

1 BROWN & BROWN LAW OFFICES, P.C.

2 David A. Brown (No. 006827)

3 J Albert Brown (No. 030918)

4 Amy Brown (No. 034296)

5 Post Office Box 1890

6 St. Johns, Arizona 85936

7 Telephone: (928) 337-4225

8 Email: david@b-b-law.com

9 Email: jabrown@b-b-law.com

10 Email: amy@b-b-law.com

11 FENNEMORE CRAIG, P.C.

12 Lauren J. Caster (No. 004537)

13 Brian J. Heiserman (No. 031546)

14 Bradley J. Pew (No. 033876)

15 2394 East Camelback Road, Suite 600

16 Phoenix, Arizona 85016-3429

17 Telephone: (602) 916-5000

18 Email: lcaster@fclaw.com

19 Email: bheiserman@fclaw.com

20 Email: bpew@fclaw.com

21 *Attorneys for LCR Coalition*

22 **SUPERIOR COURT OF ARIZONA**

23 **APACHE COUNTY**

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

Civil No. CV 6417-203

**[PROPOSED] ORDER
APPROVING STIPULATION
REGARDING LIVESTOCK
AND WILDLIFE WATERING**

(Assigned to Special Master Susan
Ward Harris)

21 Having reviewed the March 29, 2022 Stipulation Regarding Livestock and Wildlife
22 Watering submitted in the *In re Hopi Reservation HSR* contested case, and good cause
23 appearing:

24 IT IS ORDERED the stipulation, attached as Exhibit 1 to this Order, is approved and
25 will be applied to the water right decree for the Hopi Reservation.
26

1 DATED this 30th day of March, 2022.

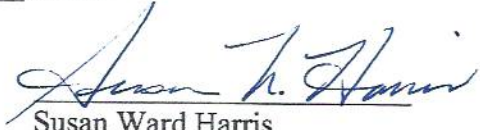
2
3 
4 Susan Ward Harris
5 Special Master
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

EXHIBIT 1

1 BROWN & BROWN LAW OFFICES, P.C.
David A. Brown (No. 006827)
2 J Albert Brown (No. 030918)
Amy Brown (No. 034296)
3 Post Office Box 1890
St. Johns, Arizona 85936
4 Telephone: (928) 337-4225
Email: david@b-b-law.com
5 Email: jabrown@b-b-law.com
Email: amy@b-b-law.com

6 FENNEMORE CRAIG, P.C.
7 Lauren J. Caster (No. 004537)
Brian J. Heiserman (No. 031546)
8 Bradley J. Pew (No. 033876)
2394 East Camelback Road, Suite 600
9 Phoenix, Arizona 85016-3429
Telephone: (602) 916-5000
10 Email: lcaster@fclaw.com
Email: bheiserman@fclaw.com
11 Email: bpew@fclaw.com

12 *Attorneys for LCR Coalition*

13 **SUPERIOR COURT OF ARIZONA**

14 **APACHE COUNTY**

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

Civil No. CV 6417-203

**STIPULATION REGARDING
LIVESTOCK AND WILDLIFE
WATERING**

18
19 CONTESTED CASE NAME: *In re Hopi Reservation HSR*

20 HSR INVOLVED: Hopi Reservation

21 DESCRIPTIVE SUMMARY: The undersigned parties submit their stipulation regarding
22 livestock and wildlife watering.

23 NUMBER OF PAGES: 6 pages (excluding Exhibit A)

24 DATE OF FILING: Original transmitted to the Clerk of the Court on March 29, 2022.
25
26

1 The LCR Coalition¹, Hopi Tribe, Navajo Nation, United States, Arizona State Land
2 Department, Salt River Project Agricultural Improvement and Power District, City of
3 Flagstaff, Arizona Public Service Company, Atkinson Trading Company, and San Juan
4 Southern Paiute Tribe (the "Undersigned Parties") hereby enter into the following
5 stipulation in the *In re Hopi Reservation HSR* contested case:

6 The United States, as trustee for the Hopi Tribe, should be decreed a right
7 to 824 annual acre feet of water to serve livestock and wildlife consumption
uses on the Hopi Reservation.

8 The above stipulation is the result of negotiations among the Undersigned Parties
9 and does not constitute an agreement regarding the historical, present, or potential
10 livestock or wildlife carrying capacity of the Hopi Reservation.

11 Nothing in the above stipulation shall be construed as establishing the standard to
12 be used for the quantification of any water right claim, including federal reserved right
13 claims, aboriginal claims, or state law claims, by or for any claimant, whether that
14 quantification occurs in a judicial or an administrative proceeding.

15 The above stipulation does not address in any way the priority date associated with
16 any water right on the Hopi Reservation.

17 The above stipulation addresses only the quantity attribute of the water right
18 decreed for livestock and wildlife consumption uses on the Hopi Reservation. Nothing in
19 the above stipulation shall be construed as establishing a particular place or location of use
20 for the water to serve livestock and wildlife consumptive uses on the Hopi Reservation.
21 The Undersigned Parties agree that any additional attributes of the right for livestock and
22 wildlife consumption uses will be determined by the Court based on the evidence that was
23 presented at trial.²

24 ¹ The claimants making up the LCR Coalition are identified on Exhibit A.

25 ² Disputes exist among certain of the Undersigned Parties as to the level of specificity
26 necessary for water right attributes contained in a final water right decree and as to
whether a right to livestock and wildlife uses on the Hopi Reservation may be decreed in

1 While livestock and wildlife consume water from stockponds and impoundments
2 on the Hopi Reservation, the water right decreed for consumption by livestock and
3 wildlife is exclusive of and in addition to the water rights decreed for stockpond and
4 impoundment storage. The above stipulation does not address in any way the United
5 States' and Hopi Tribe's claims to water for stockpond and impoundment storage. The
6 Undersigned Parties agree that the Court will adjudicate stockpond and impoundment
7 storage rights based on the evidence that was presented at trial.

8 The above stipulation covers the entirety of the quantity attribute of claims to water
9 for livestock and wildlife consumption uses on the Hopi Reservation for the United States
10 as trustee for the Hopi Tribe, and the Hopi Tribe. The Undersigned Parties agree that
11 neither the United States, as trustee for the Hopi Tribe, nor the Hopi Tribe, is entitled to
12 any additional quantity of water for livestock and wildlife consumption uses on the Hopi
13 Reservation.

14 The Undersigned Parties enter into this stipulation only if the Court approves both
15 this stipulation and the concurrently filed Stipulation Regarding Livestock and Wildlife
16 Watering on the Navajo Reservation.

17 If this stipulation is not approved by the Court, the Undersigned Parties agree that
18 this stipulation shall not be cited, referred to, or offered into evidence by any party in any
19 circumstance.

20 ...

21 ...

22 ...

23 the aggregate. Certain aspects of the Hopi Tribe's water right attributes were addressed in
24 the Special Master's June 29, 2020 Order issued in the *In re Hopi* contested case. That
25 order reserved for trial the question of the requisite level of specificity needed for each
26 attribute of the Hopi Tribe's decreed water rights. The Undersigned Parties agree that the
requisite level of specificity for each right will be determined by the Special Master based
on the evidence that was presented at trial. The Undersigned Parties reserve all rights to
appeal any rulings made regarding water right attributes.

1 RESPECTFULLY SUBMITTED this 29th day of March, 2022.

2 BROWN & BROWN LAW OFFICES, OSBORN MALEDON, P.A.
3 P.C.

4 *Brian Maledon for*
5 By

6 David A. Brown
7 J Albert Brown
8 Amy Brown
9 *Attorneys for LCR Coalition*

4 *Brian Maledon for*
5 By

6 Colin F. Campbell
7 Grace E. Rebling
8 Geoffrey M. Sturr
9 Phillip W. Londen
10 Payslie M. Bowman

Attorneys for the Hopi Tribe

11 FENNEMORE CRAIG, P.C.

11 MARK BRNOVICH, ATTORNEY
12 GENERAL

11 *Brian Maledon for*
12 By

13 Lauren J. Caster
14 Brian J. Heiserman
15 Bradley J. Pew
16 *Attorneys for LCR Coalition*

11 *Brian Maledon for*
12 By

13 David F. Jacobs
14 Carrie J. Brennan
15 Kevin P. Crestin

*Attorneys for the Arizona State Land
Department*

17 SACKS TIERNEY, P.A.

17 TSL LAW GROUP, PLC

18 *Brian Maledon for*
19 By

20 Jeffery S. Leonard
21 Judith M. Dworkin
22 M. Kathryn Hoover
23 Evan F. Hiller
24 Candace D. French

18 *Brian Maledon for*
19 By

20 Lee A. Storey
21 Alexandra M. Arboleda
22 Ethan B. Minkin

Attorneys for the City of Flagstaff

23 and

24 Doreen N. McPaul
25 Attorney General
26 Navajo Nation Dept. of Justice

Attorneys for the Navajo Nation

1 SNELL & WILMER, L.L.P.

MAY, POTENZA, BARAN & GILLESPIE,
P.C.

2
3 By

Brian M. [Signature]
L. William Staudenmaier
John D. Burnside

By

Brian M. [Signature]
Julia M. Kolsrud
Kate Shaffer
Irania Fimbres-Ruiz

4
5
6 *Attorneys for Arizona Public Service
Company*

*Attorneys for San Juan Southern Paiute
Tribe*

8 UNITED STATES DEPARTMENT OF
9 JUSTICE

SALMON, LEWIS & WELDON, P.L.C.

10
11 By

Brian M. [Signature]
Todd Kim
Assistant Attorney General
Vanessa Boyd Willard
Cody L. C. McBride
Andrew "Guss" Guarino
Emmi Blades
Rebecca Ross
Trial Attorneys, Indian Resources
Section, Environmental and Nat'l
Resources Division

By

Brian M. [Signature]
John B. Weldon, Jr.
Mark A. McGinnis

*Attorneys for the Salt River Project
Agricultural Improvement and Power
District*

17 *Attorneys for the United States*

18
19 MONTGOMERY & INTERPRETER,
20 PLC

MODRALL, SPERLING, HARRIS & SISK,
P.A.

21
22 By

Brian M. [Signature]
Robyn L. Interpreter
Susan B. Montgomery
Jay Tomkus

By

Brian M. [Signature]
Maria O'Brien
Brian K. Nichols

*Attorneys Atkinson Trading Company,
Inc.*

24 *Attorneys for San Juan Southern
Paiute Tribe*

1 ORIGINAL of the foregoing and Exhibit A via
2 Federal Express this 29th day of March, 2022,
for filing, to:

3 Clerk of the Court
4 Apache County Superior Court
5 Attention: Water Case
6 70 West 3rd Street South
7 St. Johns, Arizona 85936

8 COPY of the foregoing and Exhibit A hand-delivered
9 this same day to:

10 Special Master Susan Ward Harris
11 Central Court Building Suite 3A
12 201 West Jefferson Street
13 Phoenix, Arizona 85003-2205

14 COPY of the foregoing and Exhibit A mailed
15 this same day to those parties who appear
16 on the Court Mailing List for Case
17 No. 6417-203 dated February 1, 2022.

18 
19 19714091

EXHIBIT A

LCR COALITION REPRESENTED BY
BROWN & BROWN LAW OFFICES, P.C. AND
FENNEMORE CRAIG, P.C.

- | | | |
|-----|--|--|
| 1. | Town of Eagar | 39-84465, 39-84466, 39-84467,
39-84468, 39-84469, 39-84470,
39-84471 |
| 2. | City of Holbrook | 39-82029, 39-82078, 39-82079,
39-82080, 39-82081, 39-85030 |
| 3. | City of Show Low | 39-84279, 39-84280, 39-84281,
39-84282, 39-84283, 39-84284,
39-84285 |
| 4. | Town of Springerville | 39-84149 |
| 5. | Town of Snowflake | 39-83792, 39-84000 |
| 6. | Town of Taylor | 39-80823 |
| 7. | City of Winslow | 39-84979, 39-84980 |
| 8. | City of St. Johns | 39-89123, 39-89124, 39-89125,
39-89126, 39-91702, 39-91703,
39-91704, 39-91705, 39-91706,
39-951532 |
| 9. | Forest Lakes Domestic Water
Improvement District | 39-93509, <i>et al.</i> |
| 10. | Silver Creek Irrigation District | 39-88816 |
| 11. | Show Low/Pinetop-Woodland
Irrigation Company | 39-83105, 39-83786, 39-83787, <i>et
al.</i> |
| 12. | Lakeside Irrigation Company | 39-84141 |
| 13. | Little Colorado Water Conservation
District | Pending |
| 14. | Round Valley Water Users Association
(now Pioneer Irrigation Company) | 39-89112 |
| 15. | Lyman Water Company | 39-89196 |
| 16. | Bar T Bar Ranch, Inc. | 39-87546, 39-87520, 39-87524, <i>et
al.</i> |
| 17. | Barnes, Euell | Pending |
| 18. | Flying M Ranch | 39-88420, 39-88441, 39-88474, <i>et
al.</i> |
| 19. | Aztec Land & Cattle Company, Ltd.;
Aztec Land Company, LLC | 39-63081, <i>et al.</i> |
| 20. | Pinetop-Lakeside Sanitary District | 39-80300 |
| 21. | West Snowflake Land Company, LLC | 39-83019, 39-83020, <i>et al.</i> |
| 22. | Dobson Limited Partnership, LLC | 39-88988, 39-88989, 39-88990,
39-88991, 39-88992 |