

SUPERIOR COURT OF ARIZONA
APACHE COUNTY

03/19/2020

CLERK OF THE COURT
FORM V000

SPECIAL WATER MASTER SUSAN WARD
HARRIS

L. Stogsdill

Deputy

FILED: May 4, 2020

In re: the General Adjudication
of All Rights to Use Water in the
Little Colorado River System and Source

CV 6417-203

In re: Hopi Reservation HSR

In re: Oral Argument re: LCR Coalition's Motion
for Partial Summary Judgment on Hopi Claim to
Immemorial Priority and LCR Coalition's Motion
for Partial Summary Judgment on Hopi and U.S.
Claims to Water for Electrical Power on Hopi
Reservation for Use Outside the Reservation

MINUTE ENTRY

Courtroom: CCB 301

1:30 p.m. This is the time set for Oral Argument regarding LCR Coalition's Motion for Partial Summary Judgment on Hopi Claim to Immemorial Priority and LCR Coalition's Motion for Partial Summary Judgment on Hopi and U.S. Claims to Water for Electrical Power on Hopi Reservation for Use Outside the Reservation before Special Water Master Susan Ward Harris.

Court reporter, Marylynn LeMoine is present and a record of the proceedings is made digitally.

The following attorneys appear telephonically: Judith M. Dworkin, M. Kathryn Hoover, Jeffrey S. Leonard and Evan F. Hillier for the Navajo Nation, Lee A. Storey, Alexandra Arboleda and Sara Ransom for the City of Flagstaff, Vanessa Boyd Willard, Cody McBride, Andrew Guarino, Rebecca Ross and Emmie Blades for the United States Department of Justice, Carrie Brennan for the Arizona State Land Department, David A Brown, Brian J. Heiserman, Lauren J. Caster and Bradley J. Pew for the LCR Coalition, Colin F. Campbell, Grace R. Rebling and Philip Londen for the Hopi Tribe, John B.

Weldon, Jr. and Mark A. McGinnis for SRP, Joy Hernbrode for ADWR, Robyn L. Interpreter for the Pascua Yaqui Tribe and Yavapai Apache Nation.

Oral argument is presented on LCR Coalition's Motion for Partial Summary Judgment on Hopi Claim to Immemorial Priority and LCR Coalition's Motion for Partial Summary Judgment on Hopi and U.S. Claims to Water for Electrical Power on Hopi Reservation for Use Outside the Reservation as well as the Joinders therein.

IT IS ORDERED taking the matters under advisement.

Discussion is held regarding the scheduled Hopi site visit on April 27-28, 2020 and the current situation with COVID-19 virus.

For the reasons stated on the record,

IT IS FURTHER ORDERED vacating the Hopi site visit for April 27-28, 2020 to be rescheduled at a later date. Mr. Campbell will coordinate with counsel to obtain possible dates for the visit.

Discussion is held regarding the oral argument scheduled for April 2, 2020 from 1:45 p.m. to 5:00 p.m. on the 8 pending Motions for Summary Judgment.

All counsel who filed the pending motions confirm they would prefer to hold oral argument on their motions on April 2, 2020.

The Court advises counsel of the most recent Administrative Order No. 2020-48 relative to in person proceedings and the COVID-19 virus.

3:05 p.m. Matter concludes.

LATER:

Hopi Tribe's Motion to Strike the Navajo Nation's Response

On March 12, 2020, the Hopi Tribe moved to strike that portion of the Navajo Nation's Response filed on March 9, 2020 to join the LCR Coalition's Motion for Partial Summary Judgment Regarding the Hopi Tribe's Claims to Water for Agricultural and Ceremonial and Subsistence Gardening. In its response to the Motion to Strike, the Navajo Nation acknowledged that the argument raised in its joinder was not an argument made by LCR Coalition. Navajo Nation's Response to Hopi Tribe's Motion to Strike Navajo Nation's Response, filed March 25, 2020 at 2.

Joinder in a motion generally means adopting the arguments of that motion in full, not advancing new and different arguments. *Elliott v. Prescott Companies, LLC*, No. 2:15-cv-01143-APG-VCF, 2018 WL 3731087 at *4 (D. Nev. Aug. 6, 2018) Therefore, that portion of the Navajo Nation's Response advancing a new argument is not a proper joinder.

To the extent it is a new motion for summary judgment, it is untimely because it was filed after the dispositive motion deadline. *Id.*; *Briglia v. Horizon Healthcare Services, Inc.* No. 03-6033, 2007 WL 1959249 at *3 (D. New Jersey, July 3, 2007).

IT IS FURTHER ORDERED granting the Hopi Tribe's Motion to Strike the additional argument raised in the Navajo Nation's Response filed March 9, 2020.

A copy of this order is mailed to all person listed on the Court approved mailing list.