of Beaver Creek Instream Flow Stream Reaches



Docket Information

Number of Documents in Docket 112

Documents Dated from 7/20/2006 to 11/4/2014

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