

SUPERIOR COURT OF ARIZONA
APACHE COUNTY

10/02/2018

CLERK OF THE COURT
FORM V000

SPECIAL WATER MASTER SUSAN WARD
HARRIS

A. Hatfield

Deputy

FILED: 10/11/2018

In re: the General Adjudication
of All Rights to Use Water in the
Little Colorado River System and Source

CV 6417-203

In re: Hopi Reservation HSR

In re: Trial to the Court Day 14

MINUTE ENTRY

Courtroom: ECB 613

10:31 a.m. This is the time set for Trial to the Court before Special Water Master Susan Ward Harris.

The following attorneys and parties appear in-person: Jeffrey Leonard, Judith Dworkin and Evan Hiller on behalf of the Navajo Nation; Kevin Crestin on behalf of the Arizona State Land Department; Brian Heiserman on behalf of the LCR Coalition; Erin Byrnes and Lee Storey on behalf of the City of Flagstaff; R. Jeffrey Heilman and Mark McGinnis on behalf of Salt River Project; Cody McBride and Vanessa Willard on behalf of the United States Department of Justice; Grace Rebling and Colin Campbell on behalf of the Hopi Tribe.

Court reporter, Marylynn Lemoine, is present and a record of the proceedings is made digitally.

Ms. Willard addresses the trial schedule for next week. She states that there will be no changes.

IT IS ORDERED DENYING the Navajo Nation's Motion to Reconsider the Denial of its Motion to Strike portions of Dr. Adams testimony re: unpublished manuscripts. Under Rule 705, Az. R. of Evid., an expert may testify on cross

examination facts or data that underlie the expert's opinion. *See State v. Lundstrom*, 161 Ariz. 141 (1989) (facts or data underlying the testifying expert's opinion are admissible for the limited purpose of showing the bases of that opinion). Further, no good cause exists to strike the testimony allowed for a limited purpose given its materiality under Rule 26.1(c), Ariz. R. Civ. P., that was elicited on cross examination about an unpublished manuscript obtained by the witness 3 months before trial by the testifying expert and not provided to counsel for any party.

Discussion is held regarding exhibits pertaining to Arizona Department of Water Resources Preliminary HSR.

IT IS ORDERED that on October 4, 2018, the Court will address the Hopi Tribe's request to move in the remainder of the exhibits pertaining to the ADWR Preliminary HSR for the Hopi Indian Reservation.

Lionel Puhuyesva is sworn in and testifies.

Hopi exhibits 2175, 2182, 2185, 2188, 2191, 2197, 2199, 2201, 2212, 2217, 2219, 2226, 2231, 2234, 2236, 2240, 2241, 2248, 2266, 2274, 2278, 2283, 2284, 2287, 2291, 2293, 2303, 2316, 2330, 2338, 2345, 2346, and 2349 are received in evidence.

Hopi exhibits 2387, 2388, 2389, 2395, 2396, 2397, 2399, 2412, 2417, 2421, 2422, 2428, 2429, 2430, 2433, 2435, 2436, 2438, 2440, 2441, 2443, 2448, 2450, 2446, 2447, 2454, 2455, 2462, 2463, 2472, 2475, 2476, 2480, 2482, 2501, and 2504 are received in evidence.

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

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

Court reporter, Barbara Stockford, is present and a record of the proceedings is made digitally.

Lionel Puhuyesva continues to testify.

Hopi exhibit 3874 is marked for identification and is received in evidence.

Hopi exhibits 2442, 2449, 2450, 2451, 2459, 2460, 2464, 2467, 2470, 2473, 2474, 2477, 2486, 2493, 2494, 2499, 2506, 2515, 2573, 2581, 2583, 2588, 2594, 2599, 2602, 2610, 2615, 2616, 2618, 2622, 2625, 2627, 2639, 2641, 2643, 2648, 2656, 2657, 2659, 2684, 2685, 2691, 2692, 2693, 2700, 2701, 2705, 2708, 2721, 2723, 2726, 2748, 2749, 2751, 2756, 2811-2813, 2815, 2816, 2819, 2821, 2822, 2829, 2832, 2838, 2841, 2843, 2847, 2852, 2853, 2861, 2867, 2870, 2876, 2886, 2889, 2956-2960, 2964, 2966, 2967, 2969, 2975, 2977, 2980-2982, 2985, 2986, 2988, 2989, 2992, 2994, 2997, 3001, 3003, 3006, 3007, 3010, 3016, 3020-3025, 3029, 3031, 3033, 3036, 3041-3044, 3046, 3048, 3052-3054, 3058, 3115, 3116, 3118, 3119, 3121, 3125, 3127, 3132, 3135, 3139, 3140, 3142, 3160, 3161, 3166, 3168, 3171, 3177-3179, 3185, 3187, 3188, 3190, 3192, 3194,

3203, 3207, 3217, 3219, 3222-3224, 3226, 3228, 3233-3236, 3239, 3241, 3242, 3246, 3254-3268, 3171, 3177-3179, 3185, 3187, 3188, 3190, 3192, 3194, 3203, 3207, 3217, 3219, 3222-3224, 3226, 3228, 3233-3236, 3239, 3241, 3245, 3246, 3254-3403, 3405-3411, 3419, 3421, 3423, 3430, 3431, 3433, 3439, 3453, 3455, 3456, 3461, 3463, 3465, 3471-3478, 3480, 3486, 3499, 3503-3505, 3511, 3512, 3515, 3519-3522, 3526, 3529, 3560, 3531, 3537, 3546, 3554, 3557, 3559, 3561, 3567, 3571, 3572, 3575, 3577, 3604, 3605, 3507-3609, 3612, 3615, 3619, 3646, 3647, 3650, 3651, 3656, 3659, 3661, 3663, 3665, 3668, 3670-3673, 3679-3681, 3686, 3688, 3689, 3690, 3691, 3695, 3700, 3705, 3709, 3711, 3713, 3617-3719, 3734, 3735, 3737, 3738, 3741, 3761, 3768, 3769, 3771, 3777, 3790, 3791, 3796, 3801, 3804, 3808-3811, 3816, 3818, 3819, 3822, 3824, 3832, 3835, 3844, 3849 and 3853 are received in evidence.

2:54 p.m. The Court stands at recess.

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

Court reporter, Barbara Stockford, is present and a record of the proceedings is made digitally.

Lionel Puhuyesva continues to testify.

Discussion is held concerning Hopi exhibits 938, 1020, and 1048 in regards to present use. The parties are directed to be prepared to discuss these exhibits further on October 4, 2018.

Hopi exhibits 1048, 1063-1076 and 949 are received in evidence.

The witness is excused.

4:43 p.m. The Court stands at recess. Court will reconvene on October 4, 2018 at 10:30 a.m.

A copy of this order is mailed to all persons listed on the Court approved mailing list for Contested Case No. CV6417-203.