

SUPERIOR COURT OF ARIZONA  
APACHE COUNTY

6/13/2018

CLERK OF THE COURT

SPECIAL MASTER  
SUSAN WARD HARRIS

L. Stogsdill

Deputy

FILED: June 20, 2018

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

In re: Oral Argument Re: Hopi Tribe's Motion to  
Prepare and Disclose a Video

Re: Hopi Reservation HSR  
Contested Case No. CV6417-203

**MINUTE ENTRY**

**Courtroom 301- CCB**

2:00 p.m. This is the time set for Oral Argument before Special Master Susan Ward Harris on the Hopi Tribe's Motion to Prepare and Disclose Video.

The following attorneys appear in person: Carrie Brennan for the Arizona State Land Department, David A. Brown for LCR Coalition, Colin Campbell and Grace R. Rebling for the Hopi Tribe, Mark McGinnis for the Salt River Project, Evan F. Hiller and Judith M. Dworkin on behalf of the Navajo Nation.

The following attorneys appear telephonically: Erin E. Byrnes for the City of Flagstaff; Katheryn M. Hoover for the Navajo Nation Department of Justice; Jay Tomkus for the Pascua Yavapai Tribe and Yavapai-Apache Nation; Megan H. Tracy for APS and Vanessa Boyd Willard for the United States Department of Justice.

Court reporter Toni Gehm is present and a record of the proceedings is also made digitally.

The court advises counsel of the following:

A larger courtroom, courtroom ECB 613, has been assigned for use during the trial in this matter. The court will confirm if the courtroom will provide counsel with the space requested.

Marilyn Fredericks has been assigned by Court Translation and Information Services as the Hopi Interpreter.

The court advised the parties that approximately ten years ago she had visited the Hopi Reservation for about a one-half of a day.

For the reasons stated on the record,

**IT IS ORDERED** granting the Hopi Tribe's Motion to Prepare and Disclose Video.

Colin Campbell addresses the court regarding the terms and conditions of the use of the video. Counsel advises the court that the first week of August 4<sup>th</sup>, 2018 is preferred for taking the photographs/video and affirms other parties are welcome to be present at that time. Counsel further advises that the Hopi Tribe will identify the foundational witnesses for the photographs or videos recorded with no narration.

Mr. Campbell confirms that there will be no photographs utilized of a site that has not been disclosed or that is not listed in the itinerary prepared by counsel for the Hopi Tribe.

Carrie Brennan addresses the court regarding depositions during the trial and the use of the photographs while deponent is testifying. Ms. Brennan voices concerns regarding the timing of the proposed date and the due date for the Joint Pretrial Statement which is August 22, 2018.

No objection is raised to the Court's proposal that counsel stipulate that the witness will only need to confirm that the photograph is a true and accurate representation of the area shown therein and that additional foundational testimony from the photographer will not be necessary.

Evan Hiller addresses the court regarding the use of new photographs during the trial. Counsel requests that the court allow the parties to use countervailing photographs in response to the new photographs provided by the Hopi Tribe.

David Brown addresses the court regarding the due date of their portion of the Joint Pretrial Statement which is August 6, 2018 and the date of August 4<sup>th</sup>, 2018 the proposed date for provision of the photographs by the Hope Tribe.

Mark McGinnis addresses the court and agrees that witnesses are not needed to authenticate the photographs. He further suggests that the photographs be dated. The court agrees with that suggestion.

Vanessa Boyd Willard states that she can work with the schedule as discussed.

No other counsel voices an objection to the proposed schedule.

For the reasons stated on the record,

**IT IS ORDERED** that the photographs shall be completed by the Hopi Tribe and provided to counsel by **July 24, 2018**.

**IT IS FURTHER ORDERED** any responses or countervailing photographs must be produced to all parties by **August 7, 2018**.

**IT IS FURTHER ORDERED** any *Motions in Limine* objecting to any parties' photographs shall be filed by **August 22, 2018**. The photographs will not be incorporated into the formal Joint Pre-trial Statement as it is also due on **August 22, 2018**.

**IT IS FURTHER ORDERED** a hearing on any *Motions in Limine* shall be scheduled on **August 29, 2018**. Responses to the *Motions in Limine* may be filed by **August 29, 2018** or counsel may appear at the hearing on **August 29, 2018** and advise the court of their objections at that time.

Discussion is heard from counsel for the Navajo Nation regarding allowing their photographer to take photos of areas other than those taken by the photographs for the Hopi Tribe.

Counsel for the Hopi Tribe briefly addresses the court regarding Ms. Hoover's suggestion.

For the reasons stated on the record,

**IT IS FURTHER ORDERED** that is counsel for the Navajo Nation wish to take additional photographs, at sites other than those listed in the Hope Tribe's proposed itinerary, as outlined above, they shall advise the court by **June 26, 2018**.

**IT IS FURTHER ORDERED** any objections to that request shall be filed by **July 6, 2018**.

2:30 p.m. Matter concludes

LATER:

**IT IS FURTHER ORDERED:**

1. All photographs produced as allowed by this Order shall have the date the photograph was taken on the front or back of the photograph.
2. Each photograph shall be accompanied by the name of the witness who will testify about the photograph and information sufficient to identify the location of the photograph.
3. Any depositions with respect to photographs must be noticed no later than **August 10, 2018**, and the depositions shall occur no later than **August 17, 2018**. The depositions may not elicit testimony on any subject other than the witness' testimony about a particular photograph that was timely produced pursuant to this Order.
4. All photographs will be included in the trial exhibits due on August 29, 2018. They will be included and appropriately numbered and described on the excel spreadsheet and copied on to the electronic storage devices that will be delivered to the Clerk of the Court and to the Court.

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