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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF APACHE

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

CV 6417-203

AMENDED CASE MANAGEMENT
ORDER

CONTESTED CASE NAME: *In re Hopi Reservation HSR*

HSR INVOLVED: *Hopi Reservation*

DESCRIPTIVE SUMMARY: The Special Master issues an amended case management order to set deposition guidelines, extend the deadlines for submitting a sixth amended statement of claimant, expert reports, completion of discovery and filing motions in this contested case and to extend the trial date.

NUMBER OF PAGES: 8

DATE OF FILING: December 20, 2018

1 The Case Management Order entered August 25, 2016, as subsequently amended, is
2 further amended to set deposition procedures, new deadlines for submitting a sixth amended
3 Statement of Claimant, expert reports, completion of discovery, filing motions in this
4 contested case and extending the date on which trial will begin:
5
6

7 **IT IS ORDERED:**

8 1. Deposition Procedures Pursuant to the agreement among the parties, those
9 procedures set forth in Attachment A shall control the scheduling, noticing
10 and taking of depositions necessary for the future use phase of this
11 proceeding.
12

13 2. Amended Statement of Claimant

14 The deadline for the United States acting as trustee and the Hopi Tribe to file
15 their Sixth Amended Statements of Claimant required by that Order dated
16 August 23, 2018 is extended from January 4, 2019 to **January 19, 2019**.
17 With the exception of the deadline for filing, no other provisions of ¶1 of the
18 Order are amended or otherwise changed.
19

20 3. Expert Reports. All parties shall produce expert reports relevant to claims
21 based on future water uses. The Hopi Tribe shall file by **February 8, 2019** a
22 list of revised expert reports that it intends to submit on March 15, 2019. The
23 United States and the Hopi Tribe shall submit revised expert reports by
24 **March 15, 2019**. No opinions may be included in the revised reports that
25 were not included in the original reports. The Objectors shall file revised
26 expert reports by **May 15, 2019**. No opinions may be included in the revised
27 reports that were not included in the original reports except that new opinions
28

1 may be given with respect to those expert reports initially classified as
2 rebuttal reports by the United States or the Hopi Tribe. Rebuttal reports by
3 the United States and the Hopi Tribe shall be filed by **June 14, 2019**.

4 4. Discovery. All discovery including depositions shall be completed by
5 **December 20, 2019**.

6
7 5. Dispositive Motions. On or before **January 29, 2020**, any party may file a
8 dispositive motion as to a factual or legal issue. Responses to Motions in
9 limine shall be filed on or before the 40th calendar day after the date the
10 motion is filed. Replies shall be filed on or before the 20th calendar day after
11 the date the Response is filed. The last day of the period shall be included
12 unless it is a Saturday, a Sunday or a legal holiday in which event the period
13 runs until the end of the next day which is a not a Saturday, a Sunday or a
14 legal holiday.

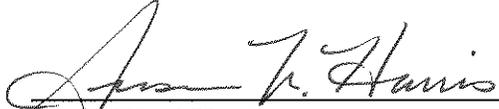
15 6. Motions in Limine. Motions in Limine shall be filed by **April 9, 2020**.
16 Responses to a motion filed on April 9, 2020 shall be filed no later than **May**
17 **20, 2020**. Otherwise, Responses to Motions in Limine filed before April 9,
18 2020 shall be filed on or before the 40th calendar day after the date the motion
19 is filed. The last day of the period shall be included unless it is a Saturday, a
20 Sunday or a legal holiday in which event the period runs until the end of the
21 next day which is a not a Saturday, a Sunday or a legal holiday.

22
23 7. Page Limitations. Parties are not excused from page limitations for motions,
24 responses, and replies set by the Arizona Rules of Civil Procedure.

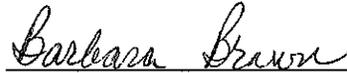
25 8. Trial. Trial on claims for future water uses shall begin on **June 1, 2020**.
26 The place of the trial will be held in the Maricopa County Superior Court in
27 Phoenix, Arizona.
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DATED: December 20, 2018


Susan Ward Harris
Special Master

On December 20, 2018, the original of the foregoing was mailed to the Clerk of the Apache County Superior Court for filing and distributing a copy to all persons listed on the Court approved mailing list for this contested case.


Barbara Brown

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ATTACHMENT A

Future Trial Deposition Guidelines

1. Scheduling

The party seeking a deposition shall provide notice of the deposition to the Court-approved mailing list for this contested case at least thirty (30) days before any deposition. Before noticing a deposition, the noticing party must consult by email with counsel for the United States, the Hopi Tribe, the Navajo Nation, Salt River Project, Arizona Public Service Company, LCR Coalition, State of Arizona Land Department, City of Flagstaff and Atkinson Trading Company to schedule depositions at mutually convenient times.

Depositions of expert witnesses will occur in Phoenix or Scottsdale, Arizona. Depositions of Hopi lay witnesses will occur in Moenkopi. Depositions of LCR fact witnesses will occur in Show Low or Phoenix. Depositions of Navajo fact witnesses will occur in Phoenix. Where possible, depositions will be scheduled in groups of consecutive days to minimize travel. Counsel for the Hopi Tribe will maintain a master calendar of the depositions scheduled and update and circulate the calendar among counsel for the United States, the Navajo Nation, Salt River Project, Arizona Public Service Company, LCR Coalition, State of Arizona Land Department, City of Flagstaff and Atkinson Trading Company.

Counsel for the litigant will accept requests for production of documents directed to the litigant. Counsel for the litigant defending the deposition will accept service of subpoenas for testimony and/or the production of documents on behalf of their witnesses.

2. Time Limits for Depositions

The presumptive limit for lay witnesses is 4 hours. The presumptive time limit for expert witnesses is 7 hours. When additional time is necessary, the parties will work together to reach an agreement for more time. The presumptive limits do not include time the litigant(s) defending the deposition may use to ask questions. The parties may agree to extend the time for deposition without approval of the Special Master.

3. Notice of Intent to Attend a Deposition

To allow counsel to make arrangements for adequate deposition space, counsel who intend to attend a noticed deposition should advise counsel for the noticing party at least ten days prior to the deposition, if feasible.

4. Conduct

(a) Examination. Counsel should cooperate so examinations by multiple attorneys do not exceed the allotted time provided.

(b) Filing of Depositions. The noticing party is responsible for assuring that the original transcript is filed with DWR, in accordance with Rules for Proceedings Before the Special Master, § 9.08[5].

(c) Objections and Directions Not to Answer. Any objection made at a deposition shall be deemed to have been made on behalf of all other parties. All objections, except those relating to form and foundation, are preserved. Absent a question of privilege, or an extraordinary circumstance, a witness should not be instructed not to answer questions. Speaking objections are not allowed.

5. Marking of Exhibits

To the extent feasible, exhibits to be used in depositions must have been disclosed at least five business days prior to the date of the deposition. Exhibits shall be marked sequentially and referred to by the unique bates number assigned the document. Extra copies of documents not previously marked as an exhibit should ordinarily be provided to all counsel and the deponent. All counsel shall be responsible for bringing their own copies of previously marked exhibits to depositions.

6. Disputes During Depositions

(a) Disputes between the parties that arise during a deposition should be addressed to the Special Master.

(b) Immediate Presentation. Disputes arising during depositions that cannot be resolved by agreement and that, if not immediately resolved, will significantly disrupt the discovery schedule or require a rescheduling of the deposition, should be presented by telephone to the Special Master.

7. Expedited Procedures for Discovery Disputes

If a discovery dispute cannot be resolved by a meet and confer, the moving party shall notify the judicial assistant for the Special Master requesting a telephonic conference. The telephonic conference shall be set as soon as reasonably possible. Each disputing party shall

submit a no more than one page letter explaining the issue and their position at least 72 hours before the telephonic conference or as directed by the Special Master.

8. Stipulations

The parties may, by mutual agreement, depart from any provision of these guidelines so long as the deadlines established by the Special Master are honored.

9. Costs

Each party shall bear the costs associated with the deposition of their own witnesses, including the witnesses' costs for travel and lodging and costs of preparation for and appearance at the deposition.