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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

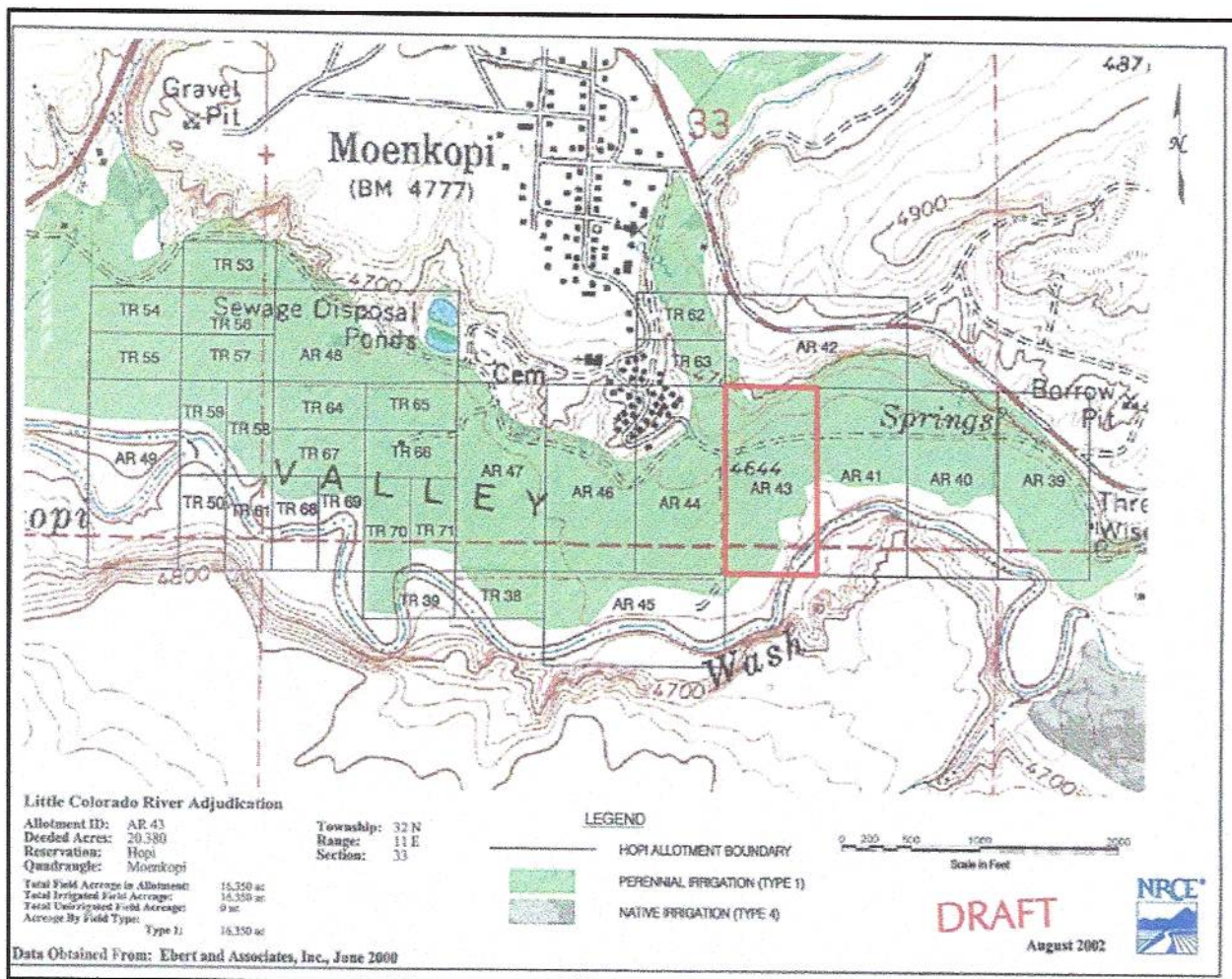
CV 6417-203

ORDER SETTING BREIFING  
SCHEDULE

CONTESTED CASE NAME: *In re Hopi Reservation HSR*  
HSR INVOLVED: *Hopi Reservation HSR*  
DESCRIPTION: Briefing on issue of federal reserved water rights for 11 allotments due **January 10, 2022**.  
NUMBER OF PAGES: 4  
DATE OF FILING: December 7, 2021

This case includes 11 allotments and 21 five-acre tracts, which were not allotted, on Moenkopi Island as shown on *figure 1* below. The United States claims federal reserved water rights for all allotments and the five-acre tracts. The Hopi Tribe also asserts that federal reserved water rights should attach to the land and it argues that the priority date for those

1 federal reserved water rights should be based on state water rights it claims existed prior to the  
 2 date federal reserved water rights attached. Procedurally, this contested case concerns all  
 3 claims for water rights for the allotments and the five-acre tracts except that claims for water  
 4 rights under state law for the allotments brought by and on behalf of the allottees are the subject  
 5 of a parallel proceeding within this contested case. According to counsel for the Hopi Tribe,  
 6 whether the claims by and on behalf of allottees under state law may proceed depends upon the  
 7 rulings in this proceeding.



27 **Figure 1.** Allotments are designated as “AR” and tracts are labelled with a “TR”.  
 28 **Source.** Hopi Exhibit 44 admitted October 4, 2018.




1           On April 27, 2018, the LCR Coalition filed a Motion for Partial Summary Judgment  
2 Regarding the Hopi Tribe’s Claim to a Prior Appropriative Water Right for the Hopi Reservation,  
3 including Moenkopi Island. The motion focused on claims to water rights under state and federal  
4 law reliant on a claim that prior appropriation provides a legal basis for the right. In response,  
5 the United States, which did not and does not assert claims for water rights under state law, argued  
6 the application of the federal law concerning water rights for allotments. United States  
7 Consolidated Response to LCR Coalition’s Motions for Partial Summary Judgment at 5-10 (filed  
8 June 6, 2018) (“Response”). While noting that the United States’ arguments were not responsive  
9 to the subject matter of its motion, the LCR Coalition responded to the United States’ arguments  
10 about the legal basis under federal law for water rights for the 11 allotments.  
11

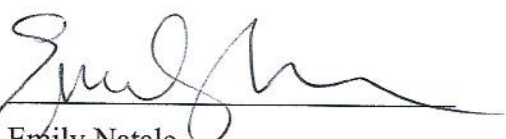
12           On September 17, 2021, the United States filed a Supplemental Citation of Authority that  
13 referenced a case cited in its Response. As a result, requests were made at the oral argument on  
14 October 1, 2021 to be allowed to more fully brief the issue of the availability of water rights for  
15 the 11 allotments under federal law. Given the 2018 papers about whether the allotments are  
16 entitled to federal reserved water rights, no reason exists for the full motion, response, and reply  
17 briefing. Moreover, each party was allowed a generous page limit for post-trial briefing to raise  
18 and argue all issues each party believed relevant to the issues in this contested case. Accordingly,  
19 the requested additional briefing will be limited to a memorandum of points of authorities that  
20 does not exceed 11 pages that sets forth the party’s arguments that the 11 allotments are entitled  
21 to or are not entitled to federal reserved water rights and the quantification of those rights under  
22 the applicable law. No consideration will be given to any argument already ruled upon in the  
23 Order filed August 16, 2018. No documents may be attached to the memorandum and any factual  
24 statement must be supported by a reference to the record or to a document admitted into evidence.  
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The Memorandum of Points and Authorities shall be filed on or before **January 10, 2022**.

  
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Susan Ward Harris  
Special Master

On December 7, 2021, the original of the foregoing was mailed to the Clerk of the Apache County Superior Court for filing and distributing a copy to all persons listed on the Court approved mailing list for *In re Hopi Reservation HSR*.

  
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Emily Natale