

SUPERIOR COURT OF ARIZONA
APACHE COUNTY

1/11/2021

CLERK OF THE COURT

SPECIAL WATER MASTER
SUSAN WARD HARRIS

S. Ortega

Deputy

FILED: 1/19/2021

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 43

Courtroom: CCB 301

9:00 a.m. Trial to the Court continues from December 22, 2020.

The following attorneys and parties appear by video/telephone through the GoToMeeting platform:

- 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 proceeding is also made digitally.

Procedural matters are discussed including two exhibits taken under advisement on December 22, 2020 as well as the trial schedule moving forward.

LCR Coalition's case continues.

Counsel for Arizona State Land Department having been permitted to call a witness out of order,

Christopher Brian Lowman is sworn and testifies.

Arizona State Land Department exhibits 7, 10 285, and 310 are received in evidence.

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

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

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

Christopher Lowman continues to testify.

Page 1 of Hopi Tribe exhibit 4586 is received in evidence as a demonstrative exhibit.

Arizona State Land Department exhibits 357 and 359 are received in evidence.

12:01 p.m. Court stands at recess.

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

Court Reporter Robin Bobbie is present. A record of the proceeding is also made digitally.

Christopher Brian Lowman continues to testify.

Arizona State Land Department exhibits 367, 368, 379, 381, 382, 386, 387, 392, 395, 403, 405, 406, 407, 408, 410, 413, 415, 417, 424, 425, 426, and 435 are received in evidence.

Discussion is held regarding Hopi Tribe's exhibit 1010 and U.S. exhibit 1368.

U.S. exhibit 1368, being the same document as Hopi Tribe's exhibit 1010 previously received in evidence, is received in evidence.

2:32 p.m. Court stands at recess.

2:40 p.m. Court reconvenes with respective counsel present.

Court Reporter Robin Bobbie is present. A record of the proceeding is also made digitally.

Christopher Brian Lowman continues to testify.

Pages 0177 and 0178 of Hopi Tribe's exhibit 4586 are received in evidence as demonstrative exhibits.

3:01 p.m. Court stands at recess.

3:16 p.m. Court reconvenes with respective counsel present.

Court Reporter Robin Bobbie is present. A record of the proceeding is also made digitally.

Christopher Brian Lowman continues to testify.

Arizona State Land Department exhibit 222 is received in evidence.

Pages 3 and 189 of Hopi Tribe exhibit 4586 are received in evidence.

The Court requests that counsel for the Arizona State Land Department create a new exhibit with the identified pages from Hopi Exhibit 4586 and provide it to counsel and the clerk.

The witness is excused.

Counsel for Hopi Tribe informs the Court that on December 15, 2020 (trial day 38), LCR exhibits 1469, 1470 and 1150 were admitted in evidence but are not referenced in the minute entry.

3:51 p.m. Court stands at recess until **Tuesday, January 12, 2021 at 9:00 a.m.**

LATER:

Hopi Exhibit 4586 consists of a more than 250 pages of maps created by a consulting firm. The exhibit was not included on the Hopi Tribe's exhibit list. The parties did not object to the use of designated pages of Hopi Exhibit 4586 for demonstrative purposes while the witness testified. The parties did not object to the admission of the exhibit as evidence. Several parties argued that foundational issues existed related to the data shown on the map. The objection has merit.

Hopi Exhibit 4586 is not admitted into evidence for any purpose and any order included in this minute entry admitting identified pages of Hopi Exhibit 4586 is revoked. Instead, to avoid confusion that could result from admitting only selected pages of an

exhibit, the Arizona State Land Department was instructed to compile the designated pages of Exhibit 4586 into a new exhibit, circulate those pages to the parties, and submit the new exhibit to the clerk. The exhibit, newly created by ASLD, will be admitted solely as a demonstrative exhibit to show the locations of the land described by township and range referenced in Mr. Lowman's testimony and report.

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