

SUPERIOR COURT OF ARIZONA  
APACHE COUNTY

September 21, 2020

CLERK OF THE COURT

SPECIAL WATER MASTER  
SUSAN WARD HARRIS

T. DeRaddo

Deputy

In re: Hopi Reservation HSR  
Contested Case No. CV 6417-203

FILED: 9/22/2020

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

**TRIAL MINUTE ENTRY  
DAY 5**

Courtroom: CCB 301

9:00 a.m. Trial to the Court continues from September 17, 2020. The following attorneys and parties appear telephonically:

- Colin Campbell, Grace Rebling, Phillip Londen and Payslie Bowman for the Hopi Tribe
- Vanessa Boyd Willard, Sarah Foley, Cody McBride, Emmi Blades, and Rebecca Ross for the United States Department of Justice, Indian Resources Section
- Brian J. Heiserman, David A. Brown, Lauren J. Caster, Bradley J. Pew for LCR Coalition
- Mark A. McGinnis and Hannah Woner for the Salt River Project
- Carrie J. Brennan and Kevin Crestin for the Arizona State Land Department
- Lee A. Storey, Sara Ransom, Alexandra Arboleda, and Ethan B. Minkin for the City of Flagstaff
- Jeffrey S. Leonard, Judith M. Dworkin, Evan F. Hiller, and Kathryn Hoover for the Navajo Nation
- Doreen McPaul, Attorney General for the Navajo Nation
- Michelle Brown-Yazzie and Kimberly Dutcher, Deputy Attorneys General for the Navajo Nation
- Kimberly Parks observing for ADWR

Court Reporter, Diane Donoho, is present and a record of the proceedings is made digitally.

Discussion is held regarding procedural matters as stated on the record.

Edward F. Lucero is sworn and testifies.

United States' exhibit 1208 is received in evidence.

United States' exhibits 1112, 969 and 967 are received in evidence.

LCR Coalition's exhibit 612 is received in evidence.

United States' exhibit 963 is received in evidence.

LCR Coalition's exhibit 597 is offered. Discussion is held regarding the exhibit. This exhibit not received in evidence.

United States' exhibit 969 is received in evidence.

10:30 a.m. The Court stands at recess.

10:45 a.m. Court reconvenes with the parties and respective counsel present.

Edward F. Lucero continues to testify.

Court Reporter, Diane Donoho, is present and a record of the proceedings is made digitally.

11:22 a.m. The Court stands at recess.

11:30 a.m. Court reconvenes with the parties and respective counsel present.

Court Reporter, Diane Donoho, is present and a record of the proceedings is made digitally.

Edward F. Lucero continues to testify.

The witness is excused.

Discussion is held regarding witnesses and scheduling issues.

Discussion is held regarding whether the Court prefers that the rebuttal reports be received in evidence during the case in chief, or during the rebuttal case.

Discussion is held and the Court requests that the parties state their preferences on the record.

Mr. Heiserman states that he prefers that both the initial report and the rebuttal report be introduced into evidence at the same time in order to have other witnesses be

able to reference them during the trial. Mr. Heiserman also states his position on the record regarding the scope of the testimony during the rebuttal case. Mr. Heiserman states that briefing or a bench memorandum may be necessary.

Ms. Willard states that she will defer to the preference of the Hopi Tribe with respect to the introduction of rebuttal reports.

Ms. Arboleda states that the City of Flagstaff agrees with Mr. Heiserman.

Mr. McGinnis states that he has no preference on this issue.

Mr. Leonard states that he has no preference, but agrees with Mr. Heiserman's position regarding the scope of the rebuttal case. Mr. Leonard agrees with Mr. Heiserman that briefing on this issue may be necessary.

Ms. Brennan states that she prefers introducing both reports at the same time because it would be most helpful to the Court. She is in agreement with Messrs. Heiserman and Leonard regarding possible briefing on this issue.

The Court's preference is that all of the rebuttal reports should be received in evidence during the case in chief solely for administrative convenience.

Mr. Campbell addresses the Court and states that he will not waive any rights to put on a rebuttal case, and prefers that the rebuttal reports are not received until the rebuttal case is ready to be litigated. The Court requests that the parties confer regarding the rebuttal issues. Accordingly,

The Court declines to rule on this issue until the parties have conferred.

11:50 a.m. The Court stands at recess until September 22, 2020 at 9:00 a.m.

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