

SUPERIOR COURT OF ARIZONA
APACHE COUNTY

12/17/2018

CLERK OF THE COURT
FORM V000

SPECIAL WATER MASTER SUSAN WARD
HARRIS

A. Hatfield

Deputy

FILED: 12/31/2018

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

CV 6417-203

In re: Hopi Reservation HSR

In re: Pretrial Conference re: Future Water Use
Trial

MINUTE ENTRY

Courtroom: ECB 613

3:00 p.m. This is the time set for a Pretrial Conference concerning the Future Water Use Trial before Special Water Master Susan Ward Harris.

The following attorneys and parties appear in-person: Jeffrey Leonard, Kate Hoover, Rodgerick Begay, Judith Dworkin and Evan Hiller on behalf of the Navajo Nation; Carrie Brennan and Kevin Crestin on behalf of the Arizona State Land Department; Brian Heiserman, David Brown, and Brad Pew on behalf of the LCR Coalition; Erin Byrnes, Alexandra Arboleda and Lee Storey on behalf of the City of Flagstaff; John Weldon, Patrick Sigl and Mark McGinnis on behalf of Salt River Project; Sarah Foley, Andrew Guarino, Cody McBride and Vanessa Willard on behalf of the United States Department of Justice; Grace Rebling, Phillip Londen and Colin Campbell on behalf of the Hopi Tribe.

Court reporter, Barbara Stockford, is present and a record of the proceedings is made digitally.

The Court discusses the new procedure for the distribution of the exhibit list maintained by the clerk. The clerk will distribute the email list via email two times a

week. In addition, the clerk will maintain a laptop on which the admitted exhibit can be viewed.

Discussion is held regarding the *Joint Stipulation Regarding the Future Water Use Trial* as it pertains to expert reports and the six month extension of discovery deadlines and the trial date.

The Court approves the proposed schedule as it pertains to this case and Contested Case No. CV 6417-300, *In re Navajo Nation*, attached as Exhibit A to the *Joint Stipulation*, including changes to deadlines for dispositive motions and motions *in limine*. Deposition Guidelines will be governed by Exhibit B to the *Joint Stipulation*. The Court advised the parties that no additional extensions will be granted unless there are extraordinary circumstances.

Discussion is held regarding the Hopi Tribe's request to set another pre-trial conference before depositions begin. The Court notes that a pre-trial conference has been scheduled for February 1, 2019. Mr. Leonard requests that the conference be held on an alternate date as he has a conflict on February 1, 2019. There are no objections to vacating the February 1, 2019 date and continuing the pre-trial conference to February 21, 2019.

IT IS ORDERED that the pretrial conference set for February 1, 2019 is vacated and the pretrial conference will be held on February 21, 2019.

Mr. Campbell states that he has wants to brief issues about cumulative witness that he expects the parties to call. He would like to have the cumulative witness issue briefed before February 21, 2019. He also said that he will file a request for a site visit by February 21, 2019. Discussion is held.

IT IS FURTHER ORDERED the Hopi Tribe shall submit their motion regarding cumulative witnesses by February 8, 2019. Responses shall be filed by February 19, 2019.

Mr. Campbell suggests that in regards to legal briefing that the parties submit a list of significant issues that should be briefed to the Court as it is the first case tried under *Gila V*. Discussion is held.

Mr. Campbell further argued that in the next proceeding he wants the objecting parties to be required to comply with Ariz. R. Civ. Pro. 16(g) and provide objections and counter-designations of deposition without the requirement of the Hopi Tribe's giving two-days notice that it intends to use deposition testimony. The Court states that procedures for designating, counter-designating and ruling on objections to deposition testimony will be addressed at the pre-trial conference.

Further discussion is held on the following trial procedures: Rule 16(g) Joint Pretrial Statement, need for an electronic courtroom that can accommodate the large

number of parties and the preservation of testimony to be used in the Navajo Nation's proceeding. These issues will be further addressed at the February 21, 2018 pre-trial conference.

Mr. Leonard addresses additional rebuttal reports filed by the Hopi Tribe in connection with the future trial. He questions whether or not these reports are in fact rebuttal reports or new reports. Mr. Campbell responds.

Mr. Heiserman expresses his concern that new opinions may be given in the revised reports that were not included in the original reports. Discussion is held regarding new opinions in expert reports initially classified as rebuttal reports by the United States or the Hopi Tribe.

IT IS FURTHER ORDERED the Hopi Tribe shall file by **February 8, 2019** a list of revised expert reports that it intends to submit on **March 15, 2019**.

3:54 p.m. Matter concludes.

A copy of this order is mailed to all persons listed on the Court approved mailing list for Contested Case No. CV6417-203.