

SUPERIOR COURT OF ARIZONA
APACHE COUNTY

06/05/2020

CLERK OF THE COURT
FORM V000

SPECIAL WATER MASTER SUSAN WARD
HARRIS

S. Ortega

Deputy

06/11/2020

In re: Hopi Reservation HSR
Contested Case No. CV 6417-203

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

In re: Hopi's Motion to Continue the July 7, 2020
Trial Date

MINUTE ENTRY

Courtroom: CCB 301

1:30 p.m. This is the time set for Oral Argument on the Hopi's Motion to Continue the July 7, 2020 Trial Date.

The following attorneys and parties appear telephonically:

Colin Campbell, Grace Rebling, and Phillip Londen on behalf of Hopi Tribe; Vanessa Willard and Rebecca Ross on behalf of United States Department of Justice, Indian Resources Section; Mark McGinnis on behalf of Salt River Project ("SRP"); David Brown, Lauren Caster, Brian Heiserman, and Bradley Pew on behalf of LCR Coalition; Lee Storey, Alexandra Arboleda, and Sara Ransom on behalf of City of Flagstaff; Carrie J. Brennan and Kevin Crestin on behalf of Arizona State Land Department ("ASLD"); and Kimberly Parks, observing on behalf of Arizona Department of Water Resources ("ADWR").

A record of the proceedings is made digitally in lieu of a court reporter.

The Court discusses the status of the trial in this matter and describes how the trial will proceed moving forward under the current circumstances. Trial will begin on **August 17, 2020** using the GoToMeeting platform with the United States calling its five witnesses.

The Hopi Tribe should be prepared to start call its witnesses on its case on **September 8, 2020** and the Navajo Nation should plan to begin calling its witnesses on **November 2, 2020**. These dates are provided for planning purposes and will be the earliest dates that a named party will begin its case. The dates may be pushed forward if the preceding party has not completed its case by the date the next party is scheduled to begin.

Mr. Campbell states that the Hopi Reservation is opposed to a virtual trial and requests that the court set a hearing on the objections already filed to a virtual trial along with a briefing schedule.

Ms. Willard understands the dire situation of the Hopi Tribe and is sympathetic to the Tribe's position that it deserves an in-person trial for its future water rights. Ms. Willard urges the court to consider Hopi's view of the need for a delay in this case. As the United States has five expert witnesses in this case, it can probably make a virtual trial work although it has technology concerns.

The Court understands that there may be technical issues in preparing for a virtual trial as well as procedural issues so pretrial conferences will be scheduled by the court on July 17, 2020, July 31, 2020, and August 14, 2020 at 1:30 p.m. to address issues raised by the parties and practice as needed with the GoToMeeting technology.

Mr. McGinnis states that SRP intentionally did not file a response to the Hopi's motion and does not object to the Court's proposed trial format and schedule.

Mr. Brown states that the LCR Coalition is in agreement with the Court's proposed trial schedule and format and feels like this is the best course of action to take regarding the trial. Mr. Brown also states his agreement with Mr. McGinnis' statement regarding the motion for procedural order. Mr. Brown agrees that the issue of extensions on all deadlines in the Navajo case should be briefed and argued apart from this case. Mr. Brown is amenable to the Court's proposal of the trial consisting of 5 days per week but suggests that only four days should be scheduled in the beginning on the weeks to allow additional time that may be required to deal with technological issues.

Discussion is held regarding the proposed decrees due on June 23, 2020. Mr. Brown requests an extension of the due date.

For the reasons set forth on the record,

IT IS ORDERED granting Mr. Brown's request and extending the due date for proposed final decrees from June 23, 2020 to **ten (10) days after the Court's ruling on the motions for summary judgment.**

Ms. Storey states that the City of Flagstaff does not object to the Court's proposal regarding trial and proposes the trial be held four days per week instead of five in the beginning of trial and then it can be adjusted as the trial moves forward.

Ms. Brennan states that ASLD has no objection to the Court's proposal.

Mr. Leonard agrees that the proposed decree deadline should be extended as requested by Mr. Brown, and comments on Hopi's motion to continue.

The Court addresses the issue of allowing witnesses to appear in person for trial. The Court can accommodate one witness to be in the courtroom at one time along with the clerk, the court reporter and the Judicial Officer.

Mr. Campbell requests that the attorney who is doing the direct examination be allowed in the courtroom with the witness. The Court will raise that request.

Mr. Campbell also requests that the Court set a time to hear objections to the virtual trial after Hopi's supplemental brief is filed and responses to it are filed.

Ms. Willard states that the USDJ would be able to respond to Hopi Tribe's brief within one week of receiving it. Ms. Willard moves the Court to extend the exhibit deadline to the end of July and the decree deadline to two weeks after the Court rules on the motion for summary judgment.

Further discussion is held regarding exhibit procedures.

For the reasons set forth on the record,

IT IS FURTHER ORDERED extending the exhibits due date to **July 27, 2020**.

Mr. McGinnis agrees that one week to respond to Hopi Tribe's objections is sufficient and also agrees with the extension of the exhibits deadline.

Mr. Brown's position is that the LCR Coalition can respond within one week and asks that the oral argument be set prior to June 25, 2020 due to scheduling issues.

Ms. Storey states that the City of Flagstaff can respond to Hopi Tribe's objection within one week.

M. Brennan states that ASLD can respond within a week and notes oral argument on objections should be set sooner rather than later if the Hopi Tribe is going to take this matter to the Supreme Court to be heard.

Mr. Leonard also agrees that one week is fine for responding to the objections.

Mr. Campbell asks for two weeks to file a supplemental brief with responses due by the following week. The Court can then set the hearing the following week if possible.

Mr. Brown states that he will not be available June 25 and 26 but that Mr. Caster can handle the oral argument in his absence.

Discussion is held regarding the availability of the Hopi Tribe council. Mr. Campbell states that the Hopi government offices are closed at this time.

2:13 p.m. Matter concludes.

A copy of this order is mailed to all persons listed on the Court-approved mailing list.