

SUPERIOR COURT OF ARIZONA
APACHE COUNTY

10/10/2018

CLERK OF THE COURT
FORM V000

SPECIAL WATER MASTER SUSAN WARD
HARRIS

L. Stogsdill/A. Hatfield

Deputy

FILED: 10/24/2018

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: Trial to the Court Day 19

MINUTE ENTRY

Courtroom: ECB 613

10:29 a.m. This is the time set for Trial to the Court before Special Water Master Susan Ward Harris.

The following attorneys and parties appear in-person: Jeffrey Leonard, 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 on behalf of the LCR Coalition; Erin Byrnes on behalf of the City of Flagstaff; R. Jeffrey Heilman and Mark McGinnis on behalf of Salt River Project; Sarah Foley on behalf of the United States Department of Justice; Grace Rebling and Colin Campbell on behalf of the Hopi Tribe; Kimberly Parks on behalf of the Arizona Department of Water Resources.

Previously having been sworn, Marilyn Fredericks is present to act as interpreter of the Hopi Language.

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

LET THE RECORD REFLECT that the electronic version of Redacted Hopi exhibit 184 and 1279 as ordered to be submitted on October 8, 2018 has been submitted to the above named clerk and are identified as Hopi exhibits 3884 and 3885.

IT IS ORDERED that Hopi's exhibits #3884 and 3885 are received in evidence.

Discussion is held regarding the admissibility of U.S.'s exhibit #525 and Hopi's exhibits #218, 332, 580 and 1304, as ancient documents under Ariz. Rules of Evid. 803(16).

IT IS FURTHER ORDERED U.S. exhibit #525 and Hopi's exhibits #218, 580 and 1304 are not admissible as ancient documents per Ariz. R. of Evid. 803(16) because they are not the type of documents intended to be exempted from the hearsay restrictions. Based on this ruling, Hopi exhibit #332, which had been admitted into evidence on Day Two, is removed from evidence.

LET THE RECORD FURTHER REFLECT that the status of Hopi exhibit #332 remains marked for identification, not in evidence.

The Court advises counsel that pursuant to Ariz. R. of Evid. 803(18), the treatise cannot be admitted in its entirety because of the concern that the entire treatise may not be properly understood without expert guidance. However, portions of the treatise that counsel wish to bring to the attention of an expert witness, can be provided to the Court as a separate exhibit and will not need to be read into the record.

Discussion is held regarding expert reports that are cumulative in nature. The Court will not issue a ruling at this time whether or not the reports are all cumulative in nature.

Discussion is held regarding expert witness Dr. Eisler re: the *Motion in Limine* filed by Navajo Nation re: methodology, the Court advises counsel that the motion may be re-urged at the end of the expert's testimony. Any issues of relevance will be dealt with before she testifies.

Counsel for the Navajo Nation, SRP and the Arizona State Land Department join in the redactions made of the expert reports provided by SRP which were also provided to the Court.

At the request of counsel for the Hopi Tribe, Grace Rebling, witness Leonard Selestewa makes a brief statement to the Court with the assistance of Marilyn Fredericks the Hopi interpreter before testifying.

Leonard Selestewa is sworn and testifies.

12:00 p.m. The Court stands in recess.

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

Court reporter, Vanessa Gartner, is present and a record of the proceedings is made digitally.

Leonard Selestewa continues to testify.

Hopi exhibits 1348, 1349 and 1350 are received in evidence.

The witness is excused.

Spencer Pavinyama is sworn and testifies.

3:01 p.m. The Court stands at recess.

3:15 p.m. Court reconvenes with the parties and respective counsel present.

Court reporter, Vanessa Gartner, is present and a record of the proceedings is made digitally.

Spencer Pavinyama continues to testify.

The witness is excused.

3:50 p.m. Court is adjourned until tomorrow at 10:30 a.m.

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