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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 REGARDING ENTRY
UPON HOPI RESERVATION
RELATED TO THE HOPI TRIBE'S
PAST AND PRESENT IRRIGATION
USES**

One of the purposes of this bifurcated case is to adjudicate the Hopi Tribe's claims for water based on past and present irrigation uses. On February 6, 2017, the Navajo Nation filed a request to enter the Hopi Reservation (the "Request") with the intent of entering into a stipulation with the Hopi Tribe concerning the scope of its entry upon the Reservation. On March 7, 2017, the Hopi Tribe filed a Response to the Request to which the Navajo Nation filed a Reply in support of the Request. Oral argument on the terms for entry was held on March 15, 2017 and continued to March 23, 2017. The two tribes have now agreed upon the terms of entry.

Pursuant to §§ 9.11 and 9.12, Rules for Proceedings before the Special Master, and for good cause shown,

IT IS HEREBY ORDERED:

1. The Navajo Nation shall be allowed entry onto the Hopi Reservation to investigate past and present uses of water for irrigation on and after June 12, 2017, and before July 1, 2017.

- 1 2. Attached to this Order is a list of Stops for the June field investigations,
2 including the ordering of Stops by proposed field days (1 through 8).
3 The Navajo Nation will file a notice of the dates of the trips and
4 included Stops by May 1, 2017. Field trips will start after June 11,
5 2017.
- 6 3. The Stops are each expected to require between 30 minutes and two
7 hours depending upon the features being examined. The Navajo
8 Nation's experts and experts for other parties participating in the field
9 inspections may take notes, take photographs of fields, identify the
10 location of fields, state the date of the particular Stop, and otherwise
11 report on wells, springs, points of diversion, irrigation sites and matters
12 relevant to past and present irrigation practices and record
13 measurements of fields and facilities. In taking photographs, the experts
14 and other participants in the field investigations representing the Navajo
15 Nation and other parties will respect the Hopi peoples' rights not to be
16 photographed, and will not take photographs apart from what is relevant
17 for their work. The experts shall not take samples or engage in other
18 intrusive activities or destructive measurements.
- 19 4. If the Navajo Nation determines that additional days are needed, the
20 Hopi Tribe and the Navajo Nation will meet and confer regarding
21 additional times that are mutually acceptable to both parties.
- 22 5. The representatives of the Navajo Nation who will participate in the
23 inspections are:
- 24 a. A maximum of four persons from Amec Foster Wheeler, the
25 Navajo Nation's technical expert, and support personnel from
26 among the following: James McCord, Principal Engineer; Laila
27 Sturgis, Senior Hydrogeologist; John Leeper, Senior Project
28 Engineer; Eva Rebecca Paulino, Technical Professional Intern;

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- Shannon Williams, Senior Hydrogeologist; Carlton Pine, Geotechnical Tech Professional; William Ellison, Environmental Tech Professional; Gregory Davies, Geotechnical Tech Professional; and Brandi Butts, Geotechnical Tech Professional;
- b. One person from the Navajo Nation Department of Water Resources, Water Management Branch from among the following: Jason John, Principal Hydrologist and Branch Manager; Teresa Showa, Principal Hydrologist; and Robert Kirk, Principal Hydrologist; and
 - c. One attorney from among the following: Gregg DeBie or Scott McElroy with McElroy, Meyer, Walker & Condon, P.C., or Stanley Pollack, Lisa Yellow Eagle or Kate Hoover from the Navajo Nation Department of Justice.
6. Clayton Honyumptewa, Director, or Edison Tu'tsi, of the Hopi Department of Natural Resources, Lionel Puhuyesva, Director, or Max Taylor, of the Hopi Water Resources Program, and/or Joel Nicholas, Archaeologist 1, or Lee Wayne Lomayestewa, of the Hopi Cultural Preservation Office, will meet the Navajo Nation team at a place designated by the Hopi Tribe, and shall accompany the Navajo Nation team and assist in the location of the Stops. Counsel for the Hopi Tribe reserves the right to be present at any field visit.
7. The Hopi Tribe, regarding allotted land, BIA land assignments and certain lands in or near villages, will ascertain whether owners, farmers or occupants of land object or request that inspections take place with certain conditions. If so, the Hopi Tribe will inform the Navajo Nation not later than May 1, 2017, and the Hopi Tribe and the Navajo Nation will attempt to work out reasonable accommodations. If not successful,

1 then the Court will take up issues at a status conference to be held
2 May 10, 2017, at 1:30 p.m.

3 8. Pursuant to § 9.11 of the Rules for Proceedings before the Special
4 Master, the trips authorized by this Order shall be the only entry on land
5 for the inspection of irrigated fields and points of diversion by any
6 claimant in the adjudication with respect to past and present irrigation
7 uses. The Navajo Nation or any other litigant reserves the right to
8 request an additional trip or trips if necessary with respect to the claims
9 of the Hopi Tribe and United States on behalf of the Hopi Tribe for
10 future uses of water for irrigation. If a field visit for future uses is
11 requested, the Navajo Nation and the Hopi Tribe will meet and confer to
12 enter into a stipulation for such a field visit. Absent a material change
13 in circumstances or factual events, the form and content of this Order
14 will be the starting point for a new stipulation.

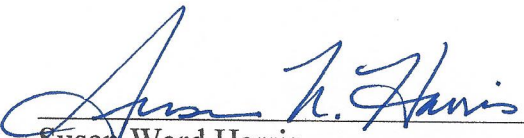
15 9. Pursuant to § 9.12 of the Rules for Proceedings before the Special
16 Master, other litigants may participate in the inspection of the land if
17 they give written notice to counsel for the Hopi Tribe and counsel for
18 the Navajo Nation at least 14 days prior to June 12, 2017. A copy of
19 this notice must be filed with the Court. All litigants participating in the
20 inspection shall abide by the terms of this Order.

21 10. Within 60 days of completion of the entry for inspection, the Navajo
22 Nation or any other litigant participating in the inspection will file with
23 the Arizona Department of Water Resources a compilation of the results
24 or a compilation of the raw data obtained from the inspection or other
25 purposes for which the inspection is made. The Navajo Nation or any
26 other litigant supplying the compilation shall file a notice that it has
27 supplied the information to the Arizona Department of Water Recourses
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1 in accordance with § 9.05 of the Rules for Proceedings before the Special
2 Master.

- 3 11. With respect to any future request by the Hopi Tribe to enter the Navajo
4 Indian Reservation to conduct inspections, the conditions established by this
5 Order shall apply absent a material change in facts or circumstances.
- 6 12. Communications between or among members, representatives or consultants
7 of the Hopi Tribe, members, representatives or consultants of the Navajo
8 Nation, and members, representatives or consultants of any other litigant
9 participating in the inspection that occur during any inspection cannot be
10 used in any proceeding or hearing in this adjudication as an admission against
11 interest against the Hopi Tribe or the Navajo Nation.
- 12 13. The date by which objectors must file disclosure statements and expert
13 reports responding to the claims of the Hopi Tribe and the United States on
14 behalf of the Hopi Tribe for past and present water uses is extended to
15 October 2, 2017.
- 16 14. On or before November 3, 2017, the parties shall file their respective notices
17 of deposition. Amended and additional notices of deposition may be filed
18 after November 3, 2017, and before the discovery deadline to address
19 changes in scheduling required by the parties or the deponents.
- 20 15. The date by which the United States and the Hopi Tribe must file rebuttal
21 expert reports for past and present uses is extended to December 1, 2017.
- 22 16. The change of dates for the filing expert and rebuttal reports will not be used
23 as a reason to continue the trial date on September 18, 2018, on present and
24 past water uses.

25 DATED: March 23, 2017

26 
27 Susan Ward Harris
28 Special Master

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2 On March 23, 2017, the original of the foregoing
3 was mailed to the Clerk of the Apache County
4 Superior Court for filing and distributing a copy
5 to all persons listed on the Court approved
6 mailing list for Contested Case No. 6417-203.

7 *Barbara Brown*

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Access Notes	Stop # and Probable Field Day	BIA Irrigation Type	Acres	Irrigation Project Name	General Location	Well ID or Spring Name	Tract ID	POD #	POD Easting	POD Northing	Quad Name
Tract 956 is located 0.24 miles south of HWY 160, but access requires driving through arroyo. If arroyo is flowing or unsafe to drive through there appears to be a 3.7 mile dirt road off Hwy 264. POD access is unclear - may be able to drive along the canal.	Stop 1 - Day 1	Seasonal	63.85	Upper Kerley Valley Project	Moenkopi Wash		956	1542	479139	3995688	Moenave SE and Moenkopi
Field runs alongside HWY 160	Stop 2 - Day 1	Not included in current BIA analysis			Moenkopi Wash		N/A	N/A	478570	3996110	Moenkopi
POD is 2.3 miles upstream of Tract 964.	Stop 3 - Day 1	Perennial	147.88	Pasture Canyon Reservoir Irrigation	Moenkopi Wash		964	1549	480573	3999094	Moenkopi
POD and Tract appear accessible from 1.25 mile dirt road off of HWY 264	Stop 4 - Day 1	Native	11.71	Non-project areas served by side tributaries of Moenkopi Wash	Moenkopi Wash		983	1557	484557	3994898	Moenkopi
Site is approx. 7 miles south of Moenkopi along HWY 264.	Stop 5 - Day 2	Native	73.25		Moenkopi Wash		651	1414	486414	3986218	Moenkopi
								1415	486410	3986259	
0.85 miles of dirt road connect the tracts and POD to HWY 264	Stop 6 - Day 2	Native	27.82		Moenkopi Wash		652	1443	486461	3987897	Moenkopi
								1448	486406	3987979	
								1449	486378	3988021	
1.3 miles of dirt road off of HWY 264	Stop 7 - Day 2	Native	3.98		Moenkopi Wash		653	1453	487571	3988451	Moenkopi
adjacent to previous stop	Stop 8 - Day 2	Native	9.34		Moenkopi Wash		654	1452	487875	3988223	Moenkopi
1.17 miles of dirt road off of HWY 264	Stop 9 - Day 2	Native	84.23		Moenkopi Wash		655	1450	488586	3988204	Moenkopi
								1451	488586	3988204	
0.75 miles of dirt road off of HWY 264	Stop 10 - Day 2	Native	2.17		Moenkopi Wash		763	1425	487508	3987198	Moenkopi
								1426	487466	3987247	
Fields are 7 miles away from Tonalea (HWY 160) on a dirt	Stop 11 - Day 3	Seasonal	234.18	Begashibito Wash Tributary Flood	Moenkopi Wash		929	153	505080	4012673	Begashibito and Tonalea
								154	504466	4012344	

Access Notes	Stop # and Probable Field Day	BIA Irrigation Type	Acres	Irrigation Project Name	General Location	Well ID or Spring Name	Tract ID	POD #	POD Easting	POD Northing	Quad Name
Site is 33 miles from Tuba City along HWY 264, then 10 miles dirt road. It looks like there is a 13 mile dirt road connecting Stop 11 and Stop 12	Stop 12 - Day 3	Native	1.59		Moenkopi Wash		415	1471	512628	3995201	Bat Spring Quad
Tract 537 is 1.5 miles from paved road 264. Also accessible from continuing south from Stop 12 for 8.3 miles	Stop 13 - Day 3	Well	1.59		Moenkopi Wash	W-8-60 or 812	537	1541	516713	3982855	Howell Mesa
10 miles along HWY 264, followed by 6.5 miles of dirt road	Stop 14 - Day 4	Seasonal	252.71		Dinnebito Wash		933	144	520314	3973649	Howell Mesa
								145	520682	3974256	
								146	520762	3974484	
								147	519868	3973857	
								148	520229	3975116	
								149	520576	3973814	
								164	520585	3974403	
165	519608	3973936									
Continue 3 miles along the same dirt road as stop 14	Stop 15 - Day 4	Native	15.84		Dinnebito Wash		559	835	518237	3970099	Howell Mesa
								839	518342	3970168	
								847	518420	3970286	

Access Notes	Stop # and Probable Field Day	BIA Irrigation Type	Acres	Irrigation Project Name	General Location	Well ID or Spring Name	Tract ID	POD #	POD Easting	POD Northing	Quad Name
Continue 4.5 miles along the same dirt road as stop 14	Stop 16 - Day 4	Seasonal	293.81	Dennebito Wash Tributary1 Flood Irrigation System	Dinnebito Wash		931	77	517477	3965889	Padilla Mesa
								78	516820	3965725	
								79	516909	3965515	
								80	516188	3965998	
								81	516042	3966000	
								82	516969	3966089	
								83	516513	3965938	
								84	517224	3965597	
								85	517425	3965736	
								86	515095	3966110	
								87	515614	3966009	
								88	517565	3965927	
								89	515817	3965812	
								166	516213	3966124	
								167	516036	3965646	
								168	516591	3966057	
169	516630	3965514									
Fields are within the town of Hotevilla and near HWY 264	Stop 17 - Day 4	Native	22.11		Oraibi Wash		221	991	529691	3974803	Hotevilla
								992	529663	3974858	
								994	529742	3974970	
Fields are within the town of Hotevilla and near HWY 264	Stop 18 - Day 4	Perennial	0.74		Oraibi Wash	S093 Paacavi	919	7	530656	3975401	Hotevilla
19 miles of dirt road? Having trouble finding good access to this site. May need to move Stop # based on access	Stop 19 - Day 5	Well	15.75		Oraibi Wash	W-13-134 or 132	434	1540	516713	3982855	Burro Spring
13 miles dirt road off of Leupp-Oraibi Rd. 16 miles on Leupp-Oraibi Rd to Kykotsmovi Village	Stop 20 - Day 5	Spring	94.17	Sand Springs Irrigation Project	Dinnebito Wash	S085 Dinnebito Springs	953	17	505287	3953421	Sand Springs

Access Notes	Stop # and Probable Field Day	BIA Irrigation Type	Acres	Irrigation Project Name	General Location	Well ID or Spring Name	Tract ID	POD #	POD Easting	POD Northing	Quad Name
1.1 miles south on Leupp-Oraibi Rd from Stop 20.	Stop 21 - Day 5	Range Pasture	1230.56	Lower Oraibi Wash Flood Irrigation	Oraibi Wash		943	115	517963	3933668	Garces Mesas SE
								142	516350	3929686	
Site access is 6.4 miles of dirt road off of AZ-87. Dirt road access is 8.4 miles south of Second Mesa along AZ-87.	Stop 22 - Day 6	Spring	47.61	Phillips Farm Irrigation Project	Polacca Wash	S1311 Rock Ledge Spring	954	18	537682	3944531	Giants Chair
4.6 miles of dirt road off of AZ-87. Site access is 5 miles	Stop 23 - Day 6	Seasonal	209.24	Jadito Wash Irrigation Project	Jadito Wash		938	60	553930	3941722	Egloffstein Butte
								105	563237	3950707	
Site is 1.89 miles from AZ-47. It appears that Stop 23 and 24 can be accessed from the same dirt road	Stop 24 - Day 6	Range Pasture	167.8		Jadito Wash		739	60	553930	3941722	Egloffstein Butte
These tracts spans both sides of AZ-47. The POD is 7.5 miles away from the road at the eastern corner of the tracts	Stop 25 - Day 6	Seasonal	32.644	Polacca Wash Flood Irrigation System	Polacca Wash		948	135	551636	3958864	Polacca
This series of tracts are very close to the town of First Mesa, off of HWY 264	Stop 26 - Day 7	Not included in current BIA analysis	100.98	Five Houses Flood Irrigation System	Polacca Wash		936	96	555645	3961277	Sun Altar
								97	555578	3961938	
								98	557006	3963698	
								99	557306	3963917	
								100	556941	3964029	
								101	556813	3964210	
								102	555101	3962757	
								103	555517	3962804	
155	557877	3963876									
6.1 miles off of HWY 264, near the town of First Mesa	Stop 27 - Day 7	Perennial	8.19		Polacca Wash	S106 Wipho /Wepo South	926	15	556938	3971976	Wepo Village
		Perennial	2.53		Polacca Wash	S107 Wipho/ Reed Spring	927	16	557189	3972104	Wepo Village

Access Notes	Stop # and Probable Field Day	BIA Irrigation Type	Acres	Irrigation Project Name	General Location	Well ID or Spring Name	Tract ID	POD #	POD Easting	POD Northing	Quad Name						
Take AZ-4 for 6.7 miles off of HWY-264. Then follow AZ-43 for 8.4 miles	Stop 28 - Day 7	Seasonal	86.61		Polacca Wash		467	41	556993	3983442	Wepo Village						
								42	557279	3983879							
								43	557445	3982909							
Additional 5.6 miles along AZ-43 past Stop 28	Stop 29 - Day 8	Native	2.37		Polacca Wash		765	1439	564279	3988438	Little Black Spot						
								1441	564289	3988518							
		Native	1.14		Polacca Wash		840		1438	564170	3988433	Little Black Spot Mountain					
									1433	564007	3988323						
Additional 7.75 miles north along AZ-4 past the intersection of AZ-43 and AZ-4	Stop 30 - Day 8	Native	9.13		Polacca Wash		842	1431	563978	3988184	Little Black Spot Mountain						
								Seasonal	95.11	Hardrocks/Oriabi Wash Irrigation Project		Oraibi Wash	937	63	546882	3988330	Hard Rocks

MAPS NOT INCLUDED