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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

CV 6417-203

ORDER CONFIRMING FILING DATES  
AND ORAL ARGUMENTS AND  
RESCHEDULING INITIAL DATE OF  
TRIAL

CONTESTED CASE NAME: *In re Hopi Reservation HSR*

HSR INVOLVED: *Hopi Reservation*

DESCRIPTIVE SUMMARY: Dates for pretrial pleadings and oral arguments confirmed. The June 2, 2020 date to initiate the trial is vacated and tentatively rescheduled for **July 7, 2020**.

NUMBER OF PAGES: 5

DATE OF FILING: April 15, 2020

1 On April 6, 2020, the Hopi Tribe moved for an indefinite continuance of the trial scheduled  
2 to begin June 2, 2020, to continue the adjudication of water rights for the Hopi Reservation. Over  
3 the next several days, the LCR Coalition, the City of Flagstaff, the United States, the Navajo  
4 Nation, and the Arizona State Land Department filed responses. The LCR Coalition requested  
5 that all existing dates for pretrial proceedings remain in place and that no decision be made before  
6 April 21, 2020 about rescheduling the trial so that any decisions could be made in light of the  
7 most recent information and court protocols. The United States, the City of Flagstaff, and the  
8 Arizona State Land Department all concurred with the LCR Coalition's position that dates for  
9 pretrial actions should not change. The Navajo Nation took no position.  
10

11 No party agreed the trial should be indefinitely postponed. The Arizona State Land  
12 Department and the United States proposed that the initiation of the trial be continued until August  
13 4, 2020, and September 15, 2020, respectively. The City of Flagstaff agreed with the date  
14 proposed by the Arizona State Land Department and objects to the date proposed by the United  
15 States. The Navajo Nation agreed with the date proposed by the United States.  
16

17 As stated in the Hopi Tribe's and the United States' papers, the scheduled trial requires  
18 the efforts of a large number of people which have been hampered by the need to perform under  
19 new and difficult circumstances that were not anticipated at the time that the original schedule  
20 was set. It is a credit to all of the parties and their counsel that they have been able to adapt to  
21 the evolving circumstances and have met and will continue to meet the filing deadlines set for this  
22 month and the proceedings scheduled in May 2020. These efforts, however, have limited the  
23 parties' ability to devote all of the time and resources to pretrial preparation previously  
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1 anticipated. Thus, a delay of the initial trial date is warranted under the circumstances. The  
2 only question is the appropriate amount of delay.

3 This proceeding cannot be delayed indefinitely. As the Hopi Tribe recognized earlier in  
4 this proceeding, “many of the Hopi Tribe’s experts and lay witnesses are aging. The Hopi Tribe  
5 has already lost an expert witness on Spanish and Mexican law, necessitating the hiring of a new  
6 expert.” Hopi Tribe’s Motion to Perpetuate Testimony and Admit Reports under Ariz. R. Evid.  
7 807, filed July 6, 2017 at 2. This issue is not unique to the Hopi Tribe. An extended delay  
8 imposes similar risks on all of the parties. This year will mark the fifth anniversary of the issuance  
9 of the Hopi Reservation HSR, dated December 2015, which began this contested case. The parties  
10 have invested material amounts of time and resources in expert reports, locating lay witnesses,  
11 and generally preparing for this case. An indefinite delay could risk the loss of key witnesses,  
12 make at least part of the effort for naught, and impose greater costs in the future.

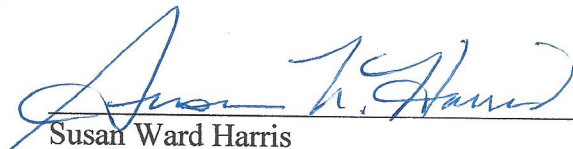
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15 The Arizona State Land Department proposed that a trial date be set to provide more  
16 certainty for the parties and suggested a date based on the current projection that the Covid 19  
17 infections are expected to decline in Arizona to near zero in early June 2020. It proposed August  
18 4, 2020 based on the assumption that the three-week break in July continues to be necessary. The  
19 Navajo Nation joined in the sentiment that a setting a date would be beneficial to the parties, but  
20 added the caveat that the date may have to change for reasons of public health and the health of  
21 the participants in this case. A revised schedule will be put in place so that the parties can plan  
22 and prepare their respective cases with the understanding that flexibility will be required to assure  
23 that evolving dictates necessary for public health are met.





1 protection of the health of the public and the parties. Assuming adequate technology, trial may  
2 begin and continue through July 2020.

3 **IT IS ORDERED** confirming all existing dates and deadlines in April and May 2020.  
4 Trial dates in June 2020 are vacated. Trial shall not begin on June 2, 2020, and trial in this matter  
5 shall tentatively begin after a five-week delay on **July 7, 2020**.

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10 Susan Ward Harris  
Special Master

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12 On April 15, 2020, the original of the foregoing was  
13 mailed to the Clerk of the Apache County Superior  
14 Court for filing and distributing a copy to all persons  
15 listed on the Court approved mailing list for the  
16 Little Colorado River Adjudication Civil No. 6417-  
17 203.