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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 RE: NAVAJO NATION'S MOTION
IN LIMINE NO. 4

CONTESTED CASE NAME: *In re Hopi Reservation HSR*
HSR INVOLVED: *Hopi Reservation*
DESCRIPTIVE SUMMARY: The Navajo Nation's motion to exclude the Hopi
Tribe's designated deposition testimony is denied, but the parties shall have no
obligation to list objections and the basis for the objections to the Hopi Tribe's
designated deposition testimony in the Joint PreTrial Statement.
NUMBER OF PAGES: 2
DATE OF FILING: July 26, 2018

In conjunction with three other motions in limine, the Navajo Nation moved on June 22,
2018, to exclude the deposition testimony taken of thirty trial witnesses identified by the Hopi
Tribe. Rule 16 requires that a Joint Pretrial Statement shall include "[a] statement by each party
indicating any proposed deposition summaries or designating portions of any deposition
testimony to be offered by that party at trial, other than for impeachment purposes. Deposition

1 testimony shall be designated by transcript page and line numbers.” Ariz. R. Civ. P. 16(g)(2)(F).
2 Among the primary purposes of the pretrial statement are the prevention of surprises to the
3 parties and the facilitation of the trial of the case. *In re Conservatorship for Hardt*, 242 Ariz.
4 449, 453, 397 P.3d 1049, 1053 (Ct. App. 2017) While the Hopi Tribe appears to have
5 technically complied with the letter of Rule 16, its actions do not further the purpose of the
6 pretrial statement. No party has been enlightened as to those portions of the thirty depositions
7 that the Hopi Tribe may use at trial, assuming that the deposition testimony is admissible under
8 the rules of evidence. Ariz. R. Civ. P. 32(a). Instead, the parties have the burden to prepare
9 objections and the basis for objections to all of the direct testimony of thirty witnesses taken at
10 depositions that may or may not be offered at trial. Ariz. R. Civ. P. 16(g)(2)(F). Thus, given that
11 the Hopi Tribe has effectively acted to preserve for trial the use of all of the direct testimony it
12 elicited in the depositions, the opposing parties should be allowed similar latitude to reserve the
13 right to raise all of its objections at trial to any such offered deposition testimony.
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16 **IT IS ORDERED** denying the Navajo Nation’s requested relief that the deposition
17 transcripts be excluded because of a failure to comply with Ariz. R. Civ. P. 16(g)(2)(F).

18 **IT IS FURTHER ORDERED** that the parties shall have no obligation to list objections
19 to the deposition testimony designated by the Hopi Tribe and the basis for those objections in the
20 Joint PreTrial Statement. The parties shall retain the right to raise at trial all objections to the
21 designated deposition testimony if offered at trial.
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Susan Ward Harris
Special Master

1 On July 26, 2018, the original of the
2 foregoing was mailed to the Clerk of the
3 Apache County Superior Court for filing and
4 distributing a copy to all persons listed on
5 the Court approved mailing list for the Little
6 Colorado River Adjudication Civil No.
7 6417-203.

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9 Barbara Brown
10 Barbara Brown
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