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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

Civil Case No. CV6417-300

ORDER APPROVING STIPULATION
REGARDING DISPUTE OF
OWNERSHIP OF REAL PROPERTY
AND RELATED WATER CLAIMS

CONTESTED CASE NAME: *In re Navajo Nation*

HSR INVOLVED: Navajo Reservation Hydrographic Survey Report.


DESCRIPTIVE SUMMARY: Stipulation regarding dispute of ownership of real property and related water claims approved.

NUMBER OF PAGES: 6


DATE OF FILING: November 22, 2022

Having reviewed the November 1, 2022 Stipulation Regarding Dispute of Ownership of Real Property and Related Water Claims in the In re Navajo Nation contested case, and good cause appearing:

1 IT IS ORDERED that the stipulation, attached as Exhibit 1 to this order, is approved and
2 will be applied to the water right decree for the Navajo Reservation with the Arizona portion of
3 the Little Colorado River Basin.

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7 Susan Ward Harris
Special Master

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9 On November 22, 2022, the original of the foregoing was
10 delivered to the Clerk of the Apache County Superior
11 Court for filing and distributing a copy to all persons
12 listed on the Court-approved mailing list for this contested
case.

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14 Emily Natale

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3 Albuquerque, New Mexico 87103
4 (505) 848-1852
5 Attorneys for Atkinson Trading Company, Inc.

6 **SUPERIOR COURT OF ARIZONA**
7 **APACHE COUNTY**

8 IN RE: THE GENERAL ADJUDICATION OF
9 ALL RIGHTS TO USE WATER IN THE
10 LITTLE COLORADO RIVER SYSTEM AND
11 SOURCE

Civil No. CV 6417-300

12 **STIPULATION REGARDING**
13 **DISPUTE OF OWNERSHIP OF**
14 **REAL PROPERTY AND**
15 **RELATED WATER CLAIMS**

16 CONTESTED CASE NAME: *In re Navajo Nation (No. CV6417-300) (Phase I)*

17 HSR INVOLVED: Final Navajo Reservation Hydrographic Survey Report within the LCR
18 Watershed, DCMI, Stock and Wildlife Watering, & Stockponds

19 DESCRIPTIVE SUMMARY: The Undersigned Parties submit their Stipulation regarding
20 Dispute of Ownership of Real Property and Related Water Claims

21 NUMBER OF PAGES: [4] pages (excluding exhibits)

22 DATE OF FILING: Original transmitted to the Clerk of the Court on November 1, 2022.

23 The Navajo Nation (“Nation”), the United States, and Atkinson Trading Company (“Atkinson”)
24 (the Nation, the United States, and Atkinson collectively referred to herein as “Parties” and
25 individually as “Party”) hereby enter into the following Stipulation Regarding Dispute of
26 Ownership of Real Property and Related Water Claims (“Stipulation”). The Parties stipulate as
follows:

1. The Parties dispute ownership of real property located in T29N R9E section 22 between the west bank of the Little Colorado River (“LCR”) and the centerline of the LCR as generally indicated in the attached map (Exhibit A) (hereafter, “Disputed Property”).¹
2. Atkinson currently has two (2) wells on the Disputed Property (“Atkinson Wells”), permitted by the Arizona Department of Water Resources.

¹ Exhibit A is presented for demonstrative purposes only.

- 1 3. The Parties agree that resolution of ownership of the Disputed Property is not a proper issue
2 for *In re the General Adjudication of all Rights to use Water in the Little Colorado System*
3 and Source (“General Stream Adjudication”), and none of the Parties is asking or will ask
4 the court in this General Stream Adjudication to address or resolve ownership of the
5 Disputed Property.²
6 4. The Nation and the United States agree that Atkinson may assert a claim to water rights
7 related to the Disputed Property in the appropriate contested case in the General Stream
8 Adjudication as though no dispute between the Parties exists as to such property rights, and
9 the Nation and the United States will not object to Atkinson’s claim to water rights on the
10 basis of ownership of the Disputed Property.
11 5. Atkinson agrees that the Nation, or the United States on the Nation’s behalf, may assert a
12 claim to water rights related to the Disputed Property in the appropriate contested case in
13 the General Stream Adjudication as though no dispute between the Parties exists as to such
14 property rights, and Atkinson will not object to the Nation’s and/or the United States’ claims
15 on the Nation’s behalf to water rights on the basis of ownership of the Disputed Property.
16 6. The Parties agree that any water right decreed in the General Stream Adjudication to any
17 Party to this Stipulation may be subject to a final decision of any forum with jurisdiction to
18 resolve ownership of the Disputed Property.
19 7. The Parties agree that this Stipulation shall be included and attached to any water right
20 decreed in the General Stream Adjudication to any Party to this Stipulation.
21 8. No Party to this Stipulation shall present, assert, establish, or defend its alleged superior
22 claim to the Disputed Property as against the claims of any other such Party in a manner
23 inconsistent with this Stipulation.
24 9. The Parties agree that no Party shall disturb, disrupt, or otherwise interfere with in any
25 manner current and ongoing water uses on or from the Disputed Property or assert or seek
26 to challenge jurisdiction or other control over the Atkinson Wells as long as there remains
a dispute regarding ownership of the Disputed Property.
10. Nothing in this Stipulation compromises in any way any Party’s rights or claims regarding
the Disputed Property, including the right to assert and prosecute a claim regarding the
Disputed Property in an appropriate forum outside the context of the General Stream
Adjudication.

If this Stipulation is not approved by the Court, the Parties agree that this Stipulation
shall not be cited, referred to, or offered into evidence by any Party in any circumstance.

² By entering into this Stipulation, unless otherwise provided by law, the United States and the Nation do not subject themselves to suit or otherwise waive their sovereign immunity in any manner, including related to quiet title actions associated with trust or restricted Indian lands.

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RESPECTFULLY SUBMITTED this 1st day of November, 2022.

Todd Kim
Assistant Attorney General
Vanessa Boyd Willard
Cody L.C. McBride
Andrew "Guss" Guarino
Emmi Blades
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Environment and Nat'l Resources Division
United States Department of Justice

By: /s/ with permission

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By: /s/ Maria O'Brien

Attorneys for Atkinson Trading Company, Inc.

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CERTIFICATE OF SERVICE

The original and two copies of the foregoing sent via Federal Express this 1st day of November, 2022 to:

Clerk of the Superior Court
Apache County
70 W. 3rd South
St. Johns, AZ 85936

A copy of the foregoing sent via Federal Express the 1st day of November, 2022 to:

Susan Ward Harris
Special Master
Central Court Building, Suite 3A
201 West Jefferson
Phoenix, AZ 85003

Copies of the foregoing were sent by first class mail this 1st day of November, 2022 to:

All persons on the court-approved mailing list for Little Colorado River Adjudication, No. CV 6417-300 dated October 21st, 2022.

/s/ Maria O'Brien
Maria O'Brien