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

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

CV 6417-203

ORDER DENYING THE HOPI TRIBE'S  
MOTION TO RESCHEDULE THE  
MARCH 19, 2020 ORAL ARGUMENTS  
AND DENYING REQUEST FOR  
EMERGENCY STATUS CONFERENCE

CONTESTED CASE NAME: *In re Hopi Reservation HSR*  
HSR INVOLVED: *Hopi Reservation*  
DESCRIPTIVE SUMMARY: Oral arguments shall proceed on March 19, 2020 as scheduled. Administrative Order 2020-47 issued by the Arizona Supreme Court and the protocols adopted by the Maricopa Superior Court with respect to the Coronavirus Disease 2019 shall be followed.  
NUMBER OF PAGES: 4  
DATE OF FILING: March 17, 2020

On March 13, 2020, the Hopi Tribe filed a Motion to Reschedule the March 19, 2020 Oral Argument on LCRC Motions for Summary Judgment and Request for Emergency Status

1 Conference on Court Protocols Regarding Coronavirus Disease 2019 (COVID-19). The Hopi  
2 Tribe requested that the oral arguments be postponed until April 2, 2020 due to COVID-19 and  
3 recommended guidelines provided by public health officials. COVID-19 protocols currently  
4 in effect to prevent the spread of the disease focus on the physical proximity of people to one  
5 another and to reducing the number of people grouped in an enclosed area. Limiting  
6 appearances at the oral argument to telephonic appearances complies with the COVID-19  
7 protocols. Accordingly,  
8

9 **IT IS ORDERED** denying the requesting postponement. Parties will only appear  
10 telephonically. The instructions for telephonic participation included in the original minute entry  
11 are duplicated below:

12 Dial: 602-506-9695 (local)

13 1-855-506-9695 (toll free long distance)

14 Dial Collaboration (conference) Code 357264#  
15

16 Parties will be notified in advance of the April 2, 2020 oral arguments as to whether  
17 arguments may be presented in person with telephonic appearances permitted as an option or  
18 whether the appearances will be limited to telephonic appearances.

19 The Hopi Tribe also requested an emergency status conference to address three pages of  
20 questions regarding procedures applicable to the site visit to the Hopi Reservation scheduled in  
21 more than a month, the pretrial conference scheduled in approximately two months, and the  
22 appearance of experts and the conduct of the trial scheduled to begin in almost three months and  
23 to continue through the summer and into September 2020.  
24

25 The site visit is the first court proceeding that requires the parties and counsel to be in  
26 physical proximity with one another. The two-day visit to the Hopi Reservation was scheduled  
27 pursuant to the motion of and at the invitation of the Hopi Tribe. If the Hopi Tribe no longer  
28

1 desires the site visit to occur as scheduled or is concerned about the scheduled visit, counsel  
2 should be prepared to advise the Court following the conclusion of oral arguments on March 19,  
3 2020. Similarly, any party who has a concern about participating in the site visit should be  
4 prepared to discuss its position on March 19, 2020 following the conclusion of the oral  
5 arguments. If the current dates for the site visit are cancelled and the Hopi Tribe desires the  
6 site visit to be rescheduled, it will be rescheduled only at a time acceptable to all of the parties  
7 and the Court. Currently, no trial is scheduled for the week of June 22, 2020. The Arizona  
8 State Judicial Conference, which has not been cancelled, is scheduled to begin June 24, 2020.  
9 Thus, the site visit may occur on June 22 - 23. No trial is scheduled for the three weeks  
10 beginning July 13, 2020 due to the unavailability of one of the largest courtrooms in the Maricopa  
11 County Superior Court. Thus, a two-day site visit may occur during this period. No trial is  
12 scheduled for the week of August 10, 2020 to accommodate counsels' request to attend a state  
13 conference on water law. Thus, the site visit may occur on August 10-11. Additional dates  
14 mutually acceptable to all of the parties will also be considered.  
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17 The remainder of the issues raised by the Hopi Tribe deal with the potential unavailability  
18 of experts at the trial as well as more general issues. With respect to the specific question about  
19 the ability of experts to attend the trial, the Arizona Rules of Civil Procedure provide procedures  
20 to be followed when a witness is not available. Also, as demonstrated by the options explored  
21 and adopted in the first phase to the trial to permit one of the Hopi Tribe's expert witnesses to  
22 testify following a medical emergency that made the initially scheduled appearance impossible,  
23 technological solutions and the flexibility of the parties and the Court can make multiple avenues  
24 available to enable a witness to provide his or her testimony.  
25


26 As to the questions about procedures to be adopted for the trial, the Maricopa County  
27 Superior Court has been continuously monitoring the recommendations of the Center for Disease  
28



1 Control (CDC) and has been in constant contact with state health officials to implement best  
2 practices necessary to fulfill its statutory and constitutional responsibilities while protecting the  
3 health and safety of those served by the Court as well as those employed by the Court. The  
4 Arizona Supreme Court has issued Administrative Order 2020-47. The trial will be conducted  
5 in accordance with the protocols established by the Arizona Supreme Court and the Maricopa  
6 County Superior Court for civil proceedings.  
7

8 Given the dearth of current information and the high degree of uncertainty about future  
9 developments, no reasonable decisions can be made at this time about appropriate action that  
10 may be necessitated by COVID-19 during the course of the trial. As a result, the parties will  
11 have to remain flexible to comply with evolving protocols and any compelling circumstances  
12 that may warrant unique rules for this proceeding. The Court will make procedural decisions  
13 when appropriate. At this time, it is premature to set any procedures that diverge from the  
14 normal rules governing a trial. Accordingly,  
15

16 **IT IS ORDERED** denying the Hopi Tribe's Motion for an Emergency Status Conference.  
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19 \_\_\_\_\_  
20 Susan Ward Harris  
21 Special Master

22 On March 17, 2020, the original of the  
23 foregoing was mailed to the Clerk of the  
24 Apache County Superior Court for filing and  
25 distributing a copy to all persons listed on the  
26 Court approved mailing list for the Little  
27 Colorado River Adjudication Civil No. 6417-  
28 203.

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27 \_\_\_\_\_  
28 Barbara Brown