

SUPERIOR COURT OF ARIZONA
APACHE COUNTY

02/04/2021

CLERK OF THE COURT
FORM V000

SPECIAL WATER MASTER SUSAN WARD
HARRIS

S. Motzer

Deputy

FILED: 02/12/2021

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 TO COURT DAY 55

Courtroom: CCB 301

9:00 a.m. Trial to the Court continues from February 3, 2021.

The following attorneys and parties appear 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, 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

Court Reporter, Diane Donoho, is present. A record of the proceedings is also made digitally.

Discussion is held regarding trial matters.

Counsel for the United States addresses the Court regarding the timeline to obtain legal descriptions for Hopi land. She requests that this issue be set for review the morning of February 9, 2021, stating that she will share the BLM plat map relied upon by BIA, and expects that the information will be consistent. Additionally, she states that she does not anticipate any objection to the four exhibits the LCR Coalition wishes to admit in full, but requests that the BLM survey maps be included.

Counsel for the Navajo Nation addresses the Court regarding Hopi exhibits 4393 and 4394 as they relate to the learned treatises exception and its concerns that their admission would set a precedent of entire documents being admitted under the exception. Additionally, he expresses concern that said exhibits will be used to elicit new testimony from Neil Blandford.

Counsel for the Hopi Tribe addresses the Court stating that he will not object under the condition that he will not waive his rebuttal.

As a result of counsel for the Hopi Tribe's statement, counsel for the Navajo Nation states that he objects to the admission of Hopi exhibits 4393 and 4394 in their entirety because not permitted by the rules of evidence.

Counsel for City of Flagstaff states she fully anticipates that the scheduled witness for the morning of February 8, 2021, Alan Kleinman, will be unable to testify at that time due to medical issues.

Counsel for the United States addresses the Court regarding having Doug Smith testify at 9:00 a.m. on February 8, 2021. The Court and counsel agree that said witness will testify at that time.

Counsel for City of Flagstaff addresses the Court regarding a new exhibit, specifying that it is an errata sheet correcting typographical errors in Bradley Hill's May 2019 report.

LET THE RECORD REFLECT that the Clerk confirms that City of Flagstaff's next exhibit will be 372.

Bradley Hill is sworn and testifies.

City of Flagstaff exhibits 7, 372, and 124 are received in evidence. City of Flagstaff also moves to admit City of Flagstaff exhibit 36. City of Flagstaff exhibit 36 has already been admitted into evidence.

Over the objection of counsel for the United States and the Navajo Nation, City of Flagstaff exhibits 14 through 23 are received in evidence.

Over the objection of counsel for the Navajo Nation, City of Flagstaff, the United States, and Counsel for ASLD, City of Flagstaff exhibit 27 is received in evidence.

Over the objection of counsel for City of Flagstaff, LCR exhibit 801 is received in evidence.

10:31 a.m. The Court stands at recess.

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

Court reporter, Diane Donoho, is present and a record of these proceedings is made digitally.

Bradley Hill continues to testify.

City of Flagstaff exhibits 134 and 135 are received in evidence.

11:57 a.m. The Court stands at recess.

1:30 p.m. The Court reconvenes with the parties and counsel present.

Court reporter, Robbin Bobbie, is present and a record of these proceedings is made digitally.

Trial matters are discussed.

Counsel for the United States addresses the Court regarding the legal descriptions of the Hopi Reservation. She states that two of the four exhibits offered by the LCR Coalition contain legal description of Moenkopi and District 6. BIA is currently spot checks with BLM survey data. She clarifies that the parties do not have legal descriptions of the Hopi Partitioned Land within the 1882 Reservation, which are in volume 4 of the mediator's report.

LET THE RECORD REFLECT that all parties agree that BIA and BLM will work on the legal descriptions.

Bradley Hill continues to testify.

City of Flagstaff exhibits 24 and 25 are received in evidence.

LCR exhibit 800 is moved into evidence and the City of Flagstaff objections. The City of Flagstaff's objection is overruled.

3:02 p.m. The Court stands at recess.

3:15 p.m. The Court reconvenes with the parties and counsel present.

Court reporter, Robbin Bobbie, is present and a record of these proceedings is made digitally.

City of Flagstaff exhibit 373 is received in evidence.

3:31 p.m. Matter concludes.

LATER: LCR Exhibit 800 is admitted into evidence.

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