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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 DISMISSING OBJECTION
AND
DENYING MOTION TO QUASH

CONTESTED CASE NAME: *In re Hopi Reservation HSR*
HSR INVOLVED: *Hopi Reservation*
DESCRIPTIVE SUMMARY: The Special Master dismisses Objection and denies Motion to Quash and request for sanctions filed by Leo L. Maestas.
NUMBER OF PAGES: 4.
DATE OF FILING: December 21, 2016.

This contested case, *In re Hopi Reservation HSR*, is part of the comprehensive general stream adjudication to determine the extent and priority of rights of all persons to use water in

1 the Little Colorado River system and source. The Arizona Supreme Court determined that this
2 process “can be accomplished only in a single proceeding in which all substantial claimants
3 are before the court so that all claims may be examined, priorities determined, and allocations
4 made.” *United States v. Superior Court In & For Maricopa Cty.*, 144 Ariz. 265, 270, 697
5 P.2d 658, 663 (1985). The Hopi Tribe and the United States on behalf of the Hopi Tribe filed
6 statements of claimant to assert water rights. Pursuant to the statutory requirements for this
7 general adjudication, the Arizona Department of Water Resources (ADWR), upon the request
8 of the Court or the Special Master, shall investigate and prepare a report regarding the water
9 rights identified in the statements of claimant. A.R.S. §45-256(B).

11 On December 18, 2015, the Arizona Department of Water Resources filed a
12 Hydrographic Survey Report (HSR) regarding the Hopi Tribe’s claims for water rights, as
13 amended, for water uses on the Hopi Reservation pursuant to the Court’s order filed
14 November 4, 2004. Leo L. Maestas timely filed an Objection to the HSR in which he
15 referenced a “Motion to Quash” dated June 13, 2016. On November 1, 2016, Mr. Maestas
16 supplemented his arguments by filing a document entitled “Amicus Curiae Brief”. Oral
17 argument was held on November 8, 2016.

19 Objections must be filed by claimants. A.R.S. §45-256(B). Mr. Maestas’ Objection
20 did not identify a statement of claimant. At the oral argument, Mr. Maestas, representing
21 himself, stated that he had not filed a statement of claimant, a statement of claimant had not
22 been assigned to him and a statement of claimant had not been filed on his behalf. The
23 importance of filing a statement of claimant by a person or entity who has claims to water
24 rights cannot be understated. Not only is it a prerequisite to the filing of an objection, but
25 Arizona law states:
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1 On entry of the final decree pursuant to section 45-257, any
2 potential claimant who is properly served and who failed to file a
3 statement of claimant as prescribed by this article for any water right or
4 whose motion for permissive intervention was finally denied by the
5 court is barred and estopped from subsequently asserting any right that
6 was previously acquired on the river system and source and that was not
7 include in a statement of claimant and forfeits any rights to the use of
8 water in the river systems and source that were not included in a
9 properly filed statement of claimant.

10 A.R.S. § 45-254(F).

11 Although Mr. Maestas has not filed a statement of claimant for any water rights, Mr.
12 Maestas primary focus in the Motion to Quash and the papers attached to the document and, to
13 a lesser extent, in the Amicus Curie Brief is his assertion that he has “property rights to all
14 waters, aquifers, rivers, tributaries and streams in Northeastern Arizona”. Motion to Quash, p.
15 6. Mr. Maestas seems to argue that he holds property rights protected by the Guadalupe
16 Hidalgo Treaty of 1848. In support of his argument, Mr. Maestas cites *United States v.*
17 *Joseph*, 94 U.S. 614, 618 (1876) *distinguished by United States v. Sandoval*, 231 U.S. 28
18 (1913) (concluding that pueblo Indians held title to their land superior to claims of the United
19 States where Spain had granted the land in northern New Mexico to the tribe – “a title which
20 was fully recognized by the Mexican government and protected by” the Treaty of Guadalupe
21 Hidalgo), and *United States v. Santa Fe Pac. R. Co.*, 314 U.S. 339, 345 (1941) (explaining
22 that “lands within the Mexican Cession were not excepted from the [federal government’s]
23 policy to respect Indian right of occupancy” and held that the railroad took land subject to the
24 Indian Tribe’s rights to occupancy). This contested case is limited to an adjudication of the
25 Hopi Tribe’s water rights and is not a forum in which to consider Mr. Maestas’ arguments
26 concerning his rights to water.

27 A valid objection must also “specifically address the director’s recommendations
28 regarding the particular water right claim or use investigated.” A.R.S. §45-256(B). Mr.

1 Maestas generally argues that the Hopi Tribe is not entitled to any water rights outside of the
2 reservation boundaries due to the consequences of “accept[ing] their reservation boundaries”.¹
3 Motion to Quash, p. 2. He also claims that the Hopi Tribe is not entitled to any water rights
4 within the reservation boundaries as a penalty due to having allegedly wasted water. Amicus
5 Curiae Brief, p. 6. The Special Master must summarily dismiss with prejudice those
6 objections that do not comply with the statutory requirements. A.R.S. §45-256(B). The
7 Objection, the Motion to Quash, and the Amicus Curiae Brief, treated as part of the Objection,
8 failed to specifically address the director’s recommendations in the HSR.
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10 Accordingly, for the reasons stated above,

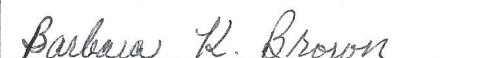
11 **IT IS ORDERED** dismissing with prejudice the Objection, denying the Motion to
12 Quash and request for sanctions filed by Leo L. Maestas, and removing Leo L.
13 Maestas from the court approved mailing list.
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15 DATED: December 21, 2016.
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19 Susan Ward Harris
20 Special Master

21 On December 21, 2016, the original of the foregoing was
22 mailed to the Clerk of the Apache County Superior Court for
23 filing and distributing a copy to all persons listed on the Court
24 approved mailing list for the Little Colorado River
25 Adjudication Civil No. 6417-203.

26 
27 Barbara K. Brown

28 ¹ Assuming that this statement refers to the Hopi Tribe’s aboriginal rights (the type of rights considered by the Court in *United States v. Santa Fe Pac. R. Co.*, 314 U.S. 339), see Report of the Special Master, filed April 25, 2013, approved and modified by Order dated January 25, 2016.