

SUPERIOR COURT OF ARIZONA
APACHE COUNTY

10/27/2020

CLERK OF THE COURT

SPECIAL WATER MASTER SUSAN WARD
HARRIS

T. DeRaddo

Deputy

FILED: 10/29/2020

In re:
Contested Case No. 6417-203

D&C MATERIALS
EXHIBITS-SCT

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

In re: Trial to Court

**TRIAL MINUTE ENTRY
DAY 22**

Courtroom: CCB 301

9:00 a.m. Trial to the Court continues from October 26, 2020.

The following attorneys and parties appear via GoToMeeting:

- Colin Campbell, Grace Rebling, Phillip Londen, Payslie Bowman, and Frederick Lomayesva for the Hopi Tribe
- Vanessa Boyd Willard, Cody McBride, Emmi Blades, and Rebecca Ross for the United States Department of Justice, Indian Resources Section
- Sarah Foley for the United States Department of the Interior
- Brian J. Heiserman, David A. Brown, Lauren J. Caster, and Bradley J. Pew for LCR Coalition
- Mark A. McGinnis for the Salt River Project
- Carrie J. Brennan and Kevin Crestin for the Arizona State Land Department
- Lee A. Storey, Sara Ransom, Alexandra Arboleda, and Ethan B. Minkin for the City of Flagstaff
- Jeffrey S. Leonard, Judith M. Dworkin, Evan F. Hiller, and Kathryn Hoover for the Navajo Nation

Court Reporter, Terry Masciola, is present. A record of the proceedings is also made digitally.

Discussion is held regarding Exhibits 4592 and 4592-A. The parties report that they have stipulated to certain portions of exhibit 4592-A. Ms. Story requests that a written Stipulation be filed with the court in this case.

A Stipulation is read into the record.

Cecilia Ciepiela-Kaelin, having been sworn yesterday, continues to testify.

LCR Coalition's Exhibit 0865 is received in evidence.

Discussion is held regarding Hopi Exhibit 3913; and Navajo Nation Exhibits 831 and 836.

LCR Coalition's Exhibits 1396 – 1453 are received in evidence.

Mr. Campbell informs the Court that he believes that the following exhibits are confidential: LCR Coalition's 1396 -- LCR1453. Mr. Campbell requests that these documents be removed from the electronic storage devise provided to the Clerk and printed, sealed and marked as confidential.

IT IS ORDERED granting Mr. Campbell's oral request to seal the following exhibits not to be opened without further order of the Court: LCR Coalition's 1396 – 1453.

LCR Coalition's Exhibit 0858 is received in evidence.

The witness is excused.

Mr. Carroll Onsaie is sworn and testifies.

The following exhibits are offered into evidence: LCR Coalition's Exhibit 306; Hopi Tribe's Exhibits 944, 942, 4468, 4467 and 9445. These exhibits were not received in evidence. They will be reviewed during a break.

Hopi Tribe's Exhibit 4477 is received in evidence.

10:30 a.m. The Court stands at recess.

10:45 a.m. Court reconvenes with the parties and respective counsel present.

Court Reporter, Terry Masciola, is present. A record of the proceedings is also made digitally.

Mr. Carroll Onsaie continues to testify.

Hopi Tribe's Exhibits 4478 and 4479 are received in evidence.

Hopi Tribe's Exhibits 4475, 4476, 4474, 4473, 4472, 4471 and 4470 are received in evidence.

Hopi Tribe's Exhibit 4469 is offered, but not received in evidence.

Mr. Campbell states that he intends to take portions of this exhibit and submit them separately as new demonstrative exhibits so that he is able to refer to them at trial.

Mr. Leonard makes an oral motion to strike portions of the testimony of the witness of Carroll Onsaе as hearsay.

IT IS ORDERED granting the Navajo Nation's Oral Motion to strike a portion of the testimony of Carroll Onsaе as hearsay.

Hopi Exhibit 4467 is received in evidence.

LCR Coalition's Exhibit 306 is received in evidence.

11:57 a.m. The Court stands at recess.

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

Court reporter, Vanessa Gartner, is present. A record of the proceedings is also made digitally.

Discussion is held regarding Hopi Exhibits 4592 and 4592-A. It is determined among the parties that Hopi Exhibit 4592 is no longer an issue because it is just a marker and not an actual exhibit. Mr. Pew stated that he worked with and redacted a portion of Hopi Exhibit 4592-A. The revised Stipulation was read into the record. The parties state on the record that they stipulate to the revisions. Mr. Campbell states that he will review the redactions made by Mr. Pew and inform the Court about his decision with respect to Exhibit 4592-A on October 28, 2020.

Further discussion is held regarding Hopi Tribe's Exhibits 944, 942, 945 and 4468, which have all been offered. Hopi Tribe's Exhibits 944, 942 and 945 are not admitted at this time.

Hopi Tribe's Exhibit 4468 is received in evidence.

Mr. Leonard requests that the Court take judicial notice of the Cares Act and the regulations promulgated under the Act.

Hopi Tribe's Exhibit 4570 is received in evidence.

Mr. Campbell requests that Mr. Leonard state on the record that he waives the privilege regarding the confidential settlement agreement that is in place. Mr. Leonard agrees to inform the Court prior to discussing the confidential settlement agreement, so that this issue may be addressed at that time.

3:04 p.m. The Court stands at recess.

3:20 p.m. Court reconvenes with the parties and respective counsel present.

Court reporter, Vanessa Gartner, is present. A record of the proceedings is also made digitally.

Carroll Onsaе continues to testify.

The witness is excused.

Discussion is held regarding witness testimony via deposition.

4:12 p.m. The Court stands at recess until October 28, 2020 at 9:00 a.m.

LATER:

On July 10, 2020, the Navajo Nation filed a Response to Hopi Rule 37(c) to Extend Time for Disclosure re Covid-19 Relief Funding and Alternative Request for Judicial Notice. This motion was granted without opposition in open court on September 15, 2020. *See* Transcript of Proceedings for September 15, 2020 at 6.

A copy of the minute entry will be sent to all parties on the Court approved mailing list.