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12 *Attorneys for LCR Coalition*

13 SUPERIOR COURT OF ARIZONA
14 APACHE COUNTY

15 IN RE: THE GENERAL ADJUDICATION OF
ALL RIGHTS TO USE WATER IN THE
16 LITTLE COLORADO RIVER SYSTEM AND
SOURCE

Civil No. CV 6417-300

~~PROPOSED~~ ORDER
17 APPROVING *IN RE NAVAJO*
NATION PHASE I PRETRIAL
18 STIPULATIONS

19
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21 Having reviewed the March 17, 2023 Phase I Pretrial Stipulations, and good cause
22 appearing:

23 IT IS ORDERED the following stipulations regarding the *In re Navajo Nation*
24 Phase I trial are approved:

- 25 1. The United States and Navajo Nation may choose to present any portion of
26 a testifying expert's direct-examination in a rebuttal case, provided that: (1)
the total combined direct-examination time for the expert does not exceed 1

1 hour; (2) the expert's testimony during the rebuttal case pertains to evidence
2 offered during the objecting parties' cases; and (3) objecting party cross-
3 examination and expert testimony pertaining to the United States' and
4 Navajo Nation's rebuttal reports is permitted at any time during trial.

5 2. An expert will be considered friendly to a cross-examining party when the
6 cross-examining party (1) has adopted the expert's report in whole or in part
7 or (2) is in agreement with the opinions being offered by the expert. Where
8 the cross-examining party has adopted the expert report in part, or is in
9 agreement with only portions of the opinions being offered by the expert, the
10 expert will be considered friendly to the cross-examining party only to the
11 extent of the adoption or agreement.

12 a. No time limit will be imposed on cross-examination of a
13 friendly expert witness, but at such point as the questions on
14 cross-examination effectively become a direct examination,
15 defined as examination to reaffirm or favorably highlight
16 opinions of that expert already in evidence, the cross-
17 examination will be terminated.

18 b. Leading questions on cross-examination of a friendly expert
19 will generally be permitted under Rule 611, Ariz. R. Evid.,
20 except as provided below.

21 i. Leading questions on cross-examination of a
22 friendly expert will not be permitted if the leading
23 questions are effectively a direct examination and
24 the purpose of the question is to reaffirm either
25 (1) an expert report admitted in evidence, or (2)
26 testimony previously given.

ii. Counsel who asks a question of a friendly expert
witness on cross-examination that has drawn an
objection as leading will be expected to identify
the reason that counsel believes that the expert is
not a friendly witness (as defined in paragraph 2,
above) or is hostile to the cause of the examiner,
an adverse party, or identified with an adverse
party as provided in Rule 611(c), with respect to
the subject of the question.

DATED this 17th day of March, 2023.


Susan Ward Harris
Special Master