

1 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
2 IN AND FOR THE COUNTY OF APACHE

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4
5 IN RE THE GENERAL
6 ADJUDICATION OF ALL RIGHTS TO
7 USE WATER IN THE LITTLE
8 COLORADO RIVER SYSTEM AND
9 SOURCE

CV 6417-203

CASE MANAGEMENT ORDER

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13 CONTESTED CASE NAME: *In re Hopi Reservation HSR*

14 HSR INVOLVED: *Hopi Reservation*

15 DESCRIPTIVE SUMMARY: The Special Master issues a case management order
16 to set deadlines in this contested case to consider the objections to the Hopi
17 Reservation HSR and designates the court approved mailing list.

18 NUMBER OF PAGES: 11

19 DATE OF FILING: August 25, 2016.
20

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22 The Arizona Department of Water Resources (“ADWR”) filed a final hydrographic
23 survey report (HSR) for the Hopi Reservation on December 18, 2015. The HSR analyzes
24 the water rights claimed by the Hopi Tribe and the United States, as trustee for the Hopi
25 Tribe, in statements of claimant 39-91443 and 39-91441, as amended, respectively, for the
26 land included in the 1882 Executive Order Reservation and the 1934 Act Reservation
27 (collectively the “Hopi Reservation”) within the Little Colorado Watershed.
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1 Objections to the Hopi Reservation HSR were required to be filed and received by
2 the Clerk of the Superior Court in and for Apache County by June 15, 2016. The Special
3 Master will dismiss with prejudice those objections that were not timely filed. Objections
4 must specifically address the director's recommendations regarding particular water rights
5 claims or uses investigated. A.R.S. §45-256. Further, objections must state in clear and
6 concise language the particular factual and/or legal reasons for the objections and describe
7 the evidence to support those reasons. Pretrial Order No. 1, dated April 24, 1987. The
8 Special Master shall dismiss with prejudice those objections that do not meet these
9 standards.
10

11 The Special Master shall conduct hearings and take testimony necessary to
12 determine the water rights of the Hopi Tribe and the United States on behalf of the Hopi
13 Tribe. A.R.S. §45-257. This contested case is organized to address the objections filed to
14 the Hopi Reservation HSR.
15

16
17 **IT IS ORDERED:**
18

19 1. Contested Case and Docket Number. This case is designated *In re Hopi*
20 *Reservation HSR*, Docket No. CV 6417-203 and will address the timely filed and properly
21 completed objections to the Hopi Reservation HSR.

22 2. Litigants. The litigants in this contested case are the claimants and the
23 beneficial and legal owners of the land, the Hopi Tribe and the United States, all claimants
24 who timely submitted objections that comply with A.R.S. §45-256 and Pretrial Order No. 1,
25 and claimants who are allowed to intervene by order.
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1 3. Court Approved Mailing List.

2 A. The initial Court-approved mailing list for this case shall include persons
3 listed in Attachment A to this order. The office of the Special Master will post the
4 mailing list at:

5
6 <http://www.superiorcourt.maricopa.gov/SuperiorCourt/GeneralStreamAdjudication/maillingLists.asp>.

7 The list may be modified from time to time.

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9 B. A copy of any pleading filed with the Clerk of the Apache County
10 Superior Court in this case shall be served on each person listed on the Court-
11 approved mailing list.

12 C. Claimants wishing to be added or removed from the mailing list shall file
13 a motion with the Special Master. Parties allowed to intervene will be automatically
14 added to the mailing list.

15 D. Corrections to names or addresses shown on the mailing list may be made
16 by sending a written notice to the Office of the Special Master with the correct
17 information.

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19 4. Filings.

20 A. Papers, other than the initial objection, submitted to the Clerk of the
21 Apache County Superior Court shall be considered timely filed if postmarked
22 by the deadline specified in an order issued in this case.

23
24 B. In papers joined by numerous parties, in lieu of separate signature pages,
25 the Special Master will accept as sufficient an avowal by the lead counsel that
26 includes a listing of the attorneys and the parties each represents who join in
27 the pleading. This allowance is made pursuant to Arizona Rule of Civil
28

1 Procedure 1 that the rules “shall be construed to secure the ... inexpensive
2 determination of every action.”

3 5. Objections.
4

5 A. Objections that were not timely filed will be dismissed.

6 B. A hearing will be held set to consider those objections that were timely
7 filed, but which do not appear upon initial review by the Special Master to
8 meet the requirements of A.R.S. §45-256 and Pretrial Order No. 1.
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10 6. Disclosure Statements.

11 A. On or before **January 23, 2017**, the United States acting as trustee and the
12 Hopi Tribe shall file their initial Arizona Rule of Civil Procedure 26.1
13 disclosure statements with respect to claims based on past and present water
14 uses.

15 B. On or before **May 1, 2017**, all other parties shall file their initial Rule
16 26.1 disclosure statements with respect to claims based on past and present
17 water uses.
18

19 C. On or before **March 6, 2017**, the United States acting as trustee and the
20 Hopi Tribe shall file their initial Arizona Rule of Civil Procedure 26.1
21 disclosure statements with respect to claims based on future water uses.
22

23 D. On or before **September 1, 2017**, all other parties shall file their initial
24 Rule 26.1 disclosure statements with respect to claims based on future water
25 uses.

26 E. All disclosures shall include information and data in the possession,
27 custody, and control of the disclosing party as well as that which can be
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1 ascertained, learned, or acquired by reasonable inquiry and investigation. The
2 disclosure statement shall set forth:

3 (1) The factual basis of a party's claim concerning each of the
4 designated issues.

5
6 (2) The legal theory upon which each claim is based including, where
7 necessary for a reasonable understanding of the claim, citations of
8 pertinent legal or case authorities.

9
10 (3) The names, addresses, and telephone numbers of any witnesses
11 whom the disclosing party expects to call to substantiate its claims
12 with a fair description of the substance of each witness' expected
13 testimony.

14 (4) The names and addresses of all persons whom the disclosing party
15 believes may have knowledge or information relevant to the events,
16 transactions, or occurrences that gave rise to each claim, and the
17 nature of the knowledge or information each such individual is
18 believed to possess.

19 (5) The names and addresses of all persons who have given
20 statements, whether written or recorded, signed or unsigned, and the
21 custodian of the copies of those statements.

22
23 (6) The name and address of each person whom the disclosing party
24 expects to call as an expert witness, the subject matter on which the
25 expert is expected to testify, the substance of the facts and opinions to
26 which the expert is expected to testify, a summary of the grounds for
27 each opinion, the qualifications of the witness, and the name and
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address of the custodian of copies of any reports prepared by the expert.

(7) The existence, location, custodian, and general description of any tangible evidence, relevant documents, or electronically stored information that the party plans to use to support its claims.

(8) A list of the documents or electronically stored information, or in the case of voluminous documentary information or electronically stored information, a list of the categories of documents or electronically stored information, known by the disclosing party to exist whether or not in its possession, custody, or control and which that party believes may be relevant to any of its claims concerning the designated issues, and those which appear reasonably calculated to lead to the discovery of admissible evidence, and the date(s) upon which those documents or electronically stored information will be made, or have been made, available for inspection and copying. Unless good cause is stated for not doing so, a copy of the documents and electronically stored information listed shall be served with the disclosure. If production is not made, the name and address of the custodian of the document and electronically stored information shall be indicated. A party who produces documents for inspection shall produce them as they are kept in the usual course of business.

F. All parties shall have a continuing duty to disclose as required by and in the manner provided in Rule 26.1(b) (2).

G. All disclosing parties shall provide a notice of filing and a listing of the disclosed documents and electronically stored information to all persons

1 appearing on the Court approved mailing list for this case. Paper copies of
2 disclosed documents need not be served upon the other parties in this case, as
3 copies can be obtained from ADWR.

4 H. If a party's listing of its disclosed documents or electronically stored
5 information, not the disclosure statement, exceeds twenty-five pages, that
6 party shall so state in its disclosure statement and shall provide a copy of the
7 complete listing to the Special Master, ADWR, and to those parties who
8 request from the disclosing party a copy of the complete listing.
9

10 7. Electronic Data Base and Index Provided by ADWR. ADWR is directed to
11 create and maintain an electronic data base and index of all disclosed documents that shall
12 be available on ADWR's website. ADWR may confer and work with any of the parties in
13 this case to implement the electronic data base and index.

14 A. A disclosing party shall submit to ADWR a copy of all documents
15 disclosed and an index of the documents in accordance with the following
16 requirements:

17 (1) Number each document in numeric sequence with a unique alpha
18 identifier which is related to the name of the disclosing party.

19 (2) Complete a Disclosure Input Form in Microsoft Excel format for
20 each disclosed document containing the following searchable index
21 fields:
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23 a. Title or description of document.

24 b. Unique identifying number created by the disclosing party
25 for each document.
26

27 c. Date of publication or preparation of document.
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d. Document type (article, book, letter, map, report).

e. Recipient.

f. Number of pages of document.

g. Disclosing party.

h. Date of submittal of document.

i. Subject matter of document (up to three categories).

j. Any other item that would make the disclosed document easy to find and read.

(3) Create a .pdf file of each document.

(4) Provide a compact disc to ADWR with copies of the Disclosure Input Forms (Microsoft Excel files) and corresponding disclosure documents in .pdf file format.

(5) Provide to ADWR paper copies of disclosed documents and corresponding Disclosure Input Forms. ADWR will maintain paper copies to satisfy the Public Records Act, A.R.S. §§ 39-101 *et seq.*

B. ADWR shall place a blank copy of the Disclosure Input Form together with format protocols on the Internet at a domain or address made known to all persons who appear on the Court approved mailing list for this case. In order to provide access to the disclosed documents, each index field in the Disclosure Input Form shall be subject to query. To the greatest extent possible, electronic copies of all disclosed documents and completed Disclosure Input Forms shall be made available on the Internet for viewing and copying.

1 C. To the extent possible, parties shall submit documents in the following
2 form: single-sided, 8.5" x 11" size, no punched holes, no permanent binding
3 (staples excepted), and no tabs.

4 D. ADWR shall make available to any claimant, at the claimant's expense, a
5 copy of disclosed documents on a CD-ROM or a paper copy. ADWR shall
6 determine the best and most practical manner for providing copies.
7

8 E. ADWR may collect its standard fees for copies and other services rendered
9 related to the use of the electronic data base and index.

10 8. Expert Reports. All parties shall produce expert reports relevant to past and
11 present water uses on the dates set for Disclosure Statements on the claims
12 based on past and present water uses. All parties shall produce expert reports
13 relevant to claims based on future water uses on the dates set for Disclosure
14 Statements on future water uses.

15 9. Discovery.

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17 A. Past and Present Water Uses. All discovery including depositions shall be
18 completed by **November 17, 2017**.

19 B. Future Water Uses. All discovery including depositions shall be
20 completed by **March 16, 2018**.

21 C. All discovery related to the designated issues shall be conducted
22 according to Arizona Rules of Civil Procedure 26 through 37, and as
23 applicable, pretrial orders issued in this adjudication and the Rules for
24 Proceedings Before the Special Master.
25

26 10. Motions. On or before **February 6, 2018**, any party in this case may file a
27 motion or motions that present the party's position concerning issues related to past and
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1 present water uses. On or before **August 1, 2018**, any party in this case may file a motion or
2 motions that present the party's position concerning issues related to future water uses.

3 11. Responses. Responses to all motions shall be filed within 40 days of the
4 filing date of the motion.

5 12. Replies. Replies to all motions shall be filed within 20 days of the filing date
6 of the response.

7 13. Page Limitations. Parties are not excused from mandated page limitations for
8 motions, responses, and replies.

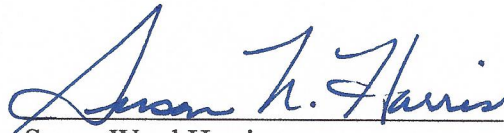
9 14. Oral Argument and Hearings. Oral argument will be held on all motions to
10 the extent necessary. Oral argument and hearings will be held in the Maricopa County
11 Superior Court in Phoenix, Arizona, but any party in this case may request that a proceeding
12 be held in the Apache County Superior Court in St. Johns, Arizona and such a request shall
13 be considered in light of the convenience and costs to the parties.

14 15. Trial. Trial on claims based on past and present water uses shall begin at
15 10:30 on **September 10, 2018**. Trial on claims for future water uses shall begin at 10:30
16 a.m. on **February 15, 2019**. The place of the trial will be held in the Maricopa County
17 Superior Court in Phoenix, Arizona, but may be changed to Apache County Superior Court
18 in St. Johns, Arizona.

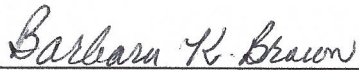
19 16. Status Conference. At this time, a status conference is not set. Any party may
20 request a conference, which may be held telephonically, to consider any matter to further
21 this contested case.

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DATED: August 25, 2016.


Susan Ward Harris
Special Master

On August 25, 2016, 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 the Little Colorado River Adjudication Civil No. 6417-203.



Attachment A

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