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11 *Attorneys for the Navajo Nation*

12
13 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
14 **IN AND FOR THE COUNTY OF APACHE**

15
16 IN RE THE GENERAL
17 ADJUDICATION OF ALL RIGHTS
18 TO USE WATER IN THE LITTLE
19 COLORADO RIVER SYSTEM

Case No. CV6417-203

**[PROPOSED] PROTECTIVE ORDER RE
EVE REPORT**

(Assigned to Special Master Susan W. Harris)

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21 On August 20, 2019, the Navajo Nation filed its Unopposed Motion for Entry of
22 Protective Order, for a document entitled 2017 INDIAN GAMING: COST OF DOING
23 BUSINESS REPORT, by Joseph Eve (the "EVE REPORT"). The Navajo Nation states in
24 support of its unopposed motion that the EVE REPORT, a copy of which was purchased by
25 Navajo Nation Gaming Enterprise, a wholly owned enterprise of the Navajo Nation, in
26 the ordinary course of its business, is presumably entitled to copyright protection, and
27 that it contains information that is likely proprietary in its reporting and organization and
28 that may also be entitled to protection as trade secrets as defined in A.R.S. § 44-401(4).

1 The Navajo Nation further states that the author of the EVE REPORT has consented to its
2 disclosure and use in, and for the purposes of, this subproceeding, No. CV 6417-203, but
3 wishes to protect against its disclosure or use outside of this subproceeding.

4 Counsel for the Navajo Nation state that they have circulated the proposed
5 Protective Order by electronic mail to counsel for the parties to this case; that counsel for
6 United States, Hopi Tribe, LCR Coalition, Arizona State Land Department, City of
7 Flagstaff, Salt River Project, and Atkinson Trading Company have indicated agreement
8 to the form and substance of the draft Protective Order; and that Navajo counsel have
9 received no objections from any other party.

10 It appearing that there is good cause for the entry of the proposed Protective
11 Order,

12 IT IS ORDERED AS FOLLOWS:

13 **I. Definitions**

14 1. The "EVE REPORT" is the Joseph Eve 2017 INDIAN GAMING COST OF
15 DOING BUSINESS REPORT.

16 2. "Party" includes all parties to CV 6417-203.

17 **II. Limitations on Use**

18 3. Maintenance of the EVE REPORT by ADWR. ADWR shall maintain the
19 EVE REPORT in a sealed envelope with the caption of the case and the following notice:
20 **"CONTAINS CONFIDENTIAL INFORMATION SUBJECT TO PROTECTIVE**
21 **ORDER. ACCESS LIMITED AS PRESCRIBED BY PROTECTIVE ORDER."**
22 ADWR shall not post copies of the EVE REPORT on the ADWR website. ADWR shall
23 provide access to the EVE REPORT only as authorized by this Protective Order.

24 4. Disclosure of Confidential Information. Except with the prior written
25 consent of the Navajo Nation, the EVE REPORT may be disclosed only to the following:

26 (a) Counsel for any Party and any attorneys, paralegals, office clerks,
27 secretaries, outside copying services and other personnel working under
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1 their supervision and assigned to perform duties in connection with the
2 prosecution or defense of this action.

3 (b) Any consultants or experts retained by any counsel of record for any
4 Party, subject to compliance with the disclosure and use provisions of
5 this Protective Order.

6 (c) Any other person whom the Navajo Nation agrees in writing should
7 have access to the EVE REPORT, subject to compliance with the
8 disclosure and use provisions of this Protective Order.

9 (d) The Court and its personnel, subject to the provisions for filing under
10 seal set forth in the Arizona Rules of Civil Procedure and other
11 applicable rules.

12 5. Execution of Exhibit A. Prior to obtaining access to the EVE REPORT, all
13 persons described in Paragraph 3(b) and (c) above shall be shown a copy of this
14 Protective Order and shall execute the document attached as Exhibit A. Counsel for the
15 Navajo Nation shall be responsible for maintaining copies of the executed Exhibit A.

16 6. Disclosure of Parties' Own Confidential Information. Nothing herein shall
17 restrict or preclude the Navajo Nation from disclosing information contained in the EVE
18 REPORT to any person or entity without regard to the provisions of this Protective Order.

19 7. Use of Confidential Information. Each Party's use of the EVE REPORT is
20 limited to purposes reasonably necessary for the effective prosecution or defense of this
21 action.

22 **III. Other Provisions**

23 8. Non-Waiver of Rights. Entering into and complying with the terms of this
24 Protective Order shall not constitute a waiver of any rights to object to discovery or to the
25 authenticity or admissibility into evidence of any documents or other materials produced
26 in discovery. Neither the production of the EVE REPORT by the Navajo Nation, nor the
27 receipt of the EVE REPORT by a Party, shall be deemed to waive any testimonial or other
28 privileges or protections that the Navajo Nation may otherwise have.

1 **EXHIBIT A**

2 **Agreement to Terms of the Protective Order**

3 **FORM OF ACKNOWLEDGEMENT:**

4 I, _____, being a person authorized in this
5 Protective Order re EVE REPORT to have access to documents and information covered by
6 the Protective Order, have read and understood this Protective Order, and hereby agree to
7 be bound by this Protective Order.

8 s/ _____

Date: _____

9 Print name: _____

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