

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SALT RIVER PIMA-MARICOPA
INDIAN COMMUNITY,

Plaintiff,

v.

UNITED STATES OF AMERICA
and JAMES G. WATT, SECRETARY
OF THE INTERIOR,

Defendants.

Civil No. 82-0145

ANSWER

Defendants, the United States and James G. Watt, the Secretary of the Interior, in his official capacity, answer plaintiff's complaint as follows:

First Defense

The Complaint should be dismissed because the relief it seeks is barred by the statute of limitations.

Second Defense

The Complaint should be dismissed, pursuant to Rule 19, Federal Rules of Civil Procedure, for failure to name parties who are indispensable.

Third Defense

The Complaint should be dismissed for failure to state a claim for which relief can be granted.

Fourth Defense

Defendants respond to the allegations in the Complaint in the following numbered paragraphs. Each paragraph number

used by Defendants corresponds to the number of the paragraph in the Complaint where the allegations that are the subject of the responsive paragraph are found. Note that Defendant has denominated the first sentence of each paragraph as that sentence which follows the title of each paragraph. The titles are those phrases and sentences which are entirely capitalized. The titles state conclusions of law and plaintiff's characterizations of the contents of the paragraphs, to which no response is required.

1. The allegations in the first sentence of paragraph 1 of the Complaint, and the allegation in the second sentence of paragraph 1 of the Complaint, that James G. Watt is the Secretary of the Interior, are admitted. The remaining statements in paragraph 1 of the Complaint are conclusions of law to which no response is required.

2. The allegation in paragraph 2 of the Complaint that the Salt River Project is a federal reclamation project is admitted. The remaining statements in paragraph 2 of the Complaint are conclusions of law to which no response is required.

3. The allegations in the first two sentences of paragraph 3 of the Complaint are admitted. Sentences 3, 4, 5 and 6 of paragraph 3 of the Complaint state conclusions of law to which no response is required. To the extent the statements in sentences 5 and 6 of paragraph 3 of the Complaint are construed to be allegations, they are denied.

4. The allegations in the first three sentences of paragraph 4 of the Complaint are admitted. The allegations in the fourth sentence of paragraph 4 of the Complaint are denied. But it is admitted that the water referred to in sentence 3 of paragraph 4 of the Complaint is distributed to approximately 263,000 acres in the Salt River Valley through the Salt River Project's canal system. The allegations in the fifth sentence

of paragraph 4 of the Complaint are admitted. Defendants lack sufficient information to be able to form a belief as to the truth of the allegations in the sixth sentence of paragraph 4 of the Complaint. Defendants lack sufficient information to form a belief as to the truth of the allegations in sentence 7 of paragraph 4 of the Complaint. Sentence 8 of paragraph 4 of the Complaint is divided by semicolons into three parts. The allegations of the first two parts of sentence 8 of paragraph 4 of the Complaint are admitted. The allegations of the third part of sentence 8 of paragraph 4 of the Complaint are denied. But it is admitted that the Salt River Project purchases power the sources of which are the Bureau of Reclamation dams on the Colorado River. Defendants lack sufficient information to be able to form a belief as to the truth of the allegations in sentences 9 and 10 of paragraph 4 of the Complaint.

5. The allegations of the first phrase of the first sentence of paragraph 5 of the Complaint, which ends with the words " . . . Project facilities," are denied. It is admitted that the Department of the Interior constructed the Roosevelt Dam and the Granite Reef Diversion Dam. The remaining allegations in sentence 1 of paragraph 5 of the Complaint are admitted. The allegations of the second sentence of paragraph 5 of the Complaint are admitted. The allegations of the first phrase of the third sentence of paragraph 5 of the Complaint, which ends with the date "September 6, 1917," are denied. The contract is the best evidence of what it provides. The remaining statements in the third sentence of paragraph 5 of the Complaint are conclusions of law to which no response is required. The allegations of the fourth sentence of paragraph 5 of the Complaint are denied. The contracts are the best evidence of what they provide. The allegations in sentence 5 of paragraph 5 of the

Complaint, that the Association operates the Salt River Project's water system and that the District operates the electrical power system, are admitted. The remaining statements in sentence 5 of paragraph 5 of the Complaint are conclusions of law to which no response is required. Sentence 6 of paragraph 5 of the Complaint states conclusions of law to which no response is required. It is admitted that the plaintiff and its members residing on the reservation are ineligible for membership in the Association. Sentence 7 of paragraph 5 of the Complaint states conclusions of law to which no response is required.

6. The introductory phrase of paragraph 6, which begins with "The plaintiff is . . . " and ends with " . . . specific water rights" states conclusions of law to which no response is required.

6A. The first sentence of paragraph 6A of the Complaint states conclusions of law to which no response is required. Defendants lack sufficient information to form a belief as to the truth of the allegations in sentences two and three of paragraph 6A of the Complaint.

6B. Paragraph 6B of the Complaint states conclusions of law to which no response is required. The decree is the best evidence of what it provides.

6C. The first sentence of paragraph 6C of the Complaint states conclusions of law to which no response is required. Defendants lack sufficient information to form a belief as to the truth of the allegations in the second sentence of paragraph 6C of the Complaint.

6D. Paragraph 6D of the Complaint states conclusions of law to which no response is required.

7. The introductory phrase of paragraph 7 of the Complaint, which begins with "The Secretary" and ends with "in the following respects," states conclusions of law to which no response is required.

7A. To the extent the first sentence of paragraph 7A of the Complaint incorporates by reference paragraph 6A of the Complaint, Defendants incorporate their responses to paragraph 6A of the Complaint, which are found in paragraphs 6, 6A and 9 of this Answer. Sentence 1 of paragraph 7A of the Complaint states conclusions of law to which no response is required. To the extent the statements in sentence 1 of paragraph 7A of the Complaint are construed to be allegations, the allegations are denied. The second sentence in paragraph 7A of the Complaint is denied.

7B. To the extent the first sentence of paragraph 7B of the Complaint incorporates paragraph 6B of the Complaint, Defendants incorporate their responses to paragraph 6B of the Complaint, which are found in paragraphs 6, 6B and 9 of this Answer. To the extent the first two sentences of paragraph 7B of the Complaint state conclusions of law, no response is required. To the extent the first two sentences of paragraph 7B of the Complaint are construed as allegations, they are denied. To the extent the third sentence of paragraph 7B of the Complaint states conclusions of law, no response is required. To the extent the statements in the third sentence of paragraph 7B of the Complaint are construed to be allegations, defendant lacks sufficient information to form a belief as to the truth of the allegations and is therefore unable to admit or deny them.

7C. Sentences 1 and 2 of paragraph 7C of the Complaint are denied. To the extent sentence 3 of paragraph 7C of the Complaint states conclusions of law, no response is required.

To the extent the statements in sentence 3 of paragraph 7C of the Complaint are construed to be allegations, those allegations are denied. Defendant admits that pursuant to an agreement made June 3, 1935, between the United States and the Salt River Valley Water Users' Association, approximately 20,000 acre feet of water per year has been delivered to lands on the plaintiff's Reservation from water developed by storage in the Bartlett Dam on the Verde River.

7D. Sentences 1, 2, 3, 4, and 5 of paragraph 7D of the Complaint are denied. It is admitted that the plaintiff's lands are not within the service area of the Salt River Project and that the decision on the definition of the service area was approved by the Secretary of the Interior on November 14, 1914. Sentence 6 of paragraph 7D of the Complaint has two parts which are separated by a semicolon. The allegations in the first part of sentence 6 of paragraph 7D of the Complaint are denied. Defendants lack sufficient information to form a belief as to the truth of the allegations in the second part of sentence 6 of paragraph 7D of the Complaint, and therefore can neither admit nor deny the allegations. Sentence 7 of paragraph 7D of the Complaint states conclusions of law to which no response is required.

8. To the extent the first sentence of paragraph 8 of the Complaint incorporates paragraphs 6A, 6B, 6C, and 6D of the Complaint, Defendants incorporate their responses, which are found in paragraphs 6, 6A, 6B, 6C, 6D and 9 of this Answer. The first sentence of paragraph 8 of the Complaint states conclusions of law to which no response is required. The phrase in paragraph 8 of the Complaint, that begins with "The illegal . . ." and ends with "as follows" states conclusions of law to which no response is required.

8A. To the extent sentence 1 of paragraph 8A of the Complaint states conclusions of law, no response is required. The contract referred to in sentence 1 of paragraph 8A of the Complaint is the best evidence of what it provides. Defendants lack sufficient information to form a belief as to the truth of the amount of water from the Salt River stated to be delivered to the Roosevelt Water Conservation District in sentence 1 of paragraph 8A of the Complaint. Sentence 2 of paragraph 8A of the Complaint states conclusions of law to which no response is required. The Court's decision, the stipulation and the decree referred to in sentence 2 of paragraph 8A of the Complaint are the best evidence of what they provide. The allegation in the third sentence of paragraph 8A of the Complaint that RWCD is a farm irrigation district lying wholly outside the Salt River Project district is admitted. The remaining statements in sentence 3 of paragraph 8A of the Complaint are conclusions of law to which no response is required. Sentences 4, 5, 6, 7, 8, and 9 of paragraph 8A of the Complaint state conclusions of law to which no response is required. Defendants lack sufficient information to form a belief as to the truth of the allegations in sentence 10 of paragraph 8A of the Complaint. The allegations in sentence 11 of paragraph 8A of the Complaint are denied. It is admitted that defendants received a document from plaintiff that is dated March 27, 1980. The document is the best evidence of what it provides.

8B. Sentence one of paragraph 8B of the Complaint states conclusions of law to which no response is required. The contract referred to in sentence 1 of paragraph 8B of the Complaint is the best evidence of what it provides. Defendants lack sufficient information to form a belief as to the truth of the amount of groundwater from the Salt River Project District

stated to be removed by the Roosevelt Irrigation District in sentence 1 of paragraph 8B of the Complaint. The allegation in sentence 2 of paragraph 8B of the Complaint that RID is a farm irrigation district lying wholly outside the Salt River Project District is admitted. The remaining statements in sentence 2 of paragraph 8B of the Complaint are conclusions of law to which no response is required. Sentences 3, 4, 5, 6, and 7 of paragraph 8B of the Complaint state conclusions of law to which no response is required. To the extent sentence 7 of paragraph 8B of the Complaint contains factual allegations, those allegations are denied. The allegations of sentence 8 of paragraph 8B of the Complaint are denied. It is admitted that defendants received a document from plaintiff that is dated March 27, 1980. The document is the best evidence of what it provides.

8C. The first sentence of paragraph 8C of the Complaint states conclusions of law to which no response is required. Defendants lack sufficient information to form a belief as to the truth of the amount of water per year that is stated to be received by the cities within the Project's boundaries in sentence 1 of paragraph 8C of the Complaint. The second sentence of paragraph 8C of the Complaint states a conclusion of law to which no response is required. The contracts are the best evidence of what they provide. Defendants lack sufficient information to form a belief as to the truth of the statements in sentence 3 of paragraph 8C of the Complaint. Sentences 4, 5, 6, and 7 of paragraph 8C of the Complaint state conclusions of law to which no response is required. The allegations in sentence 8 of paragraph 8C of the Complaint are denied. Sentence 9 of paragraph 8C of the Complaint states conclusions of law to which no response is required. Defendants lack sufficient information

to form a belief as to the truth of the allegations in sentence 10 of paragraph 8C of the Complaint. The allegations in sentence 11 of paragraph 8C of the Complaint are denied. It is admitted that defendants received a document from plaintiff that is dated March 27, 1980. The document is the best evidence of what it provides.

8D. Sentence 1 of paragraph 8D of the Complaint states conclusions of law to which no response is required. Defendants lack sufficient information to form a belief as to the truth of the amount of effluent water stated as the amount sold in sentence 1 of the paragraph 8D of the Complaint. The allegations in sentence 2 of paragraph 8D of the Complaint are admitted. The allegations contained in the phrase in sentence 3 of paragraph 8D of the Complaint "Almost all of this water originated from Project sources," are admitted. The remaining statements in sentence 3 of paragraph 8D of the Complaint are conclusions of law to which no response is required. Sentence 4 of paragraph 8D of the Complaint states conclusions of law to which no response is required. The congressional reports referred to in sentence 4 of paragraph 8D of the Complaint are the best evidence of what they provide. The allegations in sentence 5 of paragraph 8D of the Complaint are admitted. Sentences 6 and 7 of paragraph 8D of the Complaint state conclusions of law to which no response is required. The contract referred to in sentences 6 and 7 of paragraph 8D of the Complaint are the best evidence of what they provide. To the extent the statements in sentences 6 and 7 of paragraph 8D of the Complaint are construed to be allegations, they are denied. Defendants lack sufficient information to form a belief as to the truth of the statements made in sentence 8 of paragraph 8D of the Complaint. Sentence 9 of paragraph 8D of the Complaint states conclusions of

law to which no response is required. Defendants deny the allegations made in sentence 10 of paragraph 8D of the Complaint. It is admitted that defendants received a document from plaintiff that is dated March 27, 1980. The document is the best evidence of what it provides.

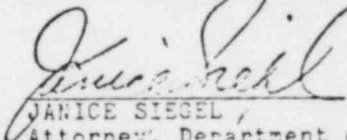
8E. Paragraph 8E of the Complaint states conclusions of law to which no response is required.

9. All allegations in the Complaint not specifically admitted are denied.

WHEREFORE, defendants request that the Court dismiss this action, and grant whatever other relief it deems appropriate.

Respectfully submitted,

MYLES E. FLINT
Chief, General Litigation Section



JANICE SIEGEL
Attorney, Department of Justice
Land and Natural Resources Division
Benjamin Franklin Station
P. O. Box 7415
Washington, D. C. 20044-7415
(202) 633-4046

CERTIFICATE OF SERVICE

I, Janice Siegel, attorney for defendants, on Monday, March 22, 1982, served each attorney of record with a copy of the foregoing Answer. This was done by placing copies of the Answer in sealed envelopes, with first class postage prepaid, and then depositing the envelopes in a United States Postal Service mailbox. The envelopes were addressed as follows:

Philip J. Shea, Esquire
MARKS, SHEA & WILKS
114 West Adams, Suite 200
Phoenix, Arizona 85003

John J. McMackin, Jr., Esquire
WILLIAMS & JENSEN
1101 Connecticut Avenue, N. W.
Washington, D. C. 20036


JANICE SIEGEL