

SUPERIOR COURT OF ARIZONA
APACHE COUNTY

2/9/2021

CLERK OF THE COURT

SPECIAL WATER MASTER
SUSAN WARD HARRIS

S. Ortega

Deputy

FILED: 2/12/2021

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

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

In re: Trial to Court

TRIAL MINUTE ENTRY – DAY 57

Courtroom: CCB 301

9:00 a.m. Trial to the Court continues from February 8, 2021.

The following attorneys and parties appear by via GoToMeeting:

- Colin Campbell, Grace Rebling, Phillip Londen and Payslie Bowman for the Hopi Tribe
- Vanessa Boyd Willard, Cody McBride, Emmi Blades, and Rebecca Ross for the United States Department of Justice, Indian Resources Section
- Sarah Foley for the United States Department of the Interior
- Brian J. Heiserman, David A. Brown, Lauren J. Caster, and 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 (“ASLD”)
- 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

Court Reporter, Teri Veres, is present. A record of the proceeding is also made digitally.

Preliminary matters are discussed including legal descriptions for land included in the Hopi Reservation. Counsel for the United States confirms that two legal descriptions

in LCR exhibits 72 and 1457 are correct. The United States proposes and requests that the Court allow it to circulate a draft stipulation amongst opposing counsel with the legal descriptions attached as exhibits and further discuss the stipulation with the Court next Tuesday after testimony of the last witness.

Further discussion is held regarding the legal descriptions being a part of the record in this matter. The Court suggested that if the parties can stipulate to the legal descriptions, then a stipulation can be admitted into evidence. Ms. Willard discussed attaching exhibits to a stipulation and then moving to reopen the record to admit the stipulation. No party objects to the proposed approach. Mr. Heisermann suggested that the stipulation should be completed before the deadline for filing statements of fact.

Discussion is held regarding the status of City of Flagstaff's witness, Alan Kleinman. Counsel states that Mr. Kleinman was not deposed and proposes that the Court take judicial notice of Special Master Tuttle's February 22, 1982 report which contains Mr. Kleinman's past testimony and opinions in lieu of Mr. Kleinman testifying in this matter. The City of Flagstaff requests that the Court allow it several days to work with the parties to determine if the parties can come to an agreement about Mr. Kleinman.

Navajo Nation will need to see what portions of the report the City is asking to be admitted before it can consider a stipulation.

United States objects to any use of the Tuttle report from the 1980s as a substitute of the testimony of Dr. Kleinman.

Mr. Campbell joins in Navajo Nation's comments.

Richard John Tadder is sworn and testifies.

City of Flagstaff exhibits 009 and 037 are received in evidence.

10:29 a.m. Court stands at recess.

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

Court Reporter, Teri Veres, is present. A record of the proceeding is also made digitally.

Richard John Tadder continues to testify.

The witness is excused.

10:49 a.m. Court stands at recess.

11:00 a.m. Court reconvenes with respective counsel present.

Court Reporter, Teri Veres, is present. A record of the proceeding is also made digitally.

Mark Nicholls is sworn and testifies.

City of Flagstaff exhibits 013 and 040 are received in evidence.

11:59 a.m. Court stands at recess.

1:30 p.m. Court reconvenes with respective counsel present.

Court Reporter, Jovanna Roman, is present. A record of the proceeding is also made digitally.

Discussion is held regarding the parties' filings received by the Court.

LET THE RECORD REFLECT that the Court will hear argument on the post-trial briefing schedule tomorrow morning after Mr. Chang testifies.

Mark Nicholls continues testifying.

2:46 a.m. Court stands at recess.

3:00 p.m. Court reconvenes with respective counsel present.

Court Reporter, Jovanna Roman, is present. A record of the proceeding is also made digitally.

Mark Nicholls continues testifying.

The witness is excused.

LET THE RECORD FURTHER REFLECT that the Court has now received statements about post-trial briefing from all parties except City of Flagstaff.

Trial matters are discussed.

3:13 p.m. Court stands at recess until **Wednesday, February 10, 2021 at 9:00 a.m.**

A copy of the minute entry will be sent to all parties on the Court approved mailing list.