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6 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
7 IN AND FOR THE COUNTY OF APACHE
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10 IN RE THE GENERAL
11 ADJUDICATION OF ALL RIGHTS TO
12 USE WATER IN THE LITTLE
13 COLORADO RIVER SYSTEM AND
14 SOURCE

CV 6417-203

15 ORDER DENYING THE HOPI TRIBE'S
16 MOTION TO RESCHEDULE THE
17 MARCH 19, 2020 ORAL ARGUMENTS
18 AND DENYING REQUEST FOR
19 EMERGENCY STATUS CONFERENCE

20 CONTESTED CASE NAME: *In re Hopi Reservation HSR*

21 HSR INVOLVED: *Hopi Reservation*

22 DESCRIPTIVE SUMMARY: Oral arguments shall proceed on March 19, 2020 as
23 scheduled. Administrative Order 2020-47 issued by the Arizona Supreme Court and
24 the protocols adopted by the Maricopa Superior Court with respect to the Coronavirus
25 Disease 2019 shall be followed.

26 NUMBER OF PAGES: 4

27 DATE OF FILING: March 17, 2020
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On March 13, 2020, the Hopi Tribe filed a Motion to Reschedule the March 19, 2020 Oral
Argument on LCRC Motions for Summary Judgment and Request for Emergency Status

1 Conference on Court Protocols Regarding Coronavirus Disease 2019 (COVID-19). The Hopi
2 Tribe requested that the oral arguments be postponed until April 2, 2020 due to COVID-19 and
3 recommended guidelines provided by public health officials. COVID-19 protocols currently
4 in effect to prevent the spread of the disease focus on the physical proximity of people to one
5 another and to reducing the number of people grouped in an enclosed area. Limiting
6 appearances at the oral argument to telephonic appearances complies with the COVID-19
7 protocols. Accordingly,
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9 **IT IS ORDERED** denying the requesting postponement. Parties will only appear
10 telephonically. The instructions for telephonic participation included in the original minute entry
11 are duplicated below:

12 Dial: 602-506-9695 (local)

13 1-855-506-9695 (toll free long distance)

14 Dial Collaboration (conference) Code 357264#
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16 Parties will be notified in advance of the April 2, 2020 oral arguments as to whether
17 arguments may be presented in person with telephonic appearances permitted as an option or
18 whether the appearances will be limited to telephonic appearances.
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20 The Hopi Tribe also requested an emergency status conference to address three pages of
21 questions regarding procedures applicable to the site visit to the Hopi Reservation scheduled in
22 more than a month, the pretrial conference scheduled in approximately two months, and the
23 appearance of experts and the conduct of the trial scheduled to begin in almost three months and
24 to continue through the summer and into September 2020.

25 The site visit is the first court proceeding that requires the parties and counsel to be in
26 physical proximity with one another. The two-day visit to the Hopi Reservation was scheduled
27 pursuant to the motion of and at the invitation of the Hopi Tribe. If the Hopi Tribe no longer
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1 desires the site visit to occur as scheduled or is concerned about the scheduled visit, counsel
2 should be prepared to advise the Court following the conclusion of oral arguments on March 19,
3 2020. Similarly, any party who has a concern about participating in the site visit should be
4 prepared to discuss its position on March 19, 2020 following the conclusion of the oral
5 arguments. If the current dates for the site visit are cancelled and the Hopi Tribe desires the
6 site visit to be rescheduled, it will be rescheduled only at a time acceptable to all of the parties
7 and the Court. Currently, no trial is scheduled for the week of June 22, 2020. The Arizona
8 State Judicial Conference, which has not been cancelled, is scheduled to begin June 24, 2020.
9 Thus, the site visit may occur on June 22 - 23. No trial is scheduled for the three weeks
10 beginning July 13, 2020 due to the unavailability of one of the largest courtrooms in the Maricopa
11 County Superior Court. Thus, a two-day site visit may occur during this period. No trial is
12 scheduled for the week of August 10, 2020 to accommodate counsels' request to attend a state
13 conference on water law. Thus, the site visit may occur on August 10-11. Additional dates
14 mutually acceptable to all of the parties will also be considered.
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17 The remainder of the issues raised by the Hopi Tribe deal with the potential unavailability
18 of experts at the trial as well as more general issues. With respect to the specific question about
19 the ability of experts to attend the trial, the Arizona Rules of Civil Procedure provide procedures
20 to be followed when a witness is not available. Also, as demonstrated by the options explored
21 and adopted in the first phase to the trial to permit one of the Hopi Tribe's expert witnesses to
22 testify following a medical emergency that made the initially scheduled appearance impossible,
23 technological solutions and the flexibility of the parties and the Court can make multiple avenues
24 available to enable a witness to provide his or her testimony.
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26 As to the questions about procedures to be adopted for the trial, the Maricopa County
27 Superior Court has been continuously monitoring the recommendations of the Center for Disease
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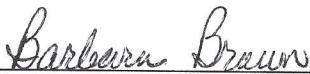
1 Control (CDC) and has been in constant contact with state health officials to implement best
2 practices necessary to fulfill its statutory and constitutional responsibilities while protecting the
3 health and safety of those served by the Court as well as those employed by the Court. The
4 Arizona Supreme Court has issued Administrative Order 2020-47. The trial will be conducted
5 in accordance with the protocols established by the Arizona Supreme Court and the Maricopa
6 County Superior Court for civil proceedings.
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8 Given the dearth of current information and the high degree of uncertainty about future
9 developments, no reasonable decisions can be made at this time about appropriate action that
10 may be necessitated by COVID-19 during the course of the trial. As a result, the parties will
11 have to remain flexible to comply with evolving protocols and any compelling circumstances
12 that may warrant unique rules for this proceeding. The Court will make procedural decisions
13 when appropriate. At this time, it is premature to set any procedures that diverge from the
14 normal rules governing a trial. Accordingly,
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16 **IT IS ORDERED** denying the Hopi Tribe's Motion for an Emergency Status Conference.
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19 Susan Ward Harris
20 Special Master
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22 On March 17, 2020, the original of the
23 foregoing was mailed to the Clerk of the
24 Apache County Superior Court for filing and
25 distributing a copy to all persons listed on the
26 Court approved mailing list for the Little
27 Colorado River Adjudication Civil No. 6417-
28 203.

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27 Barbara Brown
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