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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

Contested Case No. CV6417-300

**ORDER RE DEFERRAL OF PRIORITY-  
RELATED MATTERS, AND AMENDED  
CASE MANAGEMENT ORDER**

(Assigned to Special Master Susan Ward Harris)

**Contested Case Name:** *In re Navajo Nation* (No. CV 6417-300)

**Descriptive Summary:** Order regarding deferral of consideration of certain priority-related matters to subsequent phase of contested case.

**Number of Pages:** 2

**Date of Filing:** March 15, 2021

Based upon the filings of the parties and the oral argument heard on March 2, 2021, the Court finds good cause to grant, and hereby grants, as modified, the Navajo Nation's Motion to Delay Consideration of Priority Until Phase III. The Case Management Orders entered December 28, 2016, December 21, 2018, and November 2, 2020, are further amended in the following respect only.

The parties will not be required to engage in discovery or present evidence in Phase I concerning the following topics:

1. Anthropology of pre-Columbian Diné Presence in the Little Colorado River Basin and the origin of the Navajo people as descendants of Archaic hunter-gatherers within the Little Colorado River Basin prior to European contact; archeological, cultural, social, genetic and linguistic anthropological work regarding the relationship of the Navajos with the Hopi and the San Juan Southern Paiute people; the use of oral history transmission and the

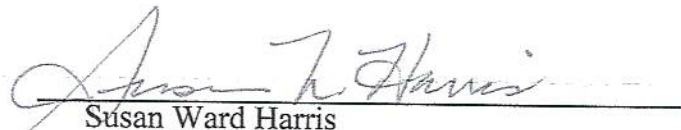
1 Navajo oral narrative of the Little Colorado River Basin (Navajo Nation); and expert reports  
2 of Kerry Thompson (Navajo) and Scott Russell (Navajo)<sup>1</sup>;

3 2. Historical Analysis of Navajo/U.S. Government Relations – the historical  
4 relationship between the Navajo and United States governments including, but not limited to,  
5 Treaty of 1849 negotiations, Navajo imprisonment at Bosque Redondo, Treaty of 1868  
6 negotiations, and the establishment of the Navajo Reservation in its present form (Navajo  
7 Nation); and expert reports of Ian Smith (Navajo)<sup>2</sup> and Scott Russell (Navajo), and Hana  
8 Samek Norton (United States); and

9 3. Reservation Formulation Analysis – identifying the origins and process by  
10 which the Navajo Reservation came into being as well as the relevant activities that have  
11 occurred thereon (United States); and expert reports of Ian Smith (Navajo) and Hana Samek  
12 Norton (United States).

13 Such discovery shall occur and evidence, including expert reports, shall be presented  
14 in connection with Phase III, in accordance with the schedule to be set by the Court, and  
15 consideration of Navajo priority issues shall occur in accordance with that schedule.

16 This Order does not affect or alter discovery or the presentation of evidence, including  
17 expert reports, in Phase I concerning historic, present, and future water use for the Phase I  
18 categories, including discovery and evidence concerning source of supply, place and quantity  
19 of use, and commencement of use, all of which will remain as a part of Phase I.<sup>3</sup>

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21   
22 Susan Ward Harris  
Special Master

23 <sup>1</sup> Navajo Nation intends to present a Phase I report from Scott Russell that is unrelated to the  
24 deferred issues.

25 <sup>2</sup> Navajo Nation intends to present a Phase I report from Ian Smith that is unrelated to the  
26 deferred issues.

27 <sup>3</sup> The evidence presented in Phase I will include information regarding the extent of lands  
28 within the Little Colorado River Basin held in trust by the United States on behalf of the  
Navajo Nation. These lands include the Navajo New Lands, which are lands that were  
obtained pursuant to the Navajo-Hopi Land Dispute Settlement Act of 1974. There currently  
exists a dispute among the parties as to whether the Navajo New Lands constitute a part of  
the Navajo Reservation. That legal issue will be addressed when the parties are able to  
identify and access the documents relevant to that dispute.